

# **EXECUTIVE PROGRAMME**

## **SUPPLEMENT FOR TAX LAWS AND PRACTICE**

**(INDIRECT TAX PART - B)**  
*(Relevant for Students appearing in  
June, 2017 Examination)*

### **MODULE 1- PAPER 4**



**THE INSTITUTE OF  
Company Secretaries of India**  
**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
Statutory body under an Act of Parliament

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*Students appearing in June, 2017 Examination shall note the following :*

- 1. For Direct taxes, Finance Act, 2016 is applicable.*
- 2. Applicable Assessment year is 2017-18 (Previous Year 2016-17).*
- 3. Since, Wealth Tax Act, 1957 has been abolished w.e.f. 1<sup>st</sup> April, 2016. The questions from the same are not being asked in examination from December 2015 session onwards.*
- 4. For Indirect Taxes, all changes made by the Finance Act, 2016 are also applicable for June, 2017 examination.*
- 5. Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBEC & Central Government, on or before six months prior to the date of the examination.*

***The supplement is to facilitate the students to acquaint themselves with the amendments in tax laws upto December, 2016, applicable for June, 2017 Examination. The supplements cover the major Notifications and Circulars issued by CBEC from 1<sup>st</sup> January, 2016 to 31<sup>st</sup> December, 2016. The students are advised to read their Study Material (2016 Edition) along with these supplement. The Study Material (2016 Edition) of Tax Laws and Practice are available at the Institute website at the following weblink:***  
***<https://www.icsi.edu/AcademicCorner/StudyMaterialJuly2017.aspx>***

***In the event of any doubt, students may write to the Institute for clarifications at [academics@icsi.edu](mailto:academics@icsi.edu)***

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## PART B- INDIRECT TAXATION

### SERVICE TAX – NOTIFICATIONS

#### NOTIFICATION NO. 53/2016-SERVICE TAX DATED 19TH DECEMBER, 2016

##### **Service Tax (Amendment) Rules, 2016**

These rules may be called the Service Tax (Fifth Amendment) Rules, 2016.

**Objective :** To amend Service Tax Rules, 1994 so as to allow a person located in non taxable territory providing online information and database access or retrieval services to a non-assesse online recipient to issue online invoices not authenticated by means of a digital signature for a period upto 31st January, 2017.

In the Service Tax Rules, 1994, in rule 4C, in sub-rule (1), the following proviso shall be inserted, namely:-

‘Provided that a person located in non-taxable territory providing online information and database access or retrieval services to a non-assesse online recipient located in taxable territory may issue online invoices not authenticated by means of a digital signature for a period upto 31st January, 2017’

#### NOTIFICATION NO. 52/2016-SERVICE TAX DATED 8TH DECEMBER, 2016

**Amendment in Notification No.25/2012 (Mega Exemption Notification) -Service Tax, dated the 20thJune, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 467 (E), dated the 20thJune, 2012**

**Objective:** To amend exemption notification No. 25/2012-ST dated 20.06.2012 so as to exempt services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

No.25/2012-Service Tax, dated the 20thJune, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 467 (E), dated the 20thJune, 2012, namely:-

In the said notification, in the opening paragraph, after entry 63, the following entry shall be inserted, namely,-

“64. Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

*Explanation.* — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.”

#### **NOTIFICATION NO. 51/2016-SERVICE TAX DATED 30TH NOVEMBER, 2016**

##### **Place of Provision of Services (Second Amendment) Rules, 2016.**

**Objective:** To amend Place of Provision of Services Rules, 2012 so as to exclude 'online information and database access or retrieval services' from the definition of 'telecommunication services'.

In the Place of Provision of Services Rules, 2012, in rule 2, in clause (q), after the words “include broadcasting”, the words “and online information and database access or retrieval” shall be inserted.

The amendment was brought into force on the 1st day of December, 2016.

#### **NOTIFICATION NO. 50/2016-SERVICE TAX DATED 22ND NOVEMBER, 2016**

**Objective:** To amend notification No. 20/2014-ST dated 16th September, 2014 so as to provide exclusive jurisdiction to LTU-Bangalore with respect to online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a ‘non-assesse online recipient’.

#### **NOTIFICATION NO. 49/2016-SERVICE TAX DATED 9TH NOVEMBER, 2016**

**Objective:** To put compliance liability of service tax payment and procedure on to the service provider located in the non-taxable territory with respect to online information and database access or retrieval services provided in the taxable territory to ‘non-assesse online recipient’.

##### **Amendment in Notification No. No. 30/2012 (Reverse Charge Notification) -Service Tax, dated the 20th June, 2012,**

In the said notification,-

- (a) in paragraph I, in clause (B), after the words “located in the taxable territory”, the words “other than non-assessee online recipient” shall be inserted;
- (b) In paragraph (II), in the TABLE, against Sl. No. 10, in the entry under column (2), after the words “located in the taxable territory”, the words “other than non-assesse online recipient” shall be inserted;
- (c) after *Explanation II*, following shall be inserted, namely:-

*Explanation III.* For the purposes of this notification, “non-assesse online recipient” has the same meaning as assigned to it in clause (ccba) of sub-rule 1 of rule 2 of Service Tax Rules, 1994.’.

2. This notification shall come into force on the 1st day of December, 2016.

**NOTIFICATION NO. 48/2016-SERVICE TAX, DATED 9TH NOVEMBER, 2016**

**Service Tax (Fourth Amendment) Rules, 2016 applicable w.e.f 1st December, 2016**

**Objective:** To amend Service Tax Rules, 1994 so as to prescribe that the person located in non-taxable territory providing online information and database access or retrieval services to 'non-assesse online recipient', as defined therein, is liable to pay service tax and the procedure for payment of service tax.

In the Service Tax Rules, 1994,-

(i) in rule 2, in sub-rule (1),-

(a) after clause (ccb), the following clause shall be inserted, namely:-

'(ccba) "non-assesse online recipient" means Government, a local authority, a governmental authority or an individual receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory;

*Explanation.-* For the purposes of this clause, "governmental authority" means an authority or a board or any other body :

(i) set up by an Act of Parliament or a State legislature; or

(ii) established by Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;'

(b) after clause (ccc), the following clause shall be inserted, namely:-

'(ccd) "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology and includes electronic services such as,-

(i) advertising on the internet;

(ii) providing cloud services;

(iii) provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet;

(iv) providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;

(v) online supplies of digital content (movies, television shows, music, etc.);

(vi) digital data storage; and

(vii) online gaming'.

(c) in clause (d),-

(i) in sub-clause (i),-

- (a) in item (G), after the words “taxable service”, the words “other than online information and database access or retrieval services,” shall be inserted;
  - (b) after item (G), following item shall be inserted, namely:-
    - “(H) in relation to services provided or agreed to be provided by way of online information and database access or retrieval services, by any person located in a non-taxable territory and received by any person in the taxable territory other than non-assesse online recipient, recipient of such service;”;
- (ii) in sub-clause (ii), the following provisos shall be inserted, namely:-
- “Provided that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, provider of service located in a non-taxable territory shall be the person liable for paying service tax:
- Provided further that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, an intermediary located in the non-taxable territory including an electronic platform, a broker, an agent or any other person, by whatever name called, who arranges or facilitates provision of such service but does not provides the main service on his account shall be deemed to be receiving such services from the service provider in non-taxable territory and providing such services to the non-assesse online recipient except when such intermediary satisfies all the following conditions, namely :-
- (a) the invoice or customer’s bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question, its supplier in non-taxable territory and the service tax registration number of the supplier in taxable territory;
  - (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge i.e. intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-assesse online recipient and the supplier of such services;
  - (c) the intermediary involved in the supply does not authorise delivery;
  - (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the service provider:

Provided also that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, any person located in taxable territory representing such

service provider for any purpose in the taxable territory shall be the person liable for paying service tax:

Provided also that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, if the service provider does not have a physical presence or does not have a representative for any purpose in the taxable territory, the service provider may appoint a person in the taxable territory for the purpose of paying service tax and such person shall be liable for paying service tax:

Provided also that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by any person located in the taxable territory, person receiving such services shall be deemed to be located in the taxable territory if any two of the following non-contradictory conditions are satisfied, namely :-

- (a) the location of address presented by the service recipient via internet is in taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the service recipient settles payment has been issued in the taxable territory;
- (c) the service recipient's billing address is in the taxable territory;
- (d) the internet protocol address of the device used by the service recipient is in the taxable territory;
- (e) the service recipient's bank in which the account used for payment is maintained is in the taxable territory;
- (f) the country code of the subscriber identity module (SIM) card used by the service recipient is of taxable territory;
- (g) the location of the service recipient's fixed land line through which the service is received by the person, is in taxable territory;

Provided also that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, a person receiving such services shall be deemed to be a non-assesse online recipient, if such person does not have service tax registration under these rules.”;

- (ii) in rule 4, in sub rule (1), after third proviso, the following proviso shall be inserted, namely:-

“Provided also that a person located in non taxable territory liable for paying the service tax in the case of online information and database access or retrieval



services may make an application for registration in form ST-1A for registration within a period of thirty days from the date on which the service tax under section 66B of the Act is levied or the person located in non taxable territory has commenced supply of taxable services in the taxable territory in India and notwithstanding anything contrary in these rules, the registration shall be deemed to be granted in form ST-2A from the date of receipt of the application.”;

- (iii) in rule 4A, in sub-rule 1, after the sixth proviso, the following proviso shall be inserted, namely:-

“Provided also that in case of online information and database access or retrieval services provided or agreed to be provided in taxable territory by a person located in the non-taxable territory, an invoice, a bill or, as the case may be, challan shall include any document, by whatever name called, whether or not serially numbered, but containing name and address of the person receiving taxable service to the extent available and other information in such documents as required under this sub-rule.”;

- (iii) in rule 7, in sub-rule (1) after the letters and figure “ST-3A”, the word, letters and figure “or ST-3C” shall be inserted.

**NOTIFICATION NO. 47/2016-SERVICE TAX DATED 9TH NOVEMBER, 2016  
APPLICABLE FROM 1ST DECEMBER, 2016**

**Amendment in Notification No.25/2012 (Mega Exemption Notification) - Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 467 (E), dated the 20th June, 2012**

**Objective : To amend notification No. 25/2012-ST dated 20th June , 2016 so as to withdraw exemption from service tax for services provided by a person in non-taxable territory to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.**

In the said notification,-

- (a) in the opening paragraph, in entry 34, after clause (c), the following proviso shall be inserted, namely,-

“Provided that the exemption shall not apply to online information and database access or retrieval services received by persons specified in clause (a) ;”;

- (b) in paragraph 2, after clause (xaa), the following clause shall be inserted, namely: -

(xab) “online information and database access or retrieval services” has the same meaning as assigned to it in clause (ccd) of sub-rule 1 of rule 2 of the Service Tax Rules, 1994;”.

**NOTIFICATION NO. 46/2016-SERVICE TAX DATED 9TH NOVEMBER, 2016  
APPLICABLE FROM 1ST DECEMBER, 2016**

**Objective:** To amend Place of Provision of Services Rules, 2012 so as to amend the place of provision of 'online information and database access or retrieval services' with effect from 01.12.1016.

**Place of Provision of Services (Amendment) Rules, 2016.**

- (i) in rule 2, for clause (l), following clause shall be substituted, namely:-
  - (l) "online information and database access or retrieval services" has the same meaning as assigned to it in clause (ccd) of sub-rule 1 of rule 2 of the Service Tax Rules, 1994;"
- (ii) in rule 3, in the proviso, after the words "in case", the words "of services other than online information and database access or retrieval services, where" shall be inserted;
- (iii) in rule 9, clause (b) shall be omitted.

**NOTIFICATION NO. 44/2016 DATED 28<sup>TH</sup> SEPTEMBER, 2016**

For the purposes of adjudging a penalty under Chapter V of the said Finance Act or the rules made thereunder, the powers of the officers have been substituted as under:

Sr. No.	Rank of the Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice issued under the Finance Act 1994.
(1)	(2)	(3)
(1)	Superintendent	Not exceeding rupees ten lakh (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation).
(2)	Assistant Commissioner or Deputy Commissioner	Not exceeding rupees fifty lakh (except cases where Superintendents are empowered to adjudicate).
(3)	Joint Commissioner or Additional Commissioner	Rupees fifty lakh and above but not exceeding rupees two crore.
(5)	Commissioner	Without limit."

**NOTIFICATION NO. 43 /2016-SERVICE TAX DATED 28 SEPTEMBER, 2016**

**Service Tax (Third Amendment) Rules, 2016.**

In the Service Tax Rules, 1994, in Form ST- 3,-

- (i) in Part-A, in the Table, in A8,-
  - (a) in serial number A 8.1, for the words "Individual/Proprietary", the words "Individual/Proprietary/ One Person Company" shall be substituted;

(b) in serial number A 8.2, for the words “Limited Liability Partnership”, the words “Partnership/Limited Liability Partnership” shall be substituted;

(ii) in Part -B,-

(a) in the Table “B1 FOR SERVICE PROVIDER”, after serial number B1.24 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

B1.25	Krishi Kalyan Cess payable based on entries in serial number B1.15						
B1.26	Krishi Kalyan Cess payable based on entries in serial number B1.16						
B1.27	Total Krishi Kalyan Cess payable B1.27=B1.25+B1.26”;						

(b) in the Table “B2 FOR SERVICE RECEIVER”, after serial number B2.24 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

C1.2	Krishi Kalyan Cess deposited in advance”;						
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(iii) in Part-C, in the Table, after serial number C1.1 and the entries relating thereto, the following serial number and entries shall be inserted, namely:-

C1.2	Krishi Kalyan Cess deposited in advance”;						
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(iv) for the Part-D heading, the following heading shall be substituted, namely:-

“Part-D SERVICE TAX PAID IN CASH AND THROUGH CENVAT CREDIT

Service Tax, Swachh Bharat Cess, Krishi Kalyan Cess, Education Cess, Secondary and Higher Education Cess and other amounts paid”;

(v) in Part DA,after serial number DA4 and the entries relating thereto,the following serial number and the entries shall be inserted namely :-

“DA4.1	By adjustment of excess amount paid earlier as Swachh Bharat Cess in respect of immovable property on account of non availment of deduction of property tax paid and adjusted in this period under rule 6(4C) of the Service Tax Rules,1994”;						
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(vi) after Part DA, the following part shall be inserted, namely:-

**“PART DB- KRISHI KALYAN CESS PAID IN CASH AND THROUGH CENVAT CREDIT**

DB1	In cash						
DB2	By CENVAT credit (not applicable where the service tax is liable to be paid by the recipient of service)						
DB3	By adjustment of amount paid as Krishi Kalyan Cess in advance under rule 6(1A) of the Service Tax Rules,1994						
DB4	By adjustment of excess amount paid earlier as Krishi Kalyan Cess and adjusted, by taking credit of such excess Krishi Kalyan Cess paid, in this period under rule 6(3) of the Service Tax Rules,1994						
DB5	By adjustment of excess amount paid earlier as Krishi Kalyan Cess and adjusted in this period under rule 6(4A) of the Service Tax Rules,1994						
DB6	By adjustment of excess amount paid earlier as Krishi Kalyan Cess in respect of service of Renting of Immovable Property, on account of non-availment of deduction of property tax paid and adjusted in this period under rule 6(4C) of the Service Tax Rules,1994						
DB7	By book adjustment in the case of specified Government departments						
DB8	Total Krishi Kalyan Cess paid DB8=(DB1+DB2+DB3+DB4+DB5+DB6+DB7)”;						

(vii) in Part G, in the Table, after serial number G16 and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely:-

G17	Arrears of Krishi Kalyan Cess paid in cash						
G18	Arrears of Krishi Kalyan Cess paid by utilising Cenvat Credit						
G19	Interest on Krishi Kalyan Cess paid in cash						
G20	Penalty on Krishi Kalyan Cess paid in cash						
G21	Total payment of arrears, interest, penalty on Krishi Kalyan Cess G21=(G17+G18+G19+G20)”;						

(viii) in PART H,-

(a) for H1 Table heading, the following Table heading shall be substituted, namely:-

“H1 DETAILS OF CHALLAN (vide which Service Tax, Swachh Bharat Cess, Krishi Kalyan Cess, Education Cess, Secondary and Higher Education Cess and other amounts have been paid in cash)”;

(b) for H2 Table heading, the following Table heading shall be substituted, namely:-

“H2 Source document details for payments made in advance/adjustment, for entries made at column D3, D4, D5, D6, D7; DA2, DA3, DA4, DA4.1, DA5 ; DB3, DB4, DB5, DB6, DB7; E3, E4, E5, E6, E7; F3,F4, F5, F6, F7; G1 to G11, G13 to G15 and G17 to G20.”;

(ix) in PART - I,-

(a) for the Table I-1 the following Table shall be substituted, namely,-

“I1 DETAILS ABOUT THE ASSESSEE PROVIDING EXEMPTED AND NON-TAXABLE SERVICE OR MANUFACTURING EXEMPTED EXCISABLE GOODS

II.1	Whether providing any exempted service or non-taxable service? ('Y' / 'N')	
II.2	Whether manufacturing any exempted excisable goods? ('Y' / 'N')	
II.3	If reply to II.1 OR II.2 is 'Y', Whether exclusively engaged either in the provision of exempted services or in the manufacture of exempted goods? [refer to rule 6(2) of the Cenvat Credit Rules, 2004] ('Y' / 'N')	
II.3.1	If reply to II.3 is 'N' (i.e., providing both exempted and non-exempted goods/services), Whether paying an amount equal to 2%/7%/6% of the value of exempted services/goods under rule 6(3)(i) of CENVAT Credit Rules, 2004? ('Y' / 'N')	
If reply to II.3.1 is 'N' (i.e., opting to pay under Rule 6(3)(ii) read with rule 6(3A) of CENVAT Credit Rules, 2004), then -		
II.4	Value of exempted goods manufactured during the preceding financial year	

II.5	Value of exempted services provided during the preceding financial year	
II.6	Total value of exempted goods manufactured and services provided during the preceding financial year [refer to <b>E</b> in rule 6(3A)(b)(iv)] II.6=(II.4+II.5)	
II.7	Value of non-exempted goods manufactured during the preceding financial year	
II.8	Value of non-exempted services provided during the preceding financial year	
II.9	Total value of non-exempted goods manufactured and services provided during the preceding financial year II.9=(II.7+II.8)	
II.10	Total value of goods manufactured and services provided during the preceding financial year [refer to <b>F</b> in rule 6 (3A)(b)(iv)] II.10=(II.6+II.9)	
II.11	Total credit of inputs and input services taken [refer to <b>T</b> in rule 6(3A)(b)]	
II.11.1	Ineligible credit [refer to <b>A</b> in rule 6(3A)(b)(i)]	
II.11.2	Eligible credit [refer to <b>B</b> in rule 6(3A)(b)(ii)]	
II.11.3	Common credit [refer to <b>C</b> in rule 6(3A)(b)(iii)] <b>C=T-(A+B)</b> [II.11.3 = II.11 – (II.11.1 + II.11.2)]	
II.11.4	Ineligible common credit [refer to <b>D</b> in rule 6(3A)(b)(iv)] <b>D=(E/F) x C</b> (II.11.4= [(II.6 / II.10) x II.11.3])	
II.11.5	Eligible common credit [refer to <b>G</b> in rule 6(3A)(b)(v)] <b>G=C-D</b> II.11.5= (II.11.3 - II.11.4)	
II.12	Amount reversed under rule 6(3B) for banking companies and financial institutions	

*II.11 to II.12 will be a entry for each month / quarter.”;*

(b) after I3.3 , the following Table shall be inserted namely:-

“I3.4 DETAILS OF CENVAT CREDIT OF KRISHI KALYAN CESS TAKEN AN UTILISATION THEREOF –

I3.4.1	Opening Balance of Krishi Kalyan Cess						
I3.4.2	Credit of Krishi Kalyan Cess taken						
I3.4.2.1	on input services received directly						
I3.4.2.2	as received from Input Service Distributor						
I3.4.2.3	Any other credit taken (please specify)						
I3.4.2.4	Total credit of Krishi Kalyan Cess taken I3.4.2.4=(I3.4.2.1+I3.4.2.2+I3.4.2.3)						
I3.4.3	Credit of Krishi Kalyan Cess utilised						
I3.4.3.1	for payment of Krishi Kalyan Cess on services						
I3.4.3.2	for any other payments/adjustments/ reversal (please specify)						
I3.4.3.3	Total credit of Krishi Kalyan Cess utilised I3.4.3.3=(I3.4.3.1+I3.4.3.2)						
I3.4.4	Closing Balance of Krishi Kalyan Cess I3.4.4={(I3.4.1+I3.4.2.4)-I3.4.3.3}”;						

(x) for Part J, the following Part shall be substituted, namely:-

“PART J

CREDIT DETAILS FOR INPUT SERVICE DISTRIBUTOR

(TO BE FILLED ONLY BY AN INPUT SERVICE DISTRIBUTOR):

Sl.	Month/Quarter	Apr/	May/	June/	July/	Aug/	Sep/
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No.		Oct	Nov	Dec	Jan	Feb	Mar

**J1 DETAILS OF CENVAT CREDIT OF SERVICE TAX AND CENTRAL EXCISE DUTY TAKEN AND DISTRIBUTION THEREOF –**

J1.1	Opening Balance of CENVAT credit						
J1.2	Credit taken (for distribution)on input services						
J1.3	Credit of CENVAT distributed						
J1.4	Closing Balance of Cenvat credit J1.4= {(J1.1+J1.2)- J1.3}						

**J2 DETAILS OF CENVAT CREDIT OF EDUCATION CESS TAKEN AND DISTRIBUTION THEREOF –**

J2.1	Opening Balance of CENVAT credit of Education Cess						
J2.2	Credit of Education Cess taken (for distribution)on input services						
J2.3	Credit of Education Cess distributed						
J2.4	Closing Balance of Cenvat credit of EC J2.4= {(J2.1+J2.2) - J2.3}						

**J3 DETAILS OF CENVAT CREDIT OF SECONDARY AND HIGHER EDUCATION CESS TAKEN AND DISTRIBUTION THEREOF –**

J3.1	Opening Balance of CENVAT credit of SHEC						
J3.2	Credit taken of SHEC (for distribution)on input services						
J3.3	Credit of SHEC distributed						
J3.4	Closing Balance of Cenvat credit of SHEC= J3.4= {(J3.1+J3.2)-J3.3}						



**J4 DETAILS OF CENVAT CREDIT OF KRISHI KALYAN CESS TAKEN AND DISTRIBUTION THEREOF –**

J4.1	Opening balance of CENVAT credit of Krishi Kalyan Cess						
J4.2	Credit of Krishi Kalyan Cess taken (for distribution) on input services						
J4.3	Credit of Krishi Kalyan Cess distributed						
J4.4	Closing Balance of CENVAT credit of Krishi Kalyan Cess J4.4={J4.1+J4.2} – J4.3”;						

(xi) after Part L, under the heading Instructions to fill up Form ST-3, in the Table ,the Column No. in form ST 3 ,the Sr. No. J1.4,J2.4 &J3.4 and the entries relating thereto shall be omitted.

**NOTIFICATION NO. 41/2016-SERVICE TAX DATED 22ND SEPTEMBER, 2016**

**Objective:** To exempt taxable service provided by State Government Industrial Development Corporations/ Undertakings by way of granting long term (thirty years, or more) lease of industrial plots to industrial units from so much of service tax which is leviable on the one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for such lease.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable service provided by State Government Industrial Development Corporations/ Undertakings to industrial units by way of granting long term (thirty years, or more) lease of industrial plots from so much of service tax leviable thereon under section 66B of the said Act, as is leviable on the one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for such lease.

**NOTIFICATION NO. 40/2016-SERVICE TAX DATED 6TH SEPTEMBER, 2016**

**Amendment in Notification No.25/2012 (Mega Exemption Notification) -Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 467 (E), dated the 20th June, 2012**

**Objective:** To amend Notification No. 25/2012- Service Tax, dated 20.06.2012, so as to make necessary amendment by substituting the clause (a) of entry 5 in opening paragraph.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) *vide* number G.S.R. 467 (E), dated the 20th June, 2012, namely:-

In the said notification, in the opening paragraph, in entry 5, for clause (a), the following clause shall

be substituted, namely:-

“(a) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the Income-tax Act; or”

#### **NOTIFICATION NO. 39/2016-SERVICE TAX DATED 2ND SEPTEMBER, 2016**

**Amendment in Notification No.25/2012 (Mega Exemption Notification) -Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 467 (E), dated the 20th June, 2012**

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 467 (E), dated the 20th June, 2012, namely:-

In the said notification, in the first paragraph, in entry 62, for the words and figures “during the financial year 2015-16”, the words, figures and letters “during the period prior to 1st April, 2016” shall be substituted.

#### **NOTIFICATION NO. 38/2016-SERVICE TAX DATED 30TH AUGUST, 2016**

**Objective:** Seeks to amend Notification No. 26/2012- Service Tax dated 20.06.2012, by inserting of entry “5A” for transportation of passengers embarking from or terminating in a Regional Connectivity Scheme (RCS) airports, with abatement of 90%, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) airport, with condition of without taking any CENVAT credit.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of

Revenue) No. 26/2012- Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 468 (E), dated the 20th June, 2012, namely:-

1. In the said notification,-

(a) in the TABLE, after Sl. No. 5 and the entries relating thereto, the following serial number and entries shall be inserted, namely :- "5A	Transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport.	10	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004."
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(b) after paragraph 2, the following paragraph shall be inserted, namely :-

"2A. Nothing contained at Sl. No. 5A of the TABLE shall apply on or after the expiry of a period of one year from the date of commencement of operations of the Regional Connectivity Scheme Airport as notified by the Ministry of Civil Aviation."

#### **NOTIFICATION NO.37 /2016-SERVICE TAX DATED 18 AUGUST, 2016**

#### **Amendment to Central Excise Rules**

**Objective:** Giving the powers of Chief Commissioner to Principal Commissioner who have been given the additional charge vide office orders No. 79/2016 dated 14.07.2016 and 86/2016 dated 26.07.2016

In exercise of the powers conferred by clause (b) of section 2 of the Central excise Act, 1944 (1 of 1944) read with clause (55) of section 65B of the Finance Act, 1994 (32 of 1994), rule 3 of the Central Excise Rules, 2002, and rule 3 of the Service Tax Rules, 1994, the Central Board of Excise and Customs hereby invests the officers specified in column (1) of the Table below, with the powers of the Central Excise Officer of the rank specified in column (2) of the said Table, in the jurisdiction specified in Notification No. 20/2014-Service Tax, dated the 16th September, 2014 published in the Gazette of India, Extraordinary Part-II, Section 3, Sub-Section (i), vide G.S.R. 648 (E), dated the 16th September, 2014, namely:-

**TABLE**

<i>Central Excise Officer</i>	<i>Rank of the Central Excise Officer whose powers is to be exercised</i>
(1)	(2)
All Principal Commissioners who have been given additional charge of a Chief Commissioner vide Office Orders of the Central Board of Excise and Customs No. 79/2016 dated the 14th July, 2016 and 86/2016 dated the 26th July, 2016 respectively.	The Chief Commissioner.

#### **NOTIFICATION NO. 36/2016-SERVICE TAX DATED 23RD JUNE, 2016**

**Objective:** Seeks to exempt service tax on taxable services by way of transportation of goods by a vessel from outside India upto customs station in India with respect to which the invoice for the service has been issued on or before 31st May, 2016 subject to the condition of production of customs certified copy of the import manifest or import report required to be delivered under section 30 of the Customs Act, 1962.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services by way of transportation of goods by a vessel from outside India upto the customs station in India with respect to which the invoice for the service has been issued on or before the 31st May, 2016, from the whole of service tax leviable thereon, subject to the condition that the import manifest or import report required to be delivered under section 30 of the the Customs Act, 1962 (52 of 1962) has been delivered on or before the 31st May, 2016 and the service provider or recipient produces Customs certified copy of such import manifest or import report.

#### **NOTIFICATION NO. 35/2016-SERVICE TAX DATED 23RD JUNE, 2016**

**Objective:** Seeks to exempt taxable services from the whole of Krishi Kalyan Cess leviable thereon with respect to which the invoice for the service has been issued on or before 31st May, 2016 subject to the condition that the provision of the service has been completed on or before 31st May, 2016

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), read with sub-section (5) of section 161 of the Finance Act, 2016 (28 of 2016), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services with respect to which the invoice for the service has been issued on or before the 31st May, 2016, from the whole of Krishi Kalyan Cess leviable thereon, subject to condition that the provision of service has been completed on or before the 31st May, 2016.

#### **NOTIFICATION NO. 34/2016-SERVICE TAX DATED 6TH JUNE, 2016**

**Amendment in Notification No. 30/2012 (Reverse Charge Notification) -Service Tax, dated the 20th June, 2012,**

**Objective:** Seeks to amend notification No. 30/2012-Service Tax dated 20th June, 2012, so as to prescribe extent of payment of service tax by a business entity as a recipient of services provided by senior advocates.

In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 30/2012-Service Tax, dated the 20th June, 2012, published

in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 472 (E), dated the 20th June, 2012, namely:-

1. In the said notification,-
  - (a) in paragraph I, in clause (A),-
    - (i) in sub-clause (iv), for item (B), the following item shall be substituted, namely:-

“(B) an individual advocate or a firm of advocates by way of legal services other than representational services by senior advocates, or”;
    - (ii) for sub-clause (iva), the following sub-clauses shall be substituted, namely:-

“(iva) provided or agreed to be provided by a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, and the senior advocate is providing such services, to such business entity who is litigant, applicant, or petitioner, as the case may be”;

(ivb) provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate;”
  - (b) in paragraph (II):-
    - (i) in the TABLE, against Sl. No. 5, for the entry under column (2), the following entry shall be substituted, namely:-

“in respect of services provided or agreed to be provided by an individual advocate or firm of advocates by way of legal services, directly or indirectly”;
    - (ii) after *Explanation II.*, the following shall be inserted, namely:-

“*Explanation III.* – The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.”.

#### **NOTIFICATION NO. 33/2016-SERVICE TAX DATED THE 6TH JUNE, 2016**

**Objective:** Seeks to amend Service Tax Rules, 1994 so as to specify the business entity as the person liable to service tax in respect of services provided by senior advocates.

In exercise of the powers conferred by sub-section (1) read with subsection (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:-

1. These rules may be called the Service Tax (Fourth Amendment) Rules, 2016.

2. In the Service Tax Rules, 1994, in rule 2, in sub-rule (1), in clause (d), in sub-clause(i),-
- (a) in item (D), for sub-item (II), the following sub-item shall be substituted, namely:-
- “(II) an individual advocate or a firm of advocates by way of legal services other than representational services by senior advocates;”
- (b) after item (D), the following item shall be inserted, namely:-
- “(DD) in relation to service provided or agreed to be provided by a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, and the senior advocate is providing such services, the recipient of such services, which is the business entity who is litigant, applicant, or petitioner, as the case may be”.

#### **NOTIFICATION NO. 32/2016-SERVICE TAX, DATED 6TH JUNE, 2016**

**Objective:** Seeks to amend notification No. 25/2012 - Service Tax, dated the 20th June, 2012, so as to exempt the legal services provided by senior advocates to a business entity with a turnover up to rupees ten lakh in the preceding financial year.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 467 (E), dated the 20th June, 2012, namely:-

1. In the said notification, in the first paragraph, in entry 6, for clause (c), the following clause shall be substituted, namely:-
- “(c) a senior advocate by way of legal services to-
- (i) any person other than a business entity; or
- (ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year;”.

#### **NOTIFICATION NO. 31/2016-SERVICE TAX DATED 26TH MAY, 2016**

**Objective:** Seeks to inter alia provide composition rate for Krishi Kalyan Cess as applicable to ST under sub-rules 7,7A,7B,7C of rule 6 of STR, 1994

In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:-

1. (1) These rules may be called the Service Tax (Third Amendment) Rules, 2016.  
(2) These rules shall come into force from the 1st day of June, 2016.
2. In the Service Tax Rules, 1994, in rule 6,
  - (i) in sub-rule (7D), for the figures "0.5" the words "effective rate of Swachh Bharat Cess" and for the words, figures and brackets "14 (fourteen)", the words and figures "rate of service tax specified in section 66B of the Finance Act, 1994" shall be substituted;";
  - (ii) after sub-rule (7D), the following sub-rule shall be inserted, namely:-

"(7E) The person liable for paying the service tax under sub-rule (7), (7A), (7B) or (7C) of rule 6, shall have the option to pay such amount as determined by multiplying total service tax liability calculated under sub-rule (7), (7A), (7B) or (7C) of rule 6 by effective rate of Krishi Kalyan Cess and dividing the product by rate of service tax specified in section 66B of the Finance Act, 1994, during any calendar month or quarter, as the case may be, towards the discharge of his liability for Krishi Kalyan Cess instead of paying Krishi Kalyan Cess at the rate specified in sub-section (2) of section 161 of the Finance Act, 2016 (28 of 2016) and the option under this sub-rule once exercised, shall apply uniformly in respect of such services and shall not be changed during a financial year under any circumstances."

#### **NOTIFICATION NO. 30/2016-SERVICE TAX DATED 26TH MAY, 2016**

**Objective:** Seeks to amend notification No. 12/2013- ST, dated the 1st July, 2013 so as to inter alia allow refund of Krishi Kalyan Cess paid on specified services used in an SEZ.

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), read with sub-section (5) of section 161 of the Finance Act, 2016 (28 of 2016), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2013-Service Tax, dated the 1st July, 2013, published in the Gazette of India, Extraordinary, *vide* number G.S.R. 448(E), dated the 1st July, 2013, namely:-

In the said notification, in paragraph 3, in sub-paragraph (III),-

- (i) for clause (b), the following clause shall be substituted, namely:-

"(b) the SEZ Unit or the Developer shall be entitled to refund of-

  - (i) the service tax paid on the specified services on which ab-initio exemption is admissible but not claimed, and
  - (ii) the amount distributed to it in terms of clause (a).";
- (ii) in clause (ba),
  - (a) in item (i), after the words "Swachh Bharat Cess", the words "and Krishi Kalyan Cess" shall be inserted;

- (b) in item (ii) for the words “by effective rate of Swachh Bharat Cess”, the words “by sum of effective rates of Swachh Bharat Cess and Krishi Kalyan Cess” shall be substituted.

This notification shall come into force from the 1st day of June, 2016.



# REVISED MODEL GST LAW

## KEY HIGHLIGHTS OF THE REVISED MODEL GST LAW

The Draft Model GST Law was released in the public domain on 14.06.2016. After receiving recommendations / representations from various stakeholders, the revised draft model GST law was made available on 26th November, 2016. Key highlights of the revised Draft Model GST Law are as under:

1. **Threshold limit for Registration Increased :** Aggregate turnover of Rs 10 Lakhs for Special Category States (Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand) and Rs 20 Lakhs for other than Special Category States. Aggregate turnover includes all Taxable Supplies, Exempt Supplies and Export supplies but does not include non-taxable turnover.
2. **Rate:** The GST rate has been capped at 14% each for CGST and SGST and 28% for IGST.
3. **Definition of capital goods simplified :** “capital goods” means goods, the value of which is capitalised in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business;
4. **Definition of Goods :** Goods, now specifically exclude ‘securities’. Therefore, no GST on securities.
5. **Composition scheme :** There would be option available to tax payers having turnover less than Rs. 50 lacs can opt for Composition scheme wherein they need to discharge tax at a floor rate of 1% or 2.50% (for manufacturers) CGST and SGST each. Along with the condition denying composition to persons engaged in Interstate Outward supplies, the following are new additions have been added in the revised draft model law :
  - a) Engaged in supply of services
  - b) Engaged in supply of goods which are not leviable to tax under GST
  - c) Engaged in any supply of goods through an electronic commerce operator
  - d) Manufacturer of such goods as may be notified on the recommendation of the Council.
6. **Supplies to SEZs :** It has been clarified that supplies to SEZs would be zero-rated.
7. **Scope of Supply :** Various inconsistencies in meaning and scope of Supply, have been addressed. Now, import of service whether for business or personal use, only for a consideration will be considered as supply. However, import of service

from related party for business purposes only, even without consideration, is considered as supply as it has been included in Schedule I.

**8. Schedule I :** Schedule I which deals with matters to be treated as supply even if made without consideration, includes,

- a) Permanent transfer/disposal of business assets where input tax credit has been availed on such assets.
- b) Supply of goods or services between related persons, or between distinct persons as specified in section 10, when made in the course or furtherance of business.
- c) Supply of goods—
  - (i) By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
  - (ii) By an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- d) Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

**9. Schedule III,** deals with activities which are outside the scope of supply. These include:

- Contract of employment
- Service by court or tribunal
- Functions performed by Members of Parliament, and other state and local authorities
- Services by foreign diplomatic mission in India
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

**10. Concept of distinct person :**

- A person who has obtained or is required to obtain more than one registration, whether in one State or more than one State, shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- An establishment of a person who has obtained or is required to obtain registration in a State, and any of his other establishments in another State shall be treated as establishments of distinct persons for the purposes of this Act.

**11. Time of supply:**

- For Goods - The earliest of :Date of issuance of invoice or the last date by which invoice is required to be issued or the date of receipt of advance
- For Service – The earliest of: Date of issuance of invoice or the last date by which invoice is required to be issued or the date of receipt of advance.

Further, there are special provisions for continuous supply of goods / services, Reverse Charge Mechanism etc

**12. Value of supply :** Transaction value GST would be payable on the 'transaction value'. Transaction value is the price actually paid or payable for the said supply of goods and/or services between un-related parties. The transaction value is also said to include all expenses in relation to sale such as packing, commission etc. Even subsidies linked to supply, excluding Government subsidies will be includable. However, discounts / incentives given before or at the time of supply will be permissible as deduction from transaction value. As regards discounts given after supply is made, the same will be permissible as deduction subject to fulfilment of prescribed conditions.

**13.** Different provisions have been provided for Place of supply in case of exports and Imports, under the Model IGST Law.

**14.** The Revised Model GST Law has proposed an anti-profiteering mechanism to ensure benefit of lower taxes in GST is shared with consumers. It is stated that an Authority will be constituted to examine whether input tax credits availed by any registered taxable person or the reduction in the price on account of any reduction in the tax rate have actually resulted in a commensurate reduction in the price of the said goods and/or services supplied by him.

*Note: Student may refer the Revised Draft Model GST Law (Revised on 26th November, 2016) available at <http://www.cbec.gov.in/resources//htdocs-cbec/gst/draft-model-gst-law-25-11-2016.pdf>.*