

# UNION BUDGET 2015-16

## READY RECKONER – SERVICE TAX – REVERSE CHARGES

	Nature of Service	Service Provider	Service Receiver	% of Service Tax Liability		Remarks
				Provider	Receiver	
1	Insurance	Insurance Agent	Insurance Company	Nil	100%	
2	Goods Transport Agency By Road	Goods Transport Agency (one who issues consignment note by whatever name used)	Consignor Or Consignee who is - (a) factory, society, registered dealer of excisable goods, body corporate, partnership firm, AOP &  (b) who is liable to pay freight either himself or through his agent	Nil	100%	W.E.F. 01.04.15, payable on <b>30%</b> (earlier 25%) if Cenvat Credit has not been availed by service provider.  Exemption of Gross Freight Upto Rs. 1,500/- for single full consignment & Rs. 750/- for part consignment continues.
3	Sponsorship Service	Any Person	Any body corporate or partnership firm located in the taxable territory	Nil	100%	
	Sponsorship Service	Any Person	If the above receivers are not located in taxable territory or are other than the above	100%	Nil	The person receiving the money for sponsorship is liable
4	Service of Arbitral Tribunal	Arbitral Tribunal	<b>Business Entity</b>	Nil	100%	
5	Legal Service of Advocate or Advocate Firms	Individual Advocate or Advocate Firms	<b>Business Entity</b> located in Taxable Territory	Nil	100%	
6	Any Service By Govt. or Local Authority.	Government or Local Authority	<b>Business Entity</b> located in Taxable Territory	Nil	100%	<b>Excluding</b> renting of immovable property etc
7	Renting or hiring of motor vehicle designed to	Individual, HUF, proprietary or partnership	Business Entity Registered as a <b>Body Corporate</b> located in Taxable	Nil	100%	If Cenvat Credit is not taken by provider, abated value of 60%, S.T. payable on 40% ) w.e.f.01.10.14

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	carry passengers to any person who is not in the similar line of business	firm, AOP located in Taxable Territory	Territory	60% w.e.f. 01.10.14 50%	40% w.e.f. 01.01.14 50%	If Cenvat Credit is taken by provider (S.T. Payable on full value/non abated value )
8	Supply of Manpower or <u>Security Services</u> for any purpose	Individual, HUF, proprietary or partnership firm, AOP located in Taxable Territory	Business Entity Registered As A <b>Body Corporate</b> located in Taxable Territory	<u>Nil</u> <u>w.e.f.</u> <u>01.04.15</u> earlier 25%	<u>100%</u> <u>w.e.f.</u> <u>01.04.15</u> earlier 75%	<u>Security services</u> " means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity
9	Service Portion In Execution of Works Contract	Individual, HUF, proprietary or partnership firm, AOP located in Taxable Territory	Business Entity Registered As A <b>Body Corporate</b> located in Taxable Territory	50%	50%	<b>Valuation:</b> a) As Per Valuation Rule 2A(i) S.T.(Determination of Valuation Rules OR b) Under Composition Scheme - On 40% or 60% or 70% of the total amount depending on the nature of W.C. (w.e.f. 01.10.14, 60% changed to 70%)
10	Import of service	Located In Non Taxable Territory	Located In Taxable Territory	Nil	100%	Services received from Non-Taxable Territory
11	Any Taxable Service By A Director of a Co. to the said Co.	Director	<b>Company</b>	Nil	100%	Service Tax will apply in cases where employer - employee relation does not exist between the Co. & the directors

## **RELEVANT NOTIFICATIONS** (Might Be Useful In Filing Returns)

Reverse Charges	–	Notification No. 30/2012 S.T. Dated 20.06.12
Abatement & Conditions	–	Notification No. 26/2012 S.T. Dated 20.06.12
S.No. 7 of the Notification	–	Relates To Abatement On GTA
S.No. 9 of the Notification	-	Relates To Abatement On Renting of Motor Vehicles

## **GTA SERVICES BY ROAD - CONDITIONAL ABATEMENT**

The abatement allowed on GTA in serial no. 2 is subject to the following condition –

“CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.”

**The condition for availing abatement in case of GTA service has been amended w.e.f. 11.07.14 to clarify that the condition for non-availment of credit is required to be satisfied by the service providers only. Service recipient will not be required to establish satisfaction of this condition by the service provider. (Notification 8/2014-ST)**

## **A) EXEMPTIONS**

The Mega Exemption Notification No. 25/2012 - S.T. Dated 20.06.12 allows the following exemptions (as relevant to the industry) –

### **“21. - Services provided by a goods transport agency by way of transportation of –**

- (a) *agricultural produce;*
- (b) *goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or*
- (c) *goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;”*

Example –

“A” transports his goods in a goods carriage. No other goods are loaded in the goods carriage. A pays a freight of Rs.1300, “A” is not liable for payment of any service tax. “A” transports his goods in a goods carriage. He pays a freight of Rs.1300. Some other goods are also being transported in the same goods carriage, involving a freight of Rs.500. “A” is not eligible for this exemption.

Gross Amount charged on individual consignment transported in a goods carriage does not exceed Rs 750. An individual consignment’ means all goods transported by a goods transport agency by road in a goods carriage for a consignee. [The intention is that the transporting agency should not split the consignment, so that transport charges of individual consignment remain below Rs 750].

“Individual consignment” means all goods transported by a GTA, in a goods carriage, for a consignee. This exemption will come into play, when the consignments of several consignors are transported together.

### **“30. Carrying out an intermediate production process as job work in relation to -**

- (a) *agriculture, **printing** or textile processing;*
- (c) *any goods on which appropriate duty is payable by the principal manufacturer;*

The following notes are mentioned in the guidance booklet issued by the department -

*4.6.1 Would service tax be leviable on processes which do not amount to manufacture or production of goods?*

*Yes. Service tax would be levied on processes, unless otherwise specified in the negative list, not amounting to manufacture or production of goods carried out by a person for another for consideration. Some of such services relating to processes not amounting to manufacture are exempt as specified in entry no. 30 of Exhibit A2.*

*4.6.2 Would service tax be leviable on processes on which Central Excise Duty is leviable under the Central Excise Act, 1944 but are otherwise exempted?*

No. If Central Excise duty is leviable on a particular process as the same amounts to manufacture then such process would be covered in the negative list even if there is a central excise duty exemption for such process.

7.11.12 What is the tax liability of a person carrying out intermediate production process as job work for clients?

Any process amounting to manufacture or production of goods is in the negative list (except alcohol products). If process does not amount to manufacture or production of goods, and is further not covered in clause 30 of mega notification, the same is liable to service tax

## **NEGATIVE LIST**

The services mentioned in the Negative List are excluded from Service Tax as specified in the Act itself in Section 66 D. The following may be of relevance to the industry: -

“5) Trading of goods.”

“6) Any process amounting to manufacture or production of goods.”

“The phrase ‘processes amounting to manufacture or production of goods’ has been defined in section 65B of the Act as a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 (1 of 1944) or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act. This entry, therefore, covers manufacturing activity carried out on contract or job work basis provided duties of excise are leviable on such processes under the Central Excise Act, 1944 or any of the State Acts.”

## **B. VALUATION FOR SERVICE TAX ON WORKS CONTRACT**

**First Rule:** Calculate value of service and pay service tax @14% (earlier 12.36% - till the date is notified for charging 14% in the Union Budget 2015-16, presented on 28.02.15)

**Second Rule:** Pay service tax under “Composite Scheme” on 40%/60%/70% of total value of works contract. Payment of Service Tax on Works Contract under composite scheme -

1. In case of original works (i.e. new Construction, erection etc.) Pay @40% of total amount. Where total amount includes the value of land, it will be 25% of total amount charged.

2. Maintenance or repair or reconditioning or restoration or servicing of any goods @ 70% of total amount

3. Other works contract (other than a & b discussed above e.g. wall tiling installation of electrical fitting of an immovable property) 60% (70% w.e.f. 01.10.14) of “Total Amount”

**A change that has been brought by Union Budget, 2014-15 is amendment of Rule 2A of Service Tax (Determination of Value) Rules, 2006 wherein they have merged the categories 2 and 3 above into a single category with percentage of service portion as 70%.**

**This change will come into effect from 1st October, 2014 and same has been notified vide Notification No. 11/2014-ST dated 11th July, 2014. It has been explained in the TRU, MoF, GoI letter No D.O.F No. 334/15/2014-TRU dated 10th July, 2014 that this rationalisation by way of merger of categories has been made to avoid disputes of classification between these two categories.**

It is pertinent to mention here that the service provider and recipient would continue to pay 50% each of total service tax payable.

The original work means - all new constructions and all types of additions and alterations to abandoned or damaged structures on land required to make them workable;

Total amount includes the value of all goods and services – VAT - services supplied free of cost under the same contract or any other contract.

- Where value of goods or services supplied free of cost is not ascertainable, the same shall be determined on the basis of the fair market value closely available resemblance.
- Cenvat Credit of duty paid on inputs will not be allowed. However, credit of excise duty paid on capital goods and service tax paid on input services shall be available. It shall be available.

**Explanation** - In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.