

# SERVICE TAX FOR MEDICAL PRACTITIONERS



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# INTRODUCTION

- ◉ Service Tax is an indirect tax levied on services. It was imposed by Chapter V of Finance Act, 1944, which was introduced by the then Finance Minister Dr. Manmohan Singh.
- ◉ There is no separate Service tax Act, but it is imposed by making amendments to Finance Act, 1944.
- ◉ Service tax is not tax on profession, trade or employment but is in respect of services rendered. If there is no service there is no tax.

# APPLICABILITY OF SERVICE TAX

- ◉ Service tax is applicable to whole of India except the state of Jammu & Kashmir.
- ◉ If a service provider provides taxable services in Jammu & Kashmir, then it is not liable to Service Tax. However, if a service provider provides taxable services from Jammu & Kashmir to a client anywhere else in the country, he shall be liable to service tax.

# TAXABILITY OF SERVICES

**All Services  
(including declared services)**

(-)

**Activities specifically excluded from definition of service.**

(-)

**Services covered under negative list.**

(-)

**Services covered under Mega Exemption Notification**

(=)

**TAXABLE SERVICES**

# SERVICE

- ◉ "Service means any ACTIVITY carried out by a person for another for CONSIDERATION, and includes a DECLARED SERVICE.
- ◉ The definition prescribes the following three essential ingredients that must be present in order to call an activity as 'service'-
  - a) it must be an activity;
  - b) it must be performed by a person for another person;
  - c) the activity is performed for a consideration.

# SERVICE

- ◉ In the absence of any of these essential ingredients, the activity will not be considered as service. Also, the activities which are covered under the declared service category will automatically become service.
- ◉ Thereafter, the definition expressly excludes the activities from the provision of "Service". Thus, except for the activities as mentioned in the definition of the term "Service", all other activities shall be covered which involve the above three essential ingredients.

# EXCLUSIONS FROM SERVICE

- ◉ An activity which constitutes MERELY,
  - A transfer of title in GOODS or IMMOVABLE PROPERTY, by way of sale, gift or in any other manner; or
  - A transaction in money or ACTIONABLE CLAIM
- ◉ A provision of service by an employee to the employer in the course of or in relation to his employment.
- ◉ Fees taken in any court or tribunal established under any law for the time being in force.



# EXCLUSIONS FROM SERVICE

- ◉ The functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Memembers of Municipalities and member of other local authorities who receive any consideration in performing the functions of that office as such member.
- ◉ The duties performed by any person who hold any post in pursuance of the provisions of the constitution



# EXCLUSIONS FROM SERVICE

- ◉ The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Government or local Authority.



# DECLARED SERVICES

- According to section 65B (22) “ Declared services” means any activity carried out by a person for another person for consideration and declared as such under section 66E.

Following is the list of declared services.

- Renting* of immovable property;
- Construction of a complex, building, civil structure or a part thereof

# DECLARED SERVICE

- Temporary transfer or permitting the use or enjoyment of any intellectual property right;
- Services in relation to information technology software;
- Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- Transfer of goods by without transfer of right to use such goods;
- Activities in relation to delivery of goods on hire purchase or any system of payment by installments;

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# DECLARED SERVICE

- Service portion in the execution of a works contract;
- Service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity.
- Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is proposed to be declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment by Government of the right to use the spectrum as well as subsequent transfers of assignment of such right to use is a service leviable to service tax and not sale of intangible goods. (Amendment by Budget 2016)

# NEGATIVE LIST

- ◉ Finance Act, 2012 have introduced the concept of Negative List of Service Tax. All services are liable for Service Tax except the those specified in Service Tax Negative list. That is, in the negative list of services system the services that are mentioned in the negative list are exempted and all other services are taxable. Earlier, the services that are specifically mentioned in the act are charged to tax, and all other services were exempted from service tax. So, now this concept of the negative list is the other way.

# MEGA EXEMPTION NOTIFICATION

- Vide Notification No.25/2012-Service Tax, dated 20.06.2012 the Central Government has exempted many of the services from the levy of service tax. This notification is called as Mega Exemption Notification since the exemption is considerably high.
- These services are taxable but exemption has been provided through the notification.

# SERVICE TAX ON DOCTORS

As per entry number 2 in Mega Exemption Notification 25/2012 dated 20<sup>th</sup> June, 2012.

- ◉ (i) Health care services by a clinical establishment, an authorized medical practitioner or para-medics;
- ◉ (ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above [Inserted by N/N 6/2015 w-e-f 1-04-15]



# HEALTH CARE SERVICES

- “health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but 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;

# PLASTIC SURGERY

- ◉ The word Plastic Surgery is not defined anywhere in the notification. So, we take the trade parlance meaning of that word.
- ◉ As per Wikipedia the term Plastic Surgery means “**Plastic surgery** is a surgical specialty involving the restoration, reconstruction, or alteration of the human body. It includes cosmetic or aesthetic surgery, reconstructive surgery, craniofacial surgery, hand surgery, microsurgery, and the treatment of burns”

# EXPLANATION

- ◉ If Plastic Surgery, Cosmetic Surgery and Hair Plantation is undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma; then it is not liable for service tax otherwise it is taxable.
- ◉ (ie) Plastic Surgery, Cosmetic Surgery and Hair Plantation undertaken just to enhance beauty is chargeable to service tax

# AUTHORISED MEDICAL PRACTITIONER

- ◉ "authorized 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;

# CLINICAL ESTABLISHMENT

- ◉ "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;

# SERVICE APPLICABILITY

- Service tax is payable only when the value of services provided in a financial year is more than Rs 10 lakh.



# REGISTRATION OF SERVICE TAX

- Every service provider has to mandatorily apply for service tax registration if the value of services expected to be rendered by him in a financial year is more than Rs. 9 Lakhs.

**SERVICE TAX  
REGISTRATION**



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# REGISTRATION OF SERVICE TAX

- ◉ Where a person, liable for paying service tax on a taxable service, is having more than one premises or offices / clinics, which are engaged in relation to such service in any other manner, making such person liable for paying service tax, and has centralized billing system or centralized accounting system in respect of such service, and such centralized billing or centralized accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralized billing or centralized accounting systems are located. The registration, shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralized billing or accounting is done, are located

# REGISTRATION OF SERVICE TAX

- ⦿ A single registration is sufficient even when an assessee is providing more than one taxable services. However, he has to mention all the services being provided by him in the application for registration and the field office shall make suitable entries/endorsements in the registration certificate.

# PROCEDURE FOR REGISTRATION OF SERVICE TAX.

- ◉ Online application on ACES website in Form ST-1
- ◉ PAN, E-mail and Mobile number is mandatory.
- ◉ Registration granted online with in 2 days in downloadable form
- ◉ Documents required self attested with in 7 days of filing ST-1 online by registered post / speed post.
- ✓ Copy of PAN Card
- ✓ Photograph and proof of identity
- ✓ Documents to establish possession of premises

# PROCEDURE FOR REGISTRATION OF SERVICE TAX.

- ✓ Details of Main Bank Account
- ✓ MOA/AOA/List of Directors
- ✓ Authorization of the person filing the application
- ✓ Business transaction number like TIN etc.
- ⦿ Address may be verified by Add Commissioner/  
Joint Commissioner
- ⦿ Registration certificate may be invoked-
  - ✓ Premises not existing or not in possession
  - ✓ Documents not received with in 15 days
  - ✓ Documents are found to be incomplete or incorrect.

# RATE OF SERVICE TAX

- This new rate of Service Tax @ 14% was applicable from 1st June 2015. Moreover from 15th Nov 2015, Swachh Bharat Cess @ 0.5% also got applicable. Therefore the effective rate of Service Tax is currently at 14.5% with effect from 15th Nov 2015.
- Budget 2016 has imposed a Cess, called the Krishi Kalyan Cess, @ 0.5% on all taxable services. The new effective service tax henceforth is 15% with effect from 1<sup>st</sup> June, 2016.

# DUE DATE FOR PAYMENT OF SERVICE TAX

- ◉ BY INDIVIDUAL OR PROPRIETORY FIRM OR PARTNERSHIP FIRM

PARTICULARS	DUE DATE FOR PAYMENT OF SERVICE TAX
If the service tax is paid through electronic banking	6 th day of the following quarter
In any other case	5 th day of the following quarter
In case service is deemed to be provided in the quarter ending March	31 st day of March

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# DUE DATE FOR PAYMENT OF SERVICE TAX

## ◉ IN ANY OTHER CASE (COMPANY OR HUF)

PARTICULARS	DUE DATE FOR PAYMENT OF SERVICE TAX
If the service tax is paid through electronic banking	6 th day of the following month
In any other case	5 th day of the following month
In case service is deemed to be provided in the month ending March	31 st day of March



# FILING OF SERVICE TAX RETURN

Form of Return	Return/ Revised Return has to be furnished in Form ST-3
Periodicity of Return	Service Tax Return has to be filed on Half Yearly basis.



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# DUE DATES FOR FILING THE SERVICE TAX RETURN

HALF YEAR	DUE DATE
1 <sup>st</sup> April to 30 <sup>th</sup> September	25 <sup>th</sup> October
1 <sup>st</sup> October to 31 <sup>st</sup> March	25 <sup>th</sup> April