

<b>SERVICE TAX – HIGHLIGHTS BUDGET –2008</b>	
<b>Amendment made by the Finance Bill, 2008 &amp; Other Changes</b>	
<b>1.</b>	<b>New Services</b>
<b>2.</b>	<b>Changes In Finance Act</b>
<b>3.</b>	<b>Changes In Service Tax Rules</b>
<b>4.</b>	<b>Changes In Cenvat Credit Rules</b>
<b>5.</b>	<b>Other Changes</b>

<b>New Services</b>	
Specifically include and define the following services in the list of taxable service	
<b>(i)</b>	<b>Information technology software service,</b>
<b>(ii)</b>	<b>Management of investment under Unit Linked Insurance Plan (ULIP) service,</b>
<b>(iii)</b>	<b>Stock Exchange Service,</b>
<b>(iv)</b>	<b>Recognized association or registered association commonly known as commodity exchange service</b>
<b>(v)</b>	<b>Processing and clearinghouse service,</b>
<b>(vi)</b>	<b>Supply of tangible goods for use service;</b>
<b>(vii)</b>	<b>Internet telecommunication service. Consequently, reference to services provided in relation to internet telephony, being covered as part of internet telecommunication service, shall be omitted</b>

Scope Of the Existing Services Expanded	
<b>(i)</b>	Banking and other financial services [section 65(12)] so as to levy service tax on purchase or sale of foreign currency, including money changing by an authorized dealer and authorized money changer;
<b>(ii)</b>	Foreign exchange broker services provided by individual [section 65(105)(zzk)] so as to levy service tax on purchase or sale of foreign currency, including money changing by an authorized dealer and authorized money changer;
<b>(iii)</b>	Business auxiliary service [section 65(19)] so as to clarify as a removal of doubt, that “service in relation to promotion or marketing of service provided by the client” includes any service provided in relation to promotion or marketing of games of chance, organized, conducted or promoted by the client;
<b>(iv)</b>	Cargo handling service [section 65(23)] so as to specifically include services of packing together with transportation of cargo or goods, with or without one or more other services like loading, unloading, unpacking
<b>(v)</b>	Tour operator’s service [section 65(115)] so as to include any person engaged in the business of operating tours in a contract carriage and to provide that “tour” does not include a journey organized or arranged for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;
<b>(vi)</b>	Renting of immovable property so as to clarify as a removal of doubt, that renting of immovable property service includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the immovable property;

The changes mentioned below above levy of service tax on new services and changes in the existing services will come into force with effect from a date to be notified after enactment of the Finance Bill, 2008

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## The Changes in the Finance Act, 1994:

The changes mentioned below [except (1)] will come into force from the date of enactment of the Finance Bill, 2008.

1 . **Applicability of Service Tax on New Taxable Services:** **Section 66** pertaining to “Charge of service tax” is being amended to include the individually specified 6 new taxable services on which service tax will come into effect from a date to be notified after enactment of the Finance Bill, 2008.

2. **Value of taxable services for associated enterprise:** Section 67 is being amended by amending the explanation (c), to provide that “gross amount charged” shall include any amount credited or debited, as the case may be, to any account, whether called “Suspense account” or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise. Associated enterprise has the meaning assigned to it in section 92A of the Income Tax Act, 1961. However, for the purpose, Rule 6, shall also be amended once the above provisions shall come into force to provide that service tax is liable to be paid even if the amount is not actually received, but the amount is credited or debited in the books of account of the service provider, when the transactions are between associated enterprises. The provisions of course shall be applicable to service tax payable under reverse charge method under section 66A.

3. **Service Tax Return Preparer:** Section 71 is being inserted so as to empower the Board to frame a Scheme by notification in the Official Gazette to enable preparation and filing of service tax returns through a person or class of person known as Service Tax Return Preparer authorized to act for the said purpose. This amendment is in line with the similar scheme introduced in year 2006 under the Income Tax Act

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4.	<p><b>Best Judgment Assessment:</b> Section 72 is being inserted so as to authorize the Central Excise Officer to make assessment on the basis of best judgment where assessee has failed to make service tax returns or assess the tax, after giving an opportunity to an assessee to represent his case, he may also direct to produce relevant accounts, documents or other evidence as deemed necessary. Section 72 was omitted by the Finance (No. 2) Act, 2004 w.e.f. 10.09.2004, has now been reintroduced. However, the Government has not amended the section 85 and 86 to enable the assessee to file Appeal against the order of Central Excise Officer passed under this section.</p>
5.	<p><b>Specific penalty for specific contraventions:</b> Section 77 is being substituted so as to provide specific penalty for specific contraventions. The following penalties have been prescribed under this section;-</p>
(a)	<p>A person, who fails to take registration within the time stipulated shall be liable to pay penalty which may extend to Rs. 5,000/- or Rs. 200/- per day after the due date, which ever is higher. The provisions says, a person fails to “take” registration, whereas it should have been fail to “apply” registration, as some time the Department take it own time to grant the registration as recognized by the Board in its instruction Dy. No.294/Com(ST)/2007 dated 03.09.2007.</p>
(b)	<p>A person, who fails to keep, maintain or retain books of account and other documents as required in accordance with service tax law, shall be liable to pay penalty which may extend to Rs. 5,000/-.</p>
(c)	<p>A person, who fails to furnish information, produced documents, when called by an officer or fails to appear before the Central Excise Officer when issued summon, shall be liable to a penalty which may extend to Rs. 5000/- or Rs. 200/- per day after the due date, which ever is higher.</p>
(d)	<p>A person, who fails to pay tax electronically, through internet banking, shall be liable to pay penalty which may extend to Rs. 5,000/-.</p>
(e)	<p>A person, who issues invoice incorrect or with incomplete details for fails to account for an invoice in his books of account, shall be liable to pay penalty which may extend to Rs. 5,000/-.</p> <p>Page down .....!..</p>

6.	<b>No penalty under section 76, if penalty under section 78:</b> Section 78 is being amended to provide that in case where penalty for suppressing value of taxable service under section 78 is imposed, penalty for failure to pay service tax under section 76 shall not apply.
7.	<b>Interest on delayed payments of refund of pre-deposit:</b> Section 83 is being amended to make a reference to section 35FF of the Central Excise Act, which provide that amount deposited as pre-deposit under section 35F, if not refunded consequent of order passed by the Appellant authority within three months from the date of communication of order, shall be paid with interest at the rate specified under section 11BB of the Central Excise Act, 1944, which is at present 6% p.a.

	<b>Changes in the Service Tax Rules, 1994:</b> The following changes have been made in the Service Tax Rules, 1994 by Notification No.4/2008-Service Tax, dated 01.03.2008, which have come into effect from 1st March 2008:
(1)	<b>Rule 6 is amended to insert sub-rule (1A) to extend the facility to pay service tax in advance to all taxable persons. Service tax paid in advance is allowed to be self-adjusted towards service tax liable to be paid for the subsequent period, however details of such advance payments made and its adjustment have to be shown in service tax return, and also intimate to the superintendent concerned within 15days of payments.</b>
(2)	<b>Rule 6(4B)(iii) is amended to allow self-adjustment of excess service tax paid upto Rs.1 lakh for a relevant month or quarter, as the case may be, instead of the earlier limit of Rs.50,000.</b>
(3)	<b>Rule 7B is amended to allow an assessee to rectify mistakes and file revised return within 90 days, instead of the earlier limit of 60 days, from the due date for filing of original return.</b>
(4)	<b>Rule 7C is amended to empower the Central Excise Officer to reduce or waive the penalty (late payment fee) for delayed filing of return, where the gross amount of service tax payable is nil</b>

Changes in the CENVAT Credit Rules, 2004:	
(1)	Rule 2(l) which is defining 'input service' is being amended to provide that "clearance of final products, upto the place of removal" will only be considered as input services only main part of the definition. The amendment made in Rule 2(l) will create more confusion as there are many services for which CENVAT credit is allowed even though services are not in or in relation to manufacture of final products and clearance of final products upto the place of removal, but are in connection with business such mobile phone, accounting, auditing, <b>w.e.f. 01.04.2008</b>
(2)	Rule 2(p) is amended to exclude from the scope of "output service", taxable service provided by a goods transport agency in relation to transport of goods byroad in a goods carriage, referred to in sub-clause (zzp) of clause (105) of section 65 of the Finance Act, 1994; <b>w.e.f. 01.03.2008.</b>
(3)	Rule 3 is being amended to allow capital goods outside the premises of the provider of output service without any time restriction, if the same is for providing output service; <b>w.e.f. 01.04.2008.</b>
(4)	<p>Rule 6 is being amended to provide the following options to a provider of output services, using common inputs or input services for providing taxable as well as exempted services and opting not to maintain separate accounts, namely <b>w.e.f. 01.04.2008.</b></p> <p>i) either reverse the credit attributable (to be worked out in a manner prescribed in the rule) to the inputs and input services used for providing exempted service, or</p> <p>ii) pay 8% amount of the value (to be determined in accordance with section 67of the Finance Act, 1994) of the exempted service;</p> <p><i>refer notification No.10/2008-Central Excise (N.T.), dated 01.03.2008</i></p>
(5)	Rule 7A is being inserted to prescribe a procedure to enable the provider of output services to take credit on inputs and capital goods on the basis of an invoice, bill or challan issued by its other office; <b>w.e.f. 01.04.2008 .</b>
(6)	Rule 15A is inserted to provide for general penalty upto Rs.5,000/- in case of contravention of any of the provisions of the CENVAT Credit Rules, 2004, for which no specific penal provision exists. <b>w.e.f. 01.03.2008 .</b>

Other Changes	
1.	<p><b>Exemption to Small services provider enhanced: (w.e.f. 01.04.2008)</b></p> <p>The annual threshold limit of service tax exemption for small service providers has been increased from the present level of Rs.8 lakh to Rs.10 lakh with effect from 01.04.2008, provided that the aggregate value of taxable services rendered by such provider of taxable service from one or more premises, does not exceed Rs.10 lakh in the preceding financial year. The Notification No. 6/2005-ST, dated 01.03.2005 has been amended by Notification No. 8/2008-Service Tax, dated 01.03.2008.</p> <p>Consequent upon increase in threshold limit of exemption from Rs.8 lakh to Rs.10 lakh, notification No.26/2005-Service Tax dated 07.06.05 and notification No.27/2005-Service Tax dated 07.06.05, Form ST-I, have e been amended to raise the limit for obtaining service tax registration from Rs.7 lakh to Rs.9 lakh. [refer notification No. 9/2008-Service Tax, No. 10/2008-Service Tax, and No.11/2008-Service Tax, all dated 01.03.2008]</p>
2.	<p><b>Service Tax Dispute Resolution Scheme:</b></p> <p>A Scheme for resolution of dispute relating to service tax arrears pending as on 1.3.2008 and involving amount not exceeding Rupees twenty five thousand is being introduced (Service Tax Dispute Resolution Scheme, 2008). The scheme is valid during 1st July, 2008 to 30th September, 2008 [refer Chapter VI of the Finance Bill, 2008]. The availing the scheme shall be liable to pay 50% amount of service tax, where tax arrear including amount of service tax not exceeding not exceeding Rs. 25,000/- and 25% of tax arrear where tax arrear consist of only interest/ penalty.</p> <p style="color: orange;">Page down .....!..</p>

3.	<p><b>Composition Scheme for Works Contract Service:</b></p> <p>The Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 have been amended by notification No. 7/2008-Service Tax, dated 01.03.2008, which has come into force w.e.f. 01.03.2008:</p> <p>Rule 3(1) is amended to enhance the rate prescribed for optional scheme for payment of service tax for works contract service from the present rate of 2% of the total value of the contract to 4% of the total value of the contract.</p>
4.	<p><b>Export of Services:</b></p> <p>The Export of Services Rules, 2005 have been amended by notification No. 5/2008-Service Tax, dated 01.03.2008, which has come into force w.e.f. 01.03.2008:</p> <p>Rule 3(1)(ii) is amended to provide that where the taxable services referred to in sub-clauses (zzg) [management, maintenance or repair], (zzh) [technical testing and analysis] and (zzi) [technical inspection and certification] of section 65(105), are provided remotely through internet or an electronic network including a computer network or any other means in relation to any goods or material or any immovable property, as the case may be, situated outside India at the time of provision of service, then such taxable service, whether or not partly performed in India, shall be treated as performed outside India and treated as export of service.</p>
5.	<p><b>Import of Services:</b></p> <p>The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 have been amended by notification No. 6/2008-Service Tax, dated 01.03.2008, which has come into force w.e.f. 01.03.2008:</p> <p>Rule 3(ii) is amended to provide that where the taxable services referred to in sub-clauses (zzg) [management, maintenance or repair], (zzh) [technical testing and analysis] and (zzi) [technical inspection and certification] of section 65(105), are provided remotely through internet or an electronic network including a computer network or any other means in relation to any goods or</p>



	<p>material or any immovable property, as the case may be, situated in India at the time of provision of service, then such taxable service, whether or not partly performed outside India, shall be treated as performed in India and leviable to service tax under reverse charge method.</p>
<p>6.</p>	<p><b>Abetment for GTA Services (w.e.f. 01.03.2008):</b></p> <p>Exemption from service tax is provided to the extent of 75% of the gross amount charged as freight for services provided by a goods transport agency (GTA) in relation to transport of goods by road in a goods carriage, unconditionally. Consequently, GTA service [section 65(105)(zzp)] is excluded from the scope of output service under rule 2(p) of the CENVAT Credit Rules, 2004, and the entry at Sr.No.6 pertaining to abatement of 75% to GTA service in notification No.1/2006-ST, dated 01.03.06 is omitted. [refer notification No. 13/2008-Service Tax, No. 10/2008-Central Excise (N.T.) and No. 12/2008-Service Tax, all dated 01.03.2008]</p>
<p>7.</p>	<p><b>Exemption for Hotel Booking in India for non-resident by non-resident (w.e.f. 01.03.2008):</b></p> <p>Exemption from service tax is provided to the taxable service provided by a person, located outside India, in relation to booking of an accommodation for a customer, located outside India, in a hotel located in India. The exemption shall be applicable when such services are received by a Hotel in India. [refer notification No. 14/2008-Service Tax, dated 01.03.2008]</p>
<p>8.</p>	<p><b>Service Tax (Publication of Names) Rules, 2008 (w.e.f. 01.03.2008):</b></p> <p>The Service Tax (Publication of Names) Rules, 2008 have been notified so as to prescribe rules for publication of names and particulars of specified persons, under section 73D who have intentionally evaded or failed to pay service tax. [refer notification No. 15/2008-Service Tax, dated 01.03.2008].</p>

