

## SERVICE TAX

**(I) RATE OF SERVICE TAX:**

The rate of service tax is being increased from 10% to 12%. The increase in service tax rate will be applicable from the date of enactment of the Finance Bill, 2006.

**(II) SERVICE TAX IS BEING IMPOSED ON THE FOLLOWING INDIVIDUALLY SPECIFIED SERVICES:**

- 1) Service provided by a Registrar to an Issue;
- 2) Service provided by a Share Transfer Agent;
- 3) Automated Teller Machine operations, maintenance or management;
- 4) Service provided by a recovery agent;
- 5) Sale of space or time for advertisement, other than in print media;
- 6) Sponsorship services provided to any body corporate or firm, other than sponsorship of sports events;
- 7) Transport of passengers embarking on international journey by air, other than economy class passengers;
- 8) Transport of goods in containers by rail by any person, other than Government railway;
- 9) Business support services;
- 10) Auctioneers' service, other than auction of property under directions or orders of a court of law or auction by the Central Government;
- 11) Public relations service;
- 12) Ship management service;
- 13) Internet telephony service;
- 14) Transport of persons by cruise ship;
- 15) Credit card, debit card, charge card or other payment card related services.

The above changes will come into effect from a date to be notified, after the enactment of the Finance Bill, 2006.

**(III) SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXTENDED OR CLARIFIED AS FOLLOWS:**

- 1) The references to 'commercial concern', in relation to seventeen taxable services, are being substituted with 'person', so as to expand the scope of the service provider in the said services;
- 2) Banking and other financial services, to include-
  - (i) transfer of money through different modes by any person;
  - (ii) services provided as banker to an issue;
- 3) Management consultancy service, to specifically include consultancy in different areas of management;

- 4) General insurance service, to include service provided to a policy holder or any person by an insurer, including a re-insurer;
- 5) Life Insurance service, to include service provided to a policy holder or any person by an insurer, including a re-insurer;
- 6) Insurance auxiliary service concerning general insurance business, to include service provided to a policy holder or any person or an insurer, including a re-insurer;
- 7) Insurance auxiliary service concerning life insurance business, to include service provided to a policy holder or any person or an insurer, including a re-insurer;
- 8) Maintenance or repair service, to be renamed as "management, maintenance or repair" service, and to include management of movable property;
- 9) Erection, commissioning or installation service, to include erection, commissioning or installation of structures, whether or not pre-fabricated;
- 10) Consulting engineer service, to include engineering consultancy services provided by any firm or body corporate;
- 11) Business auxiliary service, to include computerized data processing;
- 12) Technical testing and analysis service, to clarify that it-
  - (i) includes clinical testing of drugs and formulations; and
  - (ii) excludes testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or any disorder in human beings or animals.

The above changes will come into effect from a date to be notified, after the enactment of the Finance Bill, 2006

**(IV) THE FOLLOWING SERVICE TAX EXEMPTIONS ARE BEING WITHDRAWN:**

- 1) The exemptions in relation to general insurance where-
  - (i) Premium is received from re-insurance both domestic and overseas;
  - (ii) All business for which premium is booked outside India;
- 2) Exemption for services, other than accounting, auditing, and statutory certification services, provided by a practicing chartered accountant, company secretary or cost accountant in his professional capacity;
- 3) Exemption for taxable services provided by a Call Centre or a Medical Transcription Centre;
- 4) Exemption for taxable service provided in relation to Enterprise Resource Planning (ERP) software system provided by a management consultant in connection with the management of any organization;
- 5) Exemption for catering services provided on a railway train by an outdoor caterer;
- 6) Exemption for catering services provided within the premises of an academic institution or medical establishment by an outdoor caterer.

The above changes will come into effect from 1st March, 2006.

**(V) EXEMPTION FROM SERVICE TAX:**

- 1) Exemption from service tax has been provided to financial leasing services including equipment leasing and hire-purchase, on that portion of the taxable value comprising of 90 per cent of an amount representing as interest i.e. the difference between the instalment paid towards repayment of the lease amount and the principal ;
- 2) Exemption from service tax has been provided to testing and analysis services provided in relation to water quality testing by Government owned State and District level laboratories.
- 3) Exemption from service tax has been provided to all taxable services provided by the Reserve Bank of India.

The above exemptions will come into effect from 1st March, 2006.

**(VI) AMENDMENTS IN ACT AND RULES:**

- (1) Finance Act, 1994 is being amended to: -
  - (a) substitute references to 'commercial concern', in relation to seventeen taxable services, with 'person', so as to expand the scope of the service provider in the said services; [This change will come into effect from a date to be notified after the enactment of the Finance Bill, 2006]
  - (b) clarify that taxable service includes any service provided or to be provided by any unincorporated association or body of persons to its members (Explanation to section 65); [This change will come into effect from a date to be notified after the enactment of the Finance Bill, 2006]
  - (c) omit the Explanation at the end of section 65(105) relating to levy of service tax on taxable services provided from outside India to a recipient in India. Separate provision is being inserted to levy service tax on service provided from outside India to a recipient in India; [This change will come into effect from a date to be notified after the enactment of the Finance Bill, 2006]

- (d) increase the rate of service tax from 10 per cent. to 12 per cent. and to include the individually specified services [section 66];
- (e) insert section 66A to levy service tax under reverse charge method on taxable services provided from outside India to a recipient in India;
- (f) substitute the existing section 67 with a new section 67 to provide for determination of value of taxable service;
- (g) provide for conclusion of adjudication proceedings in respect of a person who has voluntarily deposited the service tax demanded along with interest and penalty equal to 25 per cent. of the service tax specified in the demand notice [section 73(1A)];
- (h) (i) provide for voluntary payment by an assessee of any amount collected in excess of the service tax leviable but not deposited with the Central Government or recovery of such excess amount;
- (ii) provide for voluntary payment or recovery of any amount representing service tax, that has been collected by a person but not deposited with the Central Government [section 73A];
- (i) enable the Central Government to collect interest on the amount referred to in section 73A [section 73B];
- (j) provide for provisional attachment of property by the Central Excise Officer during the pendency of any proceedings under section 73 or section 73A [section 73C];
- (k) provide for publishing the name of any person and particulars of any proceedings in relation to such person, in public interest [section 73D];
- (l) substitute section 76 with a new section 76 to provide for change in method of determining penalty in case of failure to pay service tax by the due date;
- (m) omit reference to section 11 and section 11D of the Central Excise Act, 1944 in section 83 of the Finance Act, 1994, in view of appropriate provisions inserted in the said Finance Act;
- (n) provide for recovery of any amount due to the Central Government [section 87];
- (o) empower the Central Government to make rules for-
  - (i) valuation of taxable services;
  - (ii) prescribing the manner of provisional attachment of property during the pendency of the proceedings to protect revenue.
  - (iii) prescribing the manner of publication of the name of any person and any other particulars in relation to proceedings in respect of such person;
  - (iv) prescribing the manner of recovery of any amount due to the Central Government. [section 94];
- (p) empower the Central Government to issue orders for removal of difficulty in case of implementing, classifying or assessing the value of any taxable service [section 95];
- (q) empower the Authority for Advance Rulings to determine the liability to pay service tax [section 96C].

The above changes [except (1)(a), (1)(b) and (1)(c)] will come into force from the date of enactment of Finance Bill, 2006.

(2) The Service Tax Rules, 1994, are being amended to:-

- (a) require an assessee to intimate any change in information submitted to the Central Excise Officer at the time of registration, within 30 days of the said change [rule 4(5A)];
- (b) provide for cancellation of registration certificate by the concerned Superintendent of Central Excise, where an assessee makes an application for cancellation of the said registration certificate [rule 4(8)];
- (c) make it obligatory for an assessee to preserve records related to service tax for a period of at least five years immediately after the financial year to which the said records pertain [rule 5(3)];
- (d) make it obligatory for an assessee to make available the records pertaining to service tax, to a Central Excise Officer, for the purpose of inspection and examination [rule 5(4)].

The above changes will come into effect from 1st March, 2006.