

Payment of Service Tax and Filing of Returns

UNIT 1: PAYMENT OF SERVICE TAX

Question 1

Briefly answer the following questions:-

- (a) *Should service tax be paid even if not collected from the client or service receiver?*
- (b) *Is a service provider allowed to pay service tax on a provisional basis?*
- (c) *Mr. Saravanan has collected a sum of ₹ 15,000 as service tax from a client mistakenly, even though no service tax is chargeable for such service. Should the amount so collected be remitted to the credit of the Central Government?*
- (d) *Who is liable to make e-payment of service tax?*
- (e) *Whether life insurer carrying on life insurance business has option to calculate service tax at different rate?*
- (f) *Mr. X, a service provider who pays service tax regularly, was of the opinion that a particular service was not liable for service tax. He, therefore, did not charge service tax in his bill. He received the bill amount without service tax. How will service tax liability of Mr. X be determined in such case?*

Answer

- (a) Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver.
- (b) In case the assessee is unable to correctly estimate, at the time of the deposit, the actual amount of service tax for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. The provisions of the Central Excise Rules, 2002 relating to provisional assessment shall apply except the provisions relating to execution of bond.
- (c) Section 73A of the Finance Act, 1994 casts an obligation on every person who has collected service tax from any recipient of service in any manner as representing service tax, to remit the same to the credit of the Central Government. On account of this provision, where any person has collected any amount, which is not required to be

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collected from any other person, in any manner as representing service tax, he should also immediately pay the amount so collected to the credit of the Central Government.

Hence, Mr. Saravanan has to remit the service tax collected by him on the non taxable services to the credit of the Central Government before the due date.

- (d) An assessee who has paid a total service tax of ₹ 10 lakh or more including the amount paid by utilisation of CENVAT credit, in the preceding financial year, has to deposit the service tax liable to be paid by him electronically, through internet banking.
- (e) **An insurer carrying on life insurance business has the option to pay tax:**
- (i) **on the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;**
 - (ii) **Where amount of the gross premium allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service:-**

First year	on 3% of the gross amount of premium charged
Subsequent year	on 1.5% of the gross amount of premium charged

towards the discharge of his service tax liability instead of paying service tax at the rate of 12%.

However, such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

- (f) Section 68 casts the liability to pay service tax upon the service provider. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver.

In this case, the amount received from the service receiver will be taken to be inclusive of service tax. Accordingly, service tax payable by the service provider shall be ascertained by making back calculations in the following manner:-

$$\text{Service tax payable} = \frac{\text{Amount received} \times \text{Service tax rate}}{(100 + \text{Service tax rate})}$$

Question 2

Answer the following questions:

- (a) *An assessee who has collected service tax from a client is unable to perform the service. Briefly explain the situations in which and the conditions subject to which he can adjust the service tax relating to above, against his forthcoming service tax liability.*
- (b) *Mr. Vasudevan has rendered freely, a service to a client which is taxable, but has not charged or received any fee from the client. Is service tax payable on such free service?*

(c) What are the due dates for payment of service tax?

Answer

(a) Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee:

- (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or
- (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued

(b) Section 67(1)(iii) and Service Tax (Determination of Value) Rules, 2006 make provisions for valuation even when consideration is not ascertainable. However, these provisions apply only when there is consideration. If there is no consideration i.e., in case of free service, section 67 and Service Tax (Determination of Value) Rules, 2006 cannot apply.

Thus, no service tax is payable when value of service is zero. In other words, if the value is zero, the tax will also be zero even though the service may be taxable. However, this principle applies only when there is really a 'free service' and not when its cost is recovered through other means.

(c) The due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) by an individual or a proprietary firm or a partnership firm:-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following quarter
2.	In any other case	5 th day of the following quarter
3.	In the case service is deemed to be provided in the quarter ending in March	31 st day of March

Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) in any other cases (company and HUF):-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following month
2.	In any other case	5 th day of the following month

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3.	In the case service is deemed to be provided in the month of March	31 st day of March
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However, individuals/partnership firms with aggregate value of taxable services of ₹ 50 lakh or less in previous financial year are allowed to pay service tax on payment basis in current financial year upto a total of ₹50 lakh

Question 3

Does a service provider have an option to pay service tax at a rate different from the general rate applicable on gross value of taxable services, in the case of purchase or sale of foreign currency?

Answer

Yes, the person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, has an option to pay an amount at the following rates instead of paying service tax at the rate of 12%:-

S.No.	For an amount	Service tax shall be calculated at the rate of
1.	Upto ₹100,000	0.12 % of the gross amount of currency exchanged or ₹30 whichever is higher
2.	Exceeding ₹1,00,000 and upto ₹ 10,00,000	₹120 + 0.06 % of the gross amount of currency exchanged
3.	Exceeding ₹10,00,000	₹660 + 0.012 % of the gross amount of currency exchanged or ₹6,000 whichever is lower

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Question 4

How can an assessee adjust the excess payment of service tax against his liability of service tax for subsequent periods? What is the basic condition for it?

Answer

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case

may be, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month or quarter, as the case may be. **However, self-adjustment of such excess amount paid shall be subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, valuation or applicability of any exemption notification.**

Question 5

Write a note in brief on provisional payment of service tax.

Answer

In case the assessee is unable to correctly estimate, at the time of the deposit, the actual amount of service tax for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. The provisions of the Central Excise Rules, 2002 relating to provisional assessment shall apply except the provisions relating to execution of bond.

For the purpose of provisional assessment at the time of filing the return, the assessee is required to file a statement in form ST - 3A giving detail of difference between service tax deposited and the service tax liable to be paid for each month. The quarterly or half yearly statements should also accompany.

The Assistant/Deputy Commissioner of Central Excise, on the basis of memorandum in form ST - 3A may complete the assessment after calling for necessary documents or records, if need be.

Question 6

Briefly discuss about the adjustment of excess amount of service tax paid in case of renting of immovable property service, owing to property tax payment.

Answer

In case of renting of immovable property service, a deduction of property taxes paid in respect of the immovable property is allowed from the gross amount charged for renting of the said immovable property vide **Notification No.29/2012 ST dated 20.06.2012**. However, where any amount in excess of the amount required to be paid towards service tax liability has been paid on account of non-availing of such deduction, such excess amount may be adjusted against the service tax liability within 1 year from the date of payment of such property tax. The details of such adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of 15 days from the date of such adjustment.

Question 7

Briefly explain the provisions relating to advance payment of service tax

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Answer

The assessee has been provided a facility to make advance payment of service tax on his own and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period. Such facility shall be available when the assessee:

- (i) intimates the details of the amount of service tax paid in advance, to the Jurisdictional Superintendent of Central Excise within a period of 15 days from the date of such payment, and
- (ii) indicates the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed under section 70.

Question 8

- (i) *When does e-payment of service tax become mandatory?*
- (ii) *State the 'due date' for e-payment of service tax by individuals and companies.*

Answer

- (i) E-payment of service tax becomes mandatory if the assessee has paid a total service tax of ₹ 10 lakh or more (including the amount of service tax paid by utilizing CENVAT credit) in the previous financial year.

(ii)

Assessee	Due date for e-payment of service tax
(i) Individuals	6th day of the month immediately following the quarter in which the service is deemed to be provided (as per the Point of Taxation Rules, 2011)
(ii) Companies	6th day of the month immediately following the month in which the service is deemed to be provided (as per the Point of Taxation Rules, 2011)

However, service tax on the value of taxable services service deemed to be provided in the quarter ending in March (in case of individuals) or in the month of March (in case of companies) is payable by 31st March.

Question 9

Explain optional composition scheme under service tax for distributor or selling agents of lotteries.

Answer

An optional mode of payment of service tax has been provided for the taxable service of promotion, marketing or organising/assisting in organising lottery in the following manner instead of paying service tax at the rate of 12%:-

Guaranteed lottery prize payout	Amount of service tax payable on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw
More than 80%	₹ 7000/-.
Less than 80%	₹ 11,000/-

In case of online lottery, the aggregate face value of lottery tickets will be the aggregate value of tickets sold.

The distributor/selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The new service provider can exercise such option within one month of providing the service. The option once exercised cannot be withdrawn during the remaining part of the financial year.

Question 10

Write short notes on Service Tax Code Number and the objective sought to be achieved thereunder.

Answer

Service Tax Code Number is a 15-digit alphanumeric number allotted by the system to the assessee based on the PAN number or temporary number (if PAN is not submitted). The assessee applies for it in a prescribed form. This code is available in the registration certificate issued to the assessee by the Assistant Commissioner/Deputy Commissioner of the Division. It is also known as assessee code or registration number.

The first 10 digits of the STC code are 10 character PAN issued by Income tax authorities. Next two are 'ST'. Last three are numeric code 001, 002, 003 etc.

Objective sought to be achieved

1. The objective is to identify the assessee, exporters or importers as also the concerned office where the person would be assessed or registered.
2. It helps in online processing of the information in relation to the assessee.

Question 11

What is EASIEST scheme and state the benefits in the context of service tax ?

Answer

EASIEST stands for Electronic Accounting System in Excise and Service Tax. It makes tax payment easy. This facility is available with 28 banks.

The benefits of EASIEST to the taxpayer are as follows:-

- (a) Only one copy of the challan is to be filled instead of four copies as required earlier.

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- (b) EASIEST facilitates online verification of the status of tax payment using Challan Identification Number.

Question 12

Miss Radhika, a wedding planner, has rendered service to Mr. Ram Kapoor in relation to planning the marriage of his son. Miss Radhika, being a close relative of Mr. Ram Kapoor, has not charged any fee from him. Is service tax payable on such free, but taxable service?

Answer

Section 67(1)(iii) and Service Tax (Determination of Value) Rules, 2006 make provisions for valuation even when consideration is not ascertainable. However, these provisions apply only when there is consideration. If there is no consideration i.e., in case of free service, section 67 and Service Tax (Determination of Value) Rules, 2006 cannot apply.

Thus, no service tax is payable when value of service is zero. In other words, if the value is zero, the tax will also be zero even though the service may be taxable. However, this principle applies only when there is really a 'free service' and not when its cost is recovered through other means.

Therefore, in the light of the aforesaid discussion, it may be inferred that, the service tax is not payable on service rendered by Miss Radhika to Mr. Ram Kapoor as Miss Radhika has not charged any fee from Mr. Ram Kapoor.

Question 13

Mr. Rajesh Singla, an assessee wants to adjust ₹ 2,50,000, the excess payment of service tax against his liability of service tax for the subsequent periods. Can he do so? What is the condition to be satisfied for it?

Answer

Yes, Mr. Rajesh Singla, can adjust ₹ 2,50,000, the excess payment of service tax against his liability of service tax for the subsequent periods subject to the fulfillment of specified condition.

With effect from 1st April, 2012 Rule 6(4B) has been substituted with the new one providing for only one condition for adjustment of excess amount paid towards service tax liability that is the excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification. Hence, with effect from 1st April, 2012 other restrictions earlier provided in rule 6(4B) has been omitted thereby allowing unlimited amount of permissible adjustment of excess service tax paid.

Question 14

Vibha Ltd. is engaged in providing management consultancy services. It was liable to pay the service tax amounting to ₹ 10,000, electronically, for the month of August 2012. However, due to some unavoidable circumstances, it could not pay the said amount on due date and

paid the service tax on 30th November, 2012. You are required to compute the interest payable by Vibha Ltd. on delayed payment of service tax.

Answer

Computation of interest payable on delayed payment of service tax by Vibha Ltd.:-

Due date of payment of service tax	06.09.2012
Actual date of payment	30.11.2012
No. of days of delay (24+31+30)	85
Amount of service tax	₹ 10,000/-
Calculation of interest under section 75 @ 18% per annum*	$10,000 \times \frac{85}{366} \times \frac{18}{100}$
Amount of interest payable	₹ 418/-

Question 15

S. Ltd. paid service tax of ₹ 8 lacs during the preceding financial year and utilized CENVAT credit of ₹ 3 lacs. Whether he is required to deposit service tax electronically for the financial year 2011-12.

Answer

An assessee is required to deposit service tax electronically through internet banking if he has paid the total service tax of ₹ 10 lakhs or more (including the amount of service tax paid by utilization of CENVAT credit) in the preceding financial year.

As the total service tax paid (including CENVAT credit) by S. Ltd., in the preceding financial year is ₹ 11 lakhs on the presumption that service tax of ₹ 8 lakh does not include service tax of ₹ 3 lakh paid by utilizing CENVAT credit, it will be required to deposit service tax electronically for the financial year 2011-2012.

Question 16

State the service tax provisions regarding adjustment of service tax paid when service was not provided either wholly or partly.

Answer

As per rule 6(3) of Service Tax rules, 1994, where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee:

- (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or

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- (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued

However, Rule 6(3) does not allow adjustment of excess payment of service tax per se, say due to clerical mistake etc. In such cases the assessee has to follow the procedure laid down in section 11B of Central Excise Act to claim the refund of excess tax paid.

Question 17

Briefly explain the important points to be kept in mind while paying service tax.

Answer

The important points to be kept in mind while paying service tax are as follows:

1. Service tax is to be paid on the value of taxable services which is charged by an assessee. Any income tax deducted at source is included in the charged amount. Therefore, service tax is to be paid on the amount of income tax deducted at source also.
For example, if invoice is for ₹ 9,000 and payment received is ₹ 8,500 after deducting a TDS of ₹ 500, service tax will be payable on ₹ 9,000.
2. Payment should be rounded off in multiple of rupees.
3. The date of presentation of cheque to the bank shall be deemed to be date on which service tax has been paid subject to the realization of the cheque.

Question 18

X & Co. is a service provider. It received ₹ 19,80,000 during the financial year 2011-12 after deduction of tax at source under section 194 J of the Income-tax Act, 1961.

The rate of tax deduction is 10% (i.e. after deduction of ₹ 2,20,000)

- (i) Calculate the service tax liability of X & Co.
- (ii) Can a multiple service provider use a single challan for payment of service tax for various services rendered by it?

Answer

(i) Calculation of service tax liability of X & Co.:-

Particulars	₹
Amount received (Net)	19,80,000
Add: Tax deducted at source under section 194J	<u>2,20,000</u>
Gross amount (including service tax)	<u>22,00,000</u>
Service tax liability = $22,00,000 \times \frac{10.3}{110.3}$	<u>2,05,439.71</u>
Service tax payable (rounded off)	2,05,440

- (ii) A multiple service provider (a service provider rendering more than one taxable service) can use single GAR-7 challan for payment of service tax on different services. However, amounts attributable to each such service along with concerned accounting codes should be mentioned clearly in the column provided for this purpose in the GAR-7 challan. Alternatively, separate GAR-7 challans may be used for payment of service tax for each service provided by the service provider.

EXERCISES

1. *What is the due date for payment of service tax in case of a partnership firm?*
 - (a) 5th day of the month immediately following every month
 - (b) 25th day of the month immediately following every quarter
 - (c) 5th day of the month immediately following every quarter
 - (d) 25th day of the month immediately following every month
2. *'X Ltd.' provides management consultancy service to 'Y' for a consideration of ₹ 20,000. 'X Ltd.' raises the bill on 'Y' on 05.06.2010. 'X Ltd.' receives the payment from 'Y' on 15.07.2010. When should 'X Ltd.' pay the service tax?*
 - (a) on or before 05.08.2010
 - (b) on or before 05.07.2010
 - (c) on or before 31.07.2010
 - (d) on or before 30.06.2010
3. *Service tax is payable to the credit of the Central Government in:*
 - (a) Form ST-3
 - (b) GAR-7 challan
 - (c) Form F
 - (d) none of the above
4. *'A' charges ₹ 10,000 from 'B' towards the taxable services provided by him. He does not charge service tax from 'B'. In this context, which of the following statement is true?*
 - (a) No service tax is payable by 'A'.
 - (b) ₹ 1058 is payable by 'A' as service tax.
 - (c) ₹ 1100 is payable by 'A' as service tax.
 - (d) ₹ 1236 is payable by 'A' as service tax.
5. *What is the due date for payment of service tax in case of a company for the month of February and March?*

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6. (i) *A payment of ₹ 11,000 is made by a client/ customer to an assessee after deducting income-tax of ₹ 1,000 at source. In such a case, is service tax leviable only on the amount actually received by the assessee from his client/customer or does it also extend to the amount of income tax deducted at source?*
- (ii) *In case of payment of service tax by cheque, which date is considered as date of payment of service tax? Is it the date on which the cheque for the same is deposited/tendered in the designated Bank or the date on which the amount is credited?*
7. *Write a brief note on provisional payment of service tax.*

Answers

1.(c); 2.(b); 3.(b); 4.(c)

UNIT 2: FILING OF RETURNS

Question 1

Answer the following questions:-

- (a) Which are the documents to be submitted along with service tax return?
- (b) Who are the persons liable to file service tax returns?
- (c) Whether service tax return can be furnished after the due date?
- (d) Mr. Raju is a multiple service provider and files only a single return. State with reasons whether he can do so?

Answer

- (a) Along with service tax (ST-3) return, the following documents should be attached:
 - (i) copies of GAR-7 challans which indicate the payment of service tax for the months/quarter covered in the half-yearly return.
 - (ii) memorandum in Form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. This memorandum (Form ST-3A) is to be attached only when the assessee opts for provisional payment of service tax.
- (b) Section 70(1) of the Finance Act, 1994, *inter alia*, provides that every person liable to pay service tax shall himself assess the tax due on the services provided by him and shall furnish a return to the Superintendent of Central Excise.

Sub-section (2) of section 70 stipulates that certain notified person or class of persons shall also furnish to the Superintendent of the Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.
- (c) A delayed return can be furnished by paying the prescribed late fee. Section 70(1) of the Finance Act, 1994, *inter alia*, provides for filing of periodical return after the due date with the prescribed late fee of not more than ₹ 20,000/-.
- (d) Yes, Mr. Raju can file a single return though he is a multiple service provider. He has to furnish the details in each of the columns of the Form No. ST-3 separately for each of the taxable services rendered by him. Thus, instead of showing a lump sum figure for all the services together, service-wise details should be provided in the return.

Question 2

List the documents to be submitted alongwith the first service tax return.

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Answer

Every assessee shall furnish to the Superintendent of Central Excise at the time of filing the return for the first time or 31st January, 2008 whichever is later, a list of following documents in duplicate:

- (a) all the records prepared or maintained by the assessee for accounting of transactions in regard to
 - (i) providing of any service, whether taxable or exempted;
 - (ii) receipt or procurement of input services and payment for them;
 - (iii) receipt, purchase, manufacture, storage, sale or delivery, as the case may be, in regard to inputs and capital goods;
 - (iv) other activities such as manufacture and sale of goods, if any.
- (b) all other financial records maintained by him in the normal course of business.

Question 3

What do you mean by e-filing of returns? Is there any facility of e-filing of service tax returns?

Answer

E-filing is a facility for the electronic filing of service tax returns by the assessee from his office, residence or any other place of choice, through the internet, by using a computer. E-filing of returns is mandatory for the assessee. ***With effect from 01.10.2011, every assessee will have to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year.***

Question 4

State the due dates for filing of service tax returns. Will the delayed filing of service tax return result in payment of any late fee? If so, how much?

Answer

The service tax return (in Form ST-3) should be filed on half yearly basis by the 25th of the month following the particular half-year. The due dates on this basis are as under:

Half year	Due date
1 st April to 30 th September	25 th October
1 st October to 31 st March	25 th April

In case the due date of filing of return falls on a public holiday, the assessee can file the return on the immediately succeeding working day.

Yes, late fee will be levied for delay in furnishing of the service tax return. The prescribes late is given hereunder:

S. No.	Period of delay	Late fee
	Particulars	₹
(a)	15 days from the date prescribed for submission of the return	500
(b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return.	1,000
(c)	Beyond 30 days from the date prescribed for submission of the return	An amount of ₹ 1,000 plus ₹ 100 for every day from the 31 st day till the date of furnishing the said return.

However, the total late fee for delayed submission should not exceed ₹ 20,000

Question 5

What is the late fee payable for delay in furnishing the service tax return? Can the same be waived?

Answer

The late fee payable for delay in submitting the service tax return is furnished below:

S.No.	Period of delay (No. of days from the due date of filing the return)	Late fee (₹)
(a)	15 days	500
(b)	16 – 30 days	1000
(c)	Beyond 30 days	₹ 1000 plus ₹ 100 for every day of delay beyond 30 days.

However, the total late fee payable shall not exceed ₹ 20,000.

Waiver of late fee: Where the gross amount of service tax payable is nil, the Central Excise Officer may, on being satisfied that there was sufficient cause for the delay, reduce or waive the late fee.

Question 6

State the contents of Service tax return.

Answer

General details, like financial year, half year period (April-September or October-March), name of the assessee, registration number of the premises for which return is being filed, category of taxable services are required to be furnished. Apart from this, some significant month-wise details also need to be furnished. For instance:

- (i) amount received towards taxable service

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- (ii) amount received in advance towards taxable service to be provided
- (iii) amount billed for exempted services and services exported without payment of tax
- (iv) amount billed for services on which tax is to be paid
- (v) abatement claimed - value
- (vi) notification number of abatement and exemption
- (vii) service tax payable
- (viii) education cess payable
- (ix) GAR-7 challan date and number
- (x) credit details for service tax provider/recipient

Question 7

- (i) *Can the service tax return be revised ? If so, state the relevant period before which it can be done?*
- (ii) *Mr. Amarnath, a registered service provider did not render any taxable services during the financial year 2011-12. Whether he is required to file service tax return ? Is he liable for penalty for non-filing ? If so, how much?*

Answer

- (i) Yes, the service tax return can be revised by an assessee. An assessee can submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission.

The service tax return can be revised within a period of 90 days from the date of submission of the original return.

- (ii) Every assessee has to file a half yearly return in Form ST-3. Even if no service is provided during a half year, and no service tax is payable; a NIL return has to be filed. Therefore, Mr. Amarnath is required to file a service tax return even if he did not render any taxable services during the financial year 2011-12.

Yes, Mr. Amarnath is liable for penalty for non-filing of return. The maximum amount of penalty which can be levied for non-filing of return is ₹ 20,000. However, the Central Excise Officer may reduce or waive the penalty if he is satisfied that there is sufficient reason for not filing the return.

As per Rule 7C of the Service Tax Rules, 1994, the prescribed late fee for furnishing a delayed return is:

S.No..	Period of delay	Late fee (₹)
a)	15 days from the date prescribed for submission of the return.	500

b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return.	1,000
c)	Beyond 30 days from the date prescribed for submission of the return.	An amount of ₹ 1,000 plus ₹ 100 for every day from the 31st day till the date of furnishing the said return.

Question 8

PS Ltd. has paid service tax of ₹ 9 lakh during the financial year 2010-11. You are required to examine whether it is required to file service tax return electronically for the half year ended September 30, 2011.

Answer

Service Tax Rules, 1994 have been amended to provide that every assessee will have to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year. The amendment would be effective from October 1st, 2011. Hence, PS Ltd. has to file service tax return electronically for the half year ended September 30, 2011.

Question 9

Prasad & Co. seeks your advice for the following in the context of service tax:

It wants to file revised service tax return even though the original return was filed belatedly.

Your answer must be with reasons.

Answer

Revised service tax returns may be filed within 90 days from the date of filing original return. Even if the original return is filed belatedly, the return could be revised by filing a revised return.

EXERCISES

- Which of the following statement is true with regards to service tax return?
 - A half yearly return is to be filed by each assessee.
 - A quarterly return is to be filed by each assessee.
 - A monthly return is to be filed by each assessee.
 - An annual return is to be filed by each assessee.
- What is the due date for filing returns?
 - 5th of the month following the particular quarter

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- (b) 25th of the month following the particular month
 - (c) 25th of the month following the particular half year
 - (d) 5th of April each year.
3. The prescribed form for service tax return is:
- (a) Form 3CD
 - (b) Form 2E
 - (c) Form ST-3
 - (d) Form GAR-7
4. The contents of the service tax return do not include:
- (a) amount billed for exempted services and services exported without payment of tax
 - (b) amount received towards taxable service
 - (c) amount received in advance towards taxable service to be provided
 - (d) the income or loss of the service provider
5. For an assessee who provides 3 taxable services:
- (a) filing of return is not compulsory at all
 - (b) filing of a single return is sufficient
 - (c) filing of separate returns for all 3 services is necessary
6. Which documents are to be submitted along with the first return?
7. When should the return be filed if the due date happens to be a public holiday?
8. 'X', an individual, has not provided any services in the half year period of April to September. Should he file any return for this period? Give your opinion.
9. Write a note on the manner of payment of service tax.

Answers

1.(a); 2.(c); 3.(c); 4.(d); 5.(b)