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DEPARTMENT OF COMMERCE

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**FOR-LNMU -B.com part - 3Rd Paper-vii – Taxation
Theory**

and Practice Unit-4 Service tax Revision notes

Concept of charge of service tax

***Charge of service tax on and after Finance Act, 2016
[Section 66B]: There shall be levied service tax at the
rate of 15% On the value of all services, other than
those services specified in the negative list, provided
or agreed to be provided In the taxable territory by
one person to another and collected in such manner as
may be prescribed.***

***Essentials for charge of service tax: Thus, important
ingredients for charge of service tax are –***

- (i) The service should have been provided or
agreed to be provided.***

- (ii) The service should be provided for a consideration.***

- (iii) The service should be provided by one person to another person.***

- (iv) The service should be provided in taxable territory (i.e. India excluding State of Jammu & Kashmir) as per Place Of Provision of Service Rules, 2012.***

- (v) Services must not be specified in the negative list.***

- (vi) Service tax is levied @ 14% (increased by SwaChh Bharat Cess @ 0.5%) of value of taxable service. Hence, effective rate is 14.5% of value of taxable service.***

Krishi Kalyan Cess @0.50% has been levied w.e.f. 1st June, 2016, hence, effective rate is 15%.

- (vii) Service tax is collected in such manner as may be prescribed (i.e. in accordance with Service Tax Rules, 1994).***

Nature of Service Tax

Service tax can be levied on the following:

- (a) Taxable Service, and***
- (b) Value of Taxable Service.***

Taxable Services

Service tax is levied on all services except negative list of services in the Finance Act, 1994. There are several services which are taxable if service is provided by a service provider; any person to any person.

However, all taxable services are NOT subject to service tax.

This is because taxability is not only dependent on the nature of service but also on—

- (i) Who is the service provider,***
- (ii) Who is the service receiver.***

Example 1:

X Ltd, an advertising company is not liable to collect and pay service tax on advertisement service

rendered to the Approved International Organization in India, even though for the same service to another entity X Ltd will have to Collect and pay tax. (“Who is the Service receiver” principle)

Example 2:

Mr. A, a professional dealing in indirect tax gives consulting advice to the government of India, he is required to collect Service tax from the Government of India and remit the same to the Service Tax department. However, if the Reserve Bank of India were to render the same service to the Government of India it is not required to collect and pay service Tax. (“Who is the Service provider” principle) such services are taxable services; RBI is not liable to pay the service tax.

Likewise any services provided by the service provider which are in the nature of statutory services, then service tax Cannot be levied.

Service [Section 65B(44)]: “Service” means –

- Any activity carried out by a person for another for consideration, and***
- Includes a declared service,***

• ***But shall not include, -***

(a) An activity which constitutes merely, -

(i) A transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or

(ii) Such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of

Article 366(29A) of the Constitution; or

(iii) A transaction in money or actionable claim;

(b) A provision of service by an employee to the employer in the course of or in relation to his employment;

(C) Fees taken in any Court or tribunal established under any law for the time being in force.

(iii) Such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of Article 366(29A) of the Constitution; or

(iv) A transaction in money or actionable claim;

(c) A provision of service by an employee to the employer in the course of or in relation to his employment;

(d) Fees taken in any Court or tribunal established under any law for the time being in force.