

Service Tax Amendments on 22nd May'2007

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Service Tax Analysis of Notifications

The Ministry of Finance had issued various notifications on 22-05-2007 whereby the effects of new services proposed in Budget 2007 have been enacted effective from 01-06-2007. A brief analysis of the said notifications is being presented hereunder :

Vide notification no. 23/2007-ST dated 22-05-2007 effective date for enactment of new services proposed in the Finance Bill'2007 has been made as 01-06-2007.

Vide notification no. 24/2007-ST dated 22-05-2007 effective from 01-06-2006 The amount of property tax, **actually paid** by the service provider to the local authority has been exempted from the value of taxable service in relation to renting of immovable property. Moreover, interest or penalty paid to local authority would not be considered as property tax and hence shall not be exempt. Further, an example has been given in the said notification to clarify deduction shall be available for property tax proportionate to the period for which service tax is paid.

Example :

Property tax paid for April to September	Rs.12,000/-
Rent received for April	Rs. 1,00,000/-
Service tax payable for April	Rs. 98,000/- *
(1,00,000-2,000) applicable rate of service tax	

Exemption Commercial or Industrial Construction services or Works Contract Services in relation to construction of port or other port

Vide notification no. 25/2007-ST dated 22-05-2007 effective from 01-06-2006 Commercial or Industrial Construction Service or execution of Works Contract services provided in relation to

construction of port or other port has been exempted from service tax. However, services such as completion and finishing, repair, alteration, renovation, restoration, maintenance or repair provided in relation to existing port or other port are not excluded.

Vide notification no. 28/2007-ST dated 22-05-2007 effective from 01-06-2006 a new sub-rule 4C has been inserted in Service Tax Rules'1994 whereby adjustment of excess payment on account of non- availment of deduction of property tax has been allowed in relation to renting of immovable property. It has been provided that such adjustment shall be made within 1 year from the date of payment of such property tax. Moreover, an intimation to the jurisdictional Superintendent shall be made within 15 days of such adjustment.

Valuation method in relation to Works Contract has been specified

Vide notification no. 29/2007-ST dated 22-05-2007 effective from 01-06-2007 the Service Tax (Determination of Value) Rules, 2006 has been further amended to insert a new Rule 2A whereby the procedure for determination of value of taxable service in relation to execution of works contracts has been specifically explained. The major highlights of such valuations are as under :

- Value of works contract service shall be the gross amount charged for the works contract
- Value of transfer of property in goods involved in the execution of the works contract shall be excluded.
- Value Added tax or Sales Tax shall be excluded
- Value of works contact shall include :
 - i) labour charges for execution of the works
 - (ii) amount paid to a sub-contractor for labour and services

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- (iii) charges for planning, designing and architect's fees
- (iv) charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract
- (v) cost of consumables such as water, electricity, fuel, used in the execution of the works contract
- (vi) cost of establishment of the contractor relatable to supply of labour and services
- (vii) other similar expenses relatable to supply of labour and services; and
- (viii) profit earned by the service provider relatable to supply of labour and services;

Introduction of Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 effective from 01-06-2007 giving option to pay service tax equivalent to 2% of the total value of the works contract

Vide Notification No. 32/2007-ST dated 22-05-2007 a new rule has been introduced namely the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 effect from the 1st day of June, 2007 whereby the service provider has been given an option to pay service tax equivalent to 2% of the total value of the works contract instead of paying service tax at the rate of 12.36% of the Gross Value of works contract. The provider of taxable service opting to pay service tax under the said composition scheme is not entitled to take CENVAT credit of duties or cesses paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004. Moreover, such option shall be exercised prior

to making any payment of service tax on such works contract and once such option has been exercised same shall not be withdrawn until completion of said works contract.

Amendment in Export of Service Rules to incorporate new Services introduced vide Finance Bill'2007

Vide notification no. 30/2007-ST dated 22-05-2007 effective from 01-06-2007 amendment in Export of Service Rules'2005 has been made to provide that in relation to mining service, renting of immovable property service & execution of works contract services may be treated as export service if provision of such services are provided in relation to immovable property situated outside India. Similar amendment as also been made in Taxation of Services (Provided from Outside India and Received in India) Rules'2006 to levy service tax on such services provided by person from outside India to an Indian recipient, if such services are provided in relation to immovable property situated in India.

Vide Notification No. 33/2007-ST dated 23-05-2007 taxable services provided by any person for official use of foreign Diplomatic Mission or Consular post in India have been exempted from service tax subject to fulfillment of specific procedure. Vide Notification No. 34/2007-ST dated 23-05-2007 taxable services provided by any person for the personal use or for the use of the family members of diplomatic agents or career consular officers posted in foreign diplomatic mission or consular post in India have been exempted from service tax subject to fulfillment of specific procedure. Vide Notification No. 35/2007-ST dated 23-05-2007 all the earlier notification related to the aforesaid services have been rescinded.