

SEMINAR ON UNION BUDGET 2006

INDIRECT TAX AMENDMENTS

ORGANISED BY :

SILIGURI TAXATION BAR ASSOCIATION

&

**THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA, SILIGURI BR.**

ON

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CENTRAL EXCISE

CLERANCE BY EOU/STP/EHTP TO DTA

CENTRAL EXCISE

NEW ENACTMENT
MADE
SUPERSEEDING
JUDGEMENTS OF
HON'BLE SUPREME COURT

CUSTOMS



SPECIAL ADDITIONAL
DUTY

IMPOSED ON ALL IMPORTS

SERVICE TAX

All Services provided by
Practicing Chartered Accountant,
Practicing Cost Accountant and
Practicing Company Secretary
would attract Service tax @ 12.24%
from 01-03-2006

SERVICE TAX

Call Centre & Medical Transcription
would attract Service Tax @ 12.24%
effective from 01-03-2006

SERVICE TAX

15 NEW SERVICES
INTRODUCED EFFECTIVE
FROM
DATE TO BE NOTIFIED

New Service	Coverage		Our Comments
	Who	What	
Share Registrar Services Section 65(89c) & 65(105)(zzzi)	Registrar to an issue	Services in relation to the sale or purchase of securities	The cost of public offers by companies will increase.
Share Transfer Agent's Services Section 65(95a) & 65(zzzj)	Share Transfer Agent	Services in relation to transfer or redemption of securities or incidental activities	The transaction cost in the purchase and sale of securities will increase.
Automated Teller Machines (ATMs) Section 65(9a), 65(9b) & 65(105)(zzzk)	By any Person	Services in relation to the setting-up and operation of ATMs	All activities including outsourced services like site selection, acquisition, financing etc. are included. Some of these services would have already been included in other entries. Rent for site appears not to be included.
Recovery Agent's Services Section 65(105)(zzzl)	By any Person	Services in relation to recovery of sums due to banks, NBFCs, body corporates or firms	Recovery services rendered to individuals is not covered

New Service	Coverage		Our Comments
	Who	What	
<p>Sale of space or time for Advertisement Section 65(105)(zzzm)</p>	<p>By any person</p>	<p>Services in relation to : providing space or time for display, advertising, showcasing in video & television programmes, or motion pictures or music albums or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet. selling of time slots on radio or television by a person other than a broadcasting agency Aerial advertising</p>	<p>Some of the services specifically mentioned under this service are being already taxed under “Advertising Services”</p> <p>Print media like newspapers & books are excluded</p> <p>Sales of time slots by broadcasting agencies is excluded from this entry but covered under “Broadcasting Services”</p>

New Service	Coverage		Our Comments
	Who	What	
<p>Sponsorship Services Section 65(99a) & 65(105)(zzzn)</p>	<p>By any person</p>	<p>Services in relation to sponsorship of events to any body corporate or firm.</p>	<p>Sponsorship of sports events is excluded.</p> <p>Displaying the sponsoring company's logo or trading name, giving sponsor exclusive or priority booking rights, sponsoring prizes or trophies are included.</p> <p>Financial or other support in form of donation or gift are excluded.</p>

New Service	Coverage		Our Comments
	Who	What	
Air Transport Services Section 65(3b), 65(56a) & 65(105)(zzzo)	Aircraft Operator	Services in relation to air transport for international travel other than economy class	This new entry taxes the aircraft operator and the tax will be charged on the full fare, despite the fact that the Air Travel Agent has also charged Service Tax on the fare.

New Service	Coverage		Our Comments
	Who	What	
<p>Transport of Goods in Containers by Rail Services Section 5(105)(zzzp)</p>	<p>Any person other than Government Railways</p>	<p>Services in relation to transport of goods in containers by rail.</p>	<p>Government has recently allowed private parties to operate the container business through rail. The transport charges on container movement through rail would attract service tax.</p>

New Service	Coverage		Our Comments
	Who	What	
<p>Business Support Services Section 65(104c) & 65(105)(zzzq)</p>	<p>By any Person</p>	<p>Services in relation to support services of business or commerce and includes :</p> <ul style="list-style-type: none"> I. Evaluation of prospective customers II. Telemarketing III. Processing of purchase orders and fulfillment services IV. Information and tracking of delivery schedules V. Managing distribution and logistics VI. Customer relationship management services VII. Accounting and processing of transactions VIII. Operational assistance for marketing IX. formulation of customer service and pricing policies X. Infrastructural support services and XI. Other transaction processing 	<p>Activities covered under clause (vii) of “Business Auxiliary Services” had been restricted last year to include services which were incidental or auxiliary to the first six sub-clauses. Now these services have been specifically taxed under an independent entry to avoid confusion as to the taxability under of “Business Auxiliary Services”.</p>

New Service	Coverage		Our Comments
	Who	What	
<p>Auctioneer's Services Section 65(105)(zzzr) & 65(7a)</p>	<p>By any person</p>	<p>Services in relation to auction of property both movable or immovable and tangible or intangible</p>	<p>Auctions under Court Orders and Government auctions are not covered.</p> <p>Services in relation to auction of property like providing a facility, advertising or illustrative services, pre-auction price estimates, short term storage service, repair or restoration service shall also be included.</p>

New Service	Coverage		Our Comments
	Who	What	
Public Relations Service Section 65(105)(zzzs) & 65(86c)	By any Person	Services in relation to managing the public relations of a person	Public relations have been defined to include strategic counseling based on industry, media and perception research corporate image management media relations, media training press release, press conference financial public relations brand support, brand launch retail support and promotions events and communications and crisis communications
Ship Management services Section 65(105)(zzzt) & 65(96a)	By any Person	Services in relation to Management of a ship under a contract or agreement	Section 65(96a) defines ship management services to include whole range of services.

New Service	Coverage		Our Comments
	Who	What	
<p>Internet Telephony service Section 65(105)(zzzu) & 65(57a)</p>	<p>By any person</p>	<p>Services in relation to internet telephony</p>	<p>There was a confusion whether internet telephony was covered under the category of “Online information and data base access and or retrieval services”. A specific entry has been introduced for taxing the said service.</p>

New Service	Coverage		Our Comments
	Who	What	
Transport of person by cruise ship Section 65(105) (zzzv)	By any person	Services in relation to transport of such person embarking from any port or other port in India by a cruise ship	Services provided by cruise ships for travel originating from a port / destination in India are taxable. Ship or vessel used for private purposes or of fifteen net tonnage or less are excluded.

New Service	Coverage		Our Comments
	Who	What	
<p>Credit card, debit card, charge card or other payment card related services Section 65(105)(zzzw) & 65(33a)</p>	<p>By any person</p>	<p>Services in relation to credit card, debit card, charge card or other payment card service and other incidental services related thereto.</p>	<p>Credit card services were earlier included under Banking and Other Financial Services. Now a separate entry with an expanded scope which includes debit cards and other forms of charge cards are brought in.</p>

SERVICE TAX

BUSINESS SUPPORT SERVICE

SERVICE TAX

BPO SERVICE & SOFTWARE MANAGEMENT SERVICE

SERVICE TAX

“COMMERCIAL CONCERN”
REPLACED WITH
“PERSON”
IN 17 TAXABLE SERVICE

SERVICE TAX

SCOPE OF EXISTING SERVICE ENLARGED EFFECTIVE

FROM DATE WHEN THE FINANCE BILL RECEIVE THE
ASCENT OF THE PRESIDENT OF INDIA

Taxable Service	Present Scope	Proposed Scope	Our Comments
<p>Banking and Other Financial Services [Section 65(12)]</p>	<p>Eight specified services are liable</p>	<p>Transfer of money including telegraphic transfer, mail transfer and electronic transfer are covered</p> <p>Services provided as a Banker to an issue as defined under section 65(9c).</p> <p>Credit Card Services omitted and a new specific category of taxable service introduced.</p>	<p>All Remittances of money, through the banking channels are now covered.</p> <p>Services in relation to Public issues are now comprehensively taxed. Now Bankers and Registrar's services have been taxed.</p>

Taxable Service	Present Scope	Proposed Scope	Our Comments
Management Consultant's Services [Section 65(65)]	Included advise, consultancy, technical assistance relating to conceptualising, devising, development, modification, rectification or up gradation of any working system of any organization.	Definition to provide vide coverage and includes advise, consultancy, technical assistance in relation to management in Finance, HR, Marketing, Production, logistic procurement, information technology resources or similar area of management.	Greater definition of the coverage in specified terms rather than under the previous open-ended language.

Taxable Service	Present Scope	Proposed Scope	Our Comments
<p>General Insurance Services,</p>	<p>Services provided by an Insurer to a Policy holder were covered.</p>	<p>Services provided by a Re-insurer are proposed to be covered.</p>	<p>Re-insurance services, which were rendered to insurers and not to insured, are also covered. Insurers will however be able to take CENVAT Credit on these services.</p>
<p>Maintenance or Repair Services [Section 65(64)]</p>	<p>Maintenance or repair of goods, equipments or immovable properties covered.</p>	<p>Management of both moveable and immovable properties are being proposed.</p>	<p>By including 'management' of goods, equipments and immovable properties, all kinds of operations and maintenance contracts become specifically taxable.</p>

Taxable Service	Present Scope	Proposed Scope	Our Comments
Consulting Engineer's Services [Section 65(31)]	Only Engineering Firms were covered	Scope expanded to cover Body Corporate or any other firm.	Thus, various interpretation made by Courts and Tribunals addressed.
Business Auxiliary Services [Section 65(19)]	Information technology services are outside the purview of Business Auxiliary services, which also includes developing or maintaining of computer software, or Computerised data processing.	Maintaining of Computer Software and Computerised data processing are being proposed to be excluded from the definition of Information technology services and hence such services shall become taxable under the purview of Business Auxiliary services.	Software Management Services, all BPO services have been brought under the Service Tax net.

Taxable Service	Present Scope	Proposed Scope	Our Comments
Erection, commissioning or installation service [Section 65(39a)]	Definition included only plant, machinery and equipment	Scope expanded to cover structures whether prefabricated or otherwise	The amendment may have wide implications, since service tax shall be attracted on prefabricated structures.

SERVICE TAX

ABATEMENT FROM VALUE OF
TAXABLE SERVICE FOR
SPECIFIED SERVICE EFFECTIVE
FROM 01-03-2006

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
1	Mandap Keepers services Section 65(105)(m)	60%	<p>Service provided by Mandap Keeper including hotels.</p> <p>Should also provide catering services.</p> <p>Invoice specifically mentions that the charges are inclusive of catering services.</p>
2	Rent a Cab Service	40%	No condition specified.
3	Section 65(105)(o)	60%	Should also provide catering services.
4	Convention Services Section 65(105)(zc)	60%	<p>Should also provide catering services.</p> <p>Invoice specifically mentions that the charges are inclusive of catering services.</p>

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
5	Erection Commissioning & Installation Services Section 65(105)(zzd)	33%	<p>This exemption is optional.</p> <p>The value of plant, machinery should be included in the gross amount.</p> <p>No specific condition as regards value of plant, Machinery etc to be shown separately on invoice has been made.</p>
6	Transportation of goods by Road services Section 65(105)(zpz)	25%	No condition specified.
7	Outdoor Catering services Section 65(105)(zzt)	50%	<p>Should also provide food.</p> <p>Invoice specifically mentions that the charges are inclusive of supply of food.</p>

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
8	Commercial or Industrial Construction Services Section 65(105)(zzq)	33%	<p>The gross amount charged shall include value of goods and materials supplied or provided or used. No specific disclosure of same on invoice is required.</p> <p>Exemption is not applicable where taxable service only includes completion or finishing services in relation to building or civil structure. The completion or finishing services has been defined to mean glazing, plastering, painting, floor and wall tiling, wall covering and well papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services.</p> <p>However, aforesaid completion and finishing services forming part of construction service as a whole shall be eligible for such exemption.</p>

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
9	Pandal or Shamiana Contractor Services Section 65(105)(zzw)	70%	Should also provide catering services. Invoice specifically mentions that the charges are inclusive of catering services.
10	Construction of Complex Services Section 65(105)(zzzh)	33%	All the 3 conditions are exactly similar to that being provided as regards Commercial or Industrial Construction Services as referred in Sl. no. 8 here-in-above.

SERVICE TAX

TAXABLE SERVICES PROVIDED
OUTSIDE INDIA
TO
AN INDIAN RECEIPIENT
TO BE TAXED

SERVICE TAX



IMMUNITY FROM PENALTY ON VOLUNTARY PAYMENT

SERVICE TAX

NEW PROVISION FOR DEPOSIT OF
EXCESS COLLECTION OF SERVICE
TAX TO THE CENTRAL
GOVERNMENT



THANK YOU
FOR
PATIENT HEARING