

F.NO.B1/4/2006-TRU

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
TAX RESEARCH UNIT**

Subject : Enactment of Finance Bill, 2006 – Reg.

With the assent of the President of India on 18.4.2006, Finance Bill, 2006 has now become an Act. Consequently, changes announced in the Budget regarding in the rate of Service Tax and amendments in Service Tax Rules and CENVAT Credit Rules have become effective from 18.4.2006. A Press Release giving details of all these changes is placed below. It is requested that this may kindly be given wide publicity through print and electronic media. Soft copy of the Press Release is also enclosed for facility of circulation.

PRESS RELEASE

The Finance Act, 2006 (No.21 of 2006) has received the assent of the President of India on the 18th April, 2006. The effect of the various provisions of the Finance Act relating to levy of service tax are explained hereinafter.

1. Service tax leviable on taxable services under section 66 of the Finance Act, 1994 has been increased from 10% to 12% with effect from the date of the assent of the President. In addition to 12%, Education Cess at the rate of 2% of 12% i.e. 0.24% is also leviable. The total tax leviable on taxable services thus works out to 12.24% of the value of taxable services.
2. The following sections of the Finance Act, 2006 come into force with effect from the date of the assent of the President:
 - Section 66A – charge of service tax on services received from outside India.
 - Section 67 – valuation of taxable services for charging service tax.
 - Section 73(1A) – payment of service tax after issue of show cause notice.
 - Section 73A – service tax collected from any person to be deposited with Central Government.
 - Section 73B – interest on amount collected in excess.
 - Section 73C – provisional attachment to protect revenue in certain cases.
 - Section 73D – publication of information in respect of persons in certain cases.
 - Section 76 – penalty for failure to pay service tax.

- Section 87 – recovery of any amount due to Central Government.
 - Section 93A – power to grant rebate.
 - Section 94(2) – power to make rules.
 - Section 96(C)(2)(f) – application for Advance Ruling.
3. Section 66A provides charging of service tax on taxable services received from outside India, from the recipient of services in India, under reverse charge method. Services received in India are taxable under Sections 66A, 93 and 94 read with Taxation of Services (Provided from Outside India and Received in India) Rules, 2006. Services received by individuals other than for the purpose of use in business or commerce, are not chargeable to service tax.
 4. Rule 3 of Export of Services Rules, 2005 has been amended to incorporate the changes in the Finance Act, 2006.
 5. Section 67 provides for valuation of taxable services for charging service tax. Service Tax (Determination of Value) Rules, 2006 is being notified under Section 67.
 6. Section 67 and the Rules notified thereunder provide for valuation of services for charging service tax under different situations wherein the consideration received for provision of service is partly or wholly not consisting of money. The service tax in such cases shall be charged on the basis of the gross amount charged by the service provider for providing similar service to any other person. If the value of similar services is not available, then the service provider on his own shall determine the total money value of the consideration and pay the service tax accordingly. The value of the service so determined by the service provider should not be less than the cost of provision of such service.
 7. The following notifications are being issued:
 - Notification No.8/2006-ST – Section 73B provides for collection of interest on amount collected in excess. For this purpose, the rate of interest chargeable is notified at 13% per annum.
 - Notification No.9/2006-ST – amends Notification No.36/2004-ST dated 31.12.2004. This amendment notifies the taxable services provided or to be provided from a country other than India and received in India under section 66A. The service tax thereon shall be paid by the recipient of such services.
 - Notification No.10/2006-ST – amends Service Tax Rules, 1994.
 - Notification No.8/2006-CE(NT) – deletes explanation to clause (p) of rule 2 of CENVAT Credit Rules, 2004. Rule 5 of the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 specifically state that the services received from outside India are not treated as output services for the

purpose of input credit availment by the recipient of services. In view of this rule, the said explanation is being omitted.

- Notification No.14/2006-ST being issued to rescind the following notifications:
 - i. Notification No.22/2005-ST dated 7.6.2005
 - ii. Notification No.25/2005-ST dated 7.6.2005

In view of Section 66A, these notifications have become redundant and hence rescinded.

For details, relevant provisions of the law and notifications may be referred to.

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
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Sub: Enactment of Finance Bill, 2006 – Reg. With the assent of the President of India on 18.4.2006, Finance Bill, 2006 has now become an Act. Consequently, the amendments made in sections 65 and 66 of the Finance Act, 1994 are being notified to become effective from 01.05.2006.

PRESS RELEASE

The Finance Act, 2006 (21 of 2006) received the assent of the President of India on the 18th April, 2006. Certain provisions relating to the levy of service tax in the Finance Act, 2006 shall come into force from a date to be notified. For this purpose, the Central Government have issued 7 notifications No.15/2006 to 20/2006-Service Tax and 10/2006-Central Excise (N.T.), all dated 25th April, 2006.

2. 15 services which are specifically mentioned in the category of taxable services and the amendments made relating to existing taxable services shall come into effect from the 1st May, 2006. In other words, these changes relating to taxable services will be effective from 1.5.2006.

3. Section 65 defines taxable services and various terms used in relation to taxable services. Section 66 is the charging section and provides for levy of service tax on taxable services. These two sections have been amended in the Finance Act, 2006 and these amendments shall come into effect from 1.5.2006. For details refer to notification No.15/2006-Service Tax dated 25th April, 2006.

4. Fifteen services which are specifically mentioned in the category of taxable services are:

- Service provided by a Registrar to an Issue; [sub-clause (zzzi) of clause (105) of section 65 of the Act]
- Service provided by a Share Transfer Agent; [sub-clause (zzzj)]
- Automated Teller Machine operations, maintenance or management; [sub-clause (zzzk)]
- Service provided by a recovery agent; [sub-clause (zzzl)]
- Sale of space or time for advertisement, other than in print media; [sub-clause (zzzm)]
- Sponsorship services provided to any body corporate or firm, other than services in relation to sponsorship of sports events; [sub-clause (zzzn)]
- Transport of passengers embarking on international journey by air, other than in economy class ; [sub-clause (zzzo)]
- Transport of goods in containers by rail provided by any person other than Government railway; [sub-clause (zzzp)]
- Business support services; [sub-clause (zzzq)]
- Auctioneers' service, other than in relation to auction of property under directions or orders of a court of law or auction by the Government; [sub-clause (zzzr)]
- Public relations service; [sub-clause (zzzs)]
- Ship management service; [sub-clause (zzzt)]
- Internet telephony service; [sub-clause (zzzu)]
- Transport of persons by cruise ship; [sub-clause (zzzv)]
- Credit card, debit card, charge card or other payment card related services. [sub-clause (zzzw)]

5. Following amendments have been made relating to existing taxable services:
- Substitution of the term 'commercial concern', in relation to seventeen taxable services, with 'person'. These amendments enable levy of service tax on those services provided by any person who is not necessarily a commercial concern. Levy of service tax in relation to these services does not depend upon the status of the service provider;
 - Inclusion under banking and other financial services of -
 - (i) services in relation to transfer of money through different modes by any person;
 - (ii) services provided as banker to an issue;
 - Specific mention has been made of consultancy in different areas of management under management consultancy service;
 - Inclusion of re-insurance under general insurance and life insurance services;
 - Inclusion of service provided to a policy holder or any person or an insurer, including a re-insurer, under insurance auxiliary service concerning general insurance business and life insurance business;
 - Renaming of "maintenance or repair service", as "management, maintenance or repair service", and to include management of movable property;
 - Inclusion of erection, commissioning or installation of pre-fabricated structures under erection, commissioning or installation service;
 - Inclusion of services provided by any firm or body corporate under consulting engineer service;
 - Amendment of the definition of Business auxiliary service so as to exclude computerized data processing and maintenance of computer software from the scope of the definition;
 - To clarify that technical testing and analysis service,
 - (i) includes clinical testing of drugs and formulations; and
 - (ii) does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or any disorder in human beings or animals.
6. Service tax is liable to be paid by the body corporate or firm receiving sponsorship services under reverse charge method.. This is in variance with the general practice of charging service tax from the service provider. For this purpose notification No.36/2004-ST dated 31.12.2004 has been amended vide notification No.16/2006-ST dated 25th April, 2006.
7. Presently, air travel agents are given option to pay service tax at the rate of 0.5% of the basic fare in the case of domestic bookings and at the rate of 1% of the basic fare in the case of international bookings. Consequent on the increase in the rate of service tax from 10% to 12%, the above mentioned rates have been increased from 0.5% to 0.6% in the case of domestic bookings and from 1% to 1.2% in the case of international bookings, with effect from 1st May, 2006. For this purpose, Service Tax Rules, 1994 have been amended vide notification No.17/2006-Service Tax dated 25th April, 2006.
8. Services provided in relation to transport of goods in containers by rail are leviable to service tax with effect from 1st May, 2006. In order not to levy service tax on the freight amount paid to railways for transport of goods in containers, an abatement of 70% from the gross amount charged for transport of goods in containers by rail is prescribed vide notification No. 20/2006-ST dated 25th April, 2006. Consequently, service tax will be chargeable only on 30% of the gross amount charged for transport of goods in containers by rail.
9. For details relevant notifications may be referred to.

[See Notifications](#)

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Dear Members of Trade and Industries and Professional Friends

The Finance Act, 2006 (No.21 of 2006) has received the assent of the President of India on the 18th April, 2006. The Government

has also issued many Notifications on 19th April 2006 to make important changes under Service Tax. The effect of the various provisions of the Finance Act relating to levy of service tax and changes made by such Notifications are explained briefly hereinafter:

- 1. Service tax leviable on taxable services under section 66 of the Finance Act, 1994 has been increased from 10% to 12% with effect from the date of the assent of the President. In addition to 12%, Education Cess at the rate of 2% of 12% i.e. 0.24% is also leviable. The total tax leviable on taxable services thus works out to 12.24% of the value of taxable services. As per the communication received from the Ministry of Finance (F.NO.B1/4/2006-TRU) – “With the assent of the President of India on 18.4.2006, Finance Bill, 2006 has now become an Act. Consequently, changes announced in the Budget regarding in the rate of Service Tax ... have become effective from 18.4.2006”.**
- 2. The following sections of the Finance Act, 2006 come into force with effect from the date of the assent of the President:**

- **Section 66A – charge of service tax on services received from outside India. Section 66A provides charging of service tax on taxable services received from outside India, from the recipient of services in India, under reverse charge method. Services received in India are taxable under Sections 66A, 93 and 94 read with Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 vide Notification No. 11/2006-ST dated 19th April 2006. Services received by individuals other than for the purpose of use in business or commerce, are not chargeable to service tax.**

- **Section 67 – valuation of taxable services for charging service tax. Service Tax (Determination of Value) Rules, 2006 is notified under Section 67 vide Notification No. 12/2006-ST dated 19th April 2006. Section 67 and the Rules notified thereunder provide for valuation of services for charging service tax under different situations wherein the consideration received for provision of service is partly or wholly not consisting of money. The service tax in such cases shall be charged on the basis of the gross amount charged by the service provider for providing similar service to any other person. If the value of similar services is not available, then the service provider on his own shall determine the total money value of the consideration and pay the service tax accordingly. The value of the service so**

determined by the service provider should not be less than the cost of provision of such service.

- **Section 73(1A) – payment of service tax after issue of show cause notice. Section 73 (which provides for recovery of service tax) is amended to provide for conclusion of adjudication proceedings in respect of a person to whom a notice is served under the proviso to sub-section (1) of section 73 and who has voluntarily deposited the service tax demanded in full and the interest payable thereon under section 75 and penalty equal to twenty five per cent. of the service tax specified in the notice**

- **Section 73A – service tax collected from any person to be deposited with Central Government is inserted to,—**
 - (i) provide for voluntary payment by an assessee of any amount collected in excess of the service tax leviable but not deposited with the Central Government or recovery of such excess amount, and**
 - (ii) provide for voluntary payment or recovery of any amount as representing service tax, that has been collected by a person but not deposited with the Central Government.**

Section 73B – interest on amount collected in excess. For this purpose, the rate of interest chargeable is notified at 13% per annum vide Notification No. 8/2006-ST dated 19th April 2006.

- **Section 73C – provisional attachment to protect revenue in certain cases.**
- **Section 73D – publication of information in respect of persons in certain cases.**
- **Section 76 – penalty for failure to pay service tax. Now, penalty shall be at the rate of two hundred rupees for every day of failure to pay service tax or at the rate of two per cent. of the tax per month, whichever is higher for failure to pay service tax by the due date**
- **Section 87 – recovery of any amount due to Central Government.**
Section 93A – power to grant rebate.
- **Section 94(2) – power to make rules.**
- **Section 96(C)(2)(f) – application for Advance Ruling to empower the Authority for Advance Rulings to determine the liability to pay service tax.**

3. Rule 3 of Export of Services Rules, 2005 has been amended to incorporate the changes in the Finance Act, 2006 vide Notification No. 13/2006-ST dated 19th April 2006

4. The following notifications were also issued on 19th April 2006:

- Notification No.9/2006-ST – amends Notification No.36/2004-ST dated 31.12.2004. This amendment notifies the taxable services provided or to be provided from a country other than India and received in India under section 66A. The service tax thereon shall be paid by the recipient of such services.**

- Notification No.10/2006-ST – amends Service Tax Rules, 1994 to make the consequential changes in the Rule 2(1)(d)(iv) due to introduction of Section 66A in place of Explanation to clause (105) of section 65.**

- Notification No.8/2006-CE(NT) – deletes explanation to clause (p) of rule 2 of CENVAT Credit Rules, 2004. Rule 5 of the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 specifically state that the services received**

from outside India are not treated as output services for the purpose of input credit availment by the recipient of services. In view of this rule, the said explanation is being omitted.

- Notification No.14/2006-ST being issued to rescind the following notifications:
 - i. Notification No.22/2005-ST dated 7.6.2005 (service provided by a non-resident person outside India and consumed outside India, in course of sailing of ship)
 - ii. Notification No.25/2005-ST dated 7.6.2005 (Exemption to taxable service received and consumed outside India)

In view of Section 66A read with Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, these two notifications were become redundant and hence rescinded.

For details, relevant provisions of the law and notifications may be referred to.

We in our earlier update inform you about the applicability of new service tax rate (12%) w.e.f. 18th April, 2006 and about all the Notifications issued on 19th April 2006 to make important changes like valuation rules, import of services rules and changes in the export of service rules etc.etc.

2. Today i.e. 25.04.2006, the Government announced that service tax on the 15 new services and changes made in the existing services by the Budget 2006, will be effective from 1st May 2006. For this purpose, the Central Government has issued Notifications No.15/2006-Service Tax dated 25th April, 2006.

3. Further, the Government has also issued 6 other Notifications i.e. Notification No.16/2006 to 20/2006-Service Tax for changes in service tax rules/ earlier Notifications etc. and Notifications No. 10/2006-Central Excise (N.T.) for changes in CENVAT Credit Rules, 2004. All such Notifications are dated 25th April, 2006 but such Notifications shall come into force only w.e.f. 1st May 2006.

4. The Following are the fifteen services which are specifically mentioned in the category of taxable services by the Budget 2006 under various sub-clauses mentioned below of clause (105) of section 65 of the Act:

- . **Service provided by a Registrar to an Issue; [sub-clause (zzzi)]**
- **Service provided by a Share Transfer Agent; [sub-clause (zzzj)]**
- **Automated Teller Machine operations, maintenance or management; [sub-clause (zzzk)]**
- **Service provided by a recovery agent; [sub-clause (zzzl)]**
- **Sale of space or time for advertisement service, excluding sale of space for advertisement in print media and sale of time slots by a broadcasting agency or organisation; [sub-clause (zzzm)]**
- **Sponsorship services provided to any body corporate or firm, other than services in relation to sponsorship of sports events; [sub-clause (zzzn)]. In this case, service tax is liable to be paid by the body corporate or firm giving sponsorship fee to the organizer under reverse charge method. This is in variance with the general practice of charging service tax from the service provider. For this purpose Notification No.36/2004-ST dated 31.12.2004 and the Rule 2(1)(d)(iv) of the Service Tax Rule have been amended vide notification No.16/2006-ST and 17/2006 both dated 25th April, 2006.**
- **Scheduled or non-scheduled air transport service of any passenger embarking in India for international journey, in any class other than economy class; [sub-clause (zzzo)]**

- **Transport of goods in containers by rail provided by any person other than Government railway; [sub-clause (zzzp)].** In order not to levy service tax on the freight amount paid to railways for transport of goods in containers, an abatement of 70% from the gross amount charged for transport of goods in containers by rail is prescribed vide notification No. 20/2006-ST dated 25th April, 2006. Consequently, service tax will be chargeable only on 30% of the gross amount charged for transport of goods in containers by rail.
- **Business support services; [sub-clause (zzzq)]**
- **Auctioneers' service, other than in relation to auction of property under directions or orders of a court of law or auction by the Government; [sub-clause (zzzr)]**
- **Public relations service; [sub-clause (zzzs)]**
- **Ship management service; [sub-clause (zzzt)]**
- **Internet telephony service; [sub-clause (zzzu)]**
- **Transport of persons by cruise ship; [sub-clause (zzzv)]**
- **Credit card, debit card, charge card or other payment card related services. [sub-clause (zzzw)]**

5. Following amendments have been made relating to existing taxable services:

(1) Substitution of the term 'commercial concern', in relation to seventeen taxable services, with 'person'. These amendments enable levy of service tax on those services provided by any person who is not necessarily a commercial concern. Levy of service tax in relation to

these services does not depend upon the status of the service provider. Further, by Notification No. 19/2006-ST, dated 25th April 2006 changes have been made in five existing notifications (viz. Nonfictions 13,14, and 29 of year 2004 and Nonfictions 16 and 21 of year 2005) to replace the terms ‘commercial concern’ with ‘person’.

(2) Following taxable services are proposed to be amended as follows:

<i>Sr. No.</i>	<i>Name of taxable service</i>	<i>Purpose of amendment</i>
1.	Banking and other financial services.	To include services such as: (i) transfer of money through different modes, such as telegraphic transfer, mail transfer and electronic transfer, by any person, and (ii) services provided as banker to an issue.
2.	Management consultancy services.	To specifically mention, consultancy in different areas of management such as financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources, or other

		similar areas of management.
3.	General insurance services and Life insurance services.	To include, services provided to a policy holder or any person by an insurer, including a re-insurer.
4.	Insurance auxiliary services concerning general insurance business and Insurance auxiliary services concerning life insurance business.	To include services provided to a policy holder or any person or an insurer, including a re-insurer.
5.	Maintenance or repair service.	To rename as “management, maintenance or repair” service and to include management of movable property.
6.	Erection, commissioning or installation service.	To include erection, commissioning or installation of structures, whether pre-fabricated or otherwise.
7.	Consulting engineer’s service.	To include engineering consultancy services provided by any firm or body corporate.
8.	Business auxiliary service.	To exclude computerized data processing and maintenance of

		computer software from the scope of the definition of Information Technology services.
9.	Technical testing and analysis service	<p>(i) includes clinical testing of drugs and formulations; and</p> <p>(ii) does not include testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or any disorder in human beings or animals.</p>

6. Presently, air travel agents are given option to pay service tax at the rate of 0.5% of the basic fare in the case of domestic bookings and at the rate of 1% of the basic fare in the case of international bookings. Consequent on the increase in the rate of service tax from 10% to 12%, the above mentioned rates have been increased from 0.5% to 0.6% in the case of domestic bookings and from 1% to 1.2% in the case of international bookings, with effect from 1st May, 2006. For this purpose, Service Tax Rules, 1994 have been amended vide notification No.17/2006-Service Tax dated 25th April, 2006.

For details, relevant provisions of the law and notifications may be referred to. www.cbec.gov.in