

INDIRECT TAXES UPDATE -42

SERVICE TAX

Service Tax leviable on the Flying Training Schools and Aircraft Maintenance Engineering Institutes

1. CBEC has clarified that service tax is leviable on Flying Training Institutes providing training for obtaining Commercial Pilot Licence (CPL) and on Aircraft Engineering Institutes for obtaining Basic Aircraft Maintenance Engineer Licence (BAMEL). CPL and BAMEL are granted by Directorate General of Civil Aviation after conducting required examinations.

Pre-Budget period:

2. The Board has explained that the course certificates given by these academies cannot be held as "recognized in law" for the purposes of service tax exemption unless and until the course *per se* is specifically recognized by law which is not so in the current case. The term "recognized by law" has to construe a direct nexus only between the degree/certificate being awarded by the Coaching centre and the statute. Accordingly, the said institutes/academies would clearly come in the category of coaching centres as laid out in the pre-amended Section 65(27) of the Finance Act *ibid* (prior to Budget 2011) and therefore would be taxable.

Post-Budget period

3. With effect from 01.05.2011, the definition of Commercial Training or Coaching Centre as provided under Section 65(27) has been amended to mean - "any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes". The exclusion clause available earlier on is now gone. However, vide Notification No. 33/2011 - ST dated 25.04.2011, exemption has been provided *inter alia* to any coaching or training leading to grant of a certificate or diploma or degree or any educational qualification which is recognised by any law for the time being in force.

4. It has been further clarified that that the coaching provided by Flying Training Schools and Aircraft Maintenance Engineering Institutes would also not come under the scope of such exemption for the same reasons as mentioned in paragraphs 2. The intent of amendment in the definition of Commercial Training or Coaching Centre as made in Budget of 2011 is to include all the coaching and training that is not recognised by law, irrespective of whether the institute is providing any other course(s) recognised by law.

5. Therefore, the said institutes/academies would clearly come in the category of coaching centres as laid out in the Section 65(27) of the Finance Act ibid (either prior to or after Budget 2011) and therefore would be taxable.

[CBEC Letter No. F. No. 137/132/2010 - Service Tax 11.05.2011]

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Feedback

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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