

## Service tax

**Introduction** – Prior to July, 1994 only the manufacturing sector was subject to indirect tax in the form of Central Excise, placing a disproportionate burden on this sector. Considering that service element constitutes significant part of the GDP, Service Tax was imposed in 1994 for the first time on telephone services,, services relating to non-life insurance and services provided by Stock Brokers. The number of new services was brought under tax net over period of time and presently 100 services are subject to service tax (list of taxable services at annexure 'A'). Service Tax is applicable to the whole of India except the State of Jammu and Kashmir. It also extends to the designated areas in the Continental Shelf and Exclusive Economic Zone of India. 02. The legal provisions for the levy and collection of Service Tax were introduced through Finance Bill 1994. Thus, the law relating to Service Tax is still governed by Chapter V of the Finance Act, 1994 (Sections 64 to 96I). Initially the service tax rate was 5% of the gross value of service. This was enhanced to 8% in 2003 Budget (with extension of credit facility acrossed the services). In 2004 Budget the rate were further enhanced to 10% (+ a cess of 2% thereon introduced from September 2004) with extension of credit across goods and services. The rate was enhanced to the present rate of 12% in 2006 Budget. 03. Sub – section (105) of section (2) defines individual activities that fall under taxable service. Thus unlike excise & customs, there is no separate tariff for service tax.

### History of Service Tax

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Dr. Raja Chelliah Committee on tax reforms recommended the introduction of service tax. Service tax had been first levied at a rate of five per cent flat from 1 July 1994 till 13 May 2003, at the rate of eight percent flat w.e.f 1 plus an education cess of 2% thereon w.e.f 10 September 2004 on the services provided by service providers. The rate of service tax was increased to 12% by Finance Act, 2006 w.e.f 18.4.2006. Finance Act, 2007 has imposed a new secondary and higher education cess of one percent on the service tax w.e.f 11.5.2007, increasing the total education cess to three percent and a total levy of 12.36 percent. The revenue from the service tax to the Government of India have shown a steady rise since its inception in 1994. The tax collections have grown substantially since 1994–95 i.e. from ₹410 crore (US\$57 million) in 1994–95 to ₹132,518 crore (US\$18 billion) in 2012–13. The total number of Taxable services also increased from 3 in 1994 to 119 in 2012. However, from 1 July 2012 the concept of taxation on services was changed from a 'Selected service approach' to a 'Negative List regime'. This changed the taxation system of services from tax on some Selected services to tax being levied on the every service other than services mentioned in Negative list.<sup>[1]</sup>

Under the Service tax from the year of original levying year of 1994 are constantly growing. The collections are shown as in the following table:

<b>Financial Year</b>	<b>Revenue Rupees(in crores)</b>	<b>Number of services</b>	<b>Number of Assessees</b>
1993–1994	254	2	2568
1994–1995	407	3	3943
1995–1996	862	6	4866
1996–1997	1059	6	13982
1997–1998	1586	18	45991
1998–1999	1957	26	107479
1999–2000	2128	26	115495
2000–2001	2613	26	122326
2001–2002	3302	41	187577
2002–2003	4122	52	232048
2003–2004	7891	62	403856
2004–2005	14200	75	774988

2005–2006	23055	84	846155
2006–2007	37598	99	940641
2007–2008	51301	100	1073075
2008–2009	60941	106	1204570
2009–2010	58422	109	1307286
2010–2011	71016	117	1372274
2011–2012	97509	119	1535570
2012–2013	132518	Negative List Regime	1712617

## Rates

Service Tax which started out at a nominal 5% is now at 20%.

It was increased to 14% for transactions that happened on or after 1 June 2015 and then for transactions that occurred on or after 15 Nov 2015, the new *Swachh Bharat* Cess at 0.5% was also added to the Service Tax. Therefore, the effective rate became 14.5% with effect from 15 Nov 2015.

For transactions that occurred on or after 1 June 2016 this tax is at 15%.<sup>[2]</sup> 2016 Union budget of India has proposed to impose a cess, called the *Krishi Kalyan Cess*, at 0.5% on all taxable services effective from 1 June 2016. The current service tax is at 15%.<sup>[3]</sup>

**Krishi Kalyan Cess:-**

With introduction of *Krishi Kalyan Cess*<sup>[4]</sup> at 0.5% w.e.f June 1, 2016, effective rate of Service tax would eventually go up to 15%, which was earlier increased to 14% (with subsumation of Education Cess and Secondary and Higher Education Cess) from 12.36% w.e.f June 1, 2015 and *Swachh Bharat Cess* at 0.5% on value of all taxable services imposed w.e.f November 15, 2015. *Krishi Kalyan Cess*, which was announced during the 2016–17 Budget, has become applicable from 1 June. A tax of 0.5% would

be levied over and above the Service Tax and Swachh Bharat Cess. Till 31 May 2016, the Service Tax rate was 14.5%. With Krishi Kalyan cess, the service tax would increase to 15%. While Swachh Bharat Cess was levied to conduct cleanliness drive in India, the new cess has been levied for the purpose of financing and promoting initiatives to improve agricultural growth.

### Small Scale Exemption

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Service tax is only liable to be paid in case the total value of the service provided during the financial year is more than ₹10 lakh (US\$14,000). If the value of services provided during a preceding<sup>[5]</sup> financial year is less than ₹10 lakh(US\$14,000), only then this exemption is applicable in the current financial year. It is optional for he wants to avail this exemption or not.<sup>[6]</sup>

### Declared Services <sup>[7][8]</sup>

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In the year of 2012, service tax laws has witnessed a paradigm shift when the taxation shifts from positive list of services to negative list of services. At that time, another concept of declared service was introduced by the Government of India via Section 66E of Finance Act, 1994.

Declared service is the deeming fiction of law. It provides the lawmakers with an arbitrary power to declare any activity as a service. Section 65B(22) defines the declared service as any activity carried out by a person for another person for consideration and declared as such under section 66E. Further, the definition of service under section 65B(44) also specifically covers the declared service under the definition of service.

This section is also one of the vital sections of Finance Act, 1994. Any service included under this section will be liable to service tax straight.

### Negative list

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Budget 2012 revamped the taxation provisions for services by introducing a new system of taxation of services in India. In the new system all services, except those specified in the negative list, are subject to taxation. Earlier the levy of service tax was based on positive list—specified 119 taxable services.<sup>[9]</sup>

As per clause (34) of section 65B of the Finance Act, 1994, the term "Negative List" means the services which are listed in section 66D. <sup>[10]</sup> 66D; government service

### Registration of Service Tax<sup>[11]</sup>

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As per Service Tax Law it is mandatory for the following categories of persons to obtain registration :-

- Every person liable to pay service tax under Reverse Charge
- An input service distributor
- Every provider of taxable service whose aggregate value of taxable service exceeds 9 lakhs in a financial year.

Every person mentioned above will have to get themselves registered under the service tax law **within 30 days** from the date of commencement of such service or business.

Whereas in case of service provider whose aggregate value of taxable service not exceeded 9 lakhs in a financial year **not need to obtain registration**, where in case he has obtained registration he is liable to payment of service tax only if the value of taxable services exceeds 10 lakhs rupees.<sup>[2]</sup>

### Service Tax Invoices

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Rule 4A prescribes that taxable services shall be provided and input credit shall be distributed only on the basis of a bill, invoice or challan. Such bill, invoice or challan will also include documents used by service providers of banking services (such as pay-in-slip, debit credit advice etc.) and consignment note issued by goods transport agencies. Rule 4B provides for issuance of a consignment note to a customer by the service provider in respect of goods transport booking services.<sup>[12]</sup>