

ADA

BUDGET INDIA - 2016

INDIRECT TAX - SERVICE TAX



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CHANGES IN RATE OF SERVICE TAX

- ❖ **No Change in basic service tax rate i.e. 14.00% on value of taxable services continues to be levy.**
- ❖ **No changes in Swachh Bharat Cess rate i.e. 0.50 % on value of taxable services continue to be levy.**
- ❖ **INTRODUCTION OF KRISHI KALYAN CESS W.E.F. 01.06.2016**

- There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the **Krishi Kalyan Cess**, as service tax on all or any of the taxable services at the rate of 0.50 percent on the value of such services for the purposes of financing and promoting initiatives to improve agriculture or for any other purpose relating thereto.
- **Krishi Kalyan Cess** shall be in addition to any cess or service tax leviable on such taxable services under chapter V of Finance Act, 1994.
- The input credit of the **Krishi Kalyan Cess** shall be available to the assessee.



KRISHI KALYAN CESS



CHANGES IN NEGATIVE LIST AS GIVEN U/S 66D OF CHAPTER V OF FINANCE ACT, 1994

❖ ENTRIES RELATED WITH EDUCATIONAL SERVICES PROPOSED TO BE REMOVED FROM NEGATIVE LIST

- Presently, clause (I) of section 66D of the Act [Negative List] covers specified educational services. These services are proposed to be omitted from the Negative List.
- But the service tax exemption on them is being continued by incorporating them in the general exemption notification (Notification No. 25/2012-ST as amended by notification No. 09/2016-ST, dated 01.03.2016);
- Consequently, the definition of “approved vocational education course” [clause (11) of section 65B] is also proposed to be omitted from the Finance Act and is being incorporated in the general exemption notification (Notification No. 25/2012-ST as amended by notification No 09/2016- ST, dated 01.03.2016);
- This amendment in the notification shall come into effect from the date of enactment of Finance Bill, 2016.



❖ **ENTRIES RELATED WITH “SERVICE OF TRANSPORTATION OF PASSENGERS” OF NEGATIVE LIST PROPOSED TO BE AMENDED;**

- The Negative List entry that covers “service of transportation of passengers, with or without accompanied belongings, by a stage carriage” is proposed to be omitted [section 66D (o) (i)] with effect from 01.06.2016.
- Therefore, Service Tax is being levied on transportation of passengers by air conditioned stage carriage with effect from 01.06.2016, at the same level of abatement as applicable to the transportation of passengers by a contract carriage that is 60% without credit of inputs, input services and capital goods.
- However, such services by a non-air-conditioned contract carriage will continue to be exempted by way of exemption notification [Notification No. 25/2012-ST, as amended by notification No. 09/2016-ST, dated 01.03.2016]



As per Existing provision, Service of Transportation of passengers, with or without accompanied belongings, by a stage carriage is covered under the negative list, hence not liable to service tax.

❖ **ENTRIES RELATED WITH “SERVICE OF TRANSPORTATION OF GOODS” OF NEGATIVE LIST PROPOSED TO BE AMENDED;**

- The entry in the Negative List that covers services by way of transportation of goods by an aircraft or a vessel from a place outside India up to the customs station of clearance [section 66D (p) (ii)] is proposed to be omitted with effect from 01.06.2016.
- Therefore, Service Tax levied on services provided by them by way of transportation of goods by a vessel from outside India up to the customs station in India with effect from 01.06.2016.
- However such services by an aircraft will continue to be exempted by way of exemption notification [Not. No. 25/2012-ST, as amended by notification No. 09/2016-ST dated 01.03.2016].
- Cenvat credit of eligible inputs, capital goods and input services is being allowed for providing the service by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

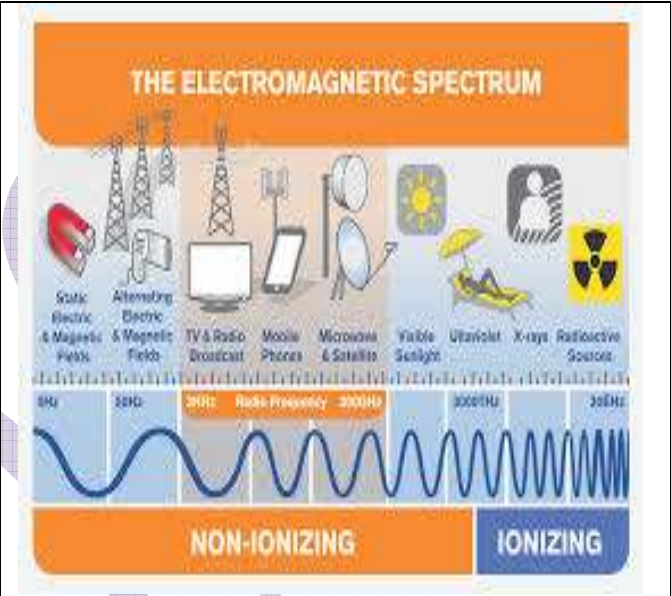


As per Existing provision, Service of Transportation of goods by an aircraft or a vessel from a place outside India up to the customs station of clearance in India is covered under the negative list, hence not liable to service tax. Consequently input for the same are also not available.

CHANGES IN DECLARED LIST AS GIVEN U/S 66E OF CHAPTER V OF FINANCE ACT, 1994

❖ INSERTION OF NEW ENTRY IN DECLARED LIST

Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is proposed to be declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment by Government of the right to use the spectrum as well as subsequent transfers of assignment of such right to use is a service leviable to service tax and not sale of intangible goods.




As per the present provision, the same is also taxable but the same is not giving in declared list.

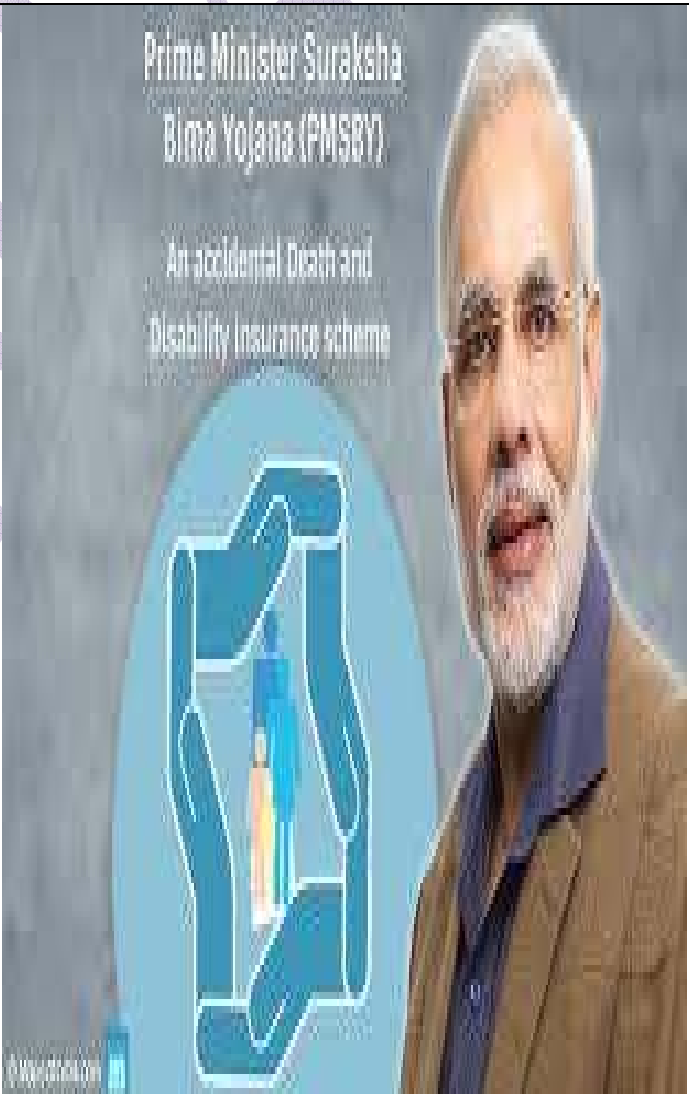
CHANGES IN MEGA EXEMPTION NOTIFICATION (25/2012-ST)

❖ WITHDRAWN OF EXISTING ENTRIES OF EXEMPTION NOTIFICATION


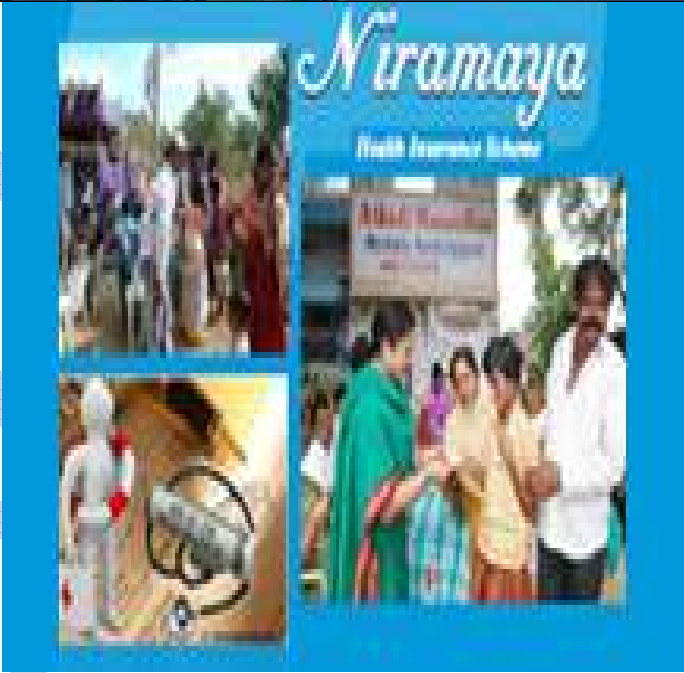

<p>1 Exemption on services provided by,-</p> <ul style="list-style-type: none"> i. a senior advocate to an advocate or partnership firm of advocates providing legal service; and ii. a person represented on an arbitral tribunal to an arbitral tribunal, <p>is being withdrawn with effect from 01.04.2016 and Service Tax is being levied under forward charge.</p> <p>Presently the same are covered under the exemption notification, hence the same are not liable to service tax.</p>	
<p>2 Exemption on construction, erection, commissioning or installation of original works pertaining to monorail or metro, in respect of contracts entered into on or after 01.03.2016, is being withdrawn with effect from 01.03.2016.</p> <p>Presently the same are covered under the exemption notification, hence the same are not liable to service tax.</p>	

<p>3</p>	<p>Exemption on the services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway is being withdrawn with effect from 01.04.2016.</p> <p>Presently, the same are covered under the exemption notification, hence the same are not liable to service tax.</p>	
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❖ **NEW ENTRIES IN EXEMPTION NOTIFICATION**


<p>1</p>	<p>Services by way of construction etc. in respect of-</p> <ul style="list-style-type: none"> i. housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY); ii. low cost houses up to a carpet area of 60 square meters in a housing project under “Affordable housing in Partnership” component of PMAY; iii. low cost houses up to a carpet area of 60 square meters in a housing project under any housing scheme of the State Government; <p>are being exempted from Service Tax with effect from 01.03.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @5.6%.</p>	
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<p>2</p>	<p>The service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from Service Tax with effect from 01.04.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 3.5%.</p>	
<p>3</p>	<p>Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	
<p>4</p>	<p>Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	

<p>5</p>	<p>The regulatory services provided by Securities and Exchange Board of India (SEBI) are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	 <p>The image shows the SEBI logo on the right, which consists of a stylized 'SEBI' in blue and white. Below the logo, the text 'SECURITIES & EXCHANGE BOARD OF INDIA (SEBI)' is written in white on a dark blue background. To the left of the logo is a photograph of a modern, multi-story building with a glass facade, likely the SEBI headquarters.</p>
<p>6</p>	<p>The services of general insurance business provided under 'Niramaya' Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	 <p>The image features a blue background with the 'Niramaya' logo in a white, cursive font at the top. Below the logo, there are three smaller photographs: one showing a group of people, one showing a person in a wheelchair, and one showing a person in a white coat. The text 'Health Insurance Scheme' is visible below the logo.</p>
<p>7</p>	<p>Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	 <p>The image shows the logo for the National Centre for Cold-chain Development (NCCD). The logo consists of the letters 'NCCD' in a large, bold, blue font. To the left of the letters is a stylized graphic of a cold chain, represented by a series of blue lines forming a zig-zag pattern. Below the logo, the text 'National Centre for Cold-chain Development' is written in a smaller, black font.</p>

<p>8</p>	<p>Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to 11 incubates are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Earlier the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	
<p>9</p>	<p>Services provided by way of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Earlier the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	
<p>10</p>	<p>Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from Service Tax with effect from 01.04.2016.</p> <p>Earlier the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	

<p>11</p>	<p>The threshold exemption to services provided by a performing artist in folk or classical art forms of music, dance or theatre is being enhanced from Rs 1 lakh to Rs 1.5 lakh charged per event with effect from 01.04.2016.</p>	
<p>12</p>	<p>Exemptions on services of:</p> <p>(a) Construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc.</p> <p>(b) construction of ports, airports,</p> <p>are being restored in respect of services provided under contracts which had been entered into prior to 01.03.2015 on payment of applicable stamp duty, with retrospective effect from 01.04.2015.</p> <p>Presently, the same are not covered under the exemption notification, hence the same are liable to service tax @ 5.6%.</p>	
<p>13</p>	<p>Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government but not necessarily by an Act of Parliament or a State Legislature, during the period from the 1st July, 2012 to 29th January, 2014, are being exempted from Service Tax with consequential refunds, subject to the principle of unjust enrichment.</p> <p>Earlier the same are not covered under the exemption notification, hence the same are liable to service tax @ 5.6%.</p>	

<p>14</p>	<p>Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), Integrated Programme in Management and Fellowship Programme in Management (FPM) are being exempted from Service Tax with effect from 01.03.2016.</p> <p>Earlier the same are not covered under the exemption notification, hence the same are liable to service tax @ 14%.</p>	
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AMENDMENTS IN ABATEMENT NOTIFICATION (27/2012-ST)

1 Credit of input services is being allowed on **transport of passengers by rail** at the existing rate of abatement of 70%.

Presently service tax payable on 30% of the value of transport of passengers by rail without the credit of input service.

The proposed amendment will come into effect from 01.04.2016.



2 Credit of input services is being allowed on **transport of goods, other than in containers, by rail** at the existing rate of abatement of 70%.

Presently service tax payable on 30% of the value of transport of goods, other than in containers, by rail without the credit of input service.

The proposed amendment will come into effect from 01.04.2016.






3 Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.

Presently service tax payable on 30% of the value of transport of goods in containers by rail without the credit of input service.

The proposed amendment will come into effect from 01.04.2016.



<p>4</p>	<p>Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.</p> <p>Presently service tax payable on 30% of the value of transport of goods by vessel without the credit of input service.</p> <p>The proposed amendment will come into effect from 01.04.2016.</p>	
<p>5</p>	<p>The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats).</p> <p>The proposed amendment will come into effect from 01.04.2016.</p>	
<p>6</p>	<p>The abatement rate in respect of services by a tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70%, hence the taxable portion will be 30%.</p> <p>Presently service tax payable on 25% and 40% of the value of tour operator in relation to packaged tour.</p> <p>The proposed amendment will come into effect from 01.04.2016.</p>	

<p>7</p>	<p>Abatement on transport of used household goods by a Goods Transport Agency (GTA) is being rationalised at the rate of 60% without availment of cenvat credit on inputs, input services and capital goods by the service provider.</p> <p>Existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged.</p> <p>The proposed amendment will come into effect from 01.04.2016.</p>	
<p>8</p>	<p>The abatement rate on services of a foreman to a chit fund is being rationalised at the rate of 30%, without CENVAT credit on inputs, input services and capital goods.</p> <p>Presently services of a foreman to a chit fund is liable to service tax without any abatement.</p> <p>The proposed amendment will come into effect from 01.04.2016.</p>	

AMENDMENTS IN REVERSE CHARGE MECHANISM

Services provided by mutual fund agents/distributor to a mutual fund or asset management company are being put under forward charge, i.e. the service provider is being made liable to pay service tax. The small sub-agents down the distribution chain will still be eligible for small service provider exemption [threshold turnover of Rs 10 lakh/year] and a very small number will be liable to pay service tax.

Earlier the same is taxable under reverse charge mechanism.

The proposed amendment will come into effect from 01.04.2016.



AMENDMENTS IN OTHER SECTION OF CHAPTER V OF FINANCE ACT, 1994

❖ PERIOD OF ISSUING DEMAND NOTICES UNDER SECTION 73

The limitation period for recovery of service tax not levied or paid or short-levied or short paid or erroneously refunded, for cases not involving fraud, collusion, suppression etc. is proposed to be enhanced by one year, that is, from eighteen months to thirty months.



❖ INTEREST ON DELAYED PAYMENT OF SERVICE TAX UNDER SECTION 75

- Interest rates on delayed payment of duty/tax across all indirect taxes are being rationalized and made uniform at 15%, **except** in case of Service Tax collected but not deposited to the CENTRAL GOVERNMENT, the rate of interest will be 24% from the date on which the Service Tax payment became due.
- In case of assessees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%.
- The above changes will come into effect on the day the Finance Bill receives the assent of the President.



Presently, the interest rates on delayed payment of service tax are 18%, 24% and 30% as the case may be.

❖ Amendment in Section 78A by inserting an explanation

Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, and the proceedings with respect to a notice issued under sub-section (1) of section 73 or the proviso to sub-section (1) of section 73 is concluded in accordance with the provisions of clause (i) of the first proviso to section 76 25 or clause (i) of the second proviso to section 78, as the case may be, the proceedings pending against any person under this section shall also be deemed to have been concluded.

In the last Budget, the Customs, Central Excise and Service Tax laws were amended to provide for closure of proceedings where the assessee pays duty/tax due, interest and specified penalty.

❖ Amendment in Section 89

The monetary limit for filing complaints for punishable offences is proposed to be enhanced to Rs. 2 crore.

Presently in the case of an offence where the amount exceeds Rs. 50 lakh with imprisonment for a term which may extend to 3 years shall be punishable.

However, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months.

OTHER MAJOR AMENDMENTS IN SERVICE TAX

❖ INDIAN TAX DISPUTE RESOLUTION SCHEME, 2016

Indirect tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution.

However, this scheme will not apply in cases:

- where prosecution has already been launched
- involving narcotics & psychotropic substances
- involving detention under COFEPOSA.



- ❖ The benefit of quarterly payment of Service Tax is being extended to 'One Person Company' (OPC) and HUF with effect from 01.04.2016.
- ❖ The facility of payment of Service Tax on receipt basis is being extended to 'One Person Company' (OPC) with effect from 01.04.2016.
- ❖ Definition of support service is omitted w.e.f. 01.04.2016.
- ❖ Section 67A is proposed to be amended to obtain specific rule making powers in respect of Point of Taxation Rules, 2011. Point of Taxation Rules, 2011 is being amended accordingly. The amendment in the rules would come into force with effect from the date of enactment of the Finance Bill, 2016.

- ❖ The service tax liability on single premium annuity (insurance) policies is being rationalised and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% from 3.5% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of services w.e.f. 01.04.2016.

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