

**PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA**

**CLARIFICATIONS REGARDING SERVICES PROVIDED BY GOVERNMENT OR
LOCAL AUTHORITY; ANY SERVICE PROVIDED BY THE GOVERNMENT OR A
LOCAL AUTHORITY TO A BUSINESS ENTITY HAS BEEN MADE TAXABLE WITH
EFFECT FROM 1ST APRIL 2016.**

New Delhi, April 14, 2016
Chaitra 25, 1937

Any service provided by the Government or a local authority to a business entity has been made taxable with effect from 1st April 2016. Prior to this, only support services provided by Government or local authority to business entities were taxable. In order to clarify doubts raised by members of Industry and Trade Associations and mitigate the small assessee's compliance burden, a detailed Circular No. 192/02/2016-Service Tax dated 13 April 2016 has been issued. The Circular addressed to the field formations of the Central Board of Excise and Customs (CBEC) explains in a Q&A form the various provisions of the notifications issued in this regard. The Circular can be accessed at <http://www.cbec.gov.in/resources/htdocs-servicetax/st-circulars/st-circulars-2016/st-circ-192-2016.pdf>

It may be recalled that services provided by Government or a local authority to business entities up to a turnover of Rs 10 lakh in the preceding financial year have been exempted. This would relieve small businesses from compliance burden.

In this background, the salient features of the Circular are as under:-

Services provided by Government or a local authority to another Government or a local authority have been exempted. However, this exemption is not applicable to services provided by Government or a local authority which were subjected to service tax prior to 1st April 2016 (for instance, the services of transport of goods or passengers by Indian Railways).

Services by way of grant of passport, visa, driving license, birth or death certificates have been exempted. Further, services provided by Government or a local authority where the gross amount charged for such service does not exceed Rs 5000/- have been exempted. In case of continuous service, the exemption shall be applicable where the gross amount charged for such service does not exceed Rs. 5000/- in a financial year. Needless to say that this exemption is not applicable to the services provided by Government or a local authority which were subjected to service tax prior to 1st April 2016.

It has also been clarified that taxes, cesses or duties levied are not leviable to Service Tax. These taxes, cesses or duties include excise duty, customs duty, Service Tax, State VAT, CST, income tax, wealth tax, stamp duty, taxes on professions, trades, callings or employment, octroi, entertainment tax, luxury tax and property tax.

It has been clarified that fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to Service Tax. Further, fines and liquidated damages payable to Government or a local authority for non-performance of contract entered into with Government or local authority have been exempted.

It has been clarified that any activity undertaken by Government or a local authority against a consideration constitutes a service and the amount charged for performing such activities is liable to Service Tax. It is immaterial whether such activities are undertaken as a statutory or mandatory requirement under the law and irrespective of whether the amount charged for such service is laid down in a statute or not. As long as the payment is made (or fee charged) for getting a service in return (i.e., as a *quid pro quo* for the service received), it has to be regarded as a consideration for that service and taxable irrespective of by what name such payment is called. As a result, Service Tax is leviable on any payment, in lieu of any permission or license granted by the Government or a local authority. However, services provided by the Government or a local authority by way of:

(i) registration required under the law;

(ii) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under the law,

have been exempted.

It has also been clarified that Circular No. 89/7/2006-Service Tax dated 18-12-2006 & and Reference Code 999.01/23.8.07 in Circular No. 96/7/2007-ST dated 23.8.2007 issued in the pre-negative list regime by CBE&C are no longer applicable.

Services by way of allocation of natural resources by Government or a local authority to an individual farmer for the purposes of agriculture have been exempted.

Regulation of land-use, construction of buildings and other services listed in the Twelfth Schedule to the Constitution which have been entrusted to Municipalities under Article 243W of the Constitution, when provided by governmental authority are already exempt from service tax. The said services when provided by Government or a local authority have also been exempted from Service Tax.

Services provided by Government, a local authority or a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution have been exempted from service tax.
