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Advisory Solutions Pvt Ltd

## Service Tax

### We Provide the following services:-

- 1 Service Tax Registration
- 2 Consultancy on Services and applicability of Service tax Act
- 3 Filing of Service Tax return in ST-3
- 4 Consultancy on deposit of monthly service tax
- 5 Provide consultancies to both corporate as well to individuals

### Service Tax in Detail

Service Tax is levied on the notified services. It is a union levy administered by the Central Excise Department and governed by Chapter V of Finance Act, 1994 (the Act) as amended from time to time. The rate of service tax till 9 September, 2004 was 8 per cent and from 10 September, 2004, it was increased to 10 per cent. Education cess at 2 per cent is levied on service tax amount from 10 September, 2004. The effective rate of service tax works out to 10.2 per cent. Service tax is charged on the gross value of services and is generally payable on receipt basis. It is an indirect tax - it is payable by the service provider but it is ordinarily recovered from the recipient of services. The law requires separate mention of service tax amount in the invoices.

Ordinarily, every person liable to pay service tax is required to register itself with service tax authorities and comply with procedural requirements like paying taxes, filing returns, etc. However, in case of non-residents, who do not have any office in India and who are liable to pay service tax in India, this burden is shifted to the recipient of service with effect from 16 August, 2002.

There is a basic exemption limit of INR 0.4 million which means that service tax shall be exempted for service providers providing taxable services up to INR 0.4 million. A mechanism for credit of input service tax and central excise duty on specified inputs and capital goods is also in place.

Any service for which payment was received in convertible foreign exchange in India and which was not repatriated or sent outside India was exempt from levy of service

tax up to 28 February, 2003<sup>1</sup>. But this exemption was withdrawn with effect from 1 March, 2003<sup>2</sup>, although export of services continued to remain taxfree even after such a withdrawal. This exemption was reinstated with effect from 20 November, 2003<sup>3</sup> as a stop-gap arrangement till the government could satisfactorily determine "what constitutes export of services". The government has now notified the new "Export of Service Rules 2005" which defines as to what constitute "export of services". These rules are effective from 15 March, 2005. Consequently, the exemption from service tax on payments received in convertible foreign exchange has now been removed with effect from 15 March, 2005.

When two or more services are bundled together it would be classifiable under the category which gives essential character to the service. Classification rules are in place from 14 May, 2003. If in case of composite activities, one or more of the activities are liable to service tax and the others are not liable to service tax, service tax would ordinarily be payable only on the charges received for the services to which service tax is applicable, provided charges for each activity can be separately identified / determined and it is not incidental to the main service. There are no rules for such identification / allocation and, therefore, such allocation, if required, must be made on a reasonable basis.

Service tax is a comparatively new levy in India and very few judicial precedents are available on the subject. The language of the law is quite broad and generic and uses terms like "directly or indirectly" and "in any manner" which raise a number of issues regarding scope of specific category of service. Revenue authorities have been issuing explanatory circulars from time to time in relation to specific issues. Yet, there is, considerable ambiguity in the applicability of the service tax law to various services.

**Service tax is currently levied on following 114 notified categories of services , Out of some Services is as follows:-**

**S.No Taxable Services**

- 1 Advertising Agency's Services
- 2 Air travel agent's Services
- 3 Airport Services
- 4 Appeals
- 5 Applicability of Central Excise provisions
- 6 Architect's services
- 7 Assessment
- 8 Authorized service station's services
- 9 Banking and other financial services
- 10 Beauty treatment service
- 11 Broadcasting services
- 12 Business Auxiliary Services
- 13 Business Exhibition Services
- 14 Business Support Services
- 15 Cable Services
- 16 Cargo handling services
- 17 Chartered Accountant's services

- 18 Cleaning activity service
- 19 Clearing and forwarding agents' services
- 20 Club or Association Service
- 21 Commercial or industrial construction services
- 22 Commercial Training or coaching service
- 23 Commodity Exchange Service
- 24 Company secretary's services
- 25 Computer network services
- 26 Construction of complex service
- 27 Consulting engineer's services
- 28 Convention services
- 29 Cost Accountant's services
- 30 Courier service
- 31 Credit rating agency's services
- 32 Custom house agent's services
- 33 Dredging service
- 34 Dry cleaning services
- 35 Erection, commissioning or installation service
- 36 Event management service
- 37 Fashion Designing service
- 38 Forward contract service
- 39 Franchise service
- 40 General Exemptions
- 41 General Insurance service
- 42 Health and fitness services
- 43 Information Technology Software Service
- 44 Insurance auxiliary services
- 45 Intellectual property services
- 46 Interest payable
- 47 Interior decorator's services
- 48 Internet Telecommunication Services
- 49 Life insurance service
- 50 Management of Investment under ULIP Service
- 51 Management or Business Consultant's services
- 52 Management, maintenance or repair service
- 53 Mandap keeper's services
- 54 Manpower recruitment and supply agency's services
- 55 Market research agency's services
- 56 Mining of Mineral, Oil or Gas Service
- 57 Opinion poll services
- 58 Outdoor caterer's service
- 59 Pandal or shamiana contractor's service
- 60 Photography services
- 61 Port services
- 62 Processing and Clearing House Service
- 63 Programme producer's services
- 64 Rail travel agent's services
- 65 Real estate agent's services
- 66 Records and returns
- 67 Recovery of service tax

- 68 Refund of Service Tax
- 69 Rent-a-cab scheme operator's service
- 70 Renting of immovable property service
- 71 Residual matters
- 72 Scientific or technical consultancy services
- 73 Security agency's services
- 74 Site formation and clearance, excavation and earthmoving and demolition services
- 75 Sound recording services
- 76 Steamer agent's services
- 77 Stock broker's services
- 78 Stock Exchange Service
- 79 Storage and Warehousing Service
- 80 Supply of Tangible Goods Service
- 81 Survey and exploration of mineral, oil and gas service
- 82 Survey and map-making service
- 83 Technical inspection and certification service
- 84 Technical testing and analysis service
- 85 Telecommunication service
- 86 Threshold exemption
- 87 Tour operator's service
- 88 Transport of goods by Air service
- 89 Transport of goods by road service
- 90 Transport of goods in containers by rail service
- 91 Transport of passengers embarking in India for International Journey by Air Service
- 92 Travel agents' service
- 93 Underwriter's service
- 94 Valuation of taxable services
- 95 Video production agency's services
- 96 Works contract service

# Value-Added Tax / Sales Tax

## We Provide the following services in VAT:-

- 1 VAT Registration
- 2 Registration under CST Act
- 3 Issue of Various forms under CST Act
- 4 Consultancies on VAT and CST Act
- 5 Online filing of VAT returns
- 6 Consultancy of deposit of VAT
- 7 Consultancies on preparation of records as per VAT Act

## Value Added Tax in Detail

India does not have a classic Value-Added Tax (VAT) structure. Instead, separate tax on sale of goods and on rendering of services is imposed under different legislations. Sale and purchase of goods is subjected to charge of sales tax. Sales tax is levied under Central and State Sales Tax legislations depending upon the movement of goods in pursuance of a sale transaction. If the transaction involves movement of goods from one state to another (inter-state), the tax is levied under Central Sales Tax Act (CST), 1956.

This Act also covers transactions of import of goods into or export of goods out of India. Sales tax is not imposed on import of goods into the country or export of goods out of the country. The Central Sales Tax (CST) Act is administered by the state governments and the tax is levied at the origination of transaction (origin based levy). The revenue collected under Central Sales Tax Act is retained by the state governments. The rates of tax under Central Sales Tax Act vary from state to state and product to product. The standard rate of CST is 3 per cent or the lower rate applicable in the state of seller if the purchaser is purchasing the same for resale or for use in manufacture of goods for sale or for specified purposes and both the seller and buyer are registered dealers. Otherwise, the rate is higher of 10 per cent or the rate applicable in the state of sale.

The transactions of sales or purchases involving movement of goods within a state (intra-state) are governed by respective State Sales Tax Acts. States also levy tax on transactions which are "deemed sales" like works contracts and leases. A works contract essentially is a contract for carrying out work involving supply of labor and material where the property in the materials passes during the course of execution of the contract. Lease is a transaction involving transfer of right to use goods.

From 1 April 2005, 21 states of India have replaced local sales tax with VAT. The rest of the states are still continuing to impose sales tax. The VAT, as introduced by 21 states, is not much different from local sales tax regime except that it captures value addition at each level of distribution network. The State VAT, as introduced by the states, continues to be a tax on sale of goods and does not include taxation of

services. The standard rate of VAT is 12.5 per cent and there is reduced rate of 4 per cent. Besides that, there are exemptions and rate of 1 per cent and 20 percent for specified products.

In addition to sales tax, some states also levy additional tax / surcharge, turnover tax or entry tax.

Sales tax / state VAT is payable by the seller to the government. Ordinarily, sales tax / state VAT is recovered from the buyer as a part of consideration for sale of goods.

## Custom & Excise

### Custom & Excise in detail

Customs duties are levied on import of goods into India at the rates specified in the Customs Tariff Act, 1975. The effective rates of customs duties may vary pursuant to general and / or specific exemption or concession notifications issued by the government in this regard. Customs duties currently comprise the following:

- **Basic Customs Duty (BCD)** - This Current general peak rate is 15 per cent.
- **Countervailing Duty (CVD)** - This duty is equivalent to central excise duty leviable on a like product manufactured in India. Current rate applicable to majority of the industrial products is 16 per cent plus 2 per cent education cess, taking the effective rate to 16.32 per cent. This duty is calculated on the value of product + basic customs duty.
- **Additional Duty of Customs (ADC)** - This duty is levied to countervail the sales tax, value-added tax, local taxes and other charges leviable on the like goods on their sale or purchase or transportation in India. Presently, this duty is levied at 4 per cent on certain items viz items bound under the Information Technology (IT) Agreement and on specified inputs / raw materials for manufacture of electronic / IT goods. This duty is levied on value of product +basic customs duty + countervailing duty.
- **Education Cess** - This cess is levied at 2 per cent on the amount of BCD +CVD.

In addition, government also levies anti-dumping and safeguard duties on specified products for specified periods. "Value" for the purpose of levy of customs duty is "transaction value" in the course of international trade in arm's length unrelated party transaction.

### **Import-Export Policy**

Import of goods into and export from India is regulated by the Foreign Trade Policy (the Policy) issued from time to time by Government of India. The Policy remains in force for five years and is amended from time to time. The Policy currently in force is for tax year 2004-09. Majority of goods are now freely importable.

### **Central Excise Duty (CENVAT)**

Central Excise Duty (CENVAT) is levied on goods manufactured and produced in India. It is levied under the authority of the Central Excise Act, 1944 at the rates prescribed in the First Schedule and Second Schedule to the Central Excise Tariff Act, 1985 as amended by Central Excise Tariff (Amendment) Act, 2004. In addition, education cess at 2 per cent on excise duty amount is levied by Finance (No. 2) Act, 2004. The effective rates may be lower pursuant to general /specific notifications issued by the government granting whole or partial exemption from duty. The duty, in most cases, is levied on the basis of value of the excisable goods.

Value, for this purpose, with effect from 1 July 2000 is the "transaction value" which is:

- For delivery at the time and place of removal;
- Where buyer is not a related person; and
- Price is the sole consideration.

CENVAT is payable by the manufacturer but is, ordinarily, recovered from the buyer as a part of consideration for sale of goods. To reduce the cascading effect of CENVAT, a scheme known as MODVAT was introduced in 1986, which has now been renamed as CENVAT (effective 1 April, 2000). Under the CENVAT Scheme, a manufacturer can avail of the credit of the central excise duties or additional duties of customs (i.e. CVD) paid on specified inputs and capital goods used in the manufacture of excisable goods and also service tax paid on eligible input services and utilize it in discharging central excise duty on finished excisable goods.