

SECTOR WISE ANALYSIS OF SERVICE TAX –
EDUCATION, CHARITABLE, HEALTHCARE,
RESTUARANTS, TRANSPORT AND LOGISTICS

ORGANISED
by
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EDUCATION



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EXEMPTIONS/EXCLUSIONS:

Under the negative list following education services are exempt pursuant to section 66D (I) of the FA, 1994

Preschool and higher education or equivalent.

Education provided as a part of the curriculum for obtaining a qualification recognized by any law for the time being in force.

Education provided as a part of approved vocational education course as specified.



Services provided to and by educational institutions Entry No. 9 of Not No. 25/2012-ST dt. 20/06/12

➤ Services provided by an education institution to its

- Students
- faculty and
- staff

➤ Services provided to an education institution by way of

- **Transportation** of students, faculty and staff;
- **Catering** service including any mid-day meals scheme sponsored by the Government;
- **Security** or cleaning or **House-keeping** services in such educational institution;
- Services relating to **admission** to such institution or conduct of examination.



Entry No. 9A of Not No. 25/2012-ST dt. 20/06/12

➤ Any Services provided by

- the National Skill Development Corporation(NSDC) set up by the GOI;
- a Sector Skill Council approved by the NSDC;
- an assessment agency approved by the Sector Skill Council or the NSDC;
- a training partner approved by the NSDC or the Sector Skill Council in relation to (a) the National Skill Development Programme implemented by the NSDC; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the NSDC.

CHARITABLE AND NON-PROFIT ORGANISATIONS



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EXEMPTIONS/EXCLUSIONS:

- Entry No. 4 of Not No. 25/2012-ST dt. 20/06/2012
 - Services by an entity registered under section 12AA of the IT Act, 1961 by way of charitable activities..... Charitable activities defined under Clause 2(k)
- Unregistered charitable organizations can claim exemptions on the basis of specific activities covered under negative list or under exemption notification.
- Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a building owned by an entity registered under Section 12AA of the IT Act, 1961 and meant predominantly for religious use by general public.
- Services provided by a person located in a non-taxable territory to an entity registered under Section 12AA of the IT Act, 1961 for the purpose of charitable activities are also exempted.

EXEMPTIONS/EXCLUSIONS: (Cont.)

- (k) “charitable activities” means activities relating to -
 - (i) public health by way of -
 - (a) care or counseling of-
 - (i) terminally ill persons or persons with severe physical or mental disability,
 - (ii) persons afflicted with HIV or AIDS, or
 - (iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (b) public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) advancement of religion or spirituality;
 - (iii) advancement of educational programmes or skill development relating to,-
 - (a) abandoned, orphaned or homeless children;
 - (b) physically or mentally abused and traumatized persons;
 - (c) prisoners; or
 - (d) persons over the age of 65 years residing in a rural area;
 - (iv) preservation of environment including watershed, forests and wildlife

HEALTH CARE SERVICES



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EXEMPTIONS/EXCLUSIONS:

- Health care Services by a Clinical Establishment or Authorized Medical Practitioner or Para medics exempt from ST..... Entry No. 2 of Not No. 25/2012-ST dt. 20/06/12

- **Health care services means any service by way of:**
 - Diagnosis or treatment or care for illness, injury, abnormality or pregnancy in any recognized system of medicines in India
 - Supply of meals for the patient
 - Transportation of patient to and from a clinical establishment

- **Health care services does not include**
 - Hair transplant, Cosmetic or Plastic surgery....
Except undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

- Any person providing services by way of transportation of a patient in an ambulance.



EXEMPTIONS/EXCLUSIONS: ... (Cont.)

➤ Entry No. 2A of Exemption Not No. 25/2012-ST dt 20/06/2012

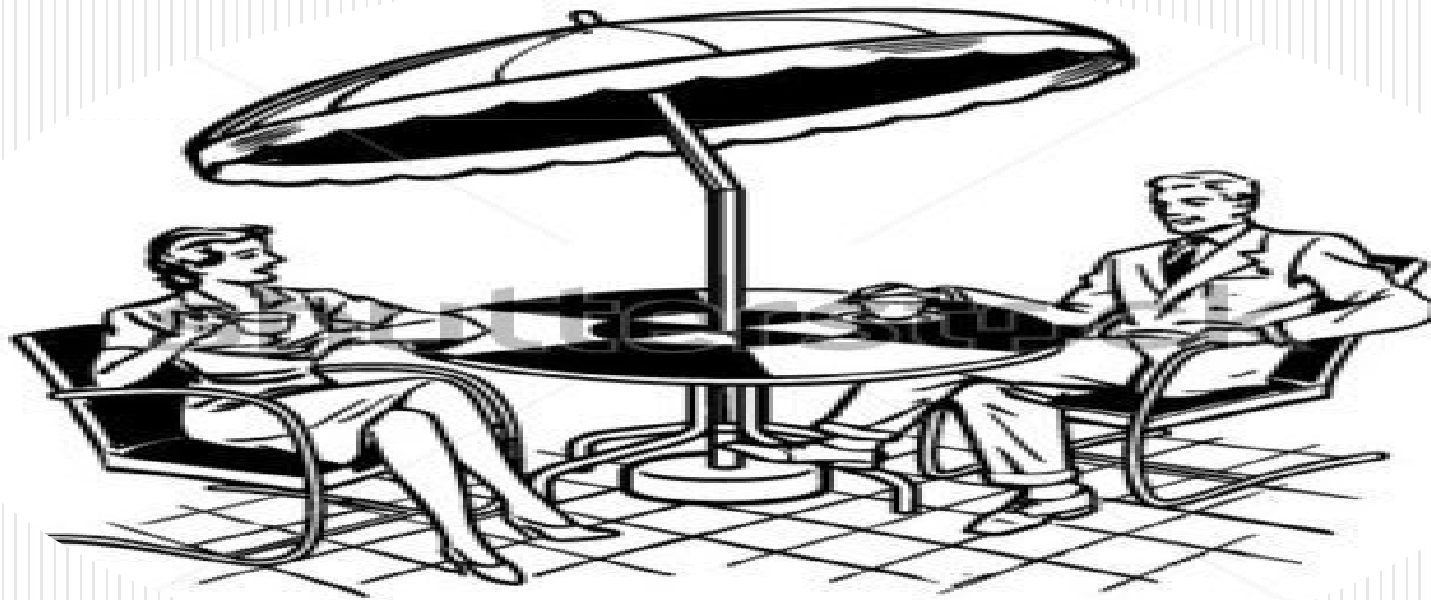
- Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation such as collection of umbilical cord blood, processing the same for segregation of stem cells.

➤ Entry No. 3 of Exemption Not No. 25/2012-ST dt 20/06/2012

- Services by a veterinary clinic in relation to health care of animals or birds.



RESTAURANTS , HOTELS AND CATERING



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EXEMPTIONS/EXCLUSIONS TO RESTAURANTS/ HOTELS AND CANTEEN SERVICES:



- Mere sale of food by way of pick-up or home delivery may not be liable to Service Tax as there is no use of space, furniture, air-conditioning, crockery and ambience of restaurant
- Hotel/Inn etc. having **declared tariff** of a unit of accommodation **below Rs 1,000/- per day is exempt** Entry No. 18 of Not No. 25/2012-ST dt. 20/06/2012.
- Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, **other than those having the facility of air-conditioning** or central air-heating in any part of the establishment, at any time during the year..... Entry No. 19 of Not No. 25/2012-ST dt. 20/06/2012
- AC and non AC Restaurants having **common kitchen**..... Implication?

EXEMPTIONS/EXCLUSIONS TO RESTAURANTS/HOTELS AND CANTEEN SERVICES: ...(Cont.)

- Services provided in relation to serving of food or beverages by a **canteen maintained in a factory** covered under the Factories Act, 1948, having the **facility of air-conditioning or central air-heating** at any time during the year..... Entry No. 19A of Exemption Not No. 25/2012-ST dt. 20/06/2012

VALUATION/ABATEMENT ON RESTAURANT/CATERING/ HOTEL SERVICES

➤ Rule 2C of Service Tax (Determination of Value) Rules, 2006

Sl. No.	Description of taxable service	% of taxable service
(1)	(2)	(3)
1.	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, at a restaurant	40
2.	Service portion in outdoor catering 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 such outdoor catering	60

VALUATION/ABATEMENT ON RESTAURANT/CATERING/ HOTEL SERVICES ... (Cont.)

➤ Not No. 26/2012-ST dt. 20/06/12... abatements

Sr. No.	Description of taxable service	% of taxable service
1	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 with renting of such premises	70
2	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	60



ISSUES

CERTAIN ISSUES:

➤ Ice Cream Parlour's:

Thanda Ice cream parlour do not having sitting facility

Cold Ice cream parlour having sitting facility

Cool Ice cream parlour only having table without sitting facility

➤ Take away centre's/counters:

Burger Maharaj having separate take-away counter in their our eating joint premises

➤ Eating joints in mall having common sitting arrangements:

Mera mall is having centralised AC system. Food courts within the mall do not have their own separate sitting facilities.

CERTAIN ISSUES: ... (Cont.)

Particulars	Amount (Rs.)
Fafda	200
Jalebi	200
Dhokla	300
Chaas (@ MRP)	100
Total	800
Service Charges @ 10%	80
Total	880
Service Tax	????

➤ Fafda Jalebi & Dhokla restaurants ('FJD') seeks your advice on applicability of Service Tax on following bill issued to customers:

- Is ST leviable on Chaas?
- Whether ST on services charges is leviable @ 12.36%?

CERTAIN ISSUES: ... (Cont.)

➤ M/s. All in One Hotels Pvt. Ltd. ('All') is running a star hotel offering composite services to its customers which includes stay, meals etc. It supplies foods at discount to its loyal programmer members. All is having facilities of Mini bar, in-room dining, online booking facilities for its customers. Also banquet hall is available for conducting conference/business customer. The Customers staying in hotel can avail facilities of using LCD, speaker or other equipment on payment of certain additional charges. clarifications is sought for the following:

- Consumption of food/beverage from Mini bar
- In-room dining
- Discount given to customers under loyalty programme
- Forfeiture of advance booking amount
- Charges for LCD, speaker & other equipments
- Composite charges Room stay, food, hall etc.
- Composite package for 3N/4D along with sight seeing etc.

TRANSPORT AND LOGISTICS

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EXEMPTIONS/EXCLUSIONS TO TRANSPORTATION SERVICES

- Under the negative list following transportation of passenger services with or without accompanied belongings are exempt pursuant to section 66D (o) of the FA, 1994.
 - a stage carriage;
 - railways in a class other than—
 - (A) first class; or
 - (B) an air-conditioned coach;
 - metro, monorail or tramway;
 - inland waterways;
 - public transport, other than predominantly for tourism purpose, in a vessel, between places located in India; and
 - metered cabs or auto rickshaws;



EXEMPTIONS/EXCLUSIONS TO TRANSPORTATION SERVICES ...(Cont.)

Under the negative list following transportation of goods services are exempt pursuant to section 66D (p) of the FA, 1994.

By road, other than:

Goods transport agency services

Courier agency services

By an aircraft or vessel from a place outside India upto the customs station of clearance in India

By inland waterways

EXEMPTIONS/EXCLUSIONS TO TRANSPORTATION SERVICES ...(Cont.)

➤ Entry No. 20 of Exemption Not No. 25/2012-ST dt. 20/06/2012

Services by way of transportation by rail or a vessel from one place in India to another of the following goods -

- relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- defence or military equipments;
- newspaper or magazines registered with the Registrar of Newspapers;
- railway equipments or materials;
- agricultural produce;
- milk, salt and food grain including flours, pulses and rice;
- chemical fertilizer, organic manure and oil cakes;
- cotton, ginned or baled.

EXEMPTIONS/EXCLUSIONS TO TRANSPORTATION SERVICES ...(Cont.)

➤ Entry No. 21 of Exemption Not No. 25/2012-ST dt. 20/06/2012

Services provided by a goods transport agency, by way of transport in a goods carriage of,-

- agricultural produce;
- goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
- goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred fifty;
- milk, salt and food grain including flours, pulses and rice;
- chemical fertilizer, organic manure and oil cakes;
- newspaper or magazines registered with the Registrar of Newspapers;
- relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- defence or military equipments;
- cotton, ginned or baled.

EXEMPTIONS/EXCLUSIONS TO TRANSPORTATION SERVICES ...(Cont.)

➤ Entry No. 22 of Exemption Not No. 25/2012-ST dt. 20/06/2012

Services by way of giving on hire –

- to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
- to a goods transport agency, a means of transportation of goods;

➤ Entry No. 23 of Exemption Not No. 25/2012-ST dt. 20/06/2012

Transport of passengers, with or without accompanied belongings, by -

- 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;
- non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
- ropeway, cable car or aerial tramway;

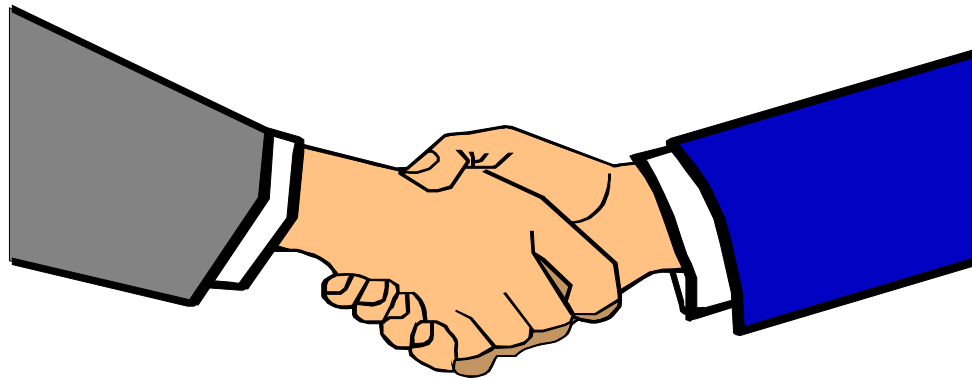
VALUATION/ABTAEMENT ON TRANSPORTATION SERVICES

Sr. No.	Description of taxable service	Percentage of taxable service	Conditions
1	Transport of goods by rail	30	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
2	Services of goods transport agency in relation to transportation of goods.	30 (w.e.f 1 April 2015)	
		25 (upto 31 March 2015)	
3	Transport of goods in a vessel	30 (w.e.f 1 April 2015)	
		40 (upto 31 March 2015)	

VALUATION/ABTAEMENT ON TRANSPORTATION SERVICES ... (Cont.)

Sr. No.	Description of taxable service	% of taxable service	Conditions
4	Transport of passengers, with or without accompanied belongings by rail	30	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.
5	Transport of passengers by air, with or without accompanied belongings	40	
	(i)economy class	40	
	(ii) other than economy class (w.e.f. 1 April 2015)	60	
6	Transport of passengers, with or without accompanied belongings, by- a. a contract carriage other than motorcab. b. a radio taxi.	40	

Thanks



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