

**F. No.334/7/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)**

Amitabh Kumar
Joint Secretary (Tax Research Unit)
Tel: 011-23093027; Fax: 011-23093037
E-mail: amitabh.kumar@nic.in

D.O.F. No. 334/7/2017-TRU
New Delhi, dated February 1st, 2017

Dear Madam/Sir,

Subject: Union Budget 2017 - Changes in Service Tax - reg.

The Finance Minister has, while presenting the Union Budget 2017-18, introduced the Finance Bill in the Lok Sabha on the 1st of February, 2017. Clauses 120 to 128 of the Bill cover the amendments made to,-

- Chapters V and VA of the Finance Act, 1994;
- the Service Tax (Determination of Value) Rules, 2006;

Other changes are being given effect to by inserting new entries, and amending/omitting existing entries in notification No. 25/2012-ST dated 20.6.2012 and by amending the CENVAT Credit Rules, 2004.

2. It may be noted that changes being made in the Budget are coming into effect on various dates, as indicated in the following paragraphs. These changes are categorized below based on the above criterion:

- (i) Changes coming into effect immediately w.e.f. the 2nd day of February, 2017;
- (ii) The amendments which will get incorporated in the Finance Act, 1994 on enactment of the Finance Bill, 2017 [paras 3.1, 3.2, 3.3 and 4];
- (iii) Certain fresh entries and amendments to existing entries in notification No. 25/2012-ST, will come into effect on the day Finance Bill receives assent of the President.

The salient features of the changes being made are discussed below.

3.1 Negative List -The changes proposed in the Negative List in Section 66 D are as follows:

- (a) Presently, clause (f) of section 66D of the Act [Negative List] covers “*services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption*”. These services are proposed to be omitted from the negative list (*Clause 121 of the Bill refers*). The service tax exemption on them

is being continued by incorporating them in the general exemption notification (*Notification No. 25/2012-ST as amended by notification No. 07/2017-ST, dated 2nd February, 2017 refers*).

- (b) Consequently, the definition of ‘*process amounting to manufacture*’ [clause (40) section 65B] is also proposed to be omitted from of the Finance Act (*Clause 120 of the Bill refers*) and is being incorporated in the general exemption notification (*Notification No. 25/2012-ST as amended by notification No 07/2017-ST, dated 2nd February, 2017 refers*).

3.2 Advance Ruling Changes- The changes proposed are as follows:

- (a) Clause (d) of section 96A is being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962. Section 28 (E) of the Customs Act, 1962, is also being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.

(Clause 122 of the Bill refers)

- (b) Section 245P of the Income-tax Act, 1961 provides that no proceeding before, or pronouncement of advance ruling by the Authority for Advance Ruling would be invalidated on the ground merely due to any vacancy or defect in the constitution of the Authority. In view of the same, Section 96B relating to vacancies not to invalidate proceedings is being omitted.

(Clause 123 of the Bill refers)

- (c) Sub-section (3) of section 96C is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Income Tax Act.

(Clause 124 of the Bill refers)

- (d) Sub-section (6) of section 96D is being amended so as to extend the existing time limit of ninety days to six months by which time the Authority shall pronounce its ruling, on the lines of the Income Tax Act.

(Clause 125 of the Bill refers)

- (e) A new section 96HA is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and

Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

(Clause 126 of the Bill refers)

3.3 Repeal of Research and Development Cess Act, 1986

- (a) Research and Development Cess Act, 1986 (32 of 1986) is proposed to be repealed.

(Clauses 139 to 142 of the Finance Bill refers)

- (b) Notification No. 14/2012-ST dated 17-03-2012 exempts the taxable service involving import of technology from so much of the service tax leviable thereon as is equivalent to the amount of cess payable on the said import of technology under the Research and Development Cess Act, 1986. Consequently, with effect from the enactment of the Finance Bill, 2017, the exemption from service tax under notification No. 14/2012-ST would be not available to a taxable service involving import of technology on which Research and Development Cess is not payable. Full service tax along with cesses (Swachh Bharat Cess and Krishi Kalyan Cess) would be applicable to such taxable service.

4. Other Legislative provisions:

- (a) Service tax exemption to taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government, is being made effective from 10th day of September, 2004, the date from when the services of life insurance became taxable.

(Clause 127 of the Bill refers)

- (b) Benefit of the exemption notification No. 41/2016-ST dated 22.09.2016 is being extended with effect from 1.6.2007, the date when the services of renting of immovable property became taxable. Notification No. 41/2016-ST dated 22.09.2016, exempts one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for grant of long-term lease of industrial plots (30 years or more) by State Government industrial development corporations/ undertakings to industrial units was exempted.

(Clause 127 of the Bill refers)

- (c) Rule 2 A of Service Tax (Determination of Value) Rules, 2006 is being amended with effect from 01.07.2010 so as to make it clear that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land.

(Clause 128 of the Bill refers)

5. New Exemptions

- (a) Services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is being exempted from service tax.

(New entry at S. No. 26D of notification No. 25/2012-ST refers)

- (b) The exemption vide S. No. 9B of notification No. 25/2012-ST dated 20.06.2012, is being amended so as to omit the word “residential” appearing in the notification. The exemption remains the same in all other respects. S. No. 9B of notification No. 25/2012-ST exempts services provided by Indian Institutes of Management (IIMs) by way of two year full time residential Post Graduate Programmes (PGP) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM.

(S. No. 9B of notification No. 25/2012-ST refers)

- (c) Under the Regional Connectivity Scheme (RCS), exemption from service tax is being provided in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) as notified by Ministry of Civil Aviation.

(New entry at S. No. 23A of notification No. 25/2012-ST refers)

6. Rationalisation measure:

- (a) Explanation-I (e) applicable to sub-rule 3 and 3A of Rule 6 of CENVAT Credit Rules, 2004 is being amended so as to exclude banks and financial institutions including NBFCs engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the said explanation that value for the purpose of reversal of common input tax credit taken on inputs and input services used in providing taxable and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.

(CENVAT Credit Rules, 2004 as amended by notification No. 04/2017-C.E.(NT), dated 2nd February, 2017 refers).

(b) Amendment of Rule 10 of CENVAT Credit Rules, 2004

A new sub-rule 4 is being inserted in Rule 10 of CENVAT Credit Rules, so as to provide that transfer of CENVAT Credit by the jurisdictional Dy./Assistant Commissioner of Central Excise, shall be allowed within 3 months from the date of receipt of application from the manufacturer or service provider in this regard, subject to the fulfillment of the conditions prescribed under Rule 10 (3).

(CENVAT Credit Rules, 2004 as amended by notification No. 04/2017-C.E.(NT), dated 2nd February, 2017 refer).

7. General

- 7.1 Changes explained above are not an exhaustive list and are meant only to draw attention to major changes. The text of the statutory provisions and the wordings of the notifications should be read carefully for interpreting the law.
- 7.2 Field formations are requested to go through the changes made in the Budget carefully. Any issues or doubts which may arise or any omission/error observed may kindly be brought to the notice of the undersigned, Dr. Somesh Chander, Director at somesh.chander@nic.in or Shri Pramod Kumar, OSD (TRU) at pramod.kumar@nic.in as soon as possible.
- 7.3 I shall be grateful if you could either inform me or my colleagues of any inadvertent error as soon as possible. You may also inform about any operational, administrative or any other difficulty faced or anticipated in the implementation of the new proposals either by the trade or by the field formations.
- 7.4 I would like to express my gratitude for the pre-budget suggestions and inputs which have been received from field formations. I would be found wanting if I do not express my deep gratitude to my team in TRU II comprising the Director, OSD and the three Technical Officers, Dr Abhishek Chandra Gupta, Dr. Ravinder Kumar and Shri Abhishek Verma, who have worked very diligently during the course of the year.

With regards,

Yours sincerely,



(Amitabh Kumar)

To:

**All Principal Chief Commissioners / Principal Directors General
All Chief Commissioners / Directors General
All Principal Commissioners/Commissioners
Director DPPR/ Logistics/Legal Affairs/ Data Management.**