CA – IPC / Final

Service Tax - Taxability, Negative list & Exemptions (Summarized)

(Relevant for May & November 2016)

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Taxability, Negative list & Exemptions in Service Tax

Charge of Service Tax: On All service unless specified in Negative list or Exempt.

Not a service - So Not taxable:
(i) Sale, Gift
(ii) Deemed Sale (Article 366 of the Constitution)
(iii) Transaction in money or actionable claim
(iv) Service by an employee to the employer in the course of employment;
(v) Fees taken in any Court or tribunal
(vi) Functions by Members of Parliament / State Legislative / Panchayats / Municipalities; or
(vii) Duties performed by person who holds post as per provisions of Constitution (E.g CAG)
(viii) Duties performed by person as a Chairperson or a Member in a body established by the CG or SG or local authority. (E.g. Service by president of ICAI as a president)
(ix) An artist performing on a street where passersby may drop some coins in his bowl kept either after feeling rejoiced.
(x) Large number of governmental activities for citizens
(xi) Personal obligations e.g. pocket money
(xii) Amount paid as alimony for divorce
(xii) Donations without conditions
(xiii) Tips and ex-gratia payments
(xiv) Award is received in consideration for life time contribution (Reason - There is no immediate connection. E.g. Nobel Prize)

Only one person involved - So Not Taxable:
Services provided by one branch of a company to another or to its head office or vice-versa
Deemed Distinct Person - So taxable:
(i) Services by an unincorporated association to its members and vice versa.
(ii) Services by an establishment of a person in the taxable territory to any of his other establishment in a non-taxable territory and vice versa.
(iii) Services provided by the members of the Joint Venture (JV) to the JV and vice versa or between the members of the JV

For Service = Activity + Consideration. So if No Consideration - No Service. So Not Taxable:
(i) Fine or penalty for violation of law.
(ii) Security deposit forfeited for accidental damages not relatable to provision of service.
(iii) Excess amount received if returned.

Negative list of services [Section 66D] - Not Taxable:
(i) Services provided by Government or a local authority:
- Basic mail, inland letter, registered post, transfer of money through money orders, operation of savings accounts, issue of postal orders & pension payments.
- All other services not specified in taxable list.

(ii) Services provided by the Reserve Bank of India.

(iii) Services provided by a foreign diplomatic mission located in India

(iv) Services relating to agriculture or agricultural produce <u>(Agriculture produce does not include Rice)</u>:

- Cultivation, harvesting, threshing, plant protection or testing.
- Pisciculture (Fish), sericulture (Silk), floriculture (Flower), horticulture (Vegetable), forestry.
- Supply of farm labour.
- Processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging etc., which do not alter the essential characteristics of agricultural produce but make it only marketable for the **primary market;**
- Renting of agro machinery or vacant land with or without a structure;
- Loading, unloading, packing, storage or warehousing of agricultural produce;
- Agricultural extension services (farmer education or training)
- Services by any Agricultural Produce Marketing Committee (APMC)
- Service by a commission agent for sale or purchase of agricultural produce;

(v) Trading of goods (Including Forwards/ Futures).

(vi) Any process amounting to manufacture or production of goods

(vii) Selling of space or time slots for advertisements in print media only: "Print media" means: "Book" & " News Paper" as defined Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;

(viii) Service by way of access to a road or a bridge on payment of toll charges.

(ix) Betting, gambling or lottery Service.

(x) Transmission or distribution of electricity.

(xi) Education Services:

- Pre-school education and education up to higher secondary school; (CBSC, ICSE, SSC, HSC, International School)
- Education as a part of a curriculum for obtaining a qualification recognised by law (B.Com)
- Education as a part of an approved vocational education course.

(xii) Renting Services by way of renting of residential dwelling for use as residence.

(xiii) Financial Service:

- Extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
- Inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.

(xiv) Service of transportation of passengers:
- A stage carriage (Vehicles which can carry more than six passengers for hire for separate fares paid by individual passengers i.e Public transport)
- Railways - 2nd class or general class, sleeper class
- Metro, monorail or tramway;
- Inland waterways;
- Public transport, other than predominantly for tourism purpose, **in a vessel** between places located in India; and
- Metered cabs or auto rickshaws;

(xv) Services by way of transportation of goods:
- By road except the services of a goods transportation agency & a courier agency;
- By an aircraft or a vessel from a place outside India up to India; or
- By inland waterways;

(xvi) Funeral, burial, crematorium services including transportation of the deceased.

Exemptions:
(i) Government Related:
- **Services provided to** Government, a local authority or a Governmental authority by way of: (a) Water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or
(b) Repair or maintenance of a vessel.
- **Services provided to** Government, a local authority, a governmental authority in relation to any purpose other than commerce, industry or any other business or profession; from a provider of service located in a non- taxable territory
- **Services by a governmental authority** by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution are exempt from service tax.
(Note: Services provided by Government or Local Authority are already covered by negative list)

(ii) RBI related:
Services provided to RBI, from outside India in relation to management of foreign exchange reserves. **(Note: Services provided by RBI covered by negative list)**

(iii) Foreign diplomat related:
- **Services provided to** foreign diplomatic missions in India for their official use.
- **Services provided to** foreign diplomatic agents for their or family member's personal use.

(iv) Rice / Cotton Related:
- Services by way of transportation of food grain by rail/vessel/goods transport agency.
[Food grain includes rice.]
- Services by way of loading, unloading, packing, storage or warehousing of rice / Cotton ginned or baled.
- **Paddy milled into rice, on job work basis**

(v) Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables.

(vi) Job work relating to:
- Agriculture, printing or textile processing;
- Cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals;
- Processes of electroplating, zinc plating etc., during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of Rs 150 lakh in a financial year if aggregate value had not exceeded Rs 150 lakh rupees during the preceding financial year.

(vii) Education / Training Related:
- Services by way of coaching in recreational activities relating to arts/culture/sports.

- **Services provided by** an educational institution to its students, faculty and staff;

- **Service provided to** an educational institution, by way of,-
(i) Transportation of students, faculty and staff;
(ii) catering, including any mid-day meals scheme sponsored by the Government;
(iii) Security or house-keeping services performed in such educational institution;
(iv) Services relating to admission to, or conduct of examination by, such institution.

- Services of public libraries by way of lending of books, publications.

- Services of conducting admission tests for admission to colleges in case the educational institutions are providing qualification recognized by law.

- Services provided by:-
(i) The National Skill Development Corporation (NSDC) set up by the Government of India;
(ii) A Sector Skill Council (SSC) approved by the NSDC;
(iii) An assessment agency approved by the SSC or the NSDC;
(iv) A training partner approved by the NSDC or the SSC
in relation to:
(a) The National Skill Development Programme implemented by the NSDC; or
(b) A vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
(c) Any other Scheme implemented by the NSDC,

(viii) Passenger Transport Related:
- Transport of passengers by Air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
- Non air-conditioned contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;
- Ropeway, cable car or aerial tramway.

(ix) Goods related:

Transportation of the following goods by rail / vessel is exempt from service tax	**Transportation of the following goods in a goods carriage by a goods transport agency is exempt from service tax**
Railway equipments or materials	(i) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed ₹ 1500; or
	(ii) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed ₹ 750.
Transportation of the following goods by rail / vessel / goods carriage is exempt from service tax	
(a) agricultural produce ***(b) milk, salt and food grain including flours, pulses and rice*** (c) chemical fertilizer, oilcakes and organic manure (d) newspaper or magazines registered with the Registrar of Newspapers (e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap (f) defence or military equipments (g) cotton, ginned or bailed	

(x) Services to United Nations /specified international org (WHO/IMF/UNESCO/ILO)

(xi) Health care services:

- Specified Health care services **BY** a clinical establishment / an authorized medical practitioner / Para-medics, and
- Services **BY** a veterinary clinic in relation to health care of animals or birds.

[Health care services which are exempt:

- Diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any **recognised system of medicines** in India and
- Transportation of the patient to and from a clinical establishment, but
- Hair transplant or cosmetic or plastic surgery when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma**]**

[Recognized systems of medicines: Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani or any other system that may be recognized by Central Government]

(xii) Ambulance services provided by all service providers

(xiii) Stem cell banking services

(xiv) Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment.

(xv) Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities

(xvi) Services BY a person by way of Conduct of any religious ceremony are exempt from service tax.

(xvii) The religious pilgrimage organized by the Haj Committee and Kumaon Mandal Vikas Nigam Ltd.

(xviii) Legal services: Services provided **by** An individual as an advocate or a partnership firm of advocates by way of legal services to:
(i) An advocate or partnership firm of advocates providing legal services ;
(ii) Any person other than a business entity; or
(iii) A business entity with a turnover up to Rs 10 lakh in the preceding financial year.

(xix): Sports services: Services provided **TO** a recognized sports body **BY**-
(a) An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;
(b) Another recognized sports body
are exempt from service tax.

(xx) Artist performance: Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from service tax, if the consideration charged for such performance is not more than Rs. 1,00,000. However, exemption will not apply to service provided by such artist as a brand ambassador.

(xxi) Services by way of collecting or providing news

(xxii) Insurance business services (only few important once specified):
- General Insurance: Pradhan Mantri Suraksha Bima Yojna
- Life Insurance: Janashree Bima Yojana (JBY); Aam Aadmi Bima Yojana (AABY); Life micro-insurance product having maximum amount of cover of Rs 50,000; Varishtha Pension Bima Yojna; Pradhan Mantri Jeevan Jyoti Bima Yojna and Pradhan Mantri Jan Dhan Yojna exempted

(xxiii) Services by the following persons in respective capacities:
- Sub-broker or an authorized person to a stock broker;
- Authorized person to a member of a commodity exchange;
- Selling agent or a distributer of SIM cards or recharge coupon vouchers;
- Business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or

(xxiv) Services by an organizer to any person in respect of a business exhibition held outside India is exempt from service tax.

(xxv) Services by way of slaughtering of animals are exempt from service tax.

(xxvi) Services provided by provider of service located in a non- taxable territory and received by:
(a) Individual in relation to any purpose other than commerce, business or profession;
(b) An entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or
(c) A person located in a non-taxable territory

(xxvi) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets are exempt from service tax.

(xxvii) Services provided by a tour operator to a foreign tourist in relation to a tour wholly conducted outside India **(Important)**

(xxviii) Services by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve.

(xxix) Services by way of right to admission to- (i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
(ii) recognized sporting event;
(iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs. 500 per person.

(xxx) Small service provider's: Exemption to Taxable services of aggregate value not exceeding Rs10 lakh in any financial year from the whole of the service tax , if aggregate value of taxable services rendered does not exceed Rs 10 lakh in preceding financial year.
SSP exemption is not available to: (i) Services provided under brand name of another
(ii) Services taxed under reverse charge mechanism

(xxxi) The amount of Research and development cess payable shall be allowed as a deduction from the service tax payable on the taxable service involving the import of technology.

Taxable List (Illustrative):
(i) Fee or commission charged for activity relating to conversion of money from one form, currency or denomination, to another.
(ii) Any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing or selling of lottery.
(iii) Any activity carried out by a foreman of chit fund for conducting or organising a chit.
(iv) Advance Received for service
(v) Advance forfeited
(vi) Services provided on principal to principal basis (i.e not in course of employment)
(vii) Services by Government (only few listed below taxable):
- Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services (distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills) provided to a person other than Government;
- Services in relation to an aircraft or a vessel;
- Support services provided to business entities;
(viii) Process which makes agricultural produce marketable in the retail market
(ix) Commission / Brokerage / Charges for auxiliary services relating to future contracts or commodity futures.
(x) Advertisement in radio, television, online and mobile advertising, advertisements on internet websites, out-of-home media, on film screen in theatres, bill boards, conveyances,

buildings, cell phones, automated teller machines, commercial publications, aerial advertising.
(xi) Advertisements in business directories, yellow pages and trade catalogues.
(xii) Services provided by advertisement agencies relating to making or preparation of advertisements.
(xiii) Canvassing advertisement for publishing on a commission basis
(xiv) Collection charges paid to any toll collecting agency.
(xv) Education related (except negative list or exempt)
- Private Tuitions, Coaching Class etc
- Services provided by way of education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country.
(xvi) Services by hotel, motel, inn, guest house, camp– site, lodge, house boat, or like places meant for temporary stay.
(xvii) Any charges/commission charged for financial services
(xvii) Brokerage for dealing in foreign exchange with client.
(xviii) Goods transportation agency services (transport of goods by road)
(xix) Courier agency (Angadia)
(xx) Manufacture or Job work related to alcoholic liquor for human consumption.
(xxi) Fee from prospective employers who come to the institutes for recruiting candidates through campus interviews.
(xxii) Air-conditioned contract carriage
(xxiii) Contract carriage for tourism, conducted tour, charter or hire
(xxiv) Radio Taxi
(xxv) Services provided BY United Nations and specified international organisations.
(xxvi) Service provided by such artist as a brand ambassador.
(xxvii) Hair transplant or cosmetic or plastic surgery other than those exempt above.

Abatements: (CC = Cenvat Credit) (Yes = CC allowed) (No = CC not allowed)

Service	Abate ment	CC of Input	CC of Input Service	CC of Capital Goods
Transport of Goods by Rail	70%	No	No	No
Transport of Passengers by Rail	70%	No	No	No
Transport of Goods by Vessel	70%	No	No	No
GTA	70%	No	No	No
Transport of Passengers by Air (Economy)	60%	No	Yes	No
Transport of Passengers by Air (Other)	40%	No	Yes	No
Transport of Passengers by Contract Carriage	60%	No	No	No
Transport of Passengers by Radio Taxi	60%	No	No	No
Transport of Passengers by Motor Cab	60%	No	Note 1	No
Tour Operator (Package Tour)	75%	No	Note 2	No
Tour Operator (Only Accommodation)	90%	No	Note 2	No
Tour Operator (other)	60%	No	Note 2	No

Note 1: (i) Cenvat credit of input service of motor cab allowed full if service provider has taken abatement. (ii) Cenvat credit of input service of motor cab allowed to the extent of 40% if service provider has not taken abatement. (iii) No CC on any other input service.
Note 2: (i) Cenvat Credit on input service from other tour operator allowed.
(ii) No CC on any other input service.