

UNION BUDGET 2016 – SERVICE INDUSTRY:

Changes in Service Tax:

1. SERVICE TAX RATE:

The effective rate of Service Tax remains unchanged at 14.50%.

An enabling provision is included in Finance Bill, 2016 to empower the Central Government to impose a Krishi Kalyan Cess on all or any taxable services at 0.5% to finance and promote initiatives to improve service tax. The same shall be effective from 01-06-2016.

2. ABATEMENTS:

Changes in abatements provisions have been proposed, such rationalization shall come into effect from 01-04-2016.

a)

Mode of Transportation of Goods/Passengers	Abatement	Condition for Availment (Earlier)	Condition for Availment (Proposed)
Rail - Passengers	70%	No Cenvat Credit	Cenvat Credit on Input Services is allowed.
Rail - Goods other than vide container	70%		
Rail - vide container	Reduced to 60%		
Vessel	70%		No Cenvat Credit
Road - Shifting of house hold goods	Reduced to 60%		
Road - other goods	70%		

- b) Abatement in respect of services by way of construction of residential complex, building, civil structure or a part thereof is being rationalized to 70%.

The erstwhile abatement of 75% to units having a carpet area of upto 2000 square feet or amount charged is less than 1 cr has been removed.

- c) In case of tour operators,

Description of Taxable services	Abatement (Earlier)	Abatement (Proposed)
Services by a tour operator in relation to i) A package tour	75%	70%
ii) A tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to tour	90%	90%
iii) Any services other than above i) and ii)	60%	70%

- d) An abatement of 30% for the Services provided by a foreman of chit fund in relation to chit fund without any Cenvat Credit is inserted.

3. LEGAL SERVICES:

Currently legal services rendered to business entities are liable for service tax under Reverse charge and those rendered to non business entities are not liable for service tax. Also services rendered by advocates to other advocates and law firms are exempted from service tax.

It is proposed that the exemption provided to services rendered by a senior advocate to an advocate or partnership firm of advocates providing legal services and a person represented on an arbitral tribunal to an arbitral tribunal shall be taxable with effect from 01.04.2016.

4. **EXEMPTIONS:**

- a) Exemption on the services of transport of passengers with or without accompanied belongings by ropeway, cable car or aerial tramway is withdrawn and the same shall be taxable from 01st April 2016.
- b) Services provided by Employees Provident Fund Organisation to Employees are being exempted from service tax from 01st April 2016.
- c) Service tax exempted for general insurance schemes under Niramayi Swasthya Bima Yojna from 01st April 2016.
- d) Service tax exempted for housing construction of houses less than 60 sq.m effective from 01-03-2016.
- e) Exemption to specified services provided by the Indian Institutes of Management (IIM) effective from 01-03-2016.
- f) Threshold exemption to services provided by a performing artist in folk or classical art form is being increased from Rs 1 lakh charged per event to Rs 1.5 lakh charged per event from 01st April 2016.
- g) Exemption to transportation of passengers by a stage carriage other than air conditioned stage carriage is to be exempted from 01st June 2016.

5. **SERVICE TAX RULES:**

- a) Service tax assesseees are now required to also file annual return other than half yearly return.

Such annual return shall be submitted with in 30th November of the succeeding financial year.

Form, manner and class of assessee who shall file the same shall be notified.

The same shall be effective from 01.04.2016.

- b) The above annual return can be revised within period of 1 month from the date of submission of the said annual return, provided the same is filed by due date.

If assessee fails to file the annual return within due date, penalty shall be calculated at the rate of Rs. 100 per day for the period in delay subject to a maximum of Rs. 20,000/-

- c) One person Companies will be treated at par with Individuals and Partnership Concern for the purposes of payment of service tax under Rule 6, further for the purpose of reverse charge one person company shall continue to be treated as Body Corporate.

6. **INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016 :**

Dispute resolution scheme is introduced to reduce the pending litigations before the first appellate authority (Commissioner Appeals). The said scheme is applicable in respect to Customs Act, 1962, Central Excise Act, 1944 & Finance Act, 1994.

The said scheme aims at disposing of the pending appeals and the declarant shall get immunity from all the proceedings under the Act, in respect of indirect tax dispute.

The same is applicable on enactment of the Finance Bill, 2016.

7. **CENVAT CREDIT RULES, 2004**

- a) Time limit for claiming refund under Rule 5 of Cenvat Credit rules has been prescribed in case of export of services which shall be within a period of 1 year from the date of:

In case of service provider:

- i) Receipt of payment in convertible foreign exchange, where service is completed prior to receipt of such payment or
- ii) Issue of invoice, where payment for the service has been received in advance prior to the date of issue of invoice.

In case of manufacturer:

- i) Before the expiry of period prescribed under Section 11B of Central Excise Act, 1944.
- b) All capital goods having value upto Rs. 10,000 per piece are being included in the definition of inputs. This would allow an assessee to take credit on such capital goods in the year of receipt of such goods.

8. NEGATIVE LIST - AMENDMENT:

Service of transportation of passengers with or without accompanied belongings, by a stage carrier with effect from 1st June 2016 is omitted from negative list.

Service tax is now therefore levied on air conditioned stage carriage with effect from 1st June 2016, at the abatement of 60% without credit of CENVAT Credit.

9. Interest Provisions - SIGNIFICANT CHANGES:

Particulars	Interest (Earlier)	Interest (Proposed)
Service tax collected but not deposited	18%/24%/30%	24%
Other case		15%

The above changes shall come into effect on the day the Finance Bill receives the assent of the president.

10. **M**iscellaneous:

- a) The period of issuing notices is amended so as to increase the limitation period from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of service tax.
- b) The power to arrest in service tax is being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer and that too above a threshold of Rs. 2 Crore
- c) Amendments are made to service tax law so as to provide for closure of proceedings against co-noticees, once the proceedings against the main noticee have been closed.
- d) Rule 14(2) has been deleted and therefore the priority of utilization of Cenvat Credit is left to the discretion of the assessee.
- e) The issue of overlaps between Excise duty and Service tax has been made mutually exclusive of each other.
- f) service provided by Government or local authorities to business entities shall be on the service recipient

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