

SERVICE TAX IMPLICATION ON LOCAL AUTHORITY

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Service Tax Amendments

Entry No. 12

Services **provided to the Government, a local authority** or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

S.No.	Before 1 st April 2015	After 1 st April 2015
a	(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession	Omitted by Notification No. 06/2015 dated 01.03.15
b	a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);	a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
c	a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;	Omitted by Notification No. 06/2015 dated 01.03.15
d	Canal, dam or other irrigation works;	Canal, dam or other irrigation works;
e	Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or	Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or
f	a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act;	Omitted by Notification No. 06/2015 dated 01.03.15

Explanation –

The Budget proposals have made certain amends in the exemptions under Service Tax by way of announcing new exemptions, withdrawal of some existing exemptions and rationalization of certain other exemptions to bring them in line with change in law or to expand the scope of Service tax w.e.f. 1st April, 2015.



SERVICE TAX ON CIVIL STRUCTURE RELATED SERVICES

Notification No. 06/2015 dated 01.03.2015 **had withdrawn the exemption** provided when services are provide to government , a local authority by way of construction , erection , commissioning, installation, completion , fitting out, repair , maintenance , renovation or alteration of –

- Civil structure or any other work or any other work meant predominantly for use other than for commerce, industry or any other business or profession.

Hence services provided to local authority in relation to civil structure will be taxable from 01.4.15 in the hands of service providers subject to reverse charge mechanism.

- a structure predominantly for use as (i) Education ,(ii) a Clinic or (iii) an art or cultural establishment
- Hence services provided in relation to above will be taxable from 01.04.15.
- services in relation to a residential complex predominantly meant for self use of their employee or other person specified will be taxable from 01.04.15

Entry No. 13 of Mega Exemption (No Changes)



Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-

- a. **A road, bridge, tunnel, or terminal for road transportation for use by general public;**
- b. A civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv AwaasYojana;
- c. A building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;
- d. A pollution control or effluent treatment plant, except located as a part of a factory; or a structure meant for funeral, burial or cremation of deceased.



Service tax in case of reverse charge mechanism
(Tax payable by service receiver)

Under partial reverse charge clauses, the central government had issued notification 30/2012 dated 20.06.2012 notifying the description of specified services provided in manner so specified where part of services tax has to be paid by the service receiver. The extent to which tax liability has to be discharged by the service receiver had been specified in notification.

Sr. No.	Description of service	Service Provider	Service Receiver	Liability of service tax
1	Sponsorship service	Any person	Any body corporate or partnership firm located in the taxable territory	Entire tax payable by service receiver.
2	Services of Arbitral Tribunal	Arbitral Tribunal	Business Entity	Entire tax payable by service receiver
3	Legal Services of Advocate or Advocate Firms	Individual Advocate or Advocate Firms	Business Entity having turnover exceeding ten lakhs per annum, located in taxable territory	Entire tax payable by service receiver
4	By Government or Local Authority excluding renting of immovable property and services specified in clauses (i), (ii) and (iii) of Section 66D(a) of Finance Act, 1994 (These cover postal, port, airport and railway services)	Government or Local Authority	Business Entity located in taxable territory	Entire tax payable by service receiver

5	Renting or hiring of motor vehicle designed to carry passengers to any person who is not in the similar line of business	Individual, HUF, proprietary or partnership firm, AOP .	Business entity registered as body corporate located in the taxable territory	Tax on 50% of value by service receiver.
6	Supply of Manpower for any purpose or security service (The words 'or security service' were added w.e.f. 7-8-2012)	Individual, HUF, proprietary or partnership firm, AOP located in taxable territory	Business entity registered as body corporate located in the taxable territory	Tax on 100% of value by service receiver
7	Service portion in execution of Works Contract	Individual, HUF, proprietary or partnership firm, AOP located in taxable territory	Business entity registered as body corporate located in the taxable territory	Tax on 50% of value by service provider and 50% by service receiver
8	Services received from non-taxable territory (Import of Service)	Located in non-taxable territory	Located in taxable territory	Entire tax payable by service receiver.

Reverse charge mechanism is applicable when service recipient is body corporate in following cases reverse charge form point of Local authority is explained.

S.No	Category of service received	Service receiver	Applicability of RCM
1	Sponsorship service	Local Authority	Not Applicable
2	Sponsorship service	Other than Body or Corporate partnership firm	Applicable
3	Service from Advocates	Local Authority	Not applicable
4	Rent a cab service	Local Authority	Not applicable
5	Manpower supply service	Local Authority	Not applicable
6	Works Contract	Local Authority	Not applicable
7	Import of Service	Local Authority	Applicable

Hence in case of Import of service & Sponsorship services local authority required to take into consideration reverse charge mechanism.

Following services given by Local Authorities are taxable:

1. Advertising & space selling
2. Renting of immovable assets to business entities.
3. Renting of movable assets to business entities.
4. All support services such as security, testing, etc to business entities.

Change in rate of Service tax

The Service tax Rate is being increased from 12% plus Education cess to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of service tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14% w.e.f 01 June 2015.

Change in Cenvat Credit Rules 2004

- Cenvat credit shall now be taken within one year of the issue of any documents specified in Rule 9(1) of the Cenvat Credit Rules, whereas, earlier, it was 6 months'.
- Rule 4(7) is being amended that in respect of input service where whole or part of the service tax is liable to be paid by the recipient of service, credit of service tax payable by the service recipient shall be allowed after such service tax is paid.
- Rule 2A(ii) - Contractors are allowed to take set-off of service tax paid on input services, excise duty on capital goods and service tax paid in reverse charge mechanism w.e.f 1.04.2015. Contractors are not allowed for set-off of excise duty on inputs (material).

Since now the cenvat credit is available, it has reduced the cost of construction to the contractors to that extent. Before 1.4.15, since it was exempted services, set-off was not allowed. So any tax paid for input services and capital goods was cost to the contractor.

Disclaimer:

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Thank you,

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