AMENDMENTS APPLICABLE TO DECEMBER 2016

	SERVICE TAX (RATE OF SERVICE TAX: 15%)
Returns under Service Tax Law in place of Annual Financial Information Statement (ER 4)	**RETURN:** A new sub rule 3A has been inserted in Rule 7 to provide that notwithstanding anything contained in sub rule 1, every Assessee will submit an **Annual Return** for the FY to which the return relates by **30th day of November** of the Succeeding FY. **REVISED ANNUAL RETURN:** A new sub rule 2 has been inserted in Rule 7B to provide that an Assessee who has filed the Annual return may submit a revised return within a period of **1 month** from the date of submission of the said annual return. CBEC **may extend** the date of filing Annual return under circumstances of special nature and may exempt an assessee or class of assessees from filing such annual return. **LATE FEES:** A new sub rule 2 has been inserted in Rule 7C to provide where the Annual Return is filed by Assessee after the due date, the assessee will have to pay to the credit of CG, an amount calculated at the rate of **Rs. 100 per day** for the period of delay in filing such return, subject to **maximum of Rs. 20,000**.
Rule 7 of POTR 2011 [point of tax in case of reverse charge]	**3rd PROVISO:** Where there is *change in the liability or extent of liability* of a person required to pay tax as recipient of service notified under sub section 2 of section 68 of Act, in case service has been provided and invoice issued before the date of such change, but payment has not been made as on such date, *the point of taxation shall be the date of issuance of invoice*. **4th PROVISO:** In case of services provided by the *Government or Local Authority to any business entity*, the point of taxation shall be earlier of dates on which: (a) Any payment, part or full, in respect of such service becomes due, as specified in the invoice, bill, Challan or any other document issued by Government or LA demanding such payment; or (b) Payment of such services is made.
Compounded Rates of Tax [Rule 6(7A) of service tax Rules] (Life Insurance Services)	Single Premium Policies: **1.4**% of Single Premium Charged
Penalty for failure to make payment of service tax by due date [Section 76]	**When Penalty u/s 76 is leviable & Quantum of Penalty**: No Fraud or Collusion or willful misstatement or suppression of facts or contravention of any of chapter or rules: **Penalty not exceeding 10% of amount of service tax.** Fraud or Collusion or willful misstatement or suppression of facts or contravention of any of chapter or rules: **Penalty shall be equal to 100% of amount of service tax**. **Provided that** where service tax and interest is paid within a period of 30 days of:

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<td>i) The date of service of notice u/s 73(1), <u>No penalty</u> shall be payable and proceedings shall be deemed to be concluded.

ii) the date of receipt of order of central excise officer determining the amount of service tax u/s 73(2), penalty shall be <u>25% of penalty</u> imposed in that order, only if the reduced penalty is also paid within such period;</td>
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<td>Period for which penalty is to be levied</td>
<td>Beginning with the first day after the due date and ending with the date of actual payment</td>
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<td>Threshold Limit for applicability of Rule 3 of POTR</td>
<td>One Person Company (OPC) has been added in the list. If turnover of OPC in preceding FY is less than 50 Lakhs then, in the current FY, OPC can pay service tax on RECEIPT BASIS (i.e Rule 3 of POTR shall not be applicable) upto the turnover of Rs. 50 Lakhs.</td>
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<td>Swachh Bharat Cess levied w.e.f 15.11.2015 @ 0.5%</td>
<td>i) Levy of SBC has become effective from 15th November 2015.

ii) Initially the rate declared was 2% but now the rate notified is 0.5% and thus effectively the rate of Service tax becomes 14.5%.

iii) w.e.f 15.11.2015, alternative rate for payment of SBC in case of Air travel agents, life insurance, foreign exchange and lottery will be service tax liability multiplied by 0.5 divided by 14.</td>
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<td>Amendment in MEGA EXEMPTION</td>
<td>NEW Exemptions:
<u>i) Specified Services of IIMs:</u>

Ministry of HRD vested with the power to recognize educational courses for the purpose of recruitment to post of GOI, has clarified that the post graduation programme in Management and Fellowship Programme conducted by IIM are equivalent to MBA and PHD degree.

A new entry 9B has been inserted to the Mega Exemption Notification exempting the services provided by IIM as per the guidelines of CG, to their students, by way of the following educational programmes, except Executive Development Programme;
(a) Two Year full time residential Post Graduate Programme in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of CAT, conducted by IIM;
(b) Fellow Programme in Management;
(c) Five year integrated programme in Management.

<u>ii) Services by Assessing Bodies empanelled centrally be DGT, MSDE:</u>

A new Entry 9C has been inserted to exempt services of assessing bodies empanelled centrally by Directorate General of Training (DGT), Ministry of Skills Development and Entrepreneurship (DSDE) by way of assessment under Skills development initiative scheme.

DGT, MSDE empanels assessing bodies to assess the competencies of the persons trained under SDI scheme. Such assessment is done by assessors of high competence, repute and integrity (Sector wise and Area Wise)</td>
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	iii) Services provided by way of Skill/ Vocational Training by DDU- GKY training providers: A new entry 9D has been inserted to exempt the services provided by training providers under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY)** under the Ministry of Rural Development by way of offering skills or vocational training courses certified by National Council for Vocational Training. **iv) Artistic Performance: (limit raised from Rs. 1,00,000 to Rs. 1,50,000)** Services provided BY a performing artist in folk or classical art forms of: i) Music; ii) Dance or iii) Theatre, where the amount charged is upto Rs. 1,50,000. Excluding services provided by any artist as a brand ambassador are exempt from service tax. **v) Specified services by EPFO/ IRDA/ NCCCD/ SEBI** (a) Services provided by EPFO to persons governed under EPFMP Act, 1952 (b) Services provided by IRDA to insurers under IRDA Act, 1999 (c) Services provided by SEBI set up under SEBI Act, 1992 by way of protecting the interest of investors in securities and to promote the development of and to regulate the securities market; (d) Services provided by National Centre for Cold Chain Development (NCCCD) under Ministry of Agriculture, Cooperation and Farmer's welfare by way of cold chain knowledge dissemination. **vi)** Services provided by Government or a Local Authority to a business entity with a turnover upto Rs. 10 Lakhs in preceding FY exempted. **vii) Specified Services provided by Government or a Local Authority Exempted:** a) Services in relation to any function entrusted to a Municipality under Constitution of India. b) Services provided to another Government or Local Authority. Except services provided by Department of post, services in relation to an aircraft or a vessel and transport of passenger or goods c) Services provided by way of issuance of passport, visa, driving licence, birth or death certificate d) Services where gross amount charged does not exceed Rs. 5,000. (Except services provided by Department of post, services in relation to an aircraft or a vessel and transport of passenger or goods) e) Services by way of tolerating non performance of a contract f) Services of registration, testing, calibration, safety check/ certification relating to protection/ safety of workers, consumers or public at large, required under any law g) right to use natural resources assigned before 01.04.2016 (Assignment of right to use natural resources to an individual farmer for purposes of agriculture exempt even when assigned on or after 01.04.2016)

h) Services in relation to any function entrusted to a panchayat under constitution

i) Services of inspection, container stuffing, etc in relation to import export cargo after office hours or on holidays.

viii) Entry 12A inserted:

"Services provided to the Government, a local authority or a governmental authority by way of construction**,** erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of—

(a)a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b)a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or

(c)a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause (44) of section 65B of the said Act;

under a contract which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date:

Provided that nothing contained in this entry shall apply on or after the 1st April, 2020;

ix) Clause (ba) (bb) inserted in Entry 13:

Services provided by way of construction**,** erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,—

(*a*) a road, bridge, tunnel, or terminal for road transportation for use by general public;

(*b*) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;

(ba) a civil structure or any other original works pertaining to the „In-situ rehabilitation of existing slum dwellers using land as a resource through private participation"under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers.

(bb) a civil structure or any other original works pertaining to the „Beneficiaryled individual house construction / enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;";

(*c*) a building owned by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961)and meant predominantly for religious use by general public;

(*d*) a pollution control or effluent treatment plant, except located as a part of a factory; or

	(e) a structure meant for funeral, burial or cremation of deceased; **x) Entry 14 Amended:** Services by way of construction, erection, commissioning, or installation of original works pertaining to,— *(a) railways,* excluding monorail and metro. Explanation.—The services by way of construction, erection, commissioning or installation of original works pertaining to monorail or metro, where contracts were entered into before 1st March, 2016, on which appropriate stamp duty, was paid, shall remain exempt; (*b*) a single residential unit otherwise than as a part of a residential complex; (*c*) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India; (ca) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under: (i) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (ii) any housing scheme of a State Government. (*d*) post-harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or (*e*) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages; xi) Entry 14A Inserted: Services by way of construction, erection, commissioning, or installation of original works pertaining to an airport or port provided under a contract which had been entered into prior to 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date: Provided that Ministry of Civil Aviation or the Ministry of Shipping in the Government of India, as the case may be, certifies that the contract had been entered into before the 1st March, 2015: Provided further that nothing contained in this entry shall apply on or after the 1st April, 2020; xii) in Entry 26, Following insurance policies have been inserted: a) Niramaya health insurance scheme b) Weather based crop insurance scheme or Modified National Agricultural Insurance Scheme c) Annuity paid under National Pension System **xiii) Entry 53 Inserted:** Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.

xiv) Entry 62 Inserted:

Services provided by Government or a local authority by way of allowing a **business entity to operate as a telecom service provider or use radio frequency spectrum** during the period prior to 1st April, 2016 on payment of licence fee or spectrum user charges, as the case may be;

EXEMPTIONS WITHDRAWN:

i) Exemption in respect of services provided by a Senior advocate to:
* an advocate or
* Partnership firm of advocates and
* All business entity (irrespective of turnover in preceding FY) withdrawn (**to be paid on forward charge basis**)

ii) Exemption to transportation of passengers by ropeway, cable car or aerial tramway withdrawn

iii) Services provided by mutual fund agents/ distributors to a mutual fund/ AMC (**to be paid on forward charge**)

iv) in transport of passengers, transport by way of **ropeway, cable car & aerial Tramway** have been omitted.

Services provided by Government or a LA to another Government or a LA	Exempt but services specified in sub clauses (i), (ii) and (iii) above are taxable.
Services provided by Government or a LA to an individual who may be carrying out a profession or business	1. Services by way of grant of passport, visa, driving license, birth or death certificates have been exempted vide notification no. 25/2012 ST Dated 20.06.2012 as amended by Notification No. 22/2016 ST Dated 13.04.2016. 2. Further services provided upto a taxable value of Rs. 5,000 are exempt.
Service Tax on taxes, cesses or duties	Taxes, cesses or duties levied are not consideration for any particular service as such and hence not leviable to service tax.
Service tax on Fines and Penalties	1. it is clarified that fines and penalties chargeable by Government or LA imposed for violation of a statute, bye laws, rules or regulations are not leviable to service tax. 2. Fines and Liquidated damages payable to Government or LA for non-performance of contract entered into with Government or LA have been exempted under Mega Exemption Notification vide notification no. 22/2015 dated 13.04.2016.
Service provided in lieu of fee charged by Government or a Local	1. it is clarified that any activity undertaken by Government or a LA against a consideration constitutes a service and the amount charged for

	authority	performing such activities is liable to service tax. It is immaterial whether such activities are undertaken as a statutory or mandatory requirement under the law and irrespective of whether the amount charged for such service is laid down in a statute or not. As long as the payment is made for getting a service in return (i.e. as a quid pro quo for the service received) it has to be charged as a consideration for that service and taxable irrespective of by what name such payment is called. It is also clarified that service tax is leviable on any payment, in lieu of any permission or license granted by the Government or a LA. 2. However, services provided by the Government or a LA by way of: (i) Registration required under Law; (ii) Testing, Calibration, Safety Check or Certification relating to protection or safety of workers, consumer or public at large, required under the law. Have been exempted under Notification No. 22/2016 dated 13.04.2016. 3. Further, Services provided by Government or LA where the Gross amount charged for such services does not exceed Rs. 5,000 have been exempted vide Notification No. 22/2016 dated 13.04.2016. However the Said exemption does not cover Sub Clauses (i), (ii) & (iii) above. Further, in case of continuous service, where the gross amount charged for such service does not exceed Rs. 5,000 in a FY.
	Services in the nature of allocation of natural resources by Government or a LA to Individual Farmers	Services by way of allocation of natural resources to an Individual Farmer for the purpose of agriculture have been exempted. Such allocations/ Auctions to categories of persons other than Individual Farmers would be leviable to service tax.
	Services in the nature of change of land use, commercial building approval, utility services provided by Government or LA	Regulation of Land Use, Construction of Buildings and other services listed in the XII Schedule to Constitution which have been entrusted to Municipalities under Article 243W of Constitution, when provided by Government authority are already exempted are already exempted under Mega Exemption. The said services when provided by Government or a LA have also been exempted vide Notification No. 22/2016 dated 13.04.2016.
	Services provided by	Exempted vide Notification No. 22/2016 dated

	Government or LA or Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of Constitution	13.04.2016.
Certificate issued by an Appraiser of Customs to be a valid document u/r 9	Prior to 31.12.2015, certificate issued by an Appraiser of customs was a valid document for availing credit in respect of goods imported through a Foreign Post office. Now the rule has been amended to provide that a certificate issued by an Appraiser of customs will also be a valid document for availing CENVAT in respect of goods imported through an **Authorized Courier registered** with **Principal Commissioner of Customs** or **Commissioner of Customs in charge of Customs Airport.**	
Introduction of Krishi Kalyan Cess (KKC)	• Shall come into force on 1st June 2016 • It shall be collected on all or any of the taxable services at the rate of 0.5% on the value of services for the purpose of financing and promoting initiatives to improve agriculture or any other purpose relating thereto. • The proceeds of KKC shall be credited to Consolidated Fund of India and CG after due appropriation made by parliament utilize such sum of money of KKC for such purpose as it may consider necessary. • After levy of KKC, effective rate of service tax becomes 15% w.e.f. 1st June 2016. (14% + 0.5% + 0.5%) • Accounting code for KKC is "507 – KKC"	

ABATEMENT:

Description of taxable service	% Abatement
Transport of Goods by Rail	70
Transport of Goods in containers by Rail by any person other than Indian Railways	60
Transport of passengers, with or without belonging by Rail	70
Transport of passengers by Air, with or without accompanied belongings in: (i) Economy Class (ii) Other than Economy Class	 60 40
Transport of passengers, with or without accompanied belongings by: (i) a Contract Carriage other than motor cab (ii) a Radio Taxi	60
Transport of Goods in a Vessel	70
Renting of hotels, Inns, guest house, clubs or other commercial places for residential or lodging purpose	40
Service of GTA in relation to transportation of goods other than used Household Goods	70
Services of GTA in relation to transportation of used household goods	60
Services in relation to Chit	30
Renting of any motor vehicle designed to carry passengers	60
Services by a tour operator in relation to:	

a. A tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	90
b. Any service other than (a)	70

REVERSE CHARGE & PARTIAL REVERSE CHARGE

Full Reverse Charge	**Partial Reverse Charge**
Service provided or agreed to be provided by an **Insurance Agent** to any person carrying on Insurance Business	Services provided or to be provided by way of Works Contract 50% by Service Provider 50% by Service Receiver
Service provided or agreed to be provided by a **Goods Transport Agency** in respect of transportation of goods by road	
Services provided or agreed to be provided by way of **Sponsorship**	
Services provided or agreed to be provided by an **Arbitral Tribunal**	Services provided or agreed to be provided by way of renting of motor vehicle designed to carry passengers on **abated value** by Individual, HUF, Firm or AOP to Body Corporate 50% by Service Provider 50% by Service Receiver
Services provided or agreed to be provided by an **Individual Advocate or a firm of advocates** by way of legal services	
Service provided or agreed to be provided by a **Director of a company or body corporate**	
Any taxable services provided or agreed to be provided by any person who is located in **non-taxable territory** to a person resident in taxable territory	
Services provided by **Government to business entity**	
Services provided by **Aggregator**	
Services provided by way of **Supply of Manpower including Security Services** by Individual, HUF, Firm or AOP to Body Corporate	
Services provided or agreed to be provided by way of renting of motor vehicle designed to carry passengers on **abated value** by Individual, HUF, Firm or AOP to Body Corporate	
Services provided by Recovery Agent to a banking company or a financial institution or NBFC	
Services provided by Mutual fund agent or distributor to a Mutual fund or AMC	
Services provided by a Selling or marketing agent of lottery tickets to a Lottery Distributor or Selling Agent.	