

## INDIRECT TAXES UPDATE -5

### SERVICE TAX

#### Underwriting commission received by the Primary Dealers for the auction of Government Securities not liable to service tax

The terms 'underwriting' and 'underwriter' as provided in the Finance Act, 1994 and further defined in the Securities and Exchange Board of India (Underwriters) Rules, 1993, pertain to dealing in securities of a body corporate. In other words, service tax is leviable on underwriting only when the securities of a body corporate are underwritten.

Though the Government securities are issued by the Reserve Bank of India (RBI), which is a 'body corporate' in terms of section 3(2) of the RBI Act, 1934, Government securities are not securities of a body corporate as the Government securities are sovereign securities having zero default risk and RBI of India only manages the issue as also the auction of Government Securities on behalf of the Government of India.

The Primary Dealers registered with the RBI (as opposed to registration with the Securities Exchange Board of India) deal in Government Securities, issued by the RBI on behalf of the Government of India, as a part of the central Government's market borrowing program.

Therefore, it has been clarified that service tax liability does not arise on Underwriting Fee or Underwriting Commission received by the Primary Dealers during the course of the dealing in Government Securities.

*[Circular No.126/08/2010 ST dated 10.08.2010]*

*The complete text of above circular is available at [www.cbec.gov.in](http://www.cbec.gov.in)*

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The Indirect Taxes Update is an endeavour of the Indirect Taxes Committee to apprise the readers about the amendments made in various central indirect tax laws vide significant notifications, circulars etc. We welcome your feedback on the Update and its contents.

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You can also write to:

Secretary

Indirect Taxes Committee

The Institute of Chartered Accountants of India

ICAI Bhawan A-94/4, Sector -58, NOIDA (U.P.) India

Telephone Direct - +91 120 3045 906 Telephone Board - +91 120 3989398 Ext. 906