

SERVICE TAX

NEW SERVICES

The Finance Bill, 2010 has obtained the Presidential assent. The Central Government has notified that the Service Tax proposals contained in the Finance Bill, 2010 would come into effect from 01.07.2010.

- + The Central Board of Excise and Customs has notified that the new services (outlined below) introduced vide the Finance Bill would be liable to service tax with effect from 01.07.2010.
 - o Temporary transfer or permitting the use of any copyright in films and sound recordings Services
 - o Providing of preferential location of the residential unit or a commercial complex
 - o Granting the right for commercial use or exploitation of any event including events of art, entertainment, business, sports or marriage
 - o Promotion or marketing of brand of goods, services, events, endorsement of name, etc.
 - o Storing, keeping or maintenance of medical records of employees of a business entity
 - o Providing of health check-up or preventive care services to employees of a business entity or persons covered under health insurance schemes, subject to conditions
 - o Services provided by electricity exchanges in relation to trading, processing, clearing or settlement of spot contracts and others

- + Further to the above, the Finance Bill, 2010 had proposed certain expansions to the scope of certain existing services. This would be effective from 01.07.2010. The services are:
 - o 'Information technology software services' to also include such services which are not for furtherance of business or commerce
 - o 'Construction of residential or commercial complex services' to include all such services for which any money is paid by the prospective buyer before the builder obtains the completion certificate from the competent authority
 - o Renting of immovable property by itself, including vacant land for construction of building or temporary structures with retrospective effect from 01.06.2007
 - o Construction of vessels or installations or structures to include when such activities are undertaken within the continental shelf or the exclusive economic zone
 - o Sponsorship services to include sponsorship of sports events (*exemption granted are explained in the following paragraphs*)
 - o Air passenger services to include domestic trips of any class of journey (*exemption granted are explained in the following paragraphs*)
 - o Airport or Port services to include all services provided within such airport / port (*exemption granted are explained in the following paragraphs*)

EXEMPTIONS

+ Air transport of passenger's services:

- Services provided to persons arriving into India for transit and who do not pass through immigration are wholly exempt from payment of service tax. This would be subject to the conditions that:
 - such passengers continue the journey to a place outside India and neither do they pass through immigration nor leave the customs area,
 - such persons are employed / engaged by any aircraft operators in any capacity on board the aircraft.

(Notification No. 25/2010 dated 22.06.2010 with effect from 01.07.2010)

- Services provided to any passengers who embark on a journey originating or terminating in an airport located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura or at Bagdogra located in West Bengal are wholly exempt from service tax. *(Notification No. 27/2010 dated 22.06.2010 with effect from 01.07.2010)*
- Further to the above, in respect of other transactions, service tax shall be the lower of Rs. 100 or 10% of the gross value of the ticket in respect of passengers travelling in any class within India. In respect of passengers embarking in India for an international journey in economy class, service tax shall be the lower of Rs. 500 or 10% of the gross value of the ticket. This is subject to the condition that the aircraft operators have not availed CENVAT Credit on inputs and input services. *(Notification No. 26/2010 dated 22.06.2010 with effect from 01.07.2010)*

+ Commercial or industrial construction / Construction of complex services:

In respect of these services, the partial exemption granted in relation to computation of service tax hitherto dealt with cases where the land value was not included. In such circumstances, a partial exemption of 67% of the gross value of the contract was granted.

The Central Government has now provided for a higher exemption at 75% of the gross value of the contract where such value includes the value of land. However, where the land value is separately charged by the builder or his representative, the exemption at 67% would continue. *(Notification No. 29/2010 dated 22.06.2010)*

+ Sponsorship services:

The Central Government has granted an exemption from payment of service tax on the following with respect to sponsorship services:

- Tournaments or championships organized by any of the National Sports Federations or Federations affiliated to such National Sports Federations, where the participating teams or individuals represent any District, State or Zone;
- Tournaments or championships organized by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India (for the physically challenged), Special Olympics Bharat (for the mentally challenged);
- Tournaments or championships organized by the Central Civil Services Cultural and Sports Board;
- Tournaments or championships organized as part of National Games;
- Tournaments or championships organized under Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme. *(Notification No. 30/2010 dated 22.06.2010 with effect from 01.07.2010)*

+ Airport or Port Services:

The Central Government has granted an exemption from payment of service tax on the following with respect to 'airport services' and 'port services':

- Repair of ships or boats or vessels belonging to the Government of India including Navy or Coast Guard or Customs but does not include Government owned Public Sector Undertakings;
- Repair of ships or boats or vessels where such process of repair amounts to 'manufacture' under Central Excise provisions;
- Supply of water / electricity;
- Treatment of persons by a dispensary, hospital, nursing home or multispecialty clinic (except cosmetic or plastic surgery service);
- Services provided by a school or centre to provide formal education other than those services provided by commercial coaching or training centre;
- Services provided by fire service agencies or Pollution control services.

(Notification No. 32/2010 dated 22.06.2010 with effect from 01.07.2010)

+ Electricity agency services:

Services provided by a distribution licensee, a distribution franchisee, or any other person for distribution of electricity are exempt from service tax. *(Notification No. 32/2010 dated 22.06.2010)*

CAPITAL GOODS UNDER CENVAT CREDIT RULES EXPANDED:

- + The definition of capital goods has been amended to include 'dumpers and tippers' with specific reference to the "Site Formation and Clearance, Excavation and Earthmoving and Demolition and such Other Activities" or "Mining". Accordingly, insofar as it relates to CENVAT credit, the excise duty paid on dumpers and tippers would be allowed at 50% in the year in which it is put to use and the balance of 50% in April next year. (*Notification No. 25/2010-CE (NT) dated 22.06.2010*)

COMPETENT AUTHORITY TO ISSUE CONSTRUCTION COMPLETION CERTIFICATES:

- + Under the Commercial or industrial construction services and construction of residential complex services, the following authorities are notified as competent authorities to issue completion certificates. Accordingly, all services provided before the issue of completion certificate by the notified agencies would be liable to service tax. The notified agencies are:
 - o any Government authority,
 - o architect registered with the Council of Architecture constituted under the Architects Act, 1972
 - o chartered engineer registered with the Institution of Engineers (India), or
 - o licensed surveyor of the respective local body of the city or town or village or development or planning authority
- (*M.F.(D.R.) ORDER NO. 1/2010 dated. 22.06.2010*)

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