

Government of India
Ministry of Finance
Department of revenue
Tax Research Unit

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D.O.F. No. 334/3/2013-TRU
New Delhi, dated February 28, 2013.

Dear Sir/ Madam,

Subject: Union Budget 2013: Changes in Service Tax-reg.

The service tax changes in Budget 2013 are largely guided by the objectives to provide a stable tax regime and improve voluntary compliance. The important changes are as follows:

A. Legislative changes

Following changes are being made in the Finance Act, 1994:

1. There are following changes in relation to the negative list:
 - (i) The definition of approved vocational course in section 65B(11) is being proposed to be changed to:
 - a) include courses run by an industrial training institute or an industrial training centre affiliated to State Council for Vocational Training; and
 - b) delete clause (iii) dealing with courses run by an institute affiliated to the National Skill Development Corporation.
 - (ii) The definition of “process amounting to manufacture or production” in section 65B(40) is being expanded to include processes under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955
 - (iii) The negative list entry in sub-clause (i) of clause (d) of section 66D is being modified by deleting the word “seed”. This will allow the benefit to all other testings in relation to “agriculture” or “agricultural produce”.
2. The provisions of section 73 are being modified such that if the grounds for invoking extended period are not sustained, the Central Excise officer will be able to determine the demand for the shorter period of eighteen months.
3. The penalty under section 77(a) is being restricted to Rs 10,000. A new section 78A is also being introduced to impose penalty on directors and officials of the company for specified offences in cases of willful actions.

New provisions are being introduced to prescribe revised punishments for offences in section 89, make certain offences cognizable and others non-cognizable and bailable. The Policy wing of the Board will be issuing detailed instructions in due course.

These changes will come into force when the Finance Bill, 2013 is enacted.

B. Exemptions

4. The following changes are being made **w.e.f April 1, 2013** in the exemption notification number 25/2012-ST dated June 20, 2012:

- (i) Exemption by way of auxiliary educational services and renting of immovable property by (and not to) specified educational institutes under S. No 9 will not be available;
- (ii) The benefit of exemption under S. No 15 of the notification in relation to copyrights for cinematograph films will now be available only to films exhibited in a cinema hall or theatre. This will allow service providers to pass on input tax credits to taxable end-users;
- (iii) Exemption under S. No 19 will now be available only to non air-conditioned (non-centrally air-heated) restaurants; the dual requirement earlier that it should also have a license to serve alcohol is being done away with;
- (iv) The exemptions available to transportation of goods by railway and vessel under S. No 20 and services provided by a goods transportation agency (GTA) under S. No.21 are being harmonized. Thus exemption to transportation of petroleum and petroleum products, postal mails or mail bags and household effects by railways and vessels will not be available while the benefit of transportation of agricultural produce, foodstuffs, relief materials for specified purposes, chemical fertilizers and oilcakes, registered newspapers or magazines and defence equipments will be available to GTAs;
- (v) The exemptions under S. No 24 for vehicle parking to general public and S. No 25 for repair or maintenance of government aircrafts are being withdrawn; and
- (vi) The definition of “charitable activities” is being changed by deleting the portion listed in sub-clause (v) of clause (k). Thus the benefit to charities providing services for advancement of “any other object of general public utility” up to Rs 25 Lakh will not be available. However the threshold exemption will continue to be available up to Rs 10 lakh.

C. Abatement

5. The abatement available under S. No 12 of notification 26/2012-ST dated June 20, 2012 for construction of a complex, building, civil structures etc. is being reduced from the existing 75% to 70% for construction other than **residential properties** having a carpet area up to 2000 sq ft **or** where the amount charged is less than Rs 1 crore. This will come into effect from March 1, 2013.

D. Voluntary Compliance Encouragement Scheme, 2013 (VCES)

6.1 A new scheme is proposed to be introduced to encourage voluntary compliance with the following main features:

- (i) The scheme can be availed of by non-filers or stop-filers or persons who have not made a truthful declaration in their return. However it will not be applicable to persons against whom any inquiry or investigation is pending by the issue of search warrant or summon or by way of audit;

- (ii) The defaulter will be required to make a truthful declaration of all his pending tax dues (from October 1, 2007 to December 31, 2012) and pay at least half of that before December 31, 2013; remaining half to be paid by:
 - (a) June 30, 2014 without interest; or
 - (b) By December 31, 2014 with interest from July 1, 2014 onwards;
- (iii) On compliance with all the requirements the person will have immunity from interest (as specified), penalties and other proceedings;

6.2 The scheme will come into force when the Finance Bill is enacted. It is clarified that the tax-payers will need to settle their dues for the period after December 31, 2012 under the present law.

E. Advance Ruling Authority

7. The benefit of Advance Ruling Authority is being extended to resident public limited companies.

F. Disclaimer and requests

8. This letter is meant to provide a quick glimpse of the important changes and should not be used in any quasi-judicial or judicial proceedings, where only the relevant legal texts need to be referred to.

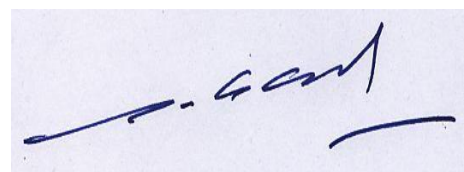
9. Despite best efforts it is possible that you may find some unintended errors, or omissions. I shall be extremely thankful if you could point out them to me or to my colleagues at the earliest.

10. Please also feel free to contact us in case of any doubt, difficulty, or suggestion relating to interpretation or implementation of the provisions mentioned above. You may also like to contact Shri J.M. Kennedy, Director (TRU) [Tel: 23092634; e-mail: jm.kennedy@nic.in] or Shri G.D. Lohani, Director [Tel: 23092374; e-mail: gd.lohani@nic.in] or Shri Sachin Jain, O.S.D. [Tel: 23092374; e-mail: sachinjainirs@yahoo.com].

11. I express my sincere thanks for your suggestions which provided us rare perspectives on many issues and helped us carry out our task with greater precision.

Sincere regards,

Yours sincerely



(V. K. Garg)

To:
All Chief Commissioners/ Directors General
All Commissioners of Service Tax
All Commissioners of Central Excise