

Amendments to Income Tax

✧ Income Tax Returns

- a) Income tax Returns ITR 1, 2 & 4S simplified for convenience of the tax payers.
 - b) At present individuals/HUFs having income from more than one house property and capital gains are required to file Form ITR-2.
 - c) A New Form ITR 2A Proposed which can be filed by an Individual or HUF who does not have Capital Gains, Income from Business/Profession or Foreign Asset/Foreign Income.
 - d) Due date of filing Income Tax return ITR 2 & 2A extended to 31st August from 31st July. [Press release 31.05.2015]
 - e) No need to disclose the foreign travel expenses. Only Passport Number needs to be disclosed in ITR 2 & 2A.
 - f) Individuals having exempt income without any ceiling (other than agricultural income exceeding Rs. 5,000) can now file Form ITR 1 (Sahaj).
 - g) As regards bank account details in all these forms, only the IFS code, account number of all the current/savings account which is held at any time during the previous year will be required to be filled-up. The balance in accounts will not be required to be furnished. Details of dormant accounts which are not operational during the last three years are not required to be furnished.
 - h) An individual who is not an Indian citizen and is in India on a business, employment or student visa (expatriate), would not mandatorily be required to report the foreign assets acquired by him during the previous years in which he was non-resident if no income is derived from such assets during the relevant previous year.
- ✧ Any sum of money receivable in relation to transfer of immovable property whether or not transfer took place, amount taken or accepted in cash for more than Rs.20,000/- then penalty equal to amount taken or accepted will be charged (Sec 271D). In case the amount is repaid in cash and amount received together with interest is Rs. 20000 or more, penalty equal to amount repaid shall be imposed under S.271E.
- ✧ Form 15CA/CB is required to be furnished also for transactions where no income is chargeable to tax in India. Penalty for not providing/ incorrect furnishing of Form 15CA/15CB is Rs. 1 lakh subject to pleading reasonable cause under section 273B.
- ✧ Payment to transport operators is subject to TDS if the transport operator is having more than 10 trucks or fails to give declaration that he owns less than 10 trucks and his PAN. Sec 194C.

- ✧ Exemption of TDS on interest received from co-op banks by its members is withdrawn. TDS on Interest exceeding Rs. 10,000 paid by Co-operative Banks to members shall now be subject to deduction of tax at source. Members need to submit Form 15G/15H, PAN etc else bank will deduct TDS at higher rates. Sec 194.
- ✧ Interest on Recurring Deposit is hereafter liable to TDS subject to limit of Rs. 10,000 by including Recurring deposits in the definition of Time deposits.
- ✧ TDS @ 10% should be deducted when the amount of payment or aggregate amount of payment exceeds Rs. 30,000/- on payment of accumulated balance due on Employees Provident Fund (W.E.F. 01-06-2015)
- ✧ Calculation of threshold limit for TDS from interest on FDR and RD will be on the basis of per bank and not per branch. Hence, splitting of deposits amongst various branches is unnecessary. Sec 194A
- ✧ Employer need to collect and keep proof of deduction claimed by the employees from their Salary income Sec 192.
- ✧ Person like Individual & HUF who are not subject to Tax Audit u/s 44B need not take TAN for payment of one time TDS like buying property from NRI. Sec 203A.
- ✧ New TCS return will also be processed. Sec 206CB
- ✧ In case of motor accident claim, TDS provisions will be applicable only at the time of payment if claim amount exceeds Rs.50000 and not at the time of credit. Sec 194A
- ✧ **ARREAR DEMAND:** The CBDT has issued Circular No. 8 of 2015 dated 14.05.2015 setting out the detailed procedure that has to be followed by taxpayers in response to an arrear demand from the AO.
- ✧ **TRANSFER PRICING:** Draft scheme of the proposed rules is issued by CBDT for computation of Arm's Length Price (ALP) of an International Transaction or Specified Domestic Transaction undertaken on or after 01.04.2014. The Central Board of Direct Taxes has proposed to use multiple year data for determining the price.

CORPORATE LAW

(I) Important Changes as per Companies (Amendment) Bill, 2015 passed in May 2015

- ✧ Existing provisions required a private company to have a minimum paid up share capital of Rs. 1 lakh, and a public company to have Rs.5 lakh. With the amendment, this minimum requirement of paid up share capital is done away with.
- ✧ Affixation of Common seal was earlier mandatory, now with the amendment it has become optional.

- ✧ The requirement of obtaining a Certificate of Commencement of Business made applicable to even private companies, has now been omitted.
- ✧ For execution of Bills of Exchange & issue of Share certificate, common seal was mandatory earlier. Now with the amendment, the use of common seal is optional. Where a company doesn't have a common seal, the authorization u/sec 22(2) and the issue of share certificate shall be made by any two directors, or by a director along with the company secretary, if appointed.
- ✧ New provision inserted providing punishment for accepting deposits in violation of the provisions of the Act.
- ✧ Earlier MGT-14 filed by a company as per the provisions of section 179(3) for Board Resolution was available for public inspection, has been amended barring public inspection of such documents.
- ✧ A new proviso inserted providing that no company shall declare dividend unless previous year carry over losses and depreciation not provided for in previous year or years is set off against the profits of the company for the current year.
- ✧ The reporting of fraud committed by the employees against the company is now suitably amended to provide limits within which it is to be reported to the Audit Committee or the Board, or the Central Government as may be prescribed. Where it is not reported to the Central Government, the same should be disclosed in the Board Report.
- ✧ Companies with paid up capital of Rs.10 crore or more where required to get the shareholders approval through a special resolution for related party transaction. The amended provisions have removed the requirement of special resolution and now an ordinary resolution is sufficient.
- ✧ Such ordinary resolution also is not required where the related party transaction is between a holding company and its subsidiary, whose accounts is consolidated and has been placed before the shareholders for their approval.
- ✧ In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2015 (21 of 2015), the Central Government hereby appoints the 29th May, 2015 as the date on which the provisions of sections 1 to 12 and 15 to 23 of the said Act shall come into force.

[NOTIFICATION [F.NO.1/6/2015-CL.V], DATED 29-5-2015]

(II) Companies (Incorporation) Amendment Rules, 2015

- ✧ eForm INC 21 is omitted. Company having share capital could earlier commence the business and exercise its borrowing powers only after filing a declaration in eForm INC-21 and particulars of the registered office address with the concerned RoC. Rule 24 providing for the same is now omitted.
- ✧ eForm INC-13 (Memorandum of Association) and eForm INC-16 (License u/sec 8(1) of the Companies Act, 2013) is replaced with revised eForms.

(III) MCA Notification to exempt private companies u/s 462 of the Companies Act 2013

- ✧ MCA Notification dated 06.06.2015 exempts one person company, dormant companies, small companies and private companies (having paid up share capital less than One Hundred Crore Rupees) from the limit of “twenty companies” for rotation of auditors.

FEMA

Liberalised Remittance Scheme (LRS) for resident individuals.

- ✧ AD banks may now allow remittances by a resident individual up to USD 250,000 per financial year for any permitted current or capital account transaction or a combination of both. Any remittance in excess of the limit will require RBI permission.
- ✧ The permissible capital account transactions by an individual under LRS are:
 - (i) opening of foreign currency account abroad with a bank;
 - (ii) purchase of property abroad;
 - (iii) making investments abroad;
 - (iv) setting up Wholly owned subsidiaries and Joint Ventures abroad;
 - (v) extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in Companies Act, 2013.
- ✧ The permitted Current account transactions are:
 - a) Holiday/Private Visits abroad (except Nepal & Bhutan)
 - b) Business trip
 - c) Gifts/Donation
 - d) Employment or education
 - e) Maintenance of a close relative abroad
 - f) Medical treatment abroad, and related expenses
 - g) Emigration facilities
- ✧ The Notification dated May 26, 2015 containing the revised Schedule III has been given for the said purposes.
- ✧ All the facilities (including private/business visits) for release of exchange/remittances for current account transactions available to resident individuals under Para 1 of Schedule III to the Foreign Exchange Management (Current Account Transactions) Rules, 2000, as amended from time to time, shall now be subsumed under the overall limit of USD 250,000.

- ✧ Certain exceptions like medical treatment, studies abroad and emigration is provided.
- ✧ A person **who is a resident, but not permanently resident in India** and-
 - (i) is a citizen of a foreign state other than Pakistan; or
 - (ii) is a citizen of India, who is on deputation to an office or branch of a foreign company or subsidiary or joint venture in India of such foreign company, may make remittance upto his net salary (after deduction of taxes, contribution to provident fund, and other deductions).
 - (iii) Explanation: For the purpose of this clause, a person resident in India on account of his job or deputation of a specified duration (irrespective of the length) or for a specific job or assignments, the duration of which does not exceed three years, is a resident but not permanently resident.
- ✧ **Persons other than individuals** can make remittances as per limits prescribed. In excess of limits shall require prior approval of RBI.
 - (i) Donations for educational institutions; 1% of Foreign exchange earnings during the previous three financial years or USD 5,000,000 w.e.i., less;
 - (ii) Commissions to agents abroad for sale of residential flats/commercial plots in India upto USD 25,000 or 5% of inward remittance w.e.i. more;
 - (iii) Remittances for consultancy services; upto USD 10,000,000 per project for any infrastructure project and upto USD 1,000,000 per project in respect of any other consultancy procured from outside India.
 - (iv) Remittances for reimbursement of pre-incorporation expenses within the limit and conditions laid down therein. 5% of investment brought into India or USD 100,000 w.e.i. higher.
- ✧ While making the above remittances, such persons (other than individuals) shall submit to the concerned AD branch a declaration to the effect that the limits and conditions relating to the remittances have been complied with.

[Source: A.P. (DIR SERIES 2014-15) CIRCULAR NO.106, DATED 1-6-2015]

Review of Foreign Direct Investment Policy (FDI) Policy on Investments by Non-Resident Indians (NRIs), Persons of Indian Origin (PIOs) and Overseas Citizens of India (OCIs)

- ✧ The definition of Non-Resident Indian in FDI Policy is amended to include OCI card holders and PIO card holders and also providing that for the FDI purposes the non-repatriable investment by NRIs under Schedule 4 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations **will be deemed to be domestic investment at par with the investment made by residents.**
- ✧ The above decision is in effect from 18th June 2015
- ✧ Source: Press Note 7 (2015 Series) by DIP&P of MC&I

Review of the investment limit for cases requiring prior approval of the FIPB/CCEA

- ✧ A revised limit of upto Rs.3000 crore is fixed for approval with Foreign Investment Promotion Board, and in excess of the same rests with Cabinet Committee on Economic Affairs.
- ✧ The above decision is in effect from 18th June 2015
- ✧ Source: Press Note 6 (2015 Series) by DIP&P of MC&I

SERVICE TAX

Summary of changes made to service tax vide Finance Bill 2015 and the various dates on which they come into effect:

- A. With effect from 1st March 2015
- B. With effect from 1st April 2015
- C. With effect from date of enactment of Finance Bill i.e, 14th May 2015
- D. With effect from the date of notification 1st June 2015

A. Changes with effect from 1st March 2015:

- (i) Services of an **AGGREGATOR** made taxable from 01.03.2015. Shifting the liability of payment of service tax on aggregator of a service where service is provided under the brand name of the aggregator.
 - Aggregator' means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator.
 - Radio Taxi model is different from aggregator model as in former case, fleets of cars or cabs is owned by service providers themselves i.e., car owner and provider of service is one only where as in case of aggregator, aggregator manages the app and cab is owned by service provider. The aggregator gets only commission for each drive.Example: Uber Cab services, Ola Services, Taxi For Sure etc.,
 - In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator.

(ii) **SIMPLIFIED REGISTRATION PROCEDURE**

[Amendments in rules 4, 4A and 5 of the Service Tax Rules, 1994]

- New simplified registration procedure for Service tax has been prescribed. Order No. 1/15-ST, dated 28.2.2015, effective from 1.3.2015 has been issued, prescribing documentation, time limits and procedure for registration. Registration for single premises shall be provided in two days.
- A provision for issuing digitally signed invoices is being added along with the option of maintaining of records in electronic form and their authentication by means of digital signatures.

(iii) **CERTAIN AMENDMENTS IN THE CENVAT CREDIT RULES.**

- The period for taking Cenvat Credit is being extended from six months from the date of invoice to one year from the date of invoice.
- Certain other changes are being made in the provisions of the Cenvat Credit Rules, 2004, which, *inter-alia*, include allowing Cenvat Credit on input and capital goods received directly by job workers, defining “export goods” for the purposes of rule 5, defining “exempt goods” for the purposes of Rule 6, making applicable the provision of rule 9(4) to importer dealers, authorizing imposition of restrictions on registered dealers under rule 12AAA, and provisions relating to recovery of credit wrongly taken and imposition of penalty. For details, the D.O. letter of J.S (TRU-I) may please be referred to.

OTHERS

(iv) Service provided by a commission agent located outside India and engaged under a contract or agreement or any other document by the exporter in India, to act on behalf of the exporter, to cause sale of goods exported by him is no longer taxable in India under the Place of Provisions of Service Rules, 2012. Hence, notification No. 42/2012-ST is rescinded.

(v) The scope of advance rulings is extended to resident firms as well.

B. Changes with effect from 1st April 2015

(i) **SERVICES TAXABLE FROM 01.04.2015**

Rationalization of exemptions at S. Nos. 12, 14, 16,20, 21, 29 & 32 of notification No. 25/2012-ST-Mega Exemption Notification. The following services are taxable from 01.04.2015.

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 -
- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
 - (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;
14. **Services by way of** construction, erection, commissioning, or installation of original works pertaining to,-
- (a) **an airport, port;**
16. Exemption to services provided by a **performing artist in folk or classical art form** of (i) music, or (ii) dance, or (iii) theater, **will be limited only** to such cases where amount charged is upto Rs 1,00,000 for a performance. However, the exemption shall not apply to service provided by such artist as a **brand ambassador**.
- 20/21. **Exemption** to transportation of food stuff by rail, or vessels or road will be **limited to** food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue
29. (a) Services provided by a mutual fund agent to a mutual fund or assets management company,
(b) Distributor to a mutual fund or AMC,
(c) Selling or marketing agent of lottery ticket to a distributor.
- Note: Service Tax on the above three services shall be levied on reverse charge basis.**
32. (a) Departmentally run public telephone;
(b) Guaranteed public telephone operating only local calls;
(c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

(ii) NEW EXEMPTIONS INSERTED FROM 01.06.2015

- Preconditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables
- Service by a Common Effluent Treatment Plant operator for treatment of effluent
- Life Insurance service by Varistha Pension Bima Yojana
- All Ambulance services
- Admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve. These services when provided by the Government of Local Authority are already covered by the negative list.
- Service provided by exhibitor of movie to a distributor or an AOP consisting of exhibitor as one of its member
- Transport of export goods by road from the place of removal to a land customs station.
 - Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from Service Tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

(iii) CHANGE IN ABATEMENT RATES AND CONDITIONS THEREOF:

Uniform rate of abatement on all modes of transport

- A uniform abatement of 70% is now being prescribed for transport by rail, road and vessel and Service Tax shall be payable on 30% of the value of such service subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services for the transport operators. Credit on payment of such tax in cash on reverse charge can continue to be availed by the service receiver provided it is an eligible input service.

Lower abatement on other than economy class air travel passengers

- At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and Service Tax would be payable on 60% of the value of such higher classes.

Service tax payable on full value of consideration received by Chit Foreman

- Abatement of 30% provided erstwhile is being withdrawn from services provided in relation to chit. Consequently, Service Tax shall be paid by the chit fund foremen on the full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit as eligible to make such output tax payment.

(iv) AMENDMENT IN REVERSE CHARGE MECHANISM,-

- Full reverse charge @100% will apply on **manpower supply and security service** provided by individual, HUF, partnership firm to a body corporate.
- Services provided by,-
 - (i) mutual fund agents, mutual fund distributors; and
 - (ii) agents of lottery distributorare being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or, as the case may be, by the mutual fund receiving such services. In respect of agents of lottery, Service Tax shall be paid by the distributor of lottery.

(vi) CENVAT CREDIT RULES :

Credit on reverse charge payment can be immediately taken

- Rule 4(7) is being amended to allow Cenvat Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider. This change will come into effect from 1.4.2015.

C. Changes with effect from the date of enactment of Finance Bill i.e, 14th May 2015

(i) Insertion of new definition to specify the term “**government**” [section 65 B (26A)]

- Services, excluding a few specified services, provided by the government are included in the Negative List.
- Further, specified services received by the government are also exempt.
- Hitherto, the term “government” has not been defined in the Act or the notification.
- This has given rise to interpretational issues.
- To address such issues, a definition of the term “government” is being incorporated in the Act [section 65 B (26A)]

(ii) Insertion of a **new Explanation** in the **definition of service** [section 65 B (44)]

- The intention in law has been to levy Service Tax on the services provided by:
 - (a) chit fund foremen by way of conducting a chit.
 - (b) distributor or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery.
- However, Courts have taken a contrary view in some cases, while in some cases the levy has been upheld.

- An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy Service Tax on activities undertaken by chit fund foremen in relation to chit, and lottery distributors and selling agents, in relation to lotteries. [section 65 B (44)].
- Further, an explanation is being added in entry (i) of section 66D to specifically state that these activities are not covered by the Negative List.

(iii) **Insertion of an illustration** in sub-section (1) of section 66F(1) to explain the scope of this subsection.

- Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such services. An illustration is being incorporated in this section to exemplify the scope of this provision.
- As illustrated, reference to service provided by the Reserve Bank of India (RBI), in section 66D (b) does not include any agency service provided by other banks to RBI, as such agency services are input services used by RBI for provision of its main service. Accordingly, banks providing agency service to or in relation to services of RBI, are liable to pay Service Tax on the agency services so provided by virtue of the existing section 66F (1).

(iv) Amendment in the definition of the term “**consideration**” in section 67

- Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for a taxable service shall include:

(a) all reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically in section 67.

(b) amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets.

(v) **Amendments in PENALTY PROVISIONS of sections 73, 76 and 78**

- **Section 73 is being amended to provide recovery proceedings**
 - (a) a new sub-section (1B) is being inserted to provide that recovery of the Service Tax amount self-assessed and declared in the return but not paid shall be made under section 87 which provides various modes of recovery such as adjustment against dues

receivable from other departments etc., without service of any notice under sub-section (1) of section 73; and

(b) sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.

➤ Section 76 is being amended to rationalize the provisions relating to penalties, in cases not involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-

(a) penalty not to exceed ten per cent of Service Tax amount involved in such cases;

(b) no penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice under section 73 (1);

(c) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and

(d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

➤ Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-

(a) penalty shall be hundred per cent of Service Tax amount involved in such cases;

(b) a reduced penalty equal to 15% of the Service Tax amount is to be paid if Service Tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;

(c) a reduced penalty equal to 25% of the Service Tax amount, determined by the Central Excise officer by an order, is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and

(d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if Service Tax, interest and reduced penalty is paid within 30 days of such appellate order.

(vi) Insertion of transition provision by way of section 78B

➤ A new section 78 B is being inserted to prescribe, by way of a transition provision, that,-

(a) amended provisions of sections 76 and 78 providing rationalization of penalty (as stated in above paras') shall apply to cases where either no notice is served, or notice is served within limitation period of 18 months (no fraud, misrepresentation etc.) or under extended period of 5 years (fraud etc.); but NO ORDER has been issued before the date of enactment of the Finance Bill, 2015; and

(b) in respect of cases covered by sub-section (4A) of section 73, which is being omitted hereafter (i.e., if true and complete details of transaction were available on specified records,) if notice is served within limitation period of 18 months (no fraud, misrepresentation etc.) or under extended period of 5 years; but NO ORDER has been issued before the date of enactment of the Finance Bill, 2015; penalty shall not exceed 50% of the Service Tax amount.

(vii) Omitting section 80 which provided for waiver of penalty if reasonable cause is shown

➤ Section 80 that provided for waiver of penalty if reasonable cause is shown is being omitted. Hereafter, waiver of penalty cannot be pleaded if assessee is in default even if reasonable cause is shown.

(viii) Amendments in section 86 : Revisions of Order by Central Government

➤ Section 86 is being amended to prescribe that remedy against the order passed by Commissioner (Appeal), in a matter involving rebate of Service Tax, shall lie in terms of section 35EE of the Central Excise Act. It is also being provided that all appeals filed in Tribunal after the date the Finance Act, 2012 (17.07.2012) came into effect and pending on the date when the Finance Bill, 2015 receives assent of the President (14.05.2015) shall be transferred and dealt in accordance with section 35EE of the Central Excise Act. Section 35EE of the Central Excise Act provides for revision of Order by Central Government which can annul or modify the Order on an application filed by any aggrieved person within 3 months of communication of the aggrieved order.

(ix) Amendments in the provisions relating to Settlement Commission

➤ Certain changes have been made in the provisions relating to Settlement Commission. These provisions, contained in the Central Excise Act, 1944, are made applicable to Service Tax, through section 83 of the Finance Act, 1994. For details, the D.O. letter of J.S. (TRU-I) may please be referred to.

(x) Omitting of Rule 6 (6A) of the Service Tax Rules

➤ Rule 6 (6A) which provided for recovery of service tax self-assessed and declared in the return under section 87 (various modes of recovery) is being omitted consequent to the amendment in section 73 for enabling such recovery.

D. With effect from the date notified after the enactment of the Finance Bill, 2015 in respect of each provision : 01.06.2015 notifications

- The rate of Service Tax is being increased from 12% plus Education Cesses to 14%.
- The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax.
- Thus, the effective increase in Service Tax rate will be from the existing rate of 12.36% (inclusive of cesses) to 14%, subsuming the cesses.

Negative List - The changes proposed in the Negative List in Section 66 D are as follows:

(i) Admission to entertainment event or access to amusement facility becomes taxable.

(a) Service Tax shall be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.

(b) Service tax to be levied on service by way of admission to entertainment event of concerts, pageants, musical performances concerts, award functions and sporting events other than the recognized sporting event, if the amount charged is more than Rs. 500 for right to admission to such an event. However, the existing exemption, by way of the Negative List entry, to service by way of admission to entertainment event, namely, exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performance including drama and ballet shall be continued, through the route of exemption. For this purpose a new entry is being inserted in notification No. 25/12-ST. The term recognized sporting event has been defined in the proposed amendment in the said notification.

Service for production or manufacture of alcoholic liquor for human consumption become taxable

- (ii) The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration. In this context, the definition of the term " process amounting to manufacture or production of goods" [section 65 B (40)] is also being amended, along with the Negative List entry [section 66D (f)], with a consequential amendment in S. No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit.

Services provided by the Government or local authority to a business entity to be made taxable (Not yet notified)

- (iii) Presently, services provided by Government or a local authority, excluding certain services specified under clause (a) of section 66D, are covered by the Negative List. Service Tax applies on the “support service” provided by the Government or local authority to a business entity. An enabling provision is being made, by amending section 66D (a)(iv), to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of “support service” [section 65 B (49)] is being omitted. Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax.

Job work in relation to alcoholic liquor for human consumption also made taxable

- (iv) Amendment in S. No. 30 of notification No. 25/12-ST to exclude job work in relation to manufacture or production of alcoholic liquor for human consumption from the scope of this exemption. Job work and contract manufacturing of liquor is taxable from 01.06.2015.

Additional new list of exempted services

- (v) Insertion of a new entry at S. No. 47 of notification No. 25/12- ST to exempt services by way of;
 - (i) right to admission to exhibition of film, circus, dance or theatrical performances including drama, or ballet;
 - (ii) recognized sporting event; and
 - (iii) admission to other events where the consideration for admission is upto Rs. 500;

Alternative rates for certain services re-issued following change in rate of service tax

- (vi) Amendments in alternative rates of service tax provided for air travel agent, insurance service, money changing service and service provided by a lottery distributor and selling agent in rule 6(7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules.

➤ Amended optional tax rate in the case of **AIR TRAVEL AGENT** is as below: SUB-RULE (7)

Air Travel bookings	Old optional rate	New optional rate
In the case of domestic bookings	0.6% of basic fare	0.7% of basic fare
International bookings	1.2% of basic fare	1.4% of basic fare

- Amended optional tax rate in the case of **INSURER OF LIFE INSURANCE** is as below:
SUB-RULE (7A)

Premium charged	OLD optional rate	NEW optional rate
% on premium charged from policy holder in the first year	3 %	3.5 %
% on premium charged in the subsequent years	1.5%	1.75 %

- Amended optional tax rate in the case of **PURCHASE AND SALE OF FOREIGN CURRENCY** is as below: SUB-RULE (7B)

Gross amount of currency exchanged	OLD optional rate	NEW optional rate
For an amount upto Rs.1Lakh	0.12 % (Min Rs.30)	0.14% (Min Rs.35)
Amount exceeding Rs.1Lakh and upto Rs.10Lakh	Rs.120 + 0.06%	Rs.140 + 0.07%
Amount exceeding Rs.10Lakh	Rs.660 + 0.012% (Max Rs.6000)	Rs.770 + 0.014% (Max Rs.7000)

- Amended optional tax rate in the case of **DISTRIBUTOR /SELLING AGENT OF LOTTERY** is as below: SUB-RULE (7C)

	OLD optional rate	NEW optional rate
Lottery scheme where guaranteed prize payout is more than 80%	Rs. 7,000 on every Rs.10 Lakh or part of agg face value of lottery tickets printed by the organizing State for a draw	Rs. 8,200
Lottery scheme where guaranteed prize payout is less than 80%	Rs. 11,000 on every Rs.10 Lakh or part of agg face value of lottery tickets printed by the organizing State for a draw	Rs. 12,800

- For Restaurant services, where air conditioning or central hearing is in any part of the establishment, service tax @ 14% on 40% of the bill value will apply. The effective new rate will be 5.6% on the gross bill value.(Clarified by CBEC)

Availment and Utilisation of credit taken on Cesses against Excise Duty payment by a Manufacturer:

- (i) The credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the factory of manufacture of final product on or after the 1st day of March, 2015; and
- (ii) The credit of balance fifty per cent. Education Cess and Secondary and Higher Education Cess paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15; and
- (iii) The credit of Education Cess and Secondary and Higher Education Cess paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015;

can be utilized for payment of the duty of excise specified in the First Schedule to the Central Excise Tariff Act.". (Effective 30.04.2015)

[NOTIFICATION NO.12/2015-C.E. (N.T.), DATED 30-4-2015]

Clarification regarding Cenvat Credit in transit sale through dealer

- (i) The third and fourth proviso to Rule 11 (2) of the Central Excise Rules, reads as below:

"Provided also that if the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer's invoice:

Provided also that if the goods imported under the cover of a bill of entry are sent directly to buyer's premises, the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises."

It is clarified that the purpose of inserting the third and fourth provisos in sub-rule (2) of Rule 11 of CER is to allow an additional facility for direct transport of goods from the manufacturer or the importer to the consignee where the consignee avails Cenvat Credit on the basis of the Cenvatable invoice issued by the registered dealer or the registered importer. This facility obviates the need for the goods to be brought to the premises of the registered importer or the registered dealer for subsequent transport of the goods to the consignee.

- (ii) Where a registered dealer negotiates sale of an entire consignment from a manufacturer or a registered importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. In such cases no Cenvatable invoice shall be issued by the registered dealer in favour of the consignee though commercial invoice can be issued. Where a registered dealer negotiates sale of goods from the total stock ordered on a manufacturer or an importer to multiple buyers and orders direct transportation of goods to the consignees and the manufacturer or the importer is willing to issue individual invoices for each sale in favour of the consignees for such individual sale, the same procedure shall apply.
- (iii) Where a registered dealer negotiates sale by splitting a consignment procured from a manufacturer or a registered importer and issues Cenvatable invoices for each of the sale, it would now be possible for the dealer to order direct transport of the consignments as per the individual sales to the consignee without bringing the goods to his godown. This would save time and transportation cost for the dealer adding to ease of doing business. This is a new facility which flows from the amended provisions. Procedure as prescribed in the third proviso of rule 11(2) shall be applicable in such case.
"Provided also that if the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer's invoice:
- (iv) Where an un-registered dealer negotiates sale of an entire consignment from a manufacturer or a registered importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. As the dealer is not registered, there is no question of issuing any Cenvatable invoice by him. Such dealers as in the past can continue to be un-registered.
- (v) Where goods are sold by the registered importer to an end-user (say a manufacturer) who would avail credit on the basis of importer's invoice and the goods are transported directly from the port or warehouse at the port to the buyer's premises, the amendment prescribes that for such movement the factum of such direct transport to the buyer's premises needs to be recorded in the invoice.

[CBEC Circular 1003/10/2015-CX, Dated: May 05, 2015]

VALUE ADDED TAX

- ✧ Input Tax Credit reversal imposed at the rate of 3 per cent on the inter-state sale of goods, which was introduced with effect from 11.11.2013 will be withdrawn. Clause (c) under Section 19(5) of TNVAT Act, 2006 will henceforth be withdrawn to enable the dealers to claim Input Tax Credit on the inter-State sale of goods without 'C' form. This measure will eliminate additional burden on the dealers effecting inter-State sale of goods without 'C' form.
- ✧ All existing dealers who are statutorily required to file monthly returns in the relevant Form I,K,L,J and Form 1 and new dealers registering for obtaining TIN shall file the return electronically. [Circular No.21/2015 D3/32639/2014 dated 25-05-2015]

***“Thinking is the capital, Enterprise is the way, Hard Work is the solution”
- Dr.A.P.J.Abdul Kalam***

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