

Important Service Tax Amendments through Union Budget 2016
(By CA. Vikas Khandelwal)

1. Krishi Kalyan Cess (Applicable w. e. f. 01.06.2016):

Effective rate of service tax is being increased from 14.5% to 15% by levying Krishi Kalyan Cess @0.5% on value of taxable services. Hon'ble Finance Minister in his budget speech has clarified that Krishi Kalyan Cess paid on input services shall be available as CENVAT Credit.

2. Annual Return under Service Tax (Applicable w. e. f. 01.04.2016):

Rule 7, 7B and 7C of Service Tax Rules 1994 are being amended to provide for filing of annual return by assessee. The important points are as under:

- (i) This return shall be in addition to the half yearly returns filed by the assessee;
- (ii) The due date for filing the annual return is 30th November of succeeding financial year;
- (iii) Annual return can be revised within one month from the date of filing of return;
- (iv) Late filing fees for delay in filing the annual return is Rs. 100/- per day for the period of delay, subject to maximum amount of Rs. 20,000/-;
- (v) The format for the same shall be prescribed separately. Further, assessee or a class of assessee exempted from filing the annual return shall also be notified separately.

3. New interest rates for delay in payment of service tax (Applicable after enactment of the Finance Bill, 2016):

Presently, slab rates of interest (i.e. 18% for upto 6 months, 24% for the period from 6 months to 1 year and 30% for the period after 1 year) are provided for late payment of service tax. However, as per Finance Bill, 2016 read with Notification No. 13/2016-Service Tax dated 01.03.2016, the new rates of interest shall be applicable from the day of enactment of Finance Bill, 2016:

S. No.	Particulars	Rate of Interest	Period of Delay
1.	Service tax collected from customer / client	24%	For the period from due date to actual date of payment
2.	Service tax is not collected or Reverse Charge Mechanism liability	15%	

4. Changes in the scheme of availing CENVAT Credit for provider of exempted as well as non-expended services (Applicable w. e. f. 01.04.2016):

Rule 6 of the CENVAT Credit Rule, 2004 provides the detailed mechanism for availing/reversing the CENVAT Credit in respect of input and input services for provider of exempted or non-exempted services. Notification No. 13/2016-Central Excise (N.T.) dated 01/03/2016 is carrying out certain changes in the scheme provided under said rule. The important changes are as under:

- (i) An activity, which is not a 'service' as defined in section 65B (44) of Finance Act, 1994, shall be considered as "Exempted Services" for the purpose of rule 6 of CENVAT Credit Rule, 2004;
- (ii) Entire CENVAT Credit shall be reversed in respect of input or input services used exclusively for providing exempted services;

- (iii) CENVAT Credit shall be available without any reversal in respect of input and input services used exclusively for providing non-exempted services;
- (iv) Proportionate reversal shall be applied only on common inputs or common input services used for exempted as well as non-exempted services;
- (v) This new scheme is applicable for the Financial Year 2016-17 onwards. Financial year 2015-16 shall be governed by the scheme as applicable prior to this amendment.

5. Services provided by Government or Local Authority to a business entity (Applicable w.e.f. 01.04.2016)

Prior to 01.04.2016, in addition to services specified under sub-clauses (i), (ii) & (iii) of section 65D(a) of Finance Act, 1994, services covered by the definition of 'Support Services' (as defined under Section 65B(49) of Finance Act, 1994) provided by Government or Local Authority to a 'business entity' are subject to service tax.

However, w.e.f. 01.04.2016, all services provided by Government or Local Authority to a business entity shall be subject to service tax. Further corresponding changes in Reverse Charge Mechanism provisions have also been made.

Present Position: As per section 66D(a) of Finance Act, 1994, all services, other than followings provided by Government or Local Authority, shall not be subject to service tax. In other words, following services (if not covered by any other entry of negative list or not specifically exempt by a notification) provided by Government or Local Authority shall be subject to service tax:

Service Tax Payable Under Reverse Charge Mechanism (Column-1)	Service Tax Payable By Service Provider (Column-2)
(i) Services covered by the definition of "Support Services" to a business entity, but not covered by point no. (i),(ii),(iii) & (iv) of Column-2.	<p>(i) Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provide to a person other than Government. [Section 65D(a)(i)]</p> <p>(ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport. [Section 65D(a)(ii)]</p> <p>(iii) Transport of goods or passengers. [Section 65D(a)(ii)]</p> <p>(iv) Renting of Immovable property Services. [specifically excluded from reverse charge mechanism)</p>

6. Abatement in case of Goods Transport Agency Services (Applicable w.e.f. 01.04.2016):

Abatement rate for transportation of "Used household goods" is being reduced from 70% to 60%. The applicable abatement rate for transportation of goods by road services is as under:

Description of services	Services of goods transport agency in relation to transportation of goods	Services of goods transport agency in relation to transportation of "used household goods"
Taxable value	30%	40%

Abatement rate	70%	60%
Condition for abatement	No CENVAT Credit can be availed	

7. Abatement in case of Transport of Goods by Rail (Applicable w.e.f. 01.04.2016):

Prior to 01.04.2016, Notification No. 26/2012-Service Tax dated 20.06.2012 provides abatement of 70% on transportation of goods by rail services with the condition that no CENVAT Credit should be availed in respect of input, input services and capital goods.

However, now two different rate of abatement is provided for two situations with availability of CENVAT Credit on input services.

Summary of same is as under:

	Column-1	Column-2
Nature of services	Transport of goods by rail (other than service specified in Column-2)	Transport of goods in containers by rail by any person other than Indian Railways
Taxable value	30%	40%
Abatement rate	70%	60%
Condition	CENVAT Credit on inputs and capital goods, used for providing the taxable service, has not been taken	
Availability of CENVAT Credit on input services	CENVAT Credit in respect of input services can be availed	

8. Abatement in case of Tour Operator's Services (Applicable w.e.f. 01.04.2016):

Earlier, the relevant provisions as applicable are summarized as under:

Category of Services	Abatement rate	Taxable Value
Mere Booking of Accommodation	90%	10%
Package Tour (as defined in Notification)	75%	25%
Other than above (i.e. other package tour)	60%	40%

Now, definition of "Package Tour" is being omitted. Now, there are two classifications only.

Abatement of 70% can be availed in respect of all types of tour. However, in case of mere booking of accommodation, abatement of 90% is available. The details of abatement for tour operator's services are as under:

	Case-1	Case-2
Description of Services	Services by a tour operator in relation to a tour, only for the purpose of arranging or booking accommodation for any person	Services by a tour operator in relation to a tours other than Category-1
Taxable value	10%	30%
Abatement rate	90%	70%
Condition (w.r.t. CENVAT Credit)	(i) CENVAT credit on inputs, capital goods and input services other than input services of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.	

Condition (related to issuance of invoice / bill)	(ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, includes only the service charges for arranging or booking accommodation for any person but does not include the cost of such accommodation.	(ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour and the amount charged in the bill is the gross amount charged for such a tour.
--	---	---

9. Abatement in case of Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority (Applicable w.e.f. 01.04.2016):

The applicable abatement rate for this service is 70%. However, a concessional/ excessive abatement rate of 75% was provided for a residential unit satisfying both the following conditions, namely:

- (i) The carpet area of the unit is less than 2000 square feet: and
- (ii) The amount charged for the unit is less than rupees on Crore.

However, now this concessional abatement rate for above mentioned residential units is withdrawn. In other words, w.e.f. 01.04.2016, a single abatement rate of 70% shall be applicable.

10. Abatement on Chit Fund Services (Applicable w.e.f. 01.04.2016):

Abatement is being provided by a foreman of chit fund in relation to chit. Now, the said services shall be taxed after availing the abatement of 30% subject to condition of non-availment of CENVAT Credit in respect of inputs, capital goods and input goods.

11. Services by Senior Advocate (Applicable w.e.f. 01.04.2016):

Legal services provided by a senior advocate are now outside the preview of reverse charge mechanism. In other words, in case of legal services provided by senior advocate, service tax shall be charged by such senior advocate on its invoices.

12. Service tax payment on quarterly basis and on receipt basis for One Person Company and Hindu Undivided Family (Applicable w.e.f. 01.04.2016):

As per Rule 6(1) of Service Tax Rules, 1994, service tax is payable on monthly basis. However, as per proviso to said rule, where assessee is an individual, proprietary firms or partnership firms, service tax is payable on quarterly basis.

Now, this proviso is being amended to extend the benefit of quarterly payment to One Person Company (OPC) and Hindu Undivided Family (HUF).

Further, third proviso to said rule provides the benefit of payment of service tax on receipt basis (i.e. instead of Point of Taxation, service tax is payable on realization basis) for individual and partnership firms, whose aggregate value of taxable services provided from one or more premises is fifty lacs rupees or less in previous financial year. The same benefit is being extended to OPC and HUF.

13. Services of transportation of passengers, with or without accompanied belongings, by a stage carriage (Applicable w.e.f. 01.06.2016):

Services are covered by the section 66D(o)(i) of the Finance Act, 1994, which provides the list of negative services. This entry is proposed to be omitted.

However, the Notification No. 25/2012-Service Tax dated 20.06.2012 is being amended to provide exemption to said services when provided by a stage carriage other than air-conditioned stage carriage.

Therefore, now services of transportation of passengers by an air-conditioned stage carriage shall be subject to service tax.

14. Right to use the Radio-Frequency Spectrum is included as declared services (Applicable after enactment of the Finance Bill, 2016):

Prior to 01.04.2016, services covered by the definition of the support services (as defined under section 65B(49) of the Finance Act, 1994) provided by Government or Local Authority were subject to service tax.

However, w.e.f. 01.04.2016, all services provided by Government or Local Authority to a business entity has been excluded from the Negative List of services.

Now, after enactment of the Finance Bill, 2016, clause (j) is proposed to be inserted in Section 66E, which provides the list of declared services. The proposed clause covers assignment by the government of the right to use the radio-frequency spectrum and subsequent transfer thereof.

15. Amendment in the definition of Capital Goods – Rule 2(a) of CENVAT Credit Rules, 2004 (Applicable w.e.f. 01.04.2016):

Notification No. 13/2016-Central Excise (N.T.) dated 01/03/2016 provides the following changes in the definition of Capital Goods:

- (i) Wagons under sub-heading 860692 shall now be considered as capital goods;
- (ii) List of goods covered under definition of capital goods use outside the factory of manufacturer of the final products, if used for pumping of water for captive use within such factory, shall also be considered as capital goods;
- (iii) Earlier any equipment or appliance used in the office of manufacturer was specifically excluded from the definition of capital goods. Now definition of capital goods is being amended to remove such exclusion.

16. Amendment in the definition of Exempted Services – Rule 2(e) of the CENVAT Credit Rules, 2004 (Applicable w.e.f. 01.04.2016):

Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being specifically excluding from the definition of exempted services. Therefore, CENVAT Credit in respect of said services shall not be reversed even when such services are not subject to service tax.

17. Amendment in the definition of Input – Rule 2(k) of the CENVAT Credit Rules, 2004 (Applicable w.e.f. 01.04.2016):

Notification No. 13/2016-Central Excise (N.T.) dated 01/03/2016 provides the following changes in the definition of input:

- (i) All goods used for pumping of water for captive use is being included in the definition of input;
- (ii) All capital goods which have a value upto Rs. 10,000/- per piece is being included in the definition of input. Due to this amendment, entire CENVAT Credit in respect of such capital goods can be claimed in same financial year treating the same as input.

Best Regards,

CA. Vikas Khandelwal,

Vikas Khandelwal & Co. | Chartered Accountants | G-29, NDM-1, Netaji Subhash Place, Pitampura, Delhi - 110034

Tel: [+91 - 11 - 45150370](tel:+911145150370) |

E-mail: vikas.khandelwal@vkcca.com | Website: www.vkcca.com