

INDIRECT TAXES UPDATE - 74

I. **Various exemptions from levy of Service Tax [Notification No.25/2012-ST dt. 20/06/2012 in supersession of Notification No.12/2012-ST dt. 17/03/2012]**

Exemption from levy of whole of Service Tax U/s.66B of the Finance Act, 1994 to following services

- 1) Services provided to United Nations or specified international organization
- 2) Health care services by a clinical establishment, an authorised medical practitioner or para medics.
- 3) Services by a veterinary clinic in relation to healthcare of animals or birds.
- 4) Services by an entity registered U/s.12AA of the Income Tax Act, 1961 by way of charitable activities.
- 5) 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
- 6) Services provided by
 - (a) An arbitral tribunal to-
 - (i) Any person other than a business entity; or
 - (ii) A business entity with a turnover upto Rs.10 Lacs 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 upto Rs.10 Lacs in the preceding financial year
 - (c) A person represented on an arbitral tribunal to an arbitral tribunal
- 7) 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.
- 8) Services by way of training or coaching in recreational activities relating to arts, culture or sports.
- 9) Services provided to or by an educational institution in respect of education exempted from service tax, by way of, -

(a) Auxiliary educational services; or

“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 institutions, conduct of examination, catering for the students under any mid-day meal scheme sponsored by Government, or transportation of students, faculty or staff of such institutions.”

(b) Renting of immovable property

10) Services provided to a recognised 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;

- *However, services provided by individual such as selector, commentator, curator, technical experts etc. are taxable.*

(b) another recognized sports body;

11) 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;

(c) by Central Civil Services Cultural and Sports Board;

(d) as part of national games, by Indian Olympic Association; or

(e) under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme;

12) Services provided to the Government or 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;

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

- (d) canal, dam or other irrigation works;
- (e) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or
- (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 65B of the said Act;
 - *Construction of hospitals & educational institutions for Government or local authority are only exempted. In case the same are constructed for others, no exemption.*

13) Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of,-

- (a) A road, bridge, tunnel, or terminal for road transportation for use by general public;
 - *Construction of road which are not for general public use for e.g. construction of roads in a factory, residential complex etc. would be taxable.*
- (b) A civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awas Yojana;
- (c) A building owned by an entity registered under Section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public;
- (d) A pollution control or effluent treatment plant, except located as a part of a factory or a structure meant for funeral, burial or cremation of deceased; or

14) Services by way of construction, erection, commissioning or installation of original works pertaining to,-

- (a) An airport, port or railways, including monorail or metro;
- (b) single residential unit otherwise as a part of a residential complex;
- (c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the "Scheme of Affordable Housing in Partnership" framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
- (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
- (e) mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;

15) Temporary transfer or permitting the use or enjoyment of a copyright covered under clause

- (a) or (b) of sub-section (1) of Section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;

- 16) 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;
- *Activities of actor or artist participating in magic show, mimicry, western music, films, television serials are proposed to be taxable.*
- 17) Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
- 18) 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 Rs.1,000/- per day or equivalent;
- 19) Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having (i) the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and (ii) a licence to serve alcoholic beverages;
- 20) Services by way of transportation by rail or a vessel from one place in India to another of the following goods -
- (a) petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
 - (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
 - (c) defence or military equipments;
 - (d) postal mail or mail bags;
 - (e) household effects;
 - (f) newspaper or magazines registered with Registrar of Newspapers;
 - (g) railway equipments or materials;
 - (h) agricultural produce;
 - (i) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
 - (j) chemical fertilizer and oilcakes;
- 21) Services provided by a goods transport agency by way of transportation of –
- (a) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;
 - (b) goods where gross amount charged for transportation of goods on a consignment transported in a single goods carriage does not exceed Rs.1,500/-; or

(c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed Rs.750/-;

22) Services by way of giving on hire –

(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or

(b) to a goods transport agency, a means of transportation of goods;

23) 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; or

(b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;

(c) ropeway, cable car or aerial tramway.

24) Services by way of vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;

- *Vacant land given to a car dealer for parking their vehicle shall be liable to service tax.*

25) Services provided to the Government or 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 or an aircraft;

26) 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;

27) Services provided by an incubatee up to a total business turnover of Rs.50 Lacs in a financial year subject to the following conditions, namely:-

- (a) the total business turnover had not exceeded Rs. 50 Lacs during the preceding financial year; and
- (b) a period of 3 years has not lapsed from the date of entering into an agreement as an incubatee;

28) Service by an unincorporated body or a non-profit entity registered under any law for the time being in force to it's 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 Rs.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;

29) Services by the following persons in respective capacities –

- (a) a sub-broker or an authorised person to a stock broker;
- (b) an authorised person to a member of a commodity exchange;
- (c) a mutual fund agent to a mutual fund or asset management company;
- (d) distributor to a mutual fund or asset management company;

- (e) a selling or marketing agent of lottery tickets to a distributor or a selling agent;
- (f) a selling agent or a distributor of SIM cards or recharge coupon vouchers; or
- (g) a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;
- (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;

30) Carrying out an intermediate production process as job work in relation to –

- (a) agriculture, printing or textile processing;
- (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 (5 of 1986);
- (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 Rs. 150 Lacs in a financial year subject to the condition that such aggregate value had not exceeded Rs.150 Lacs during the preceding financial year;

31) Services by an organiser to any person in respect of a business exhibition held outside India;

32) Services by way of making telephone calls from –

- (a) departmentally run public telephones;
- (b) guaranteed public telephones operating only for local calls; or
- (c) free telephone at airport and hospitals where no bills are being issued;

33) Services by way of slaughtering of bovine animals;

34) Services received from a provider of service located in a non-taxable territory by -

- (a) the Government, a local authority, governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession; or
- (b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities.
- (c) A person located in a non-taxable territory,

35) Services of public libraries by way of lending of books, publications or any other knowledge enhancing content or material;

36) Services by Employee of State Insurance Corporations to persons governed under the Employees Insurance Act, 1948 (34 of 1948)

37) Services by way of transfer of going concern, as a whole or independent part thereof;

38) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinals or toilets;

39) 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.

Various terms are defined for the purpose of this exemption notification.

II. **Abatements in respect of taxable services [Notification No.26/2012-ST dt. 20/06/2012 in supersession of Notification No.13/2012-ST dt. 17/03/2012]**

Abatement from value of taxable services for levy of service tax U/s.66B of the Finance Act, 1994 in respect of various services:

Description of Taxable Services	Abatement	Tax payable on	Condition
Financial leasing services including hire purchase	90%	10%	1) The amount charged shall be an amount, forming or representing as interest, i.e. the difference between the installment paid towards repayment of the lease amount and the principal amount contained in such installment paid 2) Abatement not available to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee.
Transport of goods by rail	70%	30%	NIL
Transport of passengers, with or without accompanied belongings by rail	70%	30%	NIL
Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place specially arranged for organizing a function) together renting with such premise	30%	70%	1) No CENVAT Credit on any goods classifiable under Chapter 1 to 22 of CETA, 1985 to be availed 2) The amount charged is the sum total of the gross amount and the fair market value of all goods or services supplied in or in relation to the supply of food or any other article of human consumption or

			<p>any drink, under the same contract or any other contract after deducting amount charged for such goods or services supplied to the service provider, if any & the VAT/Sales Tax levied, if any.</p> <p>3) Where the fair value of goods or services so supplied is not ascertainable, the same shall be determined in accordance with the generally accepted accounting principles.</p>
Transport of passengers by air, with or without accompanied belongings	60%	40%	No CENVAT Credit on inputs & capital goods to be availed
Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	40%	60%	No CENVAT Credit on inputs & capital goods to be availed
Transport of goods by road by Goods Transport Agency	75%	25%	No CENVAT Credit on inputs, capital goods or input services to be availed
Services provided in relation to chit	30%	70%	No CENVAT Credit on inputs, capital goods or input services to be availed
Renting of any motor vehicle designed to carry passengers	60%	40%	No CENVAT Credit on inputs, capital goods or input services to be availed
Transport of goods in a vessel	50%	50%	No CENVAT Credit on inputs, capital goods or input services to be availed
Services provided or to be provided to any person, by a tour operator in relation to a package tour	75%	25%	<p>1) No CENVAT Credit on inputs, capital goods or input services to be availed</p> <p>2) The bill issued for this purpose indicates that it is inclusive of charges for such a tour</p>
Services provided or to be provided to any person, by a tour operator in relation to a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	90%	10%	<p>1) No CENVAT Credit on inputs, capital goods or input services to be availed</p> <p>2) The bill issued for this purpose indicates that it is inclusive of charges for such accommodation</p> <p>3) Abatement shall not be available 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</p>

			such accommodation.
Services, other than services specified above, provided or to be provided to any person, by a tour operator in relation to a tour	60%	40%	1) No CENVAT Credit on inputs, capital goods or input services to be availed 2) The bill issued for this purpose indicates that it is inclusive of charges for such a tour
Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority	75%	25%	1) No CENVAT Credit on inputs to be availed 2) The value of land is included in the gross value 3) The amount charged is the sum total of the amount charged for the service including the fair market value of all goods or services supplied by the recipient in or in relation the service, whether or not supplied under the same contract or any other contract, after deducting amount charged for such goods or services supplied to the service provider, if any & the VAT/Sales Tax levied, if any. 4) Where the fair value of goods or services so supplied is not ascertainable, the same shall be determined in accordance with the generally accepted accounting principles.

III. **Exemption to services provided for official use of Foreign Diplomatic Mission [Notification No.27/2012-ST dt. 20/06/2012]**

Exemption to all taxable services provided by any person, for the official use of a foreign diplomatic mission or consular post in India or for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein from whole of service tax subject to fulfillment of various conditions specified therein.

IV. **Place of Provision of Service Rules,2012 [Notification No.28/2012-ST dt. 20/06/2012]**

- In supersession of Export of Service Rules, 2005 & Taxation of Services (Provided from Outside India & Received In India) Rules, 2006.
- Important definitions

2(b)-“account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;

2(d)- “continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by one service provider or through one agent acting on behalf of more than one service provider, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

2(f)- “intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of service (hereinafter called the main service) between two or more persons, but does not include a person who provides the main service on his account;

2(g)-“leg of journey” means a part of the journey that begins where passengers embark or disembark the conveyance, or where it is stopped to allow for its servicing or refueling, and ends where it is next stopped for any of those purposes.

2(h)- “location of the service provider” means-

(A) where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;

(B) where the service provider is not covered under sub-clause (A):

- i) the location of his business establishment; or
- ii) where the services are provided from a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
- iii) where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and
- iv) in the absence of such places, the usual place of residence of the service provider.

Rule 2(i) defines “location of service receiver” on similar principles of Rule 2(h).

2(j)-“means of transport” means any conveyance designed to transport goods or persons from one place to another;

- General Rule-The place of provision of a service shall be the location of the service receiver. In case the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the service provider. **(Rule 3)**
- Specific Rules

Rule No.	Nature of Services	Determination of place of provision	Types of Services
4	Performance based service	Place of performance	<ul style="list-style-type: none"> i) services provided in respect of goods that are required to be made physically available by the service receiver to the service provider, in order to provide the service ii) when such services are provided from a remote location by way of electronic

			<p>means, the place of provision shall be the location where goods are situated at the time of provision of service</p> <p>This sub rule is not applicable in case of services in respect of goods temporarily imported into India for repairs, reconditioning or reengineering for re-exports.</p> <p>iii) services provided to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which requires the physical presence of the receiver or the person acting on behalf of the receiver, with the provider for the provision of the service.</p>
5	Related to immovable property	Place where the immovable property is located or intended to be located	Services provided by experts and estate agents, provision of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or coordination of construction work, including architects or interior decorators.
6	Related to events	The place where the event is actually held	services provided by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission
7	Services provided at more than one location	The location in the taxable territory where the greatest portion of the service is provided	any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in the taxable territory
8	Service provider & receiver both are located in Taxable Territory	Location of service receiver	Any service other than listed in negative list or specifically excluded
9	Specified services	Location of service provider	<p>a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;</p> <p>b) Online information and database access or retrieval services;</p> <p>c) Intermediary services;</p> <p>d) Service consisting of hiring of means of transport, upto a period of one month.</p>
10	Goods transport	Place of destination of	The place of provision of services of goods

	services other than by way of mail or courier	goods	transportation agency shall be the location of the person liable to pay tax
11	Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey	
12	Services provided on board a conveyance	the first scheduled point of departure of that conveyance for the journey	Services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board

- Power to notify description of service or circumstances for certain purposes-In order to prevent double taxation or non-taxation of the provision of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of provision shall be the place of effective use and enjoyment of a service. **(Rule 13)**
- Order of application of rules-Where the provision of a service is, prima facie, determinable in terms of more than one rule, it shall be determined in accordance with the rule that occurs later among the rules that merit equal consideration. **(Rule 14)**

V. **Exemption to property tax paid from “Renting of Immovable Property Services” [Notification No.29/2012-ST dt. 20/06/2012]**

Exemption to taxable services of “renting of immovable property” as is in excess of the service tax calculated on a value which is equivalent to the gross amount charged for renting of such immovable property less taxes on such property, namely property tax levied and collected by local bodies. Any amount such as interest, penalty paid by service provider on account of delayed payment of property tax or any other reasons not to be treated as property tax for the purpose of deduction.

It is further clarified that wherever the period, for which property tax paid, is different from the period for which service tax is paid, property tax proportionate to the period for which service tax is paid shall be calculated and the amount so calculated shall be excluded from the gross amount charged for renting of the immovable property for the said period, for the purposes of levy of service tax.

VI. **Reverse Charge Mechanism [Notification No.30/2012-ST dt. 20/06/2012 in supersession of Notification No.15/2012-ST dt. 17/03/2012]**

Following taxable services are notified for the purpose of Section 68(2)

- 1) provided or agreed to be provided by an insurance agent to any person carrying on the insurance business;
- 2) provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is
 - (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
 - (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under

- any other law for the time being in force in any part of India;
- (c) any co-operative society established by or under any law;
- (d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons;
- 3) provided or agreed to be provided by way of sponsorship, to anybody corporate or partnership firm located in the taxable territory
- 4) provided or agreed to be provided by-
- (A) An arbitral tribunal; or
- (B) An individual advocate or firm of advocates by way of support services, or
- (C) Government or local authority by way of support services excluding,-
- (1) Renting of immovable property, and
- (2) Services specified in sub-clause (i) (*Services by department of post by way of speed post, express parcel post, life insurance & agency service provided to a person other than Government*), (ii) (*Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport*) and (iii) (*Transport of goods or passengers*) of clause (a) of section 66D of the Finance Act, 1994

to any business entity located in the taxable territory

- 5) provided or agreed to be provided by way of renting of any motor vehicle designed to carry passengers to any person who is not in the similar line of business or supply of manpower for any purpose or service portion in execution of works contract by any individual, HUF or partnership firm, whether registered or not, including association of persons; located in the taxable territory to a business entity registered as body corporate, located in the taxable territory
- 6) provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory.

The extent of service tax payable in respect of above services by the person liable to pay service tax is as follows:

Description of Service	% of tax payable by service provider	% of tax payable by service recipient
Insurance Agent's Services	NIL	100%
Goods Transport Agency's Services	NIL	100%
Sponsorship Services	NIL	100%
Arbitral Tribunal Services	NIL	100%
Services provided by Individual Advocate or a firm of advocates by way of legal services	NIL	100%

Support services by Government of Local Authority excluding renting of immovable property & services specified in Section 66D(i), (ii) or (iii)	NIL	100%
Renting or hiring of any motor vehicle designed to carry passenger where tax is paid on abated value	NIL	100%
Renting or hiring of any motor vehicle designed to carry passenger where tax is paid on non abated value	60%	40%
Supply of manpower	25%	75%
Service portion in execution of works contract	50%	50%
Services provided by any person located in a non taxable territory & received by any person located in the taxable territory	NIL	100%

- In case of works contract services where both service provider & service recipient is the person liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the service provider.

VII. Exemption to GTA services availed by exporter of goods [Notification No.31/2012-ST dt. 20/06/2012 in supersession of Notification No.18/2009-ST dt. 07/07/2009]

- Exemption to taxable services of
 - i) transport of goods by road in a goods carriage from any CFS/ICD to the port or airport, from where the goods are exported; or
 - ii) transport of goods by road directly from the place of removal to ICD/CFS/Port/Airport from where the goods are exported

received by an exporter and used for export of goods from the whole of the service tax subject to condition that the exporter to produce the consignment note, by whatever name called, issued in his name.

- The above exemption is subject to following conditions:
 - i) the exemption is available to exporter who-
 - a) informs the AC/DC having jurisdiction over the factory/regional office/head office in Form EXP1 before availing the said exemption
 - b) is registered with EPC sponsored by Ministry of Commerce or Ministry of Textiles
 - c) is holder of IEC No.
 - d) is registered U/s.69 of the Finance Act, 1994
 - e) is liable to pay service tax U/s.68(2) of the Finance Act read with item (B) of sub clause (i) of Rule 2(1)(d) of the Service Tax Rules, 1994.
 - ii) The invoice/bill/challan/any other document issued by the service provider to the exporter, on which exporter intends to avail exemption, shall be issued in the name of the exporter showing that the exporter is liable to the service tax in terms of Section 68(2) & Rule 2(1)(d) of the Service Tax Rules, 1994.

- iii) The exporter to file half yearly return in Form EXP2 within 15 days from the respective half year along with original bill/invoice/challan & certified copies of consignment note.
- iv) The documents enclosed with return to contain certification from the exporter to the effect that taxable service to which the document pertains, has been received and used for export of goods by mentioning the specific shipping bill no. on the said documents.

VIII. Exemption to services provided by Technology Business Incubator (TBI) & Science & Technology Entrepreneurship Park (STEP) [Notification No.32/2012-ST dt. 20/06/2012 in supersession of Notification No.9/2007-ST dt. 01/03/2007]

Exemption to all services provided by Technology Business Incubator (TBI) and Science & Technology Entrepreneurship Park (STEP) recognised by National Science & Technology Entrepreneurship Development Board (NSTEDB) from whole of service tax subject to condition that information as required in Format-I and Format-II is furnished to concerned AC/DC by 30th June of each financial year.

IX. Threshold exemption [Notification No.33/2012-ST dt. 20/06/2012 in supersession of Notification No.6/2005-ST dt. 01/03/2005]

- Exemption granted to service provider from levy of service tax on taxable service of “aggregate value not exceeding ten lakh rupee” in any financial year. The above exemption is not available to:
 - 1) taxable services provided by a person under a brand name or trade name of another person; or
 - 2) such value of taxable service for which service tax is payable by person specified in section 68(2) (i.e., other than service provider).
- The above exemption is available subject to following conditions:
 - 1) exemption is optional, which once exercised in a financial year, cannot be withdrawn during remaining part of such financial year;
 - 2) service provider not to avail CENVAT credit (under Rule 3 or Rule 13 of CENVAT Credit Rules, 2004) of service tax on any input service used for providing such taxable service for which exemption is opted for;
 - 3) service provider not to avail CENVAT credit (under Rule 3 of CENVAT Credit Rules, 2004) of duty on capital goods received in his premises during period of avilment of this exemption;
 - 4) service provider to avail CENVAT credit on inputs or input services (used for providing taxable service) received on or after the day he starts paying tax;
 - 5) service provider to pay an amount of CENVAT credit taken by him for inputs lying in stock or in process on the day on which he starts availing exemption;
 - 6) balance unutilized CENVAT credit on account of inputs and input services (used in providing service for which exemption is availed) to lapse on the date on which he starts availing exemption;

- 7) for arriving at aggregate value of taxable service, services provided under all the categories from one or more premises to be included;
- 8) aggregate value of taxable service rendered by service provider from one or more premises not to exceed rupees ten lakh in preceding financial year.
- For determining aggregate value not exceeding rupees ten lakh in relation to taxable service provided by GTA, the payment received towards such services, on which service tax is payable by person other than GTA, shall not be taken into account.
- X. **Existing Notifications rescinded [Notification No.34/2012-ST dt. 20/06/2012]**
81 existing Notifications are rescinded w.e.f. 1st July, 2012.
- XI. **Withdrawal of Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 [Notification No.35/2012-ST dt. 20/06/2012]**
The Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 are rescinded w.e.f. 1st July, 2012.
- XII. **Amendment to Service Tax Rules, 1994 [Notification No.36/2012-ST dt. 20/06/2012]**
- Various terms such as goods carriage, legal service, life insurance business, person liable to pay service tax, place of provision etc. are defined for the purpose of Service Tax Rules, 1994.
 - Besides, various amendments are made in STR, 1994. Few of the important amendments are listed herein below
 - The words “provided or to be provided” are substituted by words “provided or agreed to be provided”.
 - 1st proviso to Rule 4A(1) is substituted thereby banking company, financial institution or NBFC providing any service is exempted from mentioning sr. no. & address of the service recipient on the invoice/bill/challan issued by them. The time limit for issuing such bill is increased to 45 days.
 - Rule 6A is inserted to define “export of service”. As per this rule, any service shall be treated as “export of service” when
 - (a) the provider of service is located in the taxable territory,
 - (b) the recipient of service is located outside India,
 - (c) the service is not a service specified in the section 66D of the Act,
 - (d) the place of provision of the service is outside India,
 - (e) the payment for such service has been received by the provider of service in convertible foreign exchange, and
 - (f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item (b) of Explanation 2 of clause (44) of section 65B of the Act.

Where the service is exported, rebate of duty/service tax of inputs & input services used in providing such service shall be granted.

XIII. Amendment to Point of Taxation Rules, 2011 [Notification No.37/2012-ST & 38/2012-ST both dt. 20/06/2012]

- The words “provided or to be provided” are substituted by words “provided or agreed to be provided”.
- In place of existing 5 services defined under “continuous supply of services”, “telecommunication services” & “service portion in execution of a works contract” are substituted.

XIV. Rebate of duty/tax paid on inputs/input services used in providing services exported in terms of Rule 6A of the Service Tax Rules, 1994 [Notification No.39/2012-ST dt. 20/06/2012]

Following conditions and procedure are laid down for granting rebate of duty paid on excisable inputs or service tax and cess paid on all input services used in providing service exported in terms of Rule 6A of the Service Tax Rules, 1994, to any country other than Nepal & Bhutan. The gist of conditions is as follows:

- 1) The service has been exported in terms of Rule 6A of the STR, 1994.
- 2) Rebate to be claimed only if duty, service tax and cess on inputs and input services have been paid;
- 3) Claim of rebate of duty, service tax and cess is not less than Rs.1,000/-; and
- 4) No CENVAT Credit has been availed on inputs and input services on which rebate has been claimed.

The rebate so granted shall be recoverable with interest as per provisions of Sections 73 & 75 of The Finance Act, 1994 if-

- Duty, service tax and cess, rebate of which has been claimed, have not been paid;
- The service, rebate on which has been claimed, has not been exported; or
- CENVAT Credit has been availed on inputs and input services on which rebate has been claimed.

Procedure:

Prior to date of export of service, service provider shall file a declaration with Jurisdictional AC or DC of Central Excise describing service intended to be exported along with;

- 1) description, quantity, value, rate of duty and amount of duty payable on inputs actually required to be used in providing services to be exported;
- 2) description, value and amount of service tax and cess payable on input services actually required to be used in providing services to be exported;

Concerned AC or DC, after due verification, may accept the declaration.

Presentation of claim:

- 1) After the service has been exported, claim of rebate to be filed with the Jurisdictional AC or DC of Central Excise in prescribed form ASTR-2 annexed to the notification.
- 2) Attach invoice/bill/challan of input or input service in respect of which rebate is claimed.
- 3) Attach documentary evidence of payment of duty on inputs & tax & cess on input services used for providing service exported, rebate of which is claimed.

- 4) Attach a declaration along with documentary evidence that such service, for which rebate has been claimed, has been exported in terms of Rule 6A of STR, 1994.

XV. **Exemption to services received by developer/unit under SEZ [Notification No.40/2012-ST dt. 20/06/2012 in supersession of Notification No.17/2011-ST dt. 01/03/2011]**

- Exemption is granted from whole of service tax to the services provided in relation to the authorised operations in a SEZ and received by developer/unit of SEZ. The exemption is by way of refund of ST paid on “specified services” received for the authorised operation in a SEZ.
- Where the specified services are wholly consumed in SEZ, the person liable to pay service tax has an option not to pay service tax *ab initio* instead of developer/unit of SEZ claiming the refund.
- For the purpose of this notification, services are treated as “wholly consumed in SEZ” if

Services listed in Place of Provision of Service Rules, 2012	Condition
Rule 4	Services are actually performed within SEZ
Rule 5	Immovable property is located or intended to be located within SEZ
For other services	Provided to a developer/unit of SEZ who does not own or carry on any business other than the operations in SEZ.

- The refund of service tax paid on specified services which are not wholly consumed within SEZ shall be restricted to the extent of ratio of export turnover of SEZ unit to the total turnover for the period to which the claim relates.
- The developer/unit of SEZ is required to get the list of services that are liable to service tax as are required in relation to the authorised operations in the SEZ, approved from the Approval Committee of the concerned SEZ.
- The developer/unit of SEZ who does not own or carry out any business other than SEZ operations, is required to furnish a declaration in prescribed form (Form A-1) verified by specified officer of the SEZ.
- Developer/unit of SEZ is required to furnish declaration that the specified services for which exemption/ refund is claimed are actually used for the authorised operations.
- The developer/unit of SEZ claiming the exemption has actually paid the service tax on the specified services.
- No CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the SEZ has been taken under the CENVAT Credit Rules, 2004
- No refund is available on services wholly consumed for operations in Domestic Tariff Area (DTA) worked out in the same manner as clauses (i) & (ii) of the explanation to condition (a).

- Exemption or refund of service tax paid on the specified services (other than services wholly consumed) in relation to the authorised operations in the SEZ shall not be claimed except under this notification.
- Developer/unit of SEZ to maintain proper account of receipt & use of the specified services on which exemption is claimed.

Procedure & Conditions for claiming the exemption

- The developer/unit of SEZ to file claim for refund in Form A-2 with jurisdictional AC/DC of Central Excise.
- The developer/unit of SEZ, who is not registered under Central Excise or Service Tax, to file Form A-3 with jurisdictional AC/DC of Central Excise prior to filing claim for refund.
- AC/DC to allot service tax code number within 7 days from the date of receipt of Form A-3.
- The claim for refund to be filed within 1 year from the end of month in which actual payment of service tax was made. AC/DC may permit extended period for filing claim of refund.
- The claim for refund to be accompanied by following documents:
 - i) A copy of the list of specified services approved by approval committee along with declaration in Form A-1, wherever applicable.
 - ii) Invoice/bill/challan in the name of developer/unit of SEZ along with proof of payment of specified services used for the authorised operation and service tax paid, in original.
 - iii) A declaration by developer/unit of SEZ containing points stated in notification
- AC/DC to grant refund after verification of documents.
- Service provider exercising the option of exemption to obtain from developer/unit of SEZ
 - i) list of services approved by approval committee
 - ii) Declaration in Form A-1, wherever applicable.
- Particulars specified in Table C of Form A-2 are to be certified by statutory auditor (auditor under Companies Act,1956 or Income Tax Act,1956)
- Where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, such service tax refunded shall be recoverable under the provisions of the Finance Act and the rules made there under, as if it is a recovery of service tax erroneously refunded.