

Service Tax Procedures

Question 1

Answer the following with reference to the Finance Act, 1994 and the rules made thereunder relating to service tax:

- (i) *Intimation regarding change in details furnished by an assessee in Form ST-1.*
- (ii) *Cancellation of registration certificate.*
- (iii) *Adjustment of excess amount paid towards service tax liability for the subsequent period.*

Answer

- (i) As per **Rule 4(5A)** of the Service Tax Rules, 1994, where there is a change in any information or details furnished **by an assessee** in Form ST-1 at the time of obtaining registration or he intends to furnish any additional information or detail, such change or information or details are required to be intimated in writing by the assessee to the jurisdictional Assistant/ Deputy Commissioner of Central Excise. Such intimation should be given within a period of 30 days of such change.

Further, the assessee would be required to submit a self-certified copy of the registration certificate while intimating any such change and the amended registration certificate shall be issued after canceling the original registration certificate issued earlier.

However at places where Automation of Central Excise and Service Tax [popularly known as “ACES”] Scheme is in place, scheme has to be compulsorily followed, application for amendment in ST-1 has to be filed online.

- (ii) As per Rule 4(7) of the Service Tax Rules, 1994, every assessee who is registered and ceases to provide taxable service shall surrender his registration certificate to the Superintendent of Central Excise immediately. Sub-rule (8) of rule 4 provides that on receipt of such certificate the Superintendent of Central Excise shall ensure that the assessee has paid all moneys due to the Central Government under the provisions of Act/Rules/Notifications and thereupon cancel the registration certificate.
- (iii) According to substituted Rule 6(3) of the Service Tax Rules, 1994 w.e.f. 01.04.2011 of the 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 person, 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 has been received.

Further, **Rule 6(4A)** of the Service Tax Rules, 1994 provides that 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 with effect from 01.04.2012 such adjustment of excess amount paid shall be subject to satisfaction of condition [specified in Rule 6(4B) of Service Tax Rules, 1994] that excess amount paid is on account of reasons **not involving**

- (i) Interpretation of law,
- (ii) Taxability,
- (iii) Valuation, or
- (iv) Applicability of exemption notification.

Question 2

*Briefly state the provisions under the Service Tax Rules, 1994 relating to filing of returns and also state any **late fee payable** for delay in filing of returns.*

Answer

Filing of Service Tax Returns: Section 70 of Finance Act, 1994 inter alia provides that every person who is liable to pay service tax shall furnish to the Superintendent of Central Excise a return in the prescribed form and in the prescribed manner and at prescribed frequency. The aforementioned prescribed form, manner and frequency have been given in the following table:

Form, Frequency and Manner of filing Return	Particulars	Relevant Rule of Service Tax Rules, 1994
Form of filing Return	Every assessee shall submit a half yearly return in form 'ST-3' along with the copy of form 'GAR-7'(challan for payment of service tax) in triplicate for the months covered in the half yearly return.	Rule 7(1)
Frequency of filing Return	Every assessee [other than those registered as input service distributor] is required to submit the half-yearly return by 25 th of the month following the particular half year .Here, it is necessary to clarify that	Rule 7(2)

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	as per Rule 2(cc) of STR, 1994, "Half Year" means the period between 1 st April to 30 th September or 1 st October to 31 st March of the financial year. In simple words, the service tax returns are due to be filed by 25 th of October and 25 th of April for the half year ended 30 th Sep. and 31 st March respectively.	
Manner of filing Return	Every assessee is required to submit half-yearly return electronically	Rule 7(3)

In addition, a **single return** has to be filed in respect of all taxable services provided by an assessee.

Payment of Late Fee for delayed furnishing of Return: According to Section 70 **depending on period of delay late fee up to ₹20,000/-** is required to be paid for delayed furnishing of return. However, as per Rule 7C of STR, 1994, the quantum of late fee is to be determined as under:

Delay in Days	Amount of Late Fee/Penalty/Amount Payable
Upto 15 days	₹ 500/-
16 to 30 days	₹1,000/-
More than 30 days	₹1,000 + ₹100/- for each day of subsequent delay. However, total amount of Additional Fee under rule read with section 70 shall not exceed ₹20,000/-

Note:-The delay is to be calculated from the day immediately succeeding the **last date of due date of filing of return**.

Practical Example-

Ms Harpreet Jaggi submitted her Service Tax Return for the half year ending **30th September, 2012** on following **independent dates** for which due date of filing return is **25th October, 2012**:

Different Cases	Date of Filing of Service Tax Return
Case I	01.11.2012
Case II	22.11.2012
Case III	28.11.2012
Case IV	04.12.2012
Case V	14.12.2012
Case VI	03.05.2013
Case VII	02.06.2013
Case VIII	27.10.2013

The amount of Late Fee/Penalty/Amount Payable in each of the above independent cases is exhibited in the following table:

Different Cases	Amount of Late Fee/Penalty/Amount Payable
Case I	₹500/- because there is a delay of 7 days which falls within the ambit of first given [prescribed] range of delay upto 15 days.
Case II	₹1,000/- because there is a delay of 28 days which falls within the purview of second given [prescribed] range of delay from 16 to 30 days.
Case III	₹1,400/- because there is a delay of 34 days. For delay upto 30 days ₹1,000/- becomes payable. For delay of 4 days beyond 30 days ₹400/- [$₹100/- \times 4 \text{ days}$] becomes payable. Thus, total amount of Late Fee payable= ₹1,000/- + ₹400/-
Case IV	₹2,000/- because there is a delay of 40 days. For delay upto 30 days ₹1,000/- becomes payable. For delay of 10 days beyond 30 days ₹1000/- [$₹100/- \times 10 \text{ days}$] becomes payable. Thus, total amount of Late Fee payable= ₹1,000/- + ₹1000/-
Case V	₹3,000/- because there is a delay of 50 days. For delay upto 30 days ₹1,000/- becomes payable. For delay of 20 days beyond 30 days ₹2,000/- [$₹100/- \times 20 \text{ days}$] becomes payable. Consequently, total amount of Late Fee payable= ₹1,000/- + ₹2,000/-
Case VI	₹17,000/- because there is a delay of 190 days. For delay upto 30 days ₹1,000/- becomes payable. For delay of 160 days beyond 30 days ₹16,000/- [$₹100/- \times 160 \text{ days}$] becomes payable. Consequently, total amount of Late Fee payable= ₹1,000/- + ₹16,000/-. Moreover, the aforementioned amount of ₹17,000/- also remains below the maximum ceiling of ₹20,000/-
Case VII	₹20,000/- because there is a delay of 220 days. For delay upto 30 days ₹1,000/- becomes payable. For delay of 190 days beyond 30 days ₹19,000/- [$₹100/- \times 190 \text{ days}$] becomes payable. Consequently, total amount of Late Fee payable= ₹1,000/- + ₹19,000/-. Moreover, the aforementioned amount of ₹20,000/- does not exceed the maximum ceiling of ₹20,000/
Case VIII	₹ 20,000/- because there is a delay of 367 days [including 29 days of February, 2012, being a leap year] For delay upto 30 days ₹1,000/- becomes payable. For delay of 347 days beyond 30 days ₹ 34,700/- [$₹ 100/- \times 347 \text{ days}$] becomes payable. Consequently, total amount of Late Fee payable= ₹ 1,000/- + ₹ 34,700. However, as Section 70 has prescribed a cap of ₹ 20,000/-, the amount of penalty will be restricted to ₹20,000/-

Question 3

What do you understand by 'Centralised Registration'? Which authority grants the Centralised Registration?

Answer

Meaning of Centralised Registration: Sometimes an assessee provides taxable service from more than one premises. **Rule 4(2)** of Service Tax Rules, 1994 provides that in such cases, the assessee can obtain centralized registration **at his option** if:

- (a) he has centralized billing or centralized accounting in respect of such service, and
- (b) such centralized billing or centralized accounting systems are located in one or more offices or premises.

The assessee can register such offices or premises where centralized accounting or centralized billing systems are located.

Authority granting the Centralised Registration: According to Rule 4(3) of Service Tax Rules, 1994 Centralised Registration is granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where Centralised billing or accounting is done, are located.

Question 4

What option is available to an assessee if he does not seek Centralised Registration?

Answer

Rule 4(3A) of Service Tax Rules, 1994 provides that if the assessee does not opt for Centralised Registration, he is required to make **separate applications in respect of each of such premises or offices** to the jurisdictional Superintendent of Central Excise. This type of registration is also known **Decentralized Registration**.

Question 5

State briefly, whether the following persons are liable to apply for registration under the Finance Act, 1994 and the Service Tax (Registration of Special Category of Persons) Rules, 2005 and if so, from which date:

- (i) An input service distributor who starts his business with effect from 1st November, 2012.
- (ii) A provider of taxable service under an unregistered brand name of another person. Aggregate value of taxable services was ₹ 8,00,000 up to 31.3.13.

Answer

- (i) Yes, as per **Rule 3(1)** of the Service Tax (Registration of Special Category of Persons) Rules, 2005, an input service distributor is liable to apply for registration within a period of 30 days of the commencement of business. Thus, in the given case, the input service distributor should apply for registration by 30.11.2012.

- (ii) According to Notification No. 33/2012 dated 20.06.2012 the basic[threshold] exemption limit of ₹10 lakh is not available to taxable services provided by a person under a brand name or trade name, whether registered or not of another person. Therefore, in the present case a provider of taxable service under an unregistered brand name of another person is liable to apply for registration within a period of 30 days of commencement of business of providing taxable service.

Question 6

With reference to the Finance Act, 1994 as amended and the rules made thereunder relating to service tax, state whether registration is required or not in the case of the following persons or class of persons:

- (i) *Input service distributor*
- (ii) *Small service provider whose aggregate value of taxable service is ₹9,50,000 per annum.*
- (iii) *Mr. Raj, located in taxable territory receives taxable services provided from a non-taxable territory by a U.K. based company.*

Answer

- (i) Yes. As per provisions of section 69(2) of the Finance Act, 1994 read with Rule 3(1) of Service Tax (Registration of Special Category of Persons) Rules, 2005 an input service distributor is required to make an application for registration.
- (ii) Yes. As per provisions of section 69(2) of the Finance Act, 1994 read with Rule 3(2) of Service Tax (Registration of Special Category of Persons) Rules, 2005 any provider of taxable service whose aggregate value of taxable service in a financial year exceeds nine lakh rupees is required to get registration within a period of thirty days of exceeding the aggregate value of taxable service of nine lakh rupees.
- (iii) Yes. According to provisions of section 68(2) of Finance Act, 1994 in respect of notified taxable services, the service tax thereon shall be payable by the such person as may be specified. Notification No. 30/2012-Service Tax dated 20.06.2012 specifies, amongst other things, that in respect of services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory, service tax is required to paid by person receiving the service. Therefore, in the present case, service tax is required to be paid by Mr. Raj, being a person receiving the service and located in taxable territory. As a consequence, he has to take registration.

Question 7

- (i) *What is the time limit under Rule 4A for raising/issuing an invoice for services? What are the essential particulars to be specified on an invoice/bill/challan?*
- (ii) *What is the due date for monthly/quarterly payment of service Tax?*

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Answer

- (i) **Time limit for issuing an invoice/bill/challan:** As per **Rule 4A(1)** of Service Tax Rules, 1994, with effect from 01.04.2012 an invoice, a bill or challan is to be issued within time-limit specified in the following concise table:

In case the provider of taxable service is a banking company/a financial institution including a non-banking financial company	Within Forty-five days from the date of completion of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier.
In case of any other taxable service provider	Within Thirty days from the date of completion of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier.
In case of assessee who provides continuous supply of service	Within Thirty days of the date when each event specified in the contract which requires the service receiver to make any payment to service provider is completed or receipt of any payment towards the value of such taxable service, whichever is earlier.

Essential Particulars to be specified in an invoice/bill/challan

Following are the essential particulars to be specified on an invoice/bill/challan as per Rule 4A of Service Tax Rules, 1994:

In case the provider of taxable service is a banking company/a financial institution including a non-banking financial company	(i) The name, address and the registration number of the Service Provider. (ii) The name of the Service Recipient. (iii) Description and value of taxable service provided or agreed to be provided. (iv) The service tax payable thereon.
In case of any other taxable service provider	(i) Serial Number of invoice (ii) The name, address and the registration number of the Service Provider; (iii) The name and address of the Service Recipient; (iv) Description and value of taxable service provided or agreed to be provided; (v) The service tax payable thereon.

- (ii) **Rule 6(1)** of Service Tax Rules, 1994 governs both the manner and period of payment of Service Tax. The following table succinctly exhibits the various provisions of Rule 6(1) of STR 1994

S.No	Mode of Payment	Status of Service Provider	Last date for making payment of Service Tax*
1.	Electronically through internet banking i.e. on-line Payment	Any person other than an individual or proprietary firm or partnership firm (including limited liability partnership)	6 th day of the month immediately following the calendar month in which the service is deemed to be provided as per the Point of Taxation Rules, 2011. However, for the month of March, Service Tax has to be deposited by 31 st March.
2.	Any mode other than internet banking	Any person other than an individual or proprietary firm or partnership firm (including limited liability partnership)	5 th day of the month immediately following the calendar month in which the service is deemed to be provided as per the Point of Taxation Rules, 2011. However, for the month of March, Service Tax has to be deposited by 31 st March.
3.	Electronically through internet banking i.e. on-line payment	An individual or proprietary firm or partnership firm (including limited liability partnership) providing taxable services exceeding ₹50 Lacs in Previous Year.	With effect from 01.04.2012 6 th 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. However, for the month of March, Service Tax has to be deposited by 31 st March.
		An individual or proprietary firm or partnership firm (including limited liability partnership) providing taxable services up to ₹50 Lacs in Previous Year.	With effect from 01.04.2012 6 th day of the month immediately following the quarter in which the payment is received towards the value of taxable services up to the service tax amounting to ₹50 Lacs. However, for the month of March, Service Tax has to be deposited by 31 st March.
4.	Any mode other than internet	An individual or proprietary firm or	With effect from 01.04.2012 5 th day of the month immediately

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S.No	Mode of Payment	Status of Service Provider	Last date for making payment of Service Tax*
	banking	partnership firm (including limited liability partnership) providing taxable services exceeding ₹50 Lacs in Previous Year.	following the quarter in which the service is deemed to be provided as per the Point of Taxation Rules, 2011. However, for the month of March, Service Tax has to be deposited by 31 st March.
		An individual or proprietary firm or partnership firm (including limited liability partnership) providing taxable services up to ₹50 Lacs in Previous Year.	With effect from 01.04.2012 ^{5th} day of the month immediately following the quarter in which the payment is received towards the value of taxable services up to the service tax amounting to ₹50 Lacs. However, for the month of March, Service Tax has to be deposited by 31 st March. (In other words, in case of such assessee, service tax can be discharged on receipt basis up to ₹50,00,000).

Question 8

Mr. Ajesh Yadav, a Chartered Accountant, raised an invoice for ₹28,090 (25,000 + 3,090 service tax) to a client on 20.06.2012. The client, however, has paid a lump-sum of ₹26,000 on 28.10.2012 for full and final settlement.

- How much service tax Mr. Ajesh Yadav has to pay and when does this tax become due for payment?
- What will be his liability, if the client refuses to pay service tax and pays only ₹25,000 in total?

While answering the above question, keep in mind that value of taxable services provided by Mr. Ajesh Yadav during the financial year 2011-12 was 48 lakh.

Answer

- According to **third proviso to Rule 6(1)** of Service Tax Rules, 1994 in case of an individuals and partnership firms, whose aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the **previous financial year**, the service provider **shall have the option** to pay tax on taxable services provided or agreed to be provided by him up to a total of rupees fifty lakhs in the current financial year by the

dates specified in Rule 6(1) of Service Tax Rules, 1994 with respect to the month or quarter in which payment is received.

Since in the present case, value of taxable services provided by Mr. Ajesh Yadav during the financial year 2011-12 was 48 lakh, he has the option of depositing service tax on taxable services provided or agreed to be provided by him up to a total of rupees fifty lakhs in the current financial year on receipt basis. It is assumed that Mr. Ajesh Yadav has exercised the foregoing option of depositing service tax on receipt basis.

Where the amount received is less than the gross amount charged/billed to the client, the assessee is required to amend the bills either by rectifying the existing bill or by issuing a revised bill and by properly endorsing such change in the billed amount.

Assuming that Mr. AJAR has amended the bill, amount of service tax payable shall be computed by back calculations. Effective rate of service tax is 12.36% (12% service tax + 2% Primary Education Cess & 1% Secondary & Higher Education Cess on service tax).

Service tax and education cess payable	$= \frac{\text{Gross value} \times \text{Rate of tax}}{100 + \text{rate of tax}}$
	$= 26,000 \times 12.36 / (100 + 12.36)$
	$= ₹ 2,860/-$

Such service tax should be paid along with the tax of 3rd quarter of financial year 2012-13 by 5th of Jan. 2013.

- (ii) In the present case the value of taxable service and the service tax liability will be worked out by **back calculations**. As mentioned before, Effective rate of service tax is 12.36%.

$$\begin{aligned} \text{Service tax and education cess payable} &= \frac{\text{Gross value} \times \text{Rate of tax}}{100 + \text{rate of tax}} \\ &= 25000 \times 12.36 / 112.36 = 2,750/- \end{aligned}$$

Question 9

Briefly explain the provisions in the Service Tax Rules, 1994 relating to furnishing of list of records at the time of filing of return for the first time.

Answer

According to **Rule 5(2) of the Service Tax Rules, 1994** every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time a list in duplicate, of

- (i) all the records prepared or maintained by the assessee for accounting of transactions in regard to,
 - (a) Providing of any service;

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- (b) Receipt or procurement of input services and payment for such input services;
 - (c) Receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
 - (d) Other activities, such as manufacture and sale of goods, if any.
- (ii) all other financial records maintained by him in the normal course of business.

Question 10

Ashwani Mohan & Sons, a partnership firm is engaged in providing construction services. Aggregate value of its taxable service provided during the financial year 2011-12 was ₹49 lakh. However, its receipts from taxable services was ₹51 lakh. However, during the financial year 2012-13, upto 20.09.2012 value of its taxable services was ₹50 lakh out of which payment of ₹42 lakh was received by it until 30.09.2012. Subsequently, on 22.09.2012 the firm provided services of ₹15 lakh, the payment for which was received by it in January 2013.

Discuss the options available to the above referred firm regarding deposit of service tax.

Answer

Following two options are available for depositing Service Tax by Ashwani Mohan & Sons:

- (i) To deposit Service Tax on Accrual basis
- (ii) To take the benefit of **third proviso to Rule 6(1) of Service Tax Rules, 1994** and deposit service tax to the credit of Central Government up to ₹50 lakh in current financial year on receipt basis. According to aforesaid third proviso to Rule 6(1) of Service Tax Rules, 1994 in case of individuals and partnership firm whose aggregate value of taxable services provided from one or more premises **is fifty lakh rupees or less** in the previous financial year, the service provider shall have the **option** to pay tax on taxable services provided or agreed to be provided by him upto a total of rupees fifty lakh in the current financial year, by the 6th day of the month or 5th day of the month immediately following the quarter in which the payment is **received**. In simple words, such service providers can discharge their service tax liability up to ₹50 lakh in current financial year on receipt basis.

Since in the present case, value of taxable services provided by Ashwani Mohan & Sons was 49 lakh, [less than ₹50 lakh] it can take the benefit of above-mentioned third proviso to Rule 6(1) of Service Tax Rules, 1994 and discharge its service tax liability on receipt basis up to ₹50 lakh in the current financial year 2012-13. It is to be noted carefully that the fact of receipt of ₹51 lakh in the preceding financial year is not a deciding factor for the purpose of eligibility to the benefit provided by above-mentioned third proviso. In other words, for deciding the eligibility to avail the benefit of third proviso, only value of services provided in the previous financial year are to be kept in mind.

As a result, in the present case, Ashwani Mohan & Sons can deposit service tax on taxable services provided or agreed to be provided upto a total of rupees fifty lakh in the

financial year 2012-13 on receipt basis. However, once the foregoing limit of ₹50 lakh is crossed, service tax is required to be deposited on accrual basis. In the foregoing legal position, the firm is required to deposit service tax as under by 5th October, 2012

- (A) Service Tax on receipt basis on ₹42 lakh
- (B) Service Tax on accrual basis on ₹15 lakh

Question 11

Briefly explain the following with reference to the Service Tax Rules, 1994 and the Finance Act, 1994:-

- (i) *E-payment of service tax.*
- (ii) *E-filing of Service Tax Return*
- (iii) *Filing of Revised Return*
- (iv) *Due Date of Filing Service Tax Return by Input Service Distributor*
- (v) *Large Taxpayer*
- (vi) *Optional scheme for payment of service tax available to life insurer in respect of Composite Policies*
- (vii) *Optional scheme for payment of service tax available to money changers*

Answer

- (i) **E-payment of Service Tax :** According to Proviso to Rule 6(2) of the Service Tax Rules, 1994 w.e.f. 01-04-2010 the assessee who has paid service tax of ₹10,00,000 or more including the amount paid by utilization of CENVAT Credit **in the preceding financial year**, is required to deposit the service tax electronically, through internet banking.

It is also worth highlighting that in terms of provisions of Section 77(1)(d) of Finance Act, 1994 any person who is required to pay tax electronically through internet banking, fails to pay the tax electronically, shall be liable to a penalty which may extend to ten thousand rupees.

- (ii) **E-filing of Service Tax Return:** According to Rule 7(3) of the Service Tax Rules, 1994 w.e.f. 01.10.2011 every assessee shall submit the half-yearly return electronically.
- (iii) **Filing of Revised Return:** According to Rule 7B of Service Tax Rules, 1994 an assessee may submit a revised return in Form ST-3 in triplicate with a view to correct a mistake or omission **within a period of ninety days from the date of submission of the return under Rule 7. For instance**, Miss Anu Dem submitted her service tax return on 20.10.2012 for the period ending 30.09.2012. Therefore, Miss Anu Dem can revise her aforesaid service tax return within a period of 90 days from 20.10.2012[i.e. 11 days of October, 2012; 30 days of November, 2012; 31 days of December, 2012 and 18 days of

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January, 2012] i.e. latest by 18th January, 2013. Students should also remember that 90 days are not to be counted from the last date prescribed for filing of service tax return [which is 25.10.2012 in the present case] because Miss Anu Dem filed her service tax return before the last date of filing return.

On the other hand, if the above example is slightly modified and it is assumed that Anu Dem filed her service tax return on 30.10.2012 i.e. after passing of the last date for filing of service tax return then 90 days will be counted from the actual date of filing service tax return i.e. 30.10.2012. Accordingly, Anu Dem can revise her said service tax return latest by 28th January, 2013 [i.e. 1 day of October, 2012; 30 days of November, 2012; 31 days of December, 2012 and 28 days of January, 2013]

- (iv) **Due date of filing service tax return by Input Service Distributor: Rule 9(10) of CENVAT Credit Rules, 2004** provides that the Input Service Distributor shall file a half yearly return in the prescribed form[giving details of credit received and distributed during the said half year] to the Jurisdictional Superintendent of Central Excise not later than last day of the month following the half year period. In simple words, the following succinct table exhibits the last date for filing service tax return by a Input Service Distributor:

Relevant half year Period ending on	Last date for filing service tax return
30 th September of a given financial year	31 st October of the same financial year
31 st March of a given financial year	30 th April of the same financial year

- (v) **Large Taxpayer:** According to Rule 2(cc) of Service Tax Rules, 1994 the term “large taxpayer” shall have the meaning assigned to it in the Central Excise Rules 2002. According to Rule 2(ea) of Central Excise Rules 2002 “large taxpayer” means a person who has one or more registered premises under the Central Excise Act 1944; **OR** has **one or more registered premises** under Chapter V of the Finance Act 1994 **AND** is an assessee under Income Tax Act 1961(43 of 1961), who holds a Permanent Account Number issued under Section 139A of the said Act and satisfies the conditions & observes the procedures as notified by the Central Government in this regard.

Further, every taxpayer (single PAN based entity) who is:-

- (a) Presently assessed to Income Tax/Corporate Tax under Income Tax Act 1961 in any of the five cities (i.e. Bangalore, Chennai, Delhi, Kolkata or Mumbai); **and**
- (b) Who has **paid** during the preceding financial year :-
- (i) **Duties of Excise** in cash (or account current) **of more than ₹5 Crore; or**
 - (ii) **Service Tax in cash** (or account current) **of more than ₹5 Crore; or**
 - (iii) **Advance Income Tax /Corporate Tax of more than ₹10 Crore**

is an eligible taxpayer for the purpose of being treated as LTU.

Statutory Provisions/Rules/Notification governing LTU under Service Tax Law:-

Rule 10 (inserted vide Notification No. 28/2006 dated 30-09-2006) of Service Tax 1994 provides as under:-

Procedure & facilities extended to large taxpayer: - Interestingly, the heading has been phrased as "procedure & facilities extended to large taxpayer". However, **following are the duties of a LTU:-**

Notwithstanding anything contained in these rules (i.e. Service Tax Rules, 1994) the following shall apply to a large taxpayer:-

- (1) Submission of returns:- A LTU shall submit prescribed returns for each of the registered premises. However, a LTU who has obtained Centralized Registration under Rule 4(2) shall submit a Consolidated Return in respect of all of his premises.
- (2) Make available Records in Electronic Form: - A LTU may be asked to make available the Financial, Stores & Cenvat Credit Records in electronic media such as compact disc/tape for Scrutiny & Verification purposes.
- (3) Exit Notice: - A LTU may opt out to be a LTU from the first day of the following financial year. For exit option a LTU has to give minimum 30 days advance intimation.
- (4) Status of Pending Notices: - Any notice issued (before granting LTU Status) but not adjudged by the concerned Central Excise Officer shall be deemed to be issued by Central Excise Officers of LTU Cell & accordingly will be adjudged by them.
- (5) Application of Service Rules 1994:- Provisions of Service Tax Rules 1994 shall apply (with necessary changes) to LTU also provided these are not inconsistent with Rule 10 of Service Tax Rules, 1994.

In addition, consequent upon introduction of concept of LTU, Following information relating to LTU is required to be given in ST-3 Return:-

1A Has the assessee opted to operate as LTU(Y/N)

(As defined under Rule 2(ea) of the Central Excise Rules 2002 read with

Rule 2(1) (cccc) of Service Tax Rules, 1994)

1B If reply to column "1A" is 'yes', name of Large Taxpayer Unit (LTU)

opted for

(Name of city)

- (vi) **Optional Scheme for payment of service tax available to life-insurer in respect of composite policies:** According to **substituted Rule 6(7A)** of Service Tax Rules, 1994

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instead of discharging his service tax liability at the prevailing rate of service tax an insurer carrying on life insurance business shall have the **option** to pay service tax in accordance with following concise table:

When break-up of the gross premium into risk portion and investment portion is given to the policy holder at the time of providing of service	Payment of Tax on that portion of the premium which is not invested. For instance gross premium of ₹20,000/- is divided into Risk Portion (₹14,000) and investment portion (₹6,000) and intimated to the concerned policy holder. As per this option the concerned life insurance company will have the option of paying service tax at the prevailing rate [i.e. 12.36%] on ₹14,000/- ₹20,000(gross premium) – ₹6,000/- [investment portion].
When above-mentioned break-up is not given to the policy holder	Payment of Service Tax @ 3 per cent of the premium charged from the policy holder in the first year and 1.5 per cent of the gross premium charged from policy holder in subsequent years. Continuing with the above example, the life insurance company will have the option of paying service tax @ 3 per cent on ₹20,000/- (gross amount of premium).

However, according to **proviso to Rule 6(7A)** the benefit of optional rate shall not be available in cases where the entire premium paid by the policy holder is only towards the risk cover in life insurance. Once again, continuing with the above example, if the entire (gross) premium is paid by the policy holder only towards the risk cover in life insurance. In this situation, service tax liability is to be discharged at the prevailing rate of service tax of 12.36%.

(vii) Optional Scheme for payment of Service Tax in case of Money Changer Services:

According to Rule 6(7B) of Service Tax Rules, 1994 the person liable to pay service tax in relation to purchase or sale of foreign currency [including money changing] provided by a foreign exchange broker[including an authorised dealer in foreign exchange or an authorised money changer] has either of the following options of paying service tax:

- (A) At the rate specified in Section 66B of the Act on the value of services determined in accordance with **Rule 2B**[of Service Tax(Determination of Value) Rules, 2006 ;OR

(B) At the rate in accordance with following slabs:

S. No.	Quantum of Currency Exchanged	Composition Rate of Service Tax
(A)	Up to ₹1,00,000/-	0.12% of the gross amount of currency exchanged, subject to minimum amount of ₹30/-
(B)	An amount exceeding ₹1,00,000/- and up to ₹10,00,000	₹120/- [calculated @ 0.12% on first ₹1,00,000] plus 0.06% [on the remaining balance] of the gross amount of currency exchanged
(C)	An amount exceeding ₹10,00,000/-	₹660 [calculated on first ₹10,00,000 as per above second slab] plus 0.012% [on the remaining balance] of the gross amount of currency exchanged, subject to maximum amount of ₹6,000/-.

In order to facilitate the understanding of working of above slab rates introduced following practical example is given:

Mr. Ravi, an authorised money-changer exchanged the **following gross amount of currency** during the month of **April, 2012** in each of the following independent cases:-

a.	₹20,000/-	e.	₹10,00,000/-
b.	₹50,000/-	f.	₹14,00,000/-
c.	₹1,00,000/-	g.	₹4,55,00,000/-[Rupees Four Crore Fifty Five Lac]
d.	₹300,000/-	h.	₹6,00,00,000/-[Rupees Six Crore]

The following Table exhibits computation of service tax liability in each of the above cases under **Composition Scheme** in accordance with above-mentioned slab-rates given under Rule 6(7B) of Service Tax Rules, 1994:

S. No.	Gross Amount of Currency Exchanged(₹)	Computation of Service Tax liability(₹)	Amount of Service Tax liability(₹)
(a)	20,000/-	20,000 X 0.12% = ₹24/- subject to minimum amount of ₹30/-	30/-
(b)	50,000/-	50,000 X 0.12% = ₹60/- subject to minimum amount of ₹30/-	60/-

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S. No.	Gross Amount of Currency Exchanged(₹)	Computation of Service Tax liability(₹)	Amount of Service Tax liability(₹)
(c)	1,00,000/-	$1,00,000 \times 0.12\% = ₹120/-$ subject to minimum amount of ₹30/-	120/-
(d)	3,00,000/-	$120/- [₹100,000 \times 0.12\%] + 120/- [2,00,000 \times 0.06\%]$	240/-
(e)	10,00,000/-	$120/- [₹100,000 \times 0.12\%] + ₹540/- [₹9,00,000 \times 0.06\%]$	660/-
(f)	14,00,000/-[Rupees Fourteen Lac]	660 [calculated on first ₹10,00,000 as per second slab] + ₹48/- $[₹4,00,000 \times 0.012\%]$	708/-
(g)	4,55,00,000/-[Rupees Four Crore Fifty Five Lac]	660 [calculated on first ₹10,00,000 as per second slab] + ₹5340/- $[₹4,45,00,000 \times 0.012\%, \text{ subject to maximum amount of ₹6,000/-}]$	6,000/-
(i)	6,00,00,000/-[Rupees Six Core]	660 [calculated on first ₹10,00,000 as per second slab] + ₹7080/- $[₹5,90,00,000 \times 0.012\%, \text{ subject to maximum amount of ₹6,000/-}]$	6,000/-

Exercise

- Who is responsible to make the payment of service tax in case of service rendered by a Goods Transport Agency.
- Who should apply for registration under service tax law ?
- What is to be done with registration when-
 - registered assessee transfers his business to another or
 - a registered assessee ceases to carry on the activity for which he is registered.
- What are the various purposes for which an officer authorised by the Commissioner can assess to any premises registered under Service Tax Rules? Further, also state what types of records to be made available by the assessee to such authorised officer.

[Hint: Refer Rule 5A(1) & 5A(2) of Service Tax Rules, 1994]