

SERVICE TAX

Service Tax for Co-operatives

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Types of Co-op. Societies

- Banks and Financial Institutions/Credit Coop Soc.
- Co-op. Housing Societies
- Consumer Co-op. Societies and Others

**SERVICES
UNDER
SERVICE TAX**

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graph TD; A([SERVICES UNDER SERVICE TAX]) --> B[NEGVATIE LIST OF SERVICES]; A --> C[EXEMPTED SERVICES & ABATEMENT SERVICES.]; A --> D[OTHER TAXABLE SERVICES];
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**NEGVATIE LIST
OF SERVICES**

**EXEMPTED
SERVICES
& ABATEMENT
SERVICES.**

**OTHER
TAXABLE
SERVICES**

Negative list of services. – Section 66D

- **(b) Services by the Reserve Bank of India;**
 - Services provided by RBI
- **(d) Services relating to Agriculture;**
 - Services for production of agri produce; supply of farm labor; processes at farm which do not alter the essential characteristics; renting of agro machinery; loading, packing or warehousing of agri produce. Services by APMC or agent for sale or purchase of agri produce.
- **(m) Services by way of renting of residential dwelling for use as residence**
- **(n) Services by way of—**
 - (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
 - (ii) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers;

Exempted Services

Exempted Services are those taxable services which are exempted by the government through notification. The major difference between the Exempted Service and Negative Service is that any change in negative services required approval of parliament as against a simple notification in case of exempted services .

1	28	Services by unicorp body or non profit entity regd to its members – upto Rs 5000 per month per member for sourcing of goods or services from third person for common use in a housing soc or residential complex.
2	29(g)	business facilitator or a business correspondent to a banking company with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company- rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding
3	29(ga)	any person as an intermediary to above
4	21	Services by GTA in agri produce ; various food stuff; milk products; chemicals and fertilisers; organic manure and oilcakes
5	30	Job work in relation to Agri., printing or textile processing...
6	33	Services by way of slaughtering of animals
7	40	Services – loading ,etc or warehousing of rice, cotton.

LIABILITY TO PAY SERVICE TAX

As per Sec68(1) of Finance act 1994, every person providing taxable service to any person is liable to pay service tax. Hence the liability to pay service tax is on the service provider. Commonly referred as FORWARD CHARGE

Basics on Reverse Charge Mechanism

- Normally, the liability to pay service tax is on the service provider
- Section 68(2) makes provision for reverse charge i.e. making person receiving the service liable to pay tax
- Even the service receiver shall be liable to pay service tax wholly or partially
- This is termed as **REVERSE CHARGE MECHANISM**.
- A statutory liability cannot be shifted by mutual agreement. If statutory liability is of service receiver, he alone is liable.

Service Tax Liability

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graph TD; A[Service Tax Liability] --> B[Services Under Reverse Charge]; A --> C[Services under Partial Reverse Charge]; A --> D[Other Services]; B --> E[Service recipient]; C --> F[Both Service provider and recipient]; D --> G[Service provider];
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Services
Under
Reverse Charge

Service recipient

Services
under
Partial
Reverse Charge

**Both Service
provider and
recipient**


Other Services

Service provider

REVERSE CHARGE MECHANISM

Under the Reverse Charge Mechanism, service recipient as opposed to the service provider shall be liable to pay service tax subject to certain conditions .

List of Services comes under Reverse Charge w.e.f. 1.7.2012 :

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- In some cases, reverse charge is applicable only when service receiver is business entity registered as 'body corporate'.
 - Business entity” means any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession. Thus, Government, charitable organisation is not 'business entity'.
 - Body Corporate – Company, LLP, **Cooperative Society** is Body Corporate – Firm, HUF, Trust is not 'Body Corporate'

1. Services Provided by a goods transport agency in respect of transportation of goods by road, where person liable to pay freight is:

1. Goods Transport Agency

Service Receiver	Service Provider
➤ Any Business entity	GTA(Company, firm, Individual or AOP)
Rates :100% on abated value (30%)	-

2. Services of Arbitral Tribunal provided to any business entity located in India.

2. Legal and Arbitral Tribunal Services

Service Receiver	Service Provider
Any Business Entity carrying on Business related activities & having TO exceeding Rs 10 Lacs in preceding FY.	Individual Advocate or Arbitral Tribunal, other than Senior Advocate
Rates:100%	-

3. Support services Provided by Government or local authority to any business entity located in taxable territory

3. Support Services

Service Receiver	Service Provider
Any Business Entity carrying on Business related activities., includes: Individuals, Proprietary firms, partnership Firms, co- operative societies	Government or local authorities
Rates:100%	-

7. Renting of a motor vehicles designed to carry passengers, to any person who is not in the similar line of business.

7. Renting of Motor Vehicle

Service Receiver	Service Provider
Business entity registered as Body Corporate, located In taxable Territory excluding persons carrying on similar line business	<ul style="list-style-type: none"> ➤ Individual ➤ HUF ➤ Partnership Firm ➤ AOP
Rate on Abated Value (40%) 100 %	-
Rate on non abated Value 50 %	50 %

8. Supply of Man power for any purpose

8. Supply of Man Power

Service Receiver	Service Provider
Business entity registered as Body Corporate, located In taxable Territory	<ul style="list-style-type: none">➤ Individual➤ HUF➤ Partnership Firm➤ AOP
Rate 100 %	

9. Service Portion In the Execution Of Works Contract

9. Works Contract

Service Receiver	Service Provider
Business entity registered as Body Corporate, located In taxable Territory	<ul style="list-style-type: none">➤ Individual➤ HUF➤ Partnership Firm➤ AOP➤ Body Corporate➤ Trusts
Rate 50 %	Rate 50 %

10. Services Provided By a person who is located In a non taxable Territory To any person located in the Taxable Territory.

Service Receiver	Service Provider
<p>Any Person Located In taxable Territory</p> <ul style="list-style-type: none">➤ Individual➤ HUF➤ Partnership Firm➤ AOP➤ Body Corporate➤ Trusts	<p>Any person located in Non Taxable Territory</p> <ul style="list-style-type: none">➤ Individual➤ HUF➤ Partnership➤ AOP➤ Body Corporate➤ Trusts
<p>Rate 100 %</p>	

Threshold Exemption of up to Rs. 10 Lac is not applicable

The liability of the service provider and service recipient are different and independent of each other. Thus in case the service provider is availing exemption owing to turnover being less than Rs. 10 Lac, he shall not be obliged to pay any tax. However, the service recipient shall have to pay service tax which he is required to pay under the partial reverse charge mechanism, even if the service provider is SSI, he needs to pay his service tax liability under reverse charge mechanism.

Whether Service Recipient can pay Service Tax by utilizing CENVAT Credit?

Explanation to Rule 3(4) of CCR provides that “CENVAT Credit cannot be used for payment of service tax in respect of services where the person liable to pay tax is the service recipient.” Therefore, SR has no option but to make payment of ST and claim the same as CCR thereafter .

Point of Taxation under RCM

As per Rule 7,

- Where payment made in 3 months, P.O.T.- *date on which payment is made.*
- If payment not made within 3 months, P.O.T. – *1st Day after expiry of 3 months from date of Issue of Invoice*

BANKING SERVICES

Cheque Book

Charges for Cheque books/ leaves issued

Cheque return Charges

Stop Payment Collection Charges

Statement

Additional/duplicate copies/adhoc printouts

Issuing balance certificates/Solvency or any other certificates

Remittances

Charges/Commission for Demand Draft/Pay order/TTs/RTGS, etc. payable at any location

Wire transfer of funds

Sweep account services

BANKING SERVICES

Advances

Comm for Bank
Guarantee and Letter
of Credit

Processing Fees,
Creation/Closure of
pledge

Inspection Charges

Commitment Charges

Pre / Late payment
charges

ATM/ Net banking

Annual Fees

Card replacement fee

Slip Retrieval/ Charge
back processing fees

PIN replacement

Group transactions
Net banking charges

Others

SMS services

Locker rent, charge for
loss of keys, non
refundable deposit

Commission for cross
selling

Commission from
various business houses
for tie ups.

Specialised Services

- Foreign exchange broking
- Collection of bills and other receivables
- Payment of invoices on behalf of the clients
- Pooling of funds from various centres
- Distribution of funds for credit of the accounts of beneficiaries at various centres.
- Centralized Collection and Payment accounting solution etc
- Maintenance of accounts of preferred clients
- Providing assistance to various banks for collection of instruments

RETAIL DEMATERIALISATION

- Pledge (Third Party/ Self) - Creation/Closure /Invocation
- Dematerialisation / Rematerialisation
- Bankers to issue services (acceptance of application money/call money, refund, payment of dividend, etc.)

Cenvat credit

- Upto FY 15-16, 50% reversal of the credit
- After Budget, Rule 6(3B) ammended stating banks to reverse credit in addition to 50%.
- In new prov, cenvat credit will be worked as under:
- **Option 1:** Reverse 7% of exempted services subject to maximum of total Input credit.
- **Option2:**

Step1 – No input credit for services exclusively used to provide exempted services

Step2- Full credit of input used exclusively to provide taxable services

Step3- For balance credit in proportion to total services.

Housing Co-op. Societies

- Services provided by society to its members are exempt subject to the specified limit in terms of Entry 28 of mega exemption notification no. 25/2012-ST dated 20.06.2012. The entry reads as follows –
- *“Service by an unincorporated body or non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –*
 - (a)
 - (b)
 - (c) **upto** *an amount of five thousand rupees 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.”*

Clarifications

- CBEC *vide* Circular No. 175/01/2014-ST dated 10 January 2014, has clarified that if contribution (per month per member) exceeds INR 5000 then contribution from such member would not be eligible for exemption and society will have to discharge service tax on the entire amount of contribution collected from such member.

Imp Points

- Threshold exemption is available. Value of taxable services only to be considered.
- If Resident welfare association is working as pure agent ie reimbursement of services from third person – Excluded. (Pymnt of Elec/ water bills , municipal taxes, etc **pertaining to members**)
- Issue of Invoices as per Rule 4A disclosing taxable and non taxable services separately.
- Payment Liability is Monthly

Housing Soc.- Forward Charge

No	Description	ST	Justification
1	Sinking Fund; One time Deposit; Repairs Fund	NO	No definite service or contractual obligation
2	Property tax	NO	Amount Collected is not more than tax.
3	Maintenance Charges	YES	Service by the Soc.
4	Share Transfer Fees	YES	Consideration for transfer
5	Non Occupancy charges (units let out by members)	YES	Consideration for agreeing to let out
6	Parking, Club house; etc for common usage	YES	As similar to rent
7	Tower Rent; Common Hall Rent	YES	Rent

Co-op Soc.- Reverse Charge

	Type of Service	% of ST	Eff. rate	Valuation of Service
1	Services by Insurance agent to bank carrying insurance business	100	14.50	
2	Services by Recovery agent to bank	100	14.50	Wef 11/07/14
3	GTA by road	100	3.63	Value of service -25% of total value
4	Legal and Arbitral Tribunal Services, except by Senior Adv.	100	14.50	
5	Works Contract, <i>other than by Body corporate</i>	50	7.25	
6	Rent a Cab, <i>other than by Body corporate</i>	50	7.25	
7	Supply of Manpower or security services, <i>other than by Body corporate</i>	100	10.15	Value of service -75% of total value

Impact / Practical Issues

- If the entity received any services like manpower supply then question will arise whether service recipient (i.e. company) is liable to pay service tax or it comes under the Partial reverse charges. (both service provider and service recipient). The possible solution of this problem is to maintain a data base of constitution of vendors in EDP system, based on their Pan card details and examine of sourcing details.

- In case the service provider availing SSI exemption (turnover less than Rs 10 lacs), then under the Reverse Charge Mechanism, only the service recipient shall have to pay the service tax which he is obliged to pay . The service recipient can claim the credit of tax paid under such scheme.

- Under Partial Reverse Mechanism, major challenges which any company may face at the time of claiming service tax credit arises because part payment is paid by the service provider, credit would be allowed on basis of invoice raised by the service provider. However availment of service tax credit on the portion paid by the service receiver will only be possible when it is deposited.

Payment due dates

Payment

- 6th of following Month
- For March, 31st March

Return

- Apr-Sep - 25th Oct
- Oct-March - 25th April

Non-Compliance

	Section	Liability
Interest For Delay in Payment of Service Tax	75	Extent of delay Upto 6 months -18% 6-12 months - 24% More than 12 months -30%
Delay in filing of service tax return	70	15 days-Rs 500
		16-30 days –Rs 1000
		More than 30 days-Rs.1000+Rs.100 for every day from the 31st day till the date of furnishing the said return subject to maximum of Rs.20000
Penalty for Delay in payment of service tax	76	Rs.100 per day Or whichever is higher 1% pm of such tax Subject to maximum of 50% of Service Tax amount
Non-Registration	77	Maximum of Rs.200 per day till the failure continues or Rs.10000

Thank You!

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