5 Exemptions and Abatements

5.1 Introduction

Under the negative list approach of taxation of services, in order to ascertain the taxability of an activity, one needs to consider the following questions:-

(i) Whether the service has been provided in the taxable territory by one person to another?
(ii) Is the service not mentioned in the negative list of services under section 66D?
(iii) Is it not a declared service as per section 66E?

If the answers to the aforesaid questions are in affirmative, then the last aspect which needs to be examined is whether the service is exempted by CBEC.

In case exemption has been granted to a service from whole of the service tax, it will also include exemption to education cess and secondary and higher education cess [Circular No. 134/3/2011-ST dated 08.4.2011].

Exempted services vs. Services included in the negative list

An exempted service is a taxable service which has been exempted by the Central Government by issuing a notification under section 93(1) of the Finance Act, 1994 whereas a negative list service is not taxable at all as it is outside the scope of the charging section - section 66B of the Finance Act, 1994.

Further, any change in the existing exemptions or any new exemption can be granted by the Central Government by issuing a notification in the Official Gazette whereas for amending the negative list of services under section 66D, Finance Act, 1994 has to be amended seeking approval from both houses of the Parliament.

This chapter discusses in detail the exemptions and abatements available in respect of various services under the negative list regime.

EXEMPTIONS

5.2 Mega exemption notification

Notification No. 25/2012-ST dated 20.06.2012 is the mega exemption notification wherein most of the exemptions have been consolidated at one place for ease of reference. The notification has been detailed as below:-

1. Services to United Nations/specifed international organization: Services provided to the United Nations and specified international organisations are exempt. However, it is important to note that services provided by these organizations are chargeable to service tax.
5.2 Indirect Taxes

**Specified International Organization** means an international organization declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities) Act, 1947, to which the provisions of the Schedule to the said Act apply.

**Illustrative list of specified international organisations** is as follows:
(a) International Civil Aviation Organisation
(b) World Health Organisation
(c) International Labor Organisation
(d) Food and Agriculture Organisation of the United Nations
(e) UN Educational, Scientific and Cultural Organisation (UNESCO)
(f) International Monetary Fund (IMF)

2. Health care services

(a) Health care services **by** a clinical establishment, an authorized medical practitioner or para-medics, and

(b) Services **by** a veterinary clinic in relation to health care of animals or birds are exempt from service tax.

**ANALYSIS**

(i) **Meaning of health care services**

**Health care services**

(a) **means** any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any **recognised system of medicines** in India and

(b) **includes** services by way of transportation of the patient to and from a clinical establishment, but

(c) **does not include** hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Hence, the definition of health care services is both an inclusive and exhaustive.

(ii) **Only recognized systems of medicines exempt:** Only services in recognized systems of medicines in India provided by the persons specified under this head are exempt. In terms of the clause (h) of section 2 of the Clinical Establishments Act, 2010, the following systems of medicines are recognized systems of medicines:-

- Allopathy
- Yoga
- Naturopathy
• Ayurveda
• Homeopathy
• Siddha
• Unani
• Any other system of medicine that may be recognized by Central Government.

1. **Authorised medical practitioner** means a medical practitioner registered with any of the councils of the recognized system of medicines established or recognized by law in India and includes a medical professional having the requisite qualification to practice in any recognized system of medicines in India as per any law for the time being in force.

2. **Clinical establishment** means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.

3. **Para-medics** are trained health care professionals, for example nursing staff, physiotherapists, technicians, lab assistants etc. Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted. Thus, paramedics need not be medical professionals possessing professional qualifications.

3. **Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities**
   
   In order to claim exemption under this head, following two conditions must be satisfied:-

   (i) The entity is registered with income tax authorities under section 12AA of the Income tax Act, 1961, and

   (ii) The entity carries out one or more of the specified charitable activities**.

   It implies that any service other than by way of charitable activities to any other person for consideration (not covered in negative list) provided by an entity registered under section 12AA of the Income tax Act, 1961 is chargeable to service tax.

   **Meaning of charitable activities
   
   Charitable activities means activities relating to -

   (i) public health by way of -
5.4 Indirect Taxes

<table>
<thead>
<tr>
<th><strong>5.4 Indirect Taxes</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) care or counseling of</td>
</tr>
<tr>
<td>(i) terminally ill persons or persons with severe physical or mental disability,</td>
</tr>
<tr>
<td>(ii) persons afflicted with HIV or AIDS, or</td>
</tr>
<tr>
<td>(iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or</td>
</tr>
<tr>
<td>(b) public awareness of preventive health, family planning or prevention of HIV infection;</td>
</tr>
<tr>
<td>(ii) advancement of religion or spirituality;</td>
</tr>
<tr>
<td>(iii) advancement of educational programmes or skill development relating to,-</td>
</tr>
<tr>
<td>(a) abandoned, orphaned or homeless children;</td>
</tr>
<tr>
<td>(b) physically or mentally abused and traumatized persons;</td>
</tr>
<tr>
<td>(c) prisoners; or</td>
</tr>
<tr>
<td>(d) persons over the age of 65 years residing in a rural area;</td>
</tr>
<tr>
<td>(iv) preservation of environment including watershed, forests and wildlife; or</td>
</tr>
<tr>
<td>(v) advancement of any other object of general public utility up to a value of ₹18,75,000 for the year 2012-13 subject to the condition that total value of such activities had not exceeded ₹ 25 lakh during 2011-12.</td>
</tr>
</tbody>
</table>

4. Religious places/ceremonies

Services BY a person by way of-

(a) renting of precincts of a religious place meant for general public; or

(b) conduct of any religious ceremony

are exempt from service tax.

1. **Religious place** means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality.

2. **General public** means the body of people at large sufficiently defined by some common quality of public or impersonal nature.

3. **Religious ceremonies** are life-cycle rituals including special religious pujas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.

5. **Legal services**

Services provided BY -

(a) an arbitral tribunal to -
Exemptions and Abatements 5.5

(i) any person other than a business entity; or
(ii) a business entity with a turnover up to ₹ 10 lakh in the preceding financial year.

(b) an individual as an advocate or a partnership firm of advocates by way of legal services to-

(i) an advocate or partnership firm of advocates providing legal services;
(ii) any person other than a business entity; or
(iii) a business entity with a turnover up to ₹ 10 lakh in the preceding financial year.

(c) a person represented on an arbitral tribunal to an arbitral tribunal

are exempt from service tax.

ANALYSIS

Legal service means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

Advocates can provide services either as individuals or as firms. Under this head, legal services provided by advocates or partnership firms of advocates are exempt from service tax when provided to the following:-

• an advocate or partnership firm of advocates providing legal services (Here the services are being provided to the same class of persons)
• any person other than a business entity
• a business entity with a turnover up to rupees ten lakh in the preceding financial year

However, in respect of services provided to business entities, with a turnover exceeding ₹ 10 lakh in the preceding financial year, tax is required to be paid on reverse charge by the business entities. Business entity is defined in section 65B of the Finance Act, 1994 as ‘any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession’. Thus, it includes sole proprietors as well. The business entity can, however, take input tax credit of such tax paid in terms of the CENVAT Credit Rules, 2004, if otherwise eligible. The provisions relating to arbitral tribunal are also on similar lines.

1. Arbitral tribunal means a sole arbitrator or a panel of arbitrators.

6. Technical testing or analysis services: Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants BY a clinical research organization approved to conduct clinical trials by the Drug Controller General of India are exempt from service tax.
5.6 Indirect Taxes

Thus, in order to claim exemption,:-

(i) technical testing or analysis must be of a newly developed drugs, including vaccines and herbal remedies.

(ii) it must be conducted on human participants.

(iii) it must be conducted by a clinical research organization approved to conduct clinical trials by the Drug Controller General of India.

7. **Recreational coaching or training:** Services by way of training or coaching in recreational activities relating to arts, culture or sports are exempt from service tax.

The term ‘recreational activities’ is very wide. However, under this head, the scope of training or coaching in recreational activities is restricted to the area of:-

(i) Arts

(ii) Culture

(iii) Sports

Hence, the training or coaching in recreational activities in the areas other than arts, culture or sports shall be chargeable to service tax.

Further, training or coaching relating to all forms of arts, culture or sports is covered under this head. In other words, the said exemption is available to coaching or training relating to all forms of dance, music, painting, sculpture making, theatre, sports etc.

8. **Educational services:** Services provided TO an educational institution in respect of education exempted from service tax, by way of,-

(a) auxiliary educational services; or

(b) renting of immovable property

are exempt from service tax.

**Auxiliary educational services** means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge-enhancement activity, whether for the students or the faculty, or any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to admission to such institution, conduct of examination, catering for the students under any mid-day meals scheme sponsored by Government, or transportation of students, faculty or staff of such institution.

9. **Sports services:** Services provided TO a recognized sports body BY-

(a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;

(b) another recognized sports body

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are exempt from service tax.

**Whether the following services are exempt under this head or taxable?**

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Service provided</th>
<th>Whether exempt under this head or otherwise taxable?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body</td>
<td>Exempt under this head</td>
</tr>
<tr>
<td>2.</td>
<td>Service of a player to a franchisee which is not a recognized sports body</td>
<td>Taxable</td>
</tr>
<tr>
<td>3.</td>
<td>Services by a recognized sports body to another recognized sports body</td>
<td>Exempt under this head</td>
</tr>
<tr>
<td>4.</td>
<td>Services by individuals such as selectors, commentators, curators, technical experts</td>
<td>Taxable</td>
</tr>
<tr>
<td>5.</td>
<td>Services of an individual as umpire, referee when provided directly to a recognized sports body</td>
<td>Exempt under this head</td>
</tr>
</tbody>
</table>

**Recognized sports body** means –

(i) Indian Olympic Association

(ii) Sports Authority of India

(iii) A national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations

(iv) National sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government

(v) International Olympic Association or a federation recognised by the International Olympic Association, or

(vi) A federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

**10. Sponsorship of sports events:** Services by way of sponsorship of sporting events organised,-

(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State or zone;

(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
5.8 Indirect Taxes

(c) by Central Civil Services Cultural and Sports Board;
(d) as part of national games, by Indian Olympic Association; or
(e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme
are exempt from service tax.

11. **Artist performance**: Services **BY** a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador are exempt from service tax.

**Whether the following activities are exempt under this head or taxable?**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Activities</th>
<th>Taxable or exempt</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Activities by a performing artist in folk or classical art forms of music, dance, or theatre</td>
<td>Exempt</td>
</tr>
<tr>
<td>2.</td>
<td>All other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials</td>
<td>Taxable</td>
</tr>
<tr>
<td>3.</td>
<td>Activities of artists in still art forms e.g. painting, sculpture making etc.</td>
<td>Taxable</td>
</tr>
<tr>
<td>4.</td>
<td>Services provided by an artist as brand ambassador**.</td>
<td>Taxable</td>
</tr>
</tbody>
</table>

**Brand ambassador means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

12. **Services by way of collecting or providing news**: Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India are exempt from service tax.

13. **Hotel services**: Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a unit of accommodation below ₹ 1,000 per day or equivalent are exempt from service tax.

**Significance of declared tariff**: The relevance of declared tariff is in determining the liability to pay service tax on renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes as exemption is available where declared tariff of a unit of accommodation is below ₹ 1,000 per day or equivalent. However, the tax will be liable to be paid on the amount actually charged i.e. declared tariff minus any discount offered.

Thus if the declared tariff is ₹ 1100/-, but actual room rent charged is ₹ 800/-, tax will be required to be paid on ₹ 800/-.
When the declared tariff is revised as per the tourist season, the liability to pay tax shall be only on the declared tariff for the accommodation where the published/printed tariff is above ₹ 1000/- However, the revision in tariff should be made uniformly applicable to all customers and declared when such change takes place.

**Declared tariff** includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.

### 14. Transportation of specified goods, by road/rail/vessel

*The following table enumerates the goods transportation of which is exempt from service tax:*

<table>
<thead>
<tr>
<th>Transportation of the following goods by rail/vessel have been exempted from service tax</th>
<th>Transportation of the following goods by a goods transport agency have been exempted from service tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railway equipments or materials</td>
<td>(i) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed ₹ 1500; or</td>
</tr>
<tr>
<td></td>
<td>(ii) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed ₹ 750.</td>
</tr>
</tbody>
</table>

**Common exemptions**

- (a) agricultural produce
- (b) foodstuff** including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages
- (c) chemical fertilizer and oilcakes
- (d) newspaper or magazines registered with the Registrar of Newspapers
- (e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
- (f) defence or military equipments

**Note: The expression foodstuff here includes milk also.**

**Goods carriage** means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.
5.10 Indirect Taxes

15. Services by way of giving on hire -
   (a) to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers; or
   (b) to a goods transport agency, a means of transportation of goods are exempt from service tax.

State transport undertaking means any undertaking providing road transport service, where such undertaking is carried on by,-
   (i) the Central Government or a State Government;
   (ii) any Road Transport Corporation established under section 3 of the Road Transport Corporations Act, 1950;
   (iii) any municipality or any corporation or company owned or controlled by the Central Government or one or more State Governments, or by the Central Government and one or more State Governments.
   (iv) Zila Parishad or any other similar local authority.

Explanation.-For the purposes of this clause, "road transport service" means a service of motor vehicles carrying passengers or goods or both by road for hire or reward.

16. Transport of passengers, with or without accompanied belongings, by -
   (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
   (b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire; or
   (c) ropeway, cable car or aerial tramway are exempt from service tax.

Contract carriage means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-
   (a) on a time basis, whether or not with reference to any route or distance; or
   (b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes-
      (i) a maxicab; and
      (ii) a motorcar notwithstanding the separate fares are charged for its passengers.
17. Services provided to Government, a local authority or a Governmental authority by way of-

(a) carrying out any activity in relation to any function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or

(b) repair or maintenance of a vessel

are exempt from service tax.

18. Services of general insurance business provided under following schemes -

(a) Hut Insurance Scheme;

(b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);

(c) Scheme for Insurance of Tribals;

(d) Janata Personal Accident Policy and Gramin Accident Policy;

(e) Group Personal Accident Policy for Self-Employed Women;

(f) Agricultural Pumpset and Failed Well Insurance;

(g) Premia collected on export credit insurance;

(h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;

(i) Jan Arogya Bima Policy;

(j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);

(k) Pilot Scheme on Seed Crop Insurance;

(l) Central Sector Scheme on Cattle Insurance;

(m) Universal Health Insurance Scheme;

(n) Rashtriya Swasthya Bima Yojana; or

(o) Coconut Palm Insurance Scheme;

are exempt from service tax.

**General insurance business** means fire marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business and annuity certain business.

19. Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a financial year subject to the following conditions, namely:-

(a) the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and
5.12 Indirect Taxes

(b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee are exempt from service tax.

**Incubatee** means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products.

20. Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -

(a) as a trade union;

(b) for the provision of carrying out any activity which is exempt from the levy of service tax; or

(c) up to an amount of ₹ 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex are exempt from service tax.

**Trade union** means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.

21. Services by the following persons in respective capacities are exempt from service tax -

(a) sub-broker or an authorized person to a stock broker;

(b) authorized person to a member of a commodity exchange;

(c) mutual fund agent to a mutual fund or asset management company;

(d) distributor to a mutual fund or asset management company;

(e) selling or marketing agent of lottery tickets to a distributor or a selling agent;

(f) selling agent or a distributor of SIM cards or recharge coupon vouchers;

(g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area.
1. **Banking company** means a banking company as defined in section 5 of the Banking Regulation Act, 1949, and includes the State Bank of India any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf.

As per section 5 of the Banking Regulation Act, 1949, "banking company" means any company which transacts the business of banking in India;

Explanation. — Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause.

2. **Business facilitator or business correspondent** means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by Reserve Bank of India.

3. **Commodity exchange** means an association an association to which recognition for the time being has been granted by the Central Government under section 6 of the Forward Contracts (Regulation) Act, 1952 in respect of goods or classes of goods specified in such recognition.

4. **Distributor or selling agent** means an individual or a firm or a body corporate or other legal entity under law so appointed by the Organising State through an agreement to market and sell lotteries on behalf of the Organising State and shall include distributor or selling agent authorised by the lottery-organising State.

5. **Insurance company** means a company carrying on life insurance business or general insurance business.

6. **Rural area** means the area comprised in a village as defined in land revenue records, excluding-

   (a) the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or

   (b) any area that may be notified as an urban area by the Central Government or a State Government.

7. **Sub-broker** means any person not being a member of stock exchange who acts on behalf of a stock broker as an agent or otherwise for assisting the investors in buying, selling or dealing in securities through such stock brokers.

22. Carrying out an intermediate production process as job work in relation to -

   (a) agriculture, printing or textile processing;
5.14 Indirect Taxes

(b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985;

c) any goods on which appropriate duty is payable by the principal manufacturer; or

d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of ₹ 150 lakh in a financial year subject to the condition that such aggregate value had not exceeded ₹ 150 lakh rupees during the preceding financial year are exempt from service tax.

1. **Appropriate duty** means duty payable on manufacture or production under a Central Act or a State Act, but shall not include ‘Nil’ rate of duty or duty wholly exempt.

2. **Principal manufacturer** means any person who gets goods manufactured or processed on his account from another person.

23. Services by an organizer to any person in respect of a business exhibition held outside India are exempt from service tax.

24. Services by way of making telephone calls from -

(a) departmentally run public telephone;

(b) guaranteed public telephone operating only for local calls; or

(c) free telephone at airport and hospital where no bills are being issued are exempt from service tax.

25. Services by way of slaughtering of animals are exempt from service tax.

26. Services received from a provider of service located in a non-taxable territory by -

(a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;

(b) an entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or

(c) a person located in a non-taxable territory are exempt from service tax.

27. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material are exempt from service tax.

28. Services by Employees’ State Insurance Corporation to persons governed under the Employees’ Insurance Act, 1948 are exempt from service tax.

29. Services by way of transfer of a going concern, as a whole or an independent part thereof are exempt from service tax.
30. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets are exempt from service tax.

31. Services by a Governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution are exempt from service tax.

32. **Life insurance services provided under Janashree Bima Yojana and Aam Aadmi Bima Yojana**

_Services of life insurance business provided under following schemes are exempt from service tax-

(a) **Janashree Bima Yojana (JBY); or**

(b) **Aam Aadmi Bima Yojana (AABY)**

5.3 **Small service provider’s (SSP) exemption**

Central Government has exempted the taxable services of aggregate value not exceeding ₹10 lakh in any financial year from the whole of the service tax leviable thereon under section 66B of the Finance Act, 1994 in case the aggregate value of taxable services rendered by the service provider from one or more premises, does not exceed ₹10 lakh in the preceding financial year.

A. **Services in respect of which SSP exemption is not available**

(i) **Taxable services provided under brand name:** SSP exemption is not available to the taxable services provided by a person under a brand name or trade name, whether registered or not, of another person.

(ii) **Services taxed under reverse charge mechanism:** SSP exemption is not available to such value of taxable services in respect of which service tax is payable on reverse charge mechanism by a person.

B. **Availability of the CENVAT credit on inputs, input services and capital goods**

(i) **CENVAT credit on input services**

(a) The provider of taxable service shall not avail the CENVAT credit\(^1\) of service tax paid on any input services used for providing the said taxable service, for which SSP exemption is availed of.

(b) The provider of taxable service shall avail the CENVAT credit only on such input services received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable.

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\(^1\) The provisions relating to CENVAT credit have been discussed in Chapter-7: CENVAT credit.
5.16 Indirect Taxes

(ii) **CENVAT credit on inputs**

(a) Service provider shall avail the CENVAT credit only on such inputs received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable.

(b) A service provider who starts availing SSP exemption shall be required to pay an amount equivalent to the CENVAT credit taken by him, if any, in respect of such inputs lying in stock or in process on the date on which he starts availing the said exemption. Balance credit shall not be utilised in terms of rule 3(4) of the CENVAT Credit Rules, 2004 and shall lapse on the day such service provider starts availing SSP exemption.

(iii) **CENVAT credit on capital goods:** Service provider shall not avail the CENVAT credit on capital goods received, during the period in which the service provider avails SSP exemption.

C. **Other points which merit consideration**

(i) **Exemption is optional:** Service provider has an option not to avail the SSP exemption and pay service tax. Option, once exercised in a financial year, shall not be withdrawn during the remaining part of such financial year.

(ii) **Aggregate value of all taxable services provided from all premises to be considered:** Where a taxable service provider provides one or more taxable services from one or more premises, the exemption under this notification shall apply to the aggregate value of all such taxable services and from all such premises and not separately for each premises or each services.

D. **Aggregate value of taxable services in case of Goods Transport Agency:** In case of goods transport agency (GTA), for the purposes of determining the aggregate value not exceeding ₹ 10 lakh, to avail exemption under this notification, the payment received towards the gross amount charged by the GTA under section 67 of the said Finance Act for which the person liable for paying service tax is the consignor or consignee shall not be taken into account.

[Notification No. 33/2012-S.T. dated 20.06.2012]

<table>
<thead>
<tr>
<th>Meaning of important terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Brand name or trade name</strong> means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, logo, label, signature, or invented word or writing which is used in relation to such specified services for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified services and some person using such name or mark with or without any indication of the identity of that person.</td>
</tr>
<tr>
<td>2. <strong>Aggregate value</strong> means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66B of the said Finance Act under any other notification.</td>
</tr>
</tbody>
</table>
5.4 Exemption from service tax equal to R&D cess payable on import of technology

The amount of Research and development cess payable shall be allowed as a deduction from the service tax payable on the taxable service involving the import of technology.

Conditions to be fulfilled:-

(a) The Research & Development Cess is paid at the time of or before payment for the service subject to maximum of 6 months period from the date of invoice*.  
*In case of associated enterprises, the date of credit in the books of account.

(b) Necessary records will have to be maintained so as to establish a linkage between the invoice or the credit entry (as the case may be) and the cess payment challan.

Research and development cess

Research and Development cess is levied, on the payment of technical fees/consultancy/royalty or know-how etc. involving the 'import of technology', under section 3 of the Research & Development Act, 1986. The purpose of levying this cess is to encourage the commercial application of indigenously developed technology.

Rate of cess: Rate of research and development cess is 5%.

[Notification No. 14/2012-S.T, dated 17.03.2012]

5.5 Refund of service tax paid on services used in the export of goods

I. Refund of service tax where service tax is paid by exporter himself under reverse charge mechanism: The exemption would be available:

   (1) on two services, viz. (i) Transport of goods by road from any container freight station (CFS) or inland container depot (ICD) to port/airport of exports or from the place of removal (i.e. factory) to CFS, ICD, port or airport of exports; (ii) service provided by a foreign commission agent who causes sale of goods abroad;

   (2) to exporters of goods who are registered with export promotion councils and are holding import export code number and are also registered with service tax/central excise authorities as they are otherwise required to pay service tax on the above services received, under reverse charge mechanism;

   (3) in case of a foreign commission agent, exemption is limited to the service tax calculated on a value of 10% of the FOB value of export goods for which the said service has been used.

[Notification No. 31/2012 dated 20.06.2012 and Notification No. 42/2012-ST dated 29.06.2012]

II. Rebate of service tax paid on specified services used in the export of goods: With effect from 01.07.2012, a simplified scheme for rebate to the exporters of goods has been prescribed. Under this scheme, the exporters have been provided with an option to
claim refund electronically through ICES scheme. Otherwise, they can claim rebate on the basis of documents.

The rebate shall be granted by way of refund of service tax paid on the “specified services”.

**Meaning of specified services**

“Specified services” means-

(i) in the case of excisable goods, taxable services that have been used beyond the place of removal, for the export of said goods;

(ii) in the case of goods other than (i) above, taxable services used for the export of said goods;

but shall not include any service mentioned in sub-clauses (A), (B), (BA) and (C) of rule 2(l) of the CENVAT Credit Rules, 2004.

**Manner of claiming rebate**

The exporters now have a choice to opt either of the following options:

A. **Electronic rebate through ICES system**, which is based on the notified ‘schedule of rates’ on the lines of duty drawback, or

B. **Rebate on the basis of documents**, by approaching the Central Excise/Service Tax formations.

It may be noted that the rebate on the basis of documents shall not be claimed wherever the difference between the amount of rebate under ICES system and amount of rebate on the basis of documents is less than 20% of the rebate under ICES system.

**A. Procedure for electronic rebate through ICES system**

(a) An exporter should

(i) have a bank account and also a central excise registration or service tax code number** and the same should be registered with Customs ICES, and

(ii) declare his option to avail service tax rebate on the electronic shipping bill/bill of export while presenting the same to the proper officer of Customs.

**Note: If the exporter does not have Service tax code number referred to in clause (i) above, it should be obtained by filing a declaration in Form A-2 to the jurisdictional Assistant Commissioner / Deputy Commissioner of Central Excise.

(b) Service tax paid on the specified services eligible as rebate under this exemption shall be calculated electronically by the ICES system, by applying
the rate specified in the schedule against the said goods, as a percentage of the FOB value.

(c) Rebate shall be deposited in the bank account of the exporter.

(d) An exporter who has claimed the rebate electronically cannot claim the refund again on the basis of documents.

(e) Minimum service tax rebate for an electronic shipping bill is ₹ 50.

B. Procedure for refund on the basis of documents

(a) Actual payment of service tax: For claiming rebate, the exporter has to actually pay the service tax on the specified service used for export of goods.

(b) No rebate to service provider: The service provider which provides the specified services to the exporter claiming rebate of the service tax paid on such services, will not be eligible to claim rebate.

(c) Time-limit for filing the rebate claim: Time-limit for filing the rebate claim shall be one year from the date of export of the said goods.

The date of export shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation.

(d) Minimum amount of rebate: is ₹ 500.

(e) Realization of export proceeds: Sale proceeds in respect of exported goods must be received by or on behalf of the exporter, in India, within the period allowed by the RBI, including any extension thereof.

Where any rebate of service tax paid on specified service utilized for export of said goods has been allowed to an exporter but the sale proceeds in respect of said goods are not received by or on behalf of the exporter, in India, within the period allowed by the Reserve Bank of India including any extension thereof, such rebate shall be deemed never to have been allowed and recovered under the provisions of the said Act and the rules made thereunder.

(f) Documents to be submitted for rebate claim

1. Exporter registered under Central Excise Act, 1944 shall file a claim for rebate of service tax in Form A-1 to the jurisdictional Assistant Commissioner/Deputy Commissioner of Central Excise. Where the exporter is not so registered, he shall first file a declaration in Form A-2, seeking allotment of service tax code to the jurisdictional Assistant Commissioner/Deputy Commissioner of Central Excise and on obtaining the service tax code, file refund claim in Form A-1.

2. Relevant invoice/bill/challan/any other document for each specified service, in original, evidencing payment for the specified service used for
export of the said goods and the service tax payable needs to be attached with the application.

(g) **Certification of the documents enclosed with the rebate claim** [mentioned in clause 2. of point (f) above]: The documents enclosed with the rebate claim have to be certified in the following manner:-

![Diagram]

(h) **Grant of refund:** Assistant Commissioner/Deputy Commissioner of Central Excise, shall, after satisfying himself, shall grant the rebate to the exporter within a period of one month from the receipt of the said claim.

**Points to be noted:**

(a) **No CENVAT credit on the specified services used for export:** No CENVAT credit of service tax paid on the specified services used for export of the said goods can be taken under the CENVAT Credit Rules, 2004.

(b) **No exemption to SEZ:** The aforesaid exemption cannot be claimed by a Unit or Developer of a Special Economic Zone.

[Notification No. 41/2012-S.T. dated 29.06.2012]
5.6 Exemption to services for use of foreign Diplomatic Mission/consular post in India or family members of diplomatic agents or career consular officers posted therein

Following services are exempt from service tax:
(i) All taxable services provided by any person to foreign diplomatic missions or consular posts in India for their official use.
(ii) All taxable services provided by any person for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein.

The Notification also prescribes the procedure for availing the said exemption.

[Notification No. 27/2012-ST dated 20.06.2012]

5.7 Exemption to services provided by TBI/ STEP

All taxable services provided or to be provided by Technology Business Incubators (TBI)/Science and Technology Entrepreneurship Parks (STEP) recognized by National Science and Technology Entrepreneurship Board (NSTEBD) of the Department of Science & Technology have been exempted from the whole of service tax leviable thereon.

Conditions to be satisfied
(i) The STEP or the TBI, who intends to avail the exemption, shall furnish the requisite information containing the details of the incubator along with the information received from each incubatee to the concerned Assistant/Deputy Commissioner of Central Excise before availing the exemption; and
(ii) The STEP or the TBI shall thereafter furnish the information in the formats mentioned above in the same manner before the 30th day of June of each financial year.

[Notification No. 32/2012 dated 20.06.2012]

5.8 Exemption to services received by a developer/units of an SEZ

Notification No. 40/2012-ST dated 20.06.2012 provides as follows:

(A) Eligibility for exemption

The taxable services received and used for the authorized operations by any of the following are eligible for exemption under this notification:

- a unit located in a Special Economic Zone (hereinafter referred to as SEZ)
- developer of SEZ.

(B) Refund route/upfront exemption

(i) Option not to pay service tax ab-intio in case the specified services are wholly consumed within the SEZ: Where the services are received in SEZ and used in
authorized operations are wholly consumed within SEZ, the person liable to pay service tax has the option not to pay the service tax. Hence, under this option, instead of the Unit or Developer claiming exemption by way of refund, service tax may not be paid ab intio.

*Example of wholly consumed services*- In case architectural services are provided in relation to an immovable property which is situated in SEZ, such services shall be considered to be wholly consumed within SEZ.

(ii) **Refund route available where the specified services are not wholly consumed within the SEZ**: Where the specified services received and used for authorised operations are partially consumed within the SEZ and partially in DTA unit, i.e. shared services, the exemption shall be provided only by way of refund of service tax paid on the specified services received for the authorised operations in a SEZ. Hence, the option of not paying the service tax ab intio is not available here.

(C) **Restricted amount of refund in case the specified services are not wholly consumed within the SEZ**

Where the specified services received by Unit or Developer, are not wholly consumed within SEZ, i.e., shared between authorised operations in SEZ Unit and Domestic Tariff Area (DTA) Unit, maximum refund shall be restricted to the extent of the ratio of export turnover of goods and services multiplied by the service tax paid on services other than wholly consumed services to the total turnover for the given period to which the claim relates.

\[
\text{Maximum refund} = \frac{\text{ST} \times \text{ET}}{\text{TT}}
\]

where

- **ST** stands for service tax paid on services other than wholly consumed services (used for both SEZ and DTA Unit)
- **ET** stands for Export turnover of goods and services of SEZ Unit/Developer
- **TT** stands for Total turnover for the period

### Meaning of important terms

(a) **Refund amount** means the maximum refund that is admissible for the period.

(b) **Export turnover of goods** means the value of final products and intermediate products cleared during the relevant period and exported.

(c) **Export turnover of services** means the value of the export service calculated in the following manner, namely:

Export turnover of services = payments received during the relevant period for export services + export services whose provision has been completed for which
payment had been received in advance in any period prior to the relevant period – advances received for export services for which the provision of service has not been completed during the relevant period

(d) **Total turnover** means the sum total of the value of:-
   
   (i) all excisable goods cleared during the relevant period including exempted goods, dutiable goods and excisable goods exported.
   
   (ii) export turnover of services [determined in terms of clause (c) above] and the value of all other services, during the relevant period.

Points to be noted:-

1. CENVAT credit of service tax paid on the specified services cannot be taken.

2. The developer or unit of a SEZ, shall maintain proper account of receipt and use of the specified services on which exemption is claimed, for authorised operations in the SEZ.

The Notification also prescribes the procedure for availing the said exemption.

### 5.9 Exemption to specified export promotion schemes

The taxable services provided or agreed to be provided against the following duty credit scrips by a person located in the taxable territory are exempt from service tax:-

(i) Focus Market Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance the Foreign Trade Policy.

(ii) Focus Product Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with the Foreign Trade Policy.

(iii) Vishesh Krishi and Gram Udyog Yojana (Special Agriculture and Village Industry Scheme) duty credit scrip issued to an exporter by the Regional Authority in accordance with the Foreign Trade Policy.


### 5.10 Abatement in respect of various taxable services

Following taxable services are eligible for abatement from the gross amount in the following manner:-

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Description of taxable service</th>
<th>Percentage of abatement</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Transport of goods by rail</td>
<td>70</td>
<td>Nil.</td>
</tr>
<tr>
<td>2</td>
<td>Transport of passengers, with or without accompanied belongings by rail</td>
<td>70</td>
<td>Nil.</td>
</tr>
<tr>
<td></td>
<td>Description</td>
<td>Input Credit (in %)</td>
<td>Notes</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>3</td>
<td>Transport of passengers by air, with or without accompanied belongings</td>
<td>60</td>
<td>CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</td>
</tr>
<tr>
<td>4</td>
<td>Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.</td>
<td>40</td>
<td>Same as above.</td>
</tr>
<tr>
<td>5</td>
<td>Services of goods transport agency in relation to transportation of goods.</td>
<td>75</td>
<td>CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</td>
</tr>
<tr>
<td>6</td>
<td>Services provided in relation to chit</td>
<td>30</td>
<td>Same as above.</td>
</tr>
<tr>
<td>7</td>
<td>Renting of any motor vehicle designed to carry passengers</td>
<td>60</td>
<td>Same as above.</td>
</tr>
<tr>
<td>8</td>
<td>Transport of goods in a vessel</td>
<td>50</td>
<td>Same as above.</td>
</tr>
<tr>
<td>9</td>
<td>Services by a tour operator in relation to,-</td>
<td>75</td>
<td>(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.</td>
</tr>
<tr>
<td></td>
<td>(i) a package tour</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour</td>
<td>90</td>
<td>(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</td>
</tr>
</tbody>
</table>
(ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation.
(iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.

(iii) any services other than specified at (i) and (ii) above.

60 (i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
(ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.

Note:

*It may be noted that service of transportation of passengers, with or without accompanied belongings, by railways in first class or an air conditioned coach [taxable since specifically excluded from the negative list] and services by way of transportation of goods by railways were exempt from service tax between 02.07.2012 and 30.09.2012 (both inclusive).*

**Important definitions**

1. **Chit** means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount,
2. **Package tour** means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour.

3. **Tour operator** means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.

[Notification No. 26/2012-ST dated 20.06.2012]