




<h1>1</h1> <h2>SERVICE TAX AMENDMENTS</h2>	<p>Cascading creates inflation</p> 
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### CHARGING SECTION

#### SECTION 66B. CHARGE OF SERVICE TAX

1.	There shall be levied a tax (hereinafter referred to as the service tax)	Exact date of levy shall be decided by POT Rules.  Place of consumption of service shall be decided by POP Rules
2.	at the rate of <b>14.5% (w.e.f 15-11-2015) [for Nov 2016 / Dec 2016 attempt]</b>	
3.	on the <b>value</b> (S 67) of all <b>services</b> , [S 65B(44)]	
4.	other than those services specified in the <b>negative list</b> , [S 66D]	
5.	provided or agreed to be provided (Advance received)	
	(To be decided by POP Rules)	
6.	in the <b>taxable territory</b> [S 65B(51)]	
7.	by <b>one person</b> [S 65B(37)] (Service provider) <b>to another</b> (Service Receiver) and	
8.	collected in such manner as may be prescribed. (Service Tax Rules 1994 shall decide due date of payment of service tax and from whom ST shall be recovered SP or SR)	

**Note 1** : w.e.f 15-11-2015 Swachh Bharat Cess @ 0.5% on value of taxable services. for Nov / Dec 2016 exam.

#### ALL ABOUT SWACHH BHARAT CESS

	<b>SBC</b>
Effective from	15-11-2015 (for Nov / Dec 2016 exams)
Through which Act	Chapter VI (Section 119) of the Finance Act 2015
Objective	It is a programme of hygiene and cleanliness but, at a deeper level, a programme for preventive health care, and building awareness
Levied on	Taxable Service
Not applicable on	Excise Act Customs Act
Rate	0.5% on value of taxable service
CCR available ?	No
Is this rate applicable on reverse charge?	Yes
Is this rate applicable on composition scheme	Yes
Is this rate applicable on abated value	Yes
Effective service tax rate	14.5%
Is this rate to be shown separately in the invoice?	Yes

### NEGATIVE SERVICES

#### CLAUSE (a). SERVICES BY GOVERNMENT OR A LOCAL AUTHORITY



Any services (both statutory services and commercial services) provided by Govt. or local authority is not taxable except the following.				
<b>Exceptions (Commercial services are taxable service)</b>				
(i)	Service provided by post office.			
	<b>Not Taxable Post office service</b>		<b>Taxable post office service</b>	
	• Basic mail service	• Speed Post, Express Parcel Post	These services shall also be not taxable if provided to Govt.	
	• Money order service	• Life Insurance		
• Banking service	• Agency Services			
(ii)	Services in relation to an aircraft or a vessel (ship), inside or outside the precincts of a port or an airport provided by Govt. is taxable service. E.g. Port provides services of loading and unloading of goods these are taxable. Warehouse services are taxable. Airport charges are subjected to service tax. Railway platform ticket not subjected to service tax.			
		<b>Port</b>	<b>Airport</b>	<b>Railway</b>
	Cloakroom	Taxable	Taxable	Not Taxable
	Parking charges	Taxable	Taxable	Not Taxable
	Hanger charges	Taxable	Taxable	Not Taxable
	Platform ticket / lounge services	Taxable	Taxable	Not Taxable
	Warehouse services	Taxable	Taxable	Not Taxable
(iii)	Transport of goods or passengers by Govt. or local authority is taxable. E.g. Railways. However in clause (o) & (p) specifically mentions that Transport of passengers by Railways in AC is only taxable. Transport of goods by railways is taxable service.			
(iv)	<b>Any services, provided to business entities. [w.e.f. 1-4-2016 for Nov 2016 exam onwards]</b> E.g. (a) Testing services like ISI, Hall Mark provided by Govt. is taxable service. (b) BPO type of services provided by Govt. or local authority is taxable service. (c) Security services. Central Industrial Security Force provided by Govt. to PSU is taxable service.(d) Renting services provided by Govt. is taxable service.			
	Business entity	Business entity is defined in section 65B(17) of the Finance Act, 1994 as any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession. Thus, it includes sole proprietors as well. ICAI, ICSI, ICWAI, tax by kk classes are few examples of business entity.		
		Political parties, Politicians, CBI, TRAI, Govt., NGO etc are not treated as business entity.		
	Intention of the Govt. was to tax right to use assignment of natural resources, mining rights, telecommunication rights.			

### Govt. providing statutory function ~~not taxable~~ is now exempt:

Thus, services which are provided by Government in terms of their sovereign right to business entities are not support services e.g. grant of mining or licensing rights, driving licence, censor certificate, passport services, voter I card, PAN, property registration, Fees to ROC. Refer mega exemption.

### Conclusion

- 3 commercial services provided by Govt./ local authority to any person is taxable.
- Any service provided by Govt./ local authority to a business entity is taxable. However certain specified services has been made exempted.

### Insertion of definition of Govt. w.e.f 14-5-2015 (to avoid interpretational issues)

“Government means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder”.

Followings are not treated as Govt.



1.	Corporations formed under Central Act. ONGC, IOC, HPCL, SAIL,	Services provided by these entities are taxable unless covered under other entry of negative list. The services provided by these entity can be exempted if covered under any entry of Mega exemption.
2.	Corporations formed under State Act. DTC,	
3.	Govt. company registered under Companies Act. E.g. MTNL,	
4.	Institution set up special Acts. e.g. ICAI, ICSI, AIIMS, IIM	

## Date of Payment of Service Tax

### **RULE 6. PAYMENT OF SERVICE TAX [W.E.F. 1-4-2016 FROM NOV 2016 EXAM ONWARDS]**

#### Category 1

In case of **individuals, HUF, partnership firms and one person company (OPC)** whose **aggregate value of taxable services (AVTS)** provided from one or more premises is ₹ **50 lakh or less** in the **previous financial year** the due dates for payment of service tax on taxable services provided or to be provided by him upto a total of ₹ 50 Lakh in the current financial year, at the option of the service provider, is as follows : -

1. In case of e - payment : by the **6th** day of next month immediately following the end of **quarter** in which the payment is **received**.
2. In any other case (cheque cash): by the **5th** day of next month immediately following the end of **quarter** in which the payment is **received**.
3. In the case payment is received in the quarter ending in **March** : 31st day of **March**.

AMJ	:	5/6 July
JAS	:	5/6 Oct
OND	:	5/6 Jan
JFM	:	31 March

#### Category 2

In case of **individuals, HUF, partnership firms and one person company (OPC)** whose **aggregate value of taxable services (AVTS)** provided from one or more premises exceeds ₹ **50 lakh** in the **previous financial year** the due dates for payment of service tax on taxable services provided or to be provided by him in the current financial year :

1. In case of e - payment : by the **6th** day of next month immediately following the end of **quarter** in which the service is deemed to be provided as per **POTR**.
2. In any other case (cheque / cash): by the **5th** day of next month immediately following the end of **quarter** in which the service is deemed to be provided as per **POTR**.
3. In the case payment is of quarter ending in **March** : 31st day of **March**.

#### Category 3

In case of **Company** the due dates for payment of service tax on taxable services provided or to be provided by him in the current financial year :

1. In case of e - payment : by the **6th** day of next month immediately following the end of **month** in which the service is deemed to be provided as per **POTR**.
2. In any other case (cheque / cash): by the **5th** day of next month immediately following the end of **month** in which the service is deemed to be provided as per **POTR**.
3. In the case payment is of the month of **March** : 31st day of **March**.

### **POINT OF TAXATION RULES**

### **RULE 7. POINT OF TAXATION IN CASE OF REVERSE CHARGE WHERE SERVICES ARE**

**PROVIDED BY THE GOVT. [w.e.f. 1-4-2016 from Nov 2016 exam]**

In case of services provided by the Government or local authority to any business entity, the point of taxation shall be the earlier of the dates on which, –

- (a) **Any payment, part or full**, in respect of such service becomes **due**, as specified in the invoice, bill, challan or any other document issued by the Government or local authority demanding such payment; or
- (b) payment for such services is made.

In short **due date or date of payment** which ever date is earlier.

**Example**

	<b>Due date of payment</b>	<b>Date of payment</b>	<b>Point of taxation</b>
1.	30-4-2016	10-5-2016	30-4-2016
2.	30-4-2019	20-4-2019	20-4-2019

**RULE 6. OF VALUATION OF RULES. VALUATION OF SERVICE WHERE SERVICES ARE PROVIDED BY THE GOVT.**

Where any service provided by Government or a local authority to a business entity is allowed to be deferred then interest on late payment shall also be subjected to service tax. [w.e.f. 13-4-2016 from Nov 2016 exam onwards ]

**EFFECT OF SBC ON COMPOSITION SCHEME**

**P1 :** Compute the service tax liability of Mr. Saksham, an Air Travel Agent for the quarter ended 30-9 using the following details:

	<b>Particulars</b>	<b>₹</b>
(i)	Basic Air collected for Domestic booking of tickets.	45,00,000
(ii)	Basic Air collected for International booking of tickets	90,00,000
(iii)	Commission received from the airlines towards the sale of above ticket	12,00,000

In the above cases, would the Service Tax liability of Mr. Saksham be reduced if he opts for for special provision for payment of Service Tax Rules, 1994 instead of paying Service Tax @14%.

Mr. Saksham is not eligible for small service provides exemption, also service Tax has been charged separately

**Solution**

<b>Option 1</b>		
Value of taxable service		12,00,000
Service tax @ 14.5%		1,74,000
<b>Option 2</b>		
0.7% of basic fare ₹ 45,00,000		31,500
1.4% of basic fare ₹ 90,00,000		<u>1,26,000</u>
Service Tax		1,57,500
+ Swachh Bharat Cess @ 0.5% (0.5% * 1,57,500 / 14.5%)		5,431
Total Service Tax		1,62,931

**FULL REVERSE CHARGE****11. ANY SERVICE PROVIDED BY A GOVT TO BUSINESS ENTITY (W.E.F. 1-4-2016)**

Govt --> Business entity	Business entity the service receiver shall pay service tax
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**Exception**

1. Renting of immovable property
2. Postal Service



## 3. Railway Service.

**12. SERVICE PROVIDED BY MUTUAL FUND AGENT (Deleted w.e.f. 1-4-2016 from Nov 2016 exam onwards)****MEGA EXEMPTION****SERVICES PROVIDED BY IIM [ENTRY NO 9B]** w.e.f. 1-3-2016 (from Nov 2016 exams onwards)

Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme, –

- two year full time residential Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management;
- fellow programme in Management;
- five year integrated programme in Management.

**SERVICES UNDER SDI SCHEME [ENTRY NO 9C]** w.e.f. 1-3-2016 (from Nov 2016 exams onwards)

Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative (SDI) Scheme;

**SERVICES UNDER GRAMEEN KAUSHALYA YOJNA [ENTRY NO 9D]** w.e.f. 1-3-2016 (from Nov 2016 exams onwards)

Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council For Vocational Training.

**OUTPUT SERVICES BY ARTISTS IN FOLK OR CLASSICAL FORM [ENTRY NO 16]**

Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre where amount charged is upto ₹ 1,50,000 per performance. w.e.f. 1-4-2016 limit enhanced from 1,00,000 to 1,50,000. [for Nov 2016/ Dec 2016 and 2017 attempt]

However services provided by such artist as a brand ambassador is taxable without any monetary limit.

**Note :** Brand ambassador means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

**TRANSPORTATION OF PASSENGERS [ENTRY NO 23]**

- ~~ropeway, cable car or aerial tramway.~~ w.e.f. 1-4-2016 exemption withdrawn and hence taxable. [for Nov 2016/ Dec 2016 and 2017 attempt]

**OTHER EXEMPTIONS**

**[w.e.f. 13-4-2016 [for Nov 2016 / Dec 2016 and 2017 attempt]**

Entry No 48	Services provided by Government or a local authority to a business entity with a turnover up to ₹ 10 lakh in the preceding financial year.
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**w.e.f. 1-4-2016 [for Nov 2016 / Dec 2016 and 2017 attempt]**

Entry No. 49	Services provided by Employees' Provident Fund Organisation (EPFO) to persons governed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952
Entry No. 50	Services provided by Insurance Regulatory and Development Authority of India (IRDA) to insurers under the Insurance Regulatory and Development Authority of India Act, 1999.



Entry No. 51	Services provided by Securities and Exchange Board of India (SEBI) set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market
Entry No. 52	Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination

**Following Govt. services exempt from tax [w.e.f. 13-4-2016 [for Nov 2016 / Dec 2016 and 2017 attempt]**

Entry No 54	Services provided by Government or a local authority to another Government or local authority. Provided that nothing contained in this entry shall apply to services specified in sub-clauses (i),(ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994.
Entry No 55	Services provided by Government or a local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
Entry No 56	Services provided by Government or a local authority where the gross amount charged for such services does not exceed ₹ 5000/- Provided that nothing contained in this entry shall apply to services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994. Provided further that in case where continuous supply of service, as defined in clause (c) of rule 2 of the Point of Taxation Rules, 2011, is provided by the Government or a local authority, the exemption shall apply only where the gross amount charged for such service does not exceed ₹ 5000/- in a financial year.
Entry No 57	Services provided by Government or a local authority by way of <b>tolerating non-performance</b> of a contract for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority under such contract.
Entry No 58	Services provided by Government or a local authority by way of- (a) registration required under any law for the time being in force. (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law for the time being in force.
Entry No 59	Services provided by Government or a local authority by way of assignment of right to use <b>natural resources to an individual farmer</b> for the purposes of agriculture.
Entry No 60	Services by Government, a local authority or a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.
Entry No 61	Services provided by Government or a local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the 1st April, 2016. Provided that the exemption shall apply only to service tax payable on one time charge payable, <b>in full upfront or in installments</b> , for assignment of right to use such natural resource;
Entry No 62	Services provided by Government or a local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the financial year 2015-16 on payment of licence fee or spectrum user charges, as the case may be;
Entry No 63	Services provided by Government by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges (MOT).”.

**ABATEMENT**

GTA by Road (used household goods)	GTA by Road (goods other than used household goods) w.e.f 1-4-2016
40% of gross billing is subject to ST 5.8%	30% of gross billing is subject to service tax 4.35%

**Tour Operator w.e.f. 1-4-2016**



Arranging or booking solely accommodation in relation to tour	Other cases (Tour Packages and Transport)
10% of gross billing is subject to service tax if it includes cost of accommodation 1.45%	30% of gross billing is subject to service tax 4.35%

Others	
Services provided by foreman of chit fund w.e.f 1-4-2016	Transport of goods in containers by rail by any person other than Indian Railways w.e.f 1-4-2016
70% of gross billing is subject to service tax 10.15%	40% of gross billing is subject to service tax 5.8%

### **IMPACT ON CCR ON AVAILMENT OF ABATEMENT**

S No.		Whether CCR available to service provider?		
		Input	Input service	Capital Goods
1.	Rail - Passengers / Goods	No	Yes w.e.f 1-4-2016	No
3.	Vessel - Goods.	No	Yes w.e.f 1-4-2016	No