



**TAX
ALERT**

***Reconstruction of
laws on Services
provided by
Government / Local
Authority***



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- Effective from 01.04.2016, any services provided by Government or Local Authority to any business entities having turnover exceeding Rs. 10 lakh is taxable.

In order to keep certain sector outside the levy of service tax the following amendment has been brought.

1. Hitherto municipal services provided by Governmental Authority were exempt from levy of Service Tax. Henceforth, such services provided by Government or Local Authority shall also be exempted.
2. The following service provided by Government or Local Authority shall be exempted:
 - a. Service provided to another Government or local authority except for services rendered by the Department of Posts, Transport of goods and/or passengers and Services in relation to an aircraft.
 - b. Services provided in relation to issuance of passport, visa, driving licence and birth certificate
 - c. Fines and liquidity damages payable for Non performance of a contract. However, any fee charged by the Government or local Authority for performance of any activity being mandatory or statutory in nature shall be liable to Service Tax.
 - d. Services in the nature of Registration, Testing, Calibration, Safety check, Certification for protection / Safety of workers or consumers, Assigning right to use natural resources to an individual farmer.
 - e. Deputing of Officers on payment of Merchant Overtime Charges by Government
 - f. Service provided by Government, Local Authority or a governmental authority in relation to functions of Panchayat.
 - g. Service provided by allowing a business entity to operate as Telecom Service Provider / use radiofrequency spectrum for Financial Year 2015-16 on payment of licence fee or spectrum user charges. However, service tax will be chargeable on installments due for contracts entered prior to 01.04.2016.

Service tax will not be chargeable where the consideration value of service provided is less than Rs. 5000 except for services rendered by the Department of Posts, Transport of goods and/or passengers and Services in relation to an aircraft.



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Vide circular no. 192/02/2016-ST, it has also been clarified that Service Tax will not be chargeable on taxes, cesses or duties since the same are not consideration for any particular service.

- Hitherto Interest paid for delayed payment of any consideration for provision of services was not forming part of taxable value for the computation of service tax. Vide Notification No. 23/2016-ST dated 13.04.2016, such provisions would specifically not apply where services are provided by Government or local authority to a business entity. This would mean that in cases where a business entity has to pay service tax under RCM, such interest on delayed payment shall be added to the consideration for payment of service tax.
- Amendment has also been made in the Point of Taxation Rules 2011, whereby in cases involving RCM payment by business entity in respect of services received from Government or Local Authority, the point of taxation would earlier of a) date when payment become due, in full or part or b) actual payment.
- CENVAT credit Rule, 2004 has also been amended vide Notification No. 24/2016-CE dated 13.04.2016 whereby manner of availing CENVAT credit has been defined.
 - Credit on one time charges paid in a year shall be allowed to be taken evenly for a period of 3 years.
 - Credit on spectrum user charges, licence fee, transfer fee for trading spectrum and royalty in respect of natural resource shall be allowed to be taken in the year of payment.

Further, time limit of 1 year for credit availment shall not apply where service towards right to use natural resources has been provided by Government or Local Authority.

Cenvat credit will be available on the basis of Service Tax payment challan.