

SERVICE TAX

1. It has been proposed in the Finance Bill to extend the levy of service tax to certain new services namely,-

- 1) Transport of goods through pipeline or other conduit;
- 2) Site preparation and clearance, excavation, earth moving and demolition services, other than those provided to agriculture, irrigation and watershed development;
- 3) Dredging services of rivers, ports, harbours, backwater and estuaries;
- 4) Survey and map making other than by Government Departments;
- 5) Cleaning services other than in relation to agriculture, horticulture, animal husbandry or dairying;
- 6) Membership of Clubs or Associations;
- 7) Packaging services;
- 8) Mailing list compilation and mailing; and
- 9) Construction of residential complexes having more than twelve residential houses or apartments together with common areas and other appurtenances.

For details, clause 88 of the Finance Bill, 2005 may be referred.

1.1 The service tax on these new services will come into force only from a date to be notified after the enactment of the Finance Bill, 2005.

2. Certain amendments have been proposed to extend the scope of certain existing services as follows:

- (1) Commercial or industrial construction service to:
 - (i) include renovation of such building or civil structure;
 - (ii) include post construction completion and finishing services for such building or civil structure;
 - (iii) include construction, repair, alteration, renovation or restoration of pipeline or conduits.
- (2) Erection, commissioning or installation services to include specified installation services.
- (3) Maintenance or repair services to include:
 - (a) maintenance or management of immovable properties;
 - (b) maintenance or repair including reconditioning or restoration undertaken as part of any contract or agreement.
- (4) Broadcasting services to include charges recovered by broadcasting agencies from multisystem operator (MSO) and provision of direct to home (DTH) signals to the customers.
- (5) Sound recording to include recording of sound on any media and includes post production services such as sound mixing or re-mixing.
- (6) Video-tape production to include recording of any programme, event or function on any media and includes post production services.
- (7) Taxable services provided by authorised service station to include reconditioning or restoration of motor-cars, two-wheeled and light motor vehicles.
- (8) Beauty parlours Service to include all services provided by beauty parlours.
- (9) Manpower recruitment service to include supply of manpower, temporary or otherwise.

- (10) The franchisee service to cover all agreements by which, the franchisor grants representational rights to franchisee to sell or manufacture goods or provide services identified with the franchisor.
- (11) Business Auxiliary Service to include production or processing of goods for or on behalf of the client.
- (12) Out door catering service, to include catering from a place or premises provided, by way of tenancy or otherwise, by the person receiving such services.

The above changes will come into effect only from a date to be notified after the enactment of the Finance Bill, 2005. Services continue to be leviable at 10% of the value of taxable services.

3. Certain changes have been proposed in service tax legislation (Chapter V of the Finance Act, 1994). These are summarized below.

3.1 Section 65 is proposed to be amended to extend the scope of 'taxable services',-

- (i) to include, 'services to be provided'; and
- (ii) to clarify that taxable services would also include services provided from outside India to a recipient in India.

3.2 Section 67 is proposed to be amended to clarify that payments received either before, during, or after the provision of taxable service, are treated as amount received for the taxable service and service tax is required to be paid on such amount received.

3.3 Section 69 and 70 is proposed to be amended to incorporate enabling provisions requiring registration and filing of return by any person or class of persons other than the person liable to pay service tax.

3.4 Section 73 is proposed to be amended to extend the powers to issue show cause notice and determine the amount of short levy to a Central Excise Officer. Consequential changes have also been made in sections 74 (Rectification of mistake), 78 (Penalty for suppressing value of taxable service), 84 (Revision of orders by the Commissioner of Central Excise), 85 [Appeals to the Commissioner of Central Excise (Appeals)] and 86 (Appeals to Appellate Tribunal).

3.5 Section 83 is proposed to be amended for making adjudication procedures in Central Excise applicable to service tax and section 83A has been inserted to make provisions on powers of adjudication in service tax cases.

3.6 Section 96A is proposed to be amended to allow an existing Joint Venture in India to avail the benefit of Advance Ruling. The Central Government is also being empowered to notify any class or category of persons who become eligible for availing of the benefit of Advance Ruling.

The change specified in paragraph 3.1 above will come into effect from a date to be notified after the enactment of the Finance Act, 2005. Other changes mentioned in paragraph 3 above will come into effect from the date of enactment of the Finance Act, 2005.

4. Notification No. 15/2004 has been amended to clarify that the gross amount charged for the purpose of abatement includes value of goods and materials supplied or provided or used by provider of construction service. (For details refer notification No. 4/2005-Service Tax, dated 1.3.2005).

4.1 An exemption scheme for small service providers has been prescribed. Service providers whose aggregate value of taxable services provided during the preceding financial year upto Rs. 4 lakhs, have been exempted from service tax upto an aggregate value of taxable services of Rs. 4 lakhs in a financial year. The proposed exemption scheme would be applicable from 1st April, 2005 (For details refer notification No. 6/2005-Service Tax, dated 1.3.2005).

4.2 Exemption has been provided from service tax on business auxiliary service, to a person producing goods, from the inputs received from a manufacturer and sending the resultant product to the same manufacturer for further manufacture of final products, which are cleared on payment of excise duty. The above change will come into effect immediately (For details refer notification No. 8/2005-Service Tax, dated 1.3.2005).

4.3 The Service Tax Rules are being amended so as to (For details refer notification No. 7/2005-Service Tax, dated 1.3.2005):-

- (a) prescribe that the invoice is to be issued within 14 days from date of completion of provision of service or receipt of payment, whichever is earlier [Rule 4A(1)];
- (b) prescribe that due date for service tax payment by all service tax assesseees would be 5th of the following month or quarter, as the case may be (Rule 6);
- (c) enable registration of more than one premises by a service provider having centralised billing or centralised accounting system (Rule 4); and
- (d) Prescribe that liability of payment of service tax on business auxiliary services provided by the distributors of mutual funds will be on the recipient of service, namely, mutual funds (Rule 2).

The above changes will be effective from 1st April, 2005.

5. Significant changes are proposed in the provisions of Finance Act, 1994 relating to service tax and also in Service Tax Rules. Some of the changes as indicated earlier comes into force immediately and others either after enactment of the Finance Act, 2005 or from the date to be notified after enactment of the Finance Act, 2005. Fresh levy of service tax is proposed on a number of new services and on the existing services with the larger coverage. Commissioners of Central Excise and Service Tax are requested to study these changes carefully and convey their views and suggestions. As regards new services and expanded services, immediate necessary action may be taken to identify the potential tax payers and the revenue potential. Problems, if any, in implementing the proposed changes and the levy may be brought to the notice of Board. A report communicating the comments, views and suggestions may be sent by 15th March, 2005 and thereafter by 30th March, 2005.