

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE: TRICHY.
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Trade Notice No.2/2007 S. Tax

Dated: 15 -3-2007.

**Subject: Levy of service tax on interconnection service provided
by one telecom operator to another - reg.**

Ministry's Service Tax Circular No.91/2/2007 dt. 12-3-07 issued vide F.No.149/2/2007-CX.4 on the above subject is communicated for information, guidance and necessary action.

The contents of this Trade Notice may be brought to the knowledge of all constituent members of the Trade Associations and Chamber of Commerce.

(Issued from C.No.IV/16/905/2007 S.Tax)

Sd./-

(M.G.THAMIZHVALAVAN)
JOINT COMMISSIONER (T).

To
The Mailing list I / II / III

Copy of Ministry's Service Tax Circular No.91/2/2007 dt. 12-3-07 issued vide F.No.149/2/2007-CX.4 is reproduced below.

**Subject: Levy of service tax on interconnection service provided by
one telecom operator to another - reg.**

The interconnection service is provided by one telegraph authority to another to enable the telephone subscribers of these telegraph authorities to connect with each other. Interconnection in technical terms means the commercial and technical arrangements under which service providers connect their equipment, networks, and services to enable their customers to have access to the customers, services, and networks of other service providers. For providing interconnection, the telegraph authority collects interconnect usage charges (IUC). A question has been raised as to whether this service is taxable and accordingly, whether service tax is applicable to IUC.

2. In past, divergent clarifications/instructions have been issued on this matter. However, in view of representations and submissions of service provider, the issue of taxability of IUC has been examined a fresh, in consultation with service providers through the Cellular Operators Association of India.

3. As stated above, the interconnection usage service is provided by one telegraph authority to another telegraph authority. In terms of the existing definition, in the Finance Act, 1994, “telephone service” means any service provided to a subscriber by the telegraph authority in relation to a telephone connection. The subscriber means a person to whom any service of a telephone connection has been provided by the telegraph authority. Therefore, a subscriber in respect of telephone service is the person who avails of service of telephone connection. While providing service of interconnection usage, no service of telephone connection is provided to recipient telegraph authority. No doubt, it is a service in relation to a telephone connection; however, as long as service is not provided directly to a subscriber (as mentioned above), the service may not fall in the category of telephone service. Therefore, IUC would not be taxable under the category of service. Opinion of Law Ministry/ Attorney General has also been obtained in the matter. Law Ministry and Attorney General have opined that IUC is not taxable in any of the existing taxable services.

4. However, vide Finance Bill, 2007, a new definition of ‘telecommunication service’ has been incorporated vide clause (104) of section 65 of the Finance Act, 1994 and IUC has been specifically incorporated in the definition of ‘telecommunication service’ to make it a taxable service. Further, any service provided or to be provided, to any person, by a telegraph authority in relation to ‘telecommunication service’ has been made taxable. This amendment will come into effect from a date to be notified by the Government after enactment of Finance Bill, 2007. Therefore, after this amendment comes into effect, service tax would be applicable to IUC charges.

5 It is, therefore, clarified that for the period prior to the date when the amended definition of “telecommunication service” comes into effect, service tax is not applicable to IUC. Accordingly, all contrary circulars/ instructions issued in the matter are withdrawn. Pending cases may be decided in terms of this clarification.

(Gautam Bhattacharya)

Commissioner (Service Tax)