

SERVICE TAX

With effect from July 1, 2010 there would be 8 new services would be brought under the tax as specified by the Finance Ministry in Budget 2010-11.

New Services taxable from 01/07/2010 are

- 1) Hospital, nursing home and multi-specialty clinic services under specified circumstances
- 2) Storing , keeping and maintaining medical records
- 3) Promotion or marketing of a brand of goods, service , event or endorsement
- 4) Permitting Commercial use or exploitation of events
- 5) Service of electricity exchange
- 6) Licensing of specified copyrights
- 7) Preferred location services
- 8) Promoting, marketing or organizing games of Chance, etc.

1) Game of Chance

- Sec 65 (105) (zzzzn) proposes to tax services for promotion ,organizing or in any other manner assisting in - organizing games of chance, including lottery , bingo or lotto or online games whether or not conducted through internet or other electronic networks.
- Now agents selling lottery tickets, whether in physical form or online, will be covered under service tax.

2) Health Check-up Services

- Sec 65 (105) (zzzzo) propose to tax on Hospital, nursing homes Tax or multi specialty clinics when health check up or preventive care is provided to an employee of a business entity.
- Tax on Service to a person covered by a health insurance scheme for any health checkup or treatment where the payment is made by the insurance company directly.

3) Medical Records

- Sec 65 (105) (zzzzp) seeks to tax services provided to any business entity by any other person in relation to storing , keeping or marinating of medical records of employees of a business entity.

4) Brand Promotion

- Sec 65 (105) (zzzzq) propose tax on promotion or marketing of a brand of goods , service , event or endorsement of name including a trade name , logo or house mark of a business entity by appearing in advertisement and promotional events or carrying our promotional activity.
- Service is taxable whether provided to a business entity or otherwise under a contract.
- Taxation of Brand ambassadors.

5) Permitting Commercial use or exploitation of any event

- Sec 65 (105) (zzzzr) propose tax on granting the right or permitting the commercial use or exploitation of any event relating to art , entertainments , business , sports or marriage organized by such other person.
- Personal rights (right to privacy, easement right, right to secrecy) when given for exploitation is taxed.
- Corporate sponsored cricket match or concert, film award events, celebrity marriages, beauty contests.
- Services seeks to tax the amount received by the person or organization who permits the recording and broadcasting of the event from the

broadcaster or any other person m who seeks to commercially exploit the event.

6) Electricity Exchanges

- Sec 65 (105) (zzzzs) propose to tax on an electricity exchange by whatever name called approved by the Central Electricity Regulatory Commission under the Electricity Act, 2003 in relation to trading, processing ,clearing or settlement of spot contracts, term ahead contracts, seasonal contracts or any other electricity related contracts.
- Notification No. 32/2010 exempts services of a distribution licensee, distribution franchisee, etc. authorized to distribute power.

7) Preferred Location Services

- Sec 65 (105) (zzzzu) propose tax on services provided or to be provided to a buyer of a residential or a commercial complex or any other person authorized by such builder for providing preferential location or development of such complex.
- Charges for "next to mall , beach facing , vastu enabled , preferred floor, preferred door number " will be taxable.
- Charges for development charges for parks, pipelines , access , common lighting , back up power , fire fighting etc.. taxable.
- Parking space specifically excluded.

8) Copy Rights

- Sec 65 (105) (zzzzt) propose tax on temporary transfer or permitting use or enjoyment of any copyright other than originally literary dramatic , musical and artistic work.

- Copyrights of cinematographic films and sounds recordings are getting taxed.
- Films producer who gives this rights temporarily for a consideration are liable.
- Royalty payments on imported and indigenously produced films given by the producer to the distributor is taxable.
- Companies distributing music, owners of copyrights, and films would be taxable.

AMENDMENTS OF EXISTING SERVICES:

Construction Services

- Construction / Construction of a complex intended for sales by the builder before or during or after construction or shall be deemed to be a service provided by the builder to the buyer.
- No service tax only if entire payment for the property is paid by the buyer after completion of the construction.
- Notification No. 1/2006 amended by the Notification No. 29/2010 inserting a specific abatement of 75% and specifically providing that the abatement will not apply if the cost of land has been separately recovered.
- If land value is included abatement is 75%
- If land is separately charged, existing abatement of 67% is still available.
- Notification No. 28/2010 exempt construction of a residential complex services when provided to Jawaharlal Nehru National Urban Renewal Mission and Rajiv Awaas Yojana.

Air Travel

- Provisions amended to tax all types of air travel in scheduled or non - scheduled air transport.
- Tax is on the air craft operator.
- Exemption under Notification No. 25/2010 effective on 01/07/2010 in respect of passenger transiting through India provided they do not pass through immigration and do not leave the custom area.
- Exemption for a person employed or engaged by the air craft operator in any capacity on board the air craft.
- Notification No. 26/2010 w.e.f 01/07/2010 provides for an exemption from so much of service tax as in excess of
 - (a) 10 % of the gross value of the ticket or Rs.100/- per journey whichever is less - Domestic
 - (b) 10% of the gross value of the ticket or Rs.500/- per journey whichever is less - International
- No Cenvat credit on input if exemption availed
- Notification No. 27/2010 w.e.f 01/07/2010 exempt journey organizing or terminating in an airport located in Arunachal Pradesh, Assam , Meghalaya, Manipur , Mizoram , Nagaland , Sikkim , Tripura and Baghdogra in west Bengal.

Air Port Services and Port Services

- Amendment to specifically provide that all services provided entirely within the port or airport would fall under the respective port services or airport services.
- Notification No. 31/2010 effective 01/07/2010 provide for certain exemption such as supply of water , electricity , treatment of person by

hospital , fire service , pollution control , schools, repair of ships /boats or vessels of government of India , Navy , Coastguard , repairs of boats, etc.. where the repairs amounts to manufacture in the airport or port .

Other Changes:

- Notification No. 30/2010 provides for specific exemption in respect of tournaments or championship organized by certain bodies and associations.
- Cenvat Credit rules amended w.e.f 22/06/2010 to include dumper or tripper as capital goods when used by service providers falling under the "site formation services" , mining service
- Service tax on transport of goods by railway has been postponed till January, 2011.