

Legal Updates in Indirect Tax Laws – CA IPCC

From Dec 1, 2014 to June 15, 2015

Legal Updates – Service Tax

SERVICE TAX – Exemption for Specified Insurance / Pension Schemes	<p>Service Tax Exemption granted to Insurance Services provided under the Following Schemes –</p> <p>(a) Pradhan Mantri Suraksha Bima Yojna;"</p> <p>(b) Pradhan Mantri Jeevan Jyoti Bima Yojana;</p> <p>(c) Pradhan Mantri Jan Dhan Yojana;"</p> <p>(d) Collection of contribution under Atal Pension Yojana (APY) – Notification 12/2015 w.e.f. 30.04.2015</p> <p>(e) Varishtha Pension Bima Yojana – Notification No. 6/2015-ST, dated 1-3-2015, w.e.f. 1.4.2015</p>
Changes in Exemptions	<p>NOTIFICATION NO. 6/2015-ST, DATED 1-3-2015 The Following are the changes in exemptions w.e.f 01.04.2015 –</p> <p>A. Health Care Services:</p> <p>(a) Service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment are exempt</p> <p>(b) Services provided by way of transportation of a patient in an ambulance</p> <p>B. Services to Govt.: Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b) a civil structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment</p> <p>(c) a residential complex predominantly meant for self-use or the use of their employees are now taxable having been removed from the Mega Exemption Notification 25/2012 ST</p> <p>C. Works Contract Services: Services by way of construction, erection, commissioning, or installation of original works pertaining to an airport, port are now taxable.</p> <p>D. Performance in folk or classical art forms: Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, are now taxable if the consideration charged for such performance is more than one lakh rupees:</p> <p>They are also taxable if the service provided by such artist as a brand ambassador.</p> <p>(i) milk, salt and food grain including flours, pulses and rice;"</p> <p>E. Services by way of transportation by rail / vessel / GTA from one place in India to another of the following goods of food items shall now cover only milk, salt and food grain including flours, pulses and rice. The earlier blanket exemption given to Food Products is not applicable w.e.f. 01.04.2015</p> <p>F. Services by GTA – Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport [Notfn]</p> <p>G. Business Auxillary Services – The Following Services are taxable w.e.f. 01.04.2015 –</p> <p>(a) mutual fund agent to a mutual fund or asset management company;</p>

	<p>(b) distributor to a mutual fund or asset management company;</p> <p>(c) selling or marketing agent of lottery tickets to a distributor or a selling agent;</p> <p>(d) Carrying out an intermediate production process as job work in relation to alcoholic liquor for human Consumption</p> <p>H. Telephone Services: Services by way of making telephone calls from –</p> <p>(a) Departmentally run public telephone;</p> <p>(b) Guaranteed public telephone operating only for local calls; or</p> <p>(c) Free telephone at airport and hospital where no bills are being issued have been removed from Mega Exemption Notification 25/2012 ST</p> <p>I. Entertainment Event: W.e.f. 1.6.2015 The Service “Admission to entertainment event or access to amusement facility” is being omitted from the negative list. Thus, it become fully taxable. However, the following events continue to be exempt –</p> <p>(a) exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.</p> <p>(b) Recognized sporting events.</p> <p>Note: "recognised sporting event" means any sporting event, organised by a recognised sports body where the participating team or individual represent any district, state, zone or country; or those Events where Sponsorship of the same is exempt under Notfn 25/2012 ST</p> <p>Concerts, pageants, award functions, musical performances or non-recognized sporting events where the consideration for such admission is upto Rs. 500 per person.</p> <p>J. Other New Exemptions:</p> <p>(c) Services by operator of Common Effluent Treatment Plant by way of treatment of effluent;</p> <p>(d) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables;</p> <p>(e) Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo;</p> <p>(f) Service provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members;</p>													
Changes in Abatements	<p>NOTIFICATION NO.8/2015-ST, DATED 1-3-2015 – The Following are the changes in abatements w.e.f 01.04.2015 –</p> <p>Transport by Railways: For availing abatement for Transport of Goods and Passengers by Rail the following conditions to be satisfied –</p> <p>“CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, shall not been taken under CENVAT Credit Rules, 2004”</p> <p>Transport of Passengers by Air: The Following Shall be the revised taxable values in case of Transport of Passengers by Air –</p> <table><tr><td>"5</td><td>Transport of passengers by air, with or without accompanied belongings in</td><td></td><td rowspan="3">CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.";</td></tr><tr><td></td><td>(i) economy class</td><td>40</td></tr><tr><td>40</td><td>(ii) other than economy class</td><td>60</td></tr></table> <p>Transport by Goods Transport Agency:</p> <table><tr><td>Services of goods transport agency in relation to transportation of goods.</td><td>25</td><td>CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT</td></tr></table>	"5	Transport of passengers by air, with or without accompanied belongings in		CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.";		(i) economy class	40	40	(ii) other than economy class	60	Services of goods transport agency in relation to transportation of goods.	25	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT
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		Credit Rules, 2004.									
Transport of Goods by Vessel: W.e.f. 01.04.2015, the Taxable Portion w.r.t Transport of Goods by Vessel shall be 30% of the Gross Amount Charged.											
Services provided by Chit Fund: The Abatement for Services by Chit Funds is removed											
Amendments made by Finance Act, 2015 – Shall be effective from 01.06.2015, unless specifically provided											
SERVICE TAX – Increase in Rates	The rates have been increased to 14%, including all cesses.										
SERVICE TAX – Government Services to Business Entities	Any Service Provided by Govt. to Business Entities are now taxable. Note: Earlier only Support Services were taxable										
SERVICE TAX – Chit Fund Services	An explanation has inserted in Sec.65B (44) to provide that “Transactions in money or actionable claim” / “betting, gambling or lottery” shall exclude services rendered in relation to managing of a chit fund Ex: Chit Fund Foreman services and Selling Agent services. Thus, these services become fully taxable.										
SERVICE TAX – Consideration = Reimbursable Expenses + Discounts Provided wrt. Sales	Section 67 has been amended to provided that the term “Consideration” includes – (a) All Reimbursable expenses unless specifically exempt, (b) Any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.										
SERVICE TAX – Aggregator Model of Services	In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012 This change comes into effect immediately i.e., w.e.f. 1st March, 2015. Note: "Aggregator" means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator;										
SERVICE TAX – Proportionate Tax in Alternate Service Tax Rates also applicable	Pursuant to the change in Service Tax Rates Proportionate change shall be made to the Alternate Rates Of Service Tax for services provided by – (a) Air travel agent, [Domestic Bookings – 0.7% and International – 1.4% of Basic Fare] (b) Insurance Service and [First Year – 3.5% and Subsequent Years – 1.75% of Gross Premium] (c) Money Changing Services – <ul style="list-style-type: none">0.14 per cent of the gross amount of currency exchanged for an amount upto rupees 100,000, subject to the minimum amount of rupeesRupees 140 and 0.07 per cent of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000 and upto rupees 10,00,000Rupees 770 and 0.014 per cent of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000, subject to maximum amount of rupees 7000 (d) Lottery Selling and Distribution Service – <table><tr><th>Sl. No.</th><th>Rate</th><th>Condition</th></tr><tr><td>1.</td><td>Rs. 8200 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organising State for a draw</td><td>If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%</td></tr><tr><td>2.</td><td>Rs. 12800 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets</td><td>If the lottery or lottery scheme is one where the guaranteed prize</td></tr></table>		Sl. No.	Rate	Condition	1.	Rs. 8200 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organising State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%	2.	Rs. 12800 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets	If the lottery or lottery scheme is one where the guaranteed prize
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	printed by the organising State for a draw	payout is less than 80% :
Service Tax / EXCISE – Simplification of Registration	Simplification of registration process to ensure that registration is granted within two working days of Submission of Online Registration Form ST 1 pending verification of documents [Order 01/2015, dt. 01-03-2015]	

Legal Updates – CENVAT Credit Rules, 2004

Set off of EC and SHEC against ST	<p>Provided also that the credit of EC and SHEC paid on Inputs / Capital goods / Input Services received in the factory of manufacture of final product on or after the 01.03.15 can be utilized for payment of the Basic Excise Duty</p> <p>Provided also that the credit of balance fifty per cent of EC and SHEC paid on Capital Goods received in the factory of manufacture of final product in the Financial Year 2014-15 can be utilized for payment of Basic Excise Duty [Notification No 12/2015-CENT dt. 30-04-2015]</p>
CENVAT – Credit in Case of In Transit Sale / Goods sent to Job Worker	Amendment to Rule 4 – Credit shall be available if the Inputs / Capital Goods are sent to the premises of the Job Worker directly. However the condition that the said Inputs should be received back in the factory of manufacturer within 180 days (in case of inputs) / 2 years (in case of Capital Goods) from the date of such direct receipt of Inputs / Capital Goods by the Job Worker. [Notification 6/2015 CE (NT) w.e.f. 01.03.2015]
CENVAT – Time Limit for Taking Credit	Increase the time limit for taking CENVAT credit on inputs and input services from the present six months to one year [Notification 6/2015 CE (NT) w.e.f. 01.03.2015]
CENVAT – Credit in case of Reverse Charge	W.e.f. 01.04.2015 – Credit shall be allowed on Service Tax Payable by the Service Receiver on Reverse Charge basis irrespective of the fact that whether the Invoice Amount has been paid to the Service Provider [Notification 6/2015 CE (NT) w.e.f. 01.04.2015]
CENVAT – Amendment to Rule 9	The CENVAT credit in respect of input or capital goods purchased from a Importer shall be allowed only if such Importer, as the case may be, has maintained records indicating the fact that the input / Capital Goods was supplied from the stock on which duty was paid by the producer of such input or capital goods and only an amount of such duty on pro rata basis has been indicated in the invoice issued by him. [Notification 6/2015 CE (NT) w.e.f. 01.03.2015]
CENVAT – Applicability of Rule 6 to Non Excisable Goods	<p>W.e.f. 01.03.2015 Rule 6 has been amended to provide that the provisions relating to reversal for CENVAT Credit, presently applicable to exempt goods and services, applicable to non-excisable goods also.</p> <p>Further the value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made there under. [Notification 6/2015 CE (NT) w.e.f. 01.03.2015]</p>
CENVAT / Excise – Direct Dispatch of Goods Allowed	<ol style="list-style-type: none"> Where a Dealer negotiates sale of an entire consignment from a Manufacturer / Registered Importer and orders direct transport of goods to the consignee, credit can be availed by the consignee on the basis of invoice issued by the manufacturer or the registered importer. In such cases no Cenvatable invoice shall be issued by the dealer. Where a registered dealer negotiates sale of goods from the total stock ordered on a manufacturer or an importer to multiple buyers and orders direct transportation of goods to the consignees and the manufacturer or the importer is willing to issue individual invoices for each sale in favour of the consignees for such individual sale, the same procedure shall apply. Similar procedure would also apply for sale by a registered importer to an end-user from the port / warehouse, and the amendment prescribes that for such movement the factum of

	<p>such direct transport to the buyer's premises needs to be recorded in the invoice.</p> <p>4. If the goods are directly sent to any person on the direction of the registered dealer, the invoice shall also contain the details of the registered dealer as the buyer and the person as the consignee, and that person shall take CENVAT credit on the basis of the registered dealer's invoice.</p> <p>5. If the goods imported under the cover of a bill of entry are sent directly to buyer's premises, the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises. [Circular No. 1003/08/2015-CX dt. 5.5.15]</p>
Place of Removal in case of Exports	<p>Direct Export by Manufacturer: In the case of clearance of goods for export by manufacturer exporter, shipping bill is filed by the manufacturer exporter and goods are handed over to the shipping line. After Let Export Order is issued, it is the responsibility of the shipping line to ship the goods to the foreign buyer with the exporter having no control over the goods. In such a situation, transfer of property can be said to have taken place at the port where the shipping bill is filed by the manufacturer exporter and place of removal would be this Port/ICD/CFS. Needless to say, eligibility to CENVAT Credit shall be determined accordingly.</p> <p>Export through Merchant Exporter: In the case of export through merchant exporters, however, two transactions are involved. First is the transaction between the manufacturer and the merchant exporter. The second transaction is that between the merchant exporter and the foreign buyer. As far as Central Excise provisions are concerned, the place of removal shall be the place where the property in the goods passes from the manufacturer to the merchant exporter. In most of the cases, this place would be the factory gate [CIRCULAR NO.999/6/2015-CX, DATED 28-2-2015]</p>