

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & SERVICE TAX
NO.1, WILLIAMS ROAD, CONTONMENT, TIRUCHIRAPPALLI-620 001.

Trade Notice No.2/2009 S. Tax

Dated: 9-2-2009.

Subject: Service Tax –Notification No.6/2009-ST dated 30-1-09-
Notification No.7/2009-ST dated 3-2-09-Communication
-regarding.

Ministry's Service Tax Notification No. 6/2009-ST dated 30-1-09 issued in F.No.137/217/2008-CX.4 and Notification No.7/2009-ST dated 3-2-09 issued in F.No.137/318/2007-CX.4 are enclosed herewith for information, guidance and necessary action.

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

(Issued from C.No.IV/16/805/2009 STC)

Encl.: As above.

Sd./-
(A. RAJENDRAN)
ASSISTANT COMMISSIONER.

To
The Mailing list I / II / III.

Copy of Notification No. 6/2009-ST dated 30-1-09 and Notification
No.7/2009-ST dated 3-2-09 are reproduced below.

New Delhi, the 30th day of January 2009

Notification No. 6/2009 – Service Tax

G.S.R. (E).- In exercise of the powers conferred by section 37A of the Central Excise Act, 1944 (1 of 1944) as made applicable to service tax by section 83 of the Finance Act, 1994 (32 of 1994), the Central Government hereby directs that the powers exercisable by the Central Board of Excise and Customs under the provisions of section 83 A read with the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 16/2007 – ST, dated 19th April, 2007 (G.S.R. No. 303 (E) dated the 19th April 2007), shall also be exercised by the Chief Commissioner of Central Excise for the purpose of assigning the adjudication of cases, under the provisions of the said Finance Act or rules made thereunder, within his jurisdiction.

[F. No. 137/217/2008-CX.4]

(Ashima Bansal)
Under Secretary to Government of India

Notification No. 7/2009-ST

G.S.R. (E). In exercise of the powers conferred by sub-section (1) of section 71 of the Finance Act, 1994 (32 of 1994), the Central Board of Excise and Customs hereby frames the following scheme, namely : -

1. Short title, commencement and application.- (1) This scheme may be called the Service Tax Return Preparer Scheme, 2009.

(a) It shall come into force from the date of its publication in the Official Gazette.

(3 (b) Save as otherwise provided in the Scheme, it shall be applicable to all assessees.

2. Definitions.- In this Scheme, unless the context otherwise requires,-

(a) "Act" means the Finance Act, 1994 (32 of 1994);

(b) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(c) "Partner Organisation" means an organisation or agency selected by the Board and with whom an agreement has been entered into by the Board or the Resource Centre authorising it to act as Partner Organisation under this Scheme;

(d) "Resource Centre" means the Directorate General of Service Tax or any other Directorate, as the case may be, designated by the Board to act as the Resource Centre under this Scheme;

(e) "return" means the return required to be furnished by any person under section 70 of the Act;

(f) "rules" means the Service Tax Rules, 1994;

(g) "Service Tax Return Preparer" means any individual who has been issued a Service Tax Return Preparer Certificate and a unique identification number under clause (9) of paragraph 4 of this Scheme by the Partner Organisation to carry on the profession of preparing the return in accordance with the provisions of said Scheme;

(h) Words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Educational qualification for Service Tax Return Preparers.- Any individual who has successfully completed education upto senior secondary level, under 10+2 education system, shall be eligible to become a Service Tax Return Preparer.

4. Enrollment, training and certification to persons to act as Service Tax Return Preparers.- (1) For the purpose of enrolment, training and certification to a person to act as Service Tax Return Preparer the Partner Organization shall invite applications from-

(a) (a) any person who has been issued Tax Return Preparer Certificate under the Tax Return Preparer Scheme, 2006, framed under sub-section (1) of section 139B of the Income-tax Act, 1961 (43 of 1961); or

(b) any other Indian citizen having educational qualification referred to in paragraph 3 and desires to act as Service Tax Return Preparer:

Provided that a person who is aged more than thirty-five years on the first day of October immediately preceding the day on which applications are invited shall not be eligible to apply;

(2) Notwithstanding anything contained in this paragraph, the age restriction shall not apply to any person who has superannuated/retired from the Department of Customs and Central Excise;

(3)The person applying to act as Service Tax Return Preparer shall indicate in the application form the preferences for centres where at training may be imparted to him;

(4)The Partner Organisation shall, in accordance with the criteria and conditions laid down by the Resource Centre with the prior approval of the Board, carry out the screening of the applications so received and select the persons to appear in a test for their enrollment;

(5)The Partner Organisation shall carry out a test, if required, for enrollment of persons who have been selected on screening;

(6)The Partner Organisation shall enroll the persons who qualify for enrollment separately for each centre;

(7)The Partner Organisation shall train the persons so enrolled in accordance with the curriculum provided by the Resource Centre;

(8)The Partner Organisation shall, after completion of training, conduct an examination of the enrolled persons in accordance with the procedure as laid down by the Resource Centre;

(9)The Partner Organisation shall issue a Service Tax Return Preparer Certificate and a unique identification number to the persons who are declared as successful in the examination so conducted;

5. Preparation of and furnishing the service tax return by the Service Tax Return Preparer.- (1) Any assessee, may at his option furnish his return after getting it prepared through a Service Tax Return Preparer:

Provided that an assessee shall not furnish a revised service tax return under rule 7B of the rules through a Service Tax Return Preparer unless he has furnished the original return through such or any other Service Tax Return Preparer:

(2) The Service Tax Return Preparer shall prepare and furnish the return to the Superintendent of Central Excise having jurisdiction over the assessee, or to such other person as may be directed by the Resource Centre with the approval of the Board and hand over the acknowledgement of having furnished the return to the concerned eligible person.

6. Duties and obligations of assessee.-An assessee opting to furnish his return under this Scheme shall-

(a) give his consent to any Service Tax Return Preparer to prepare and furnish his return;

(b) before verifying and signing the return, ensure that the facts mentioned in the return are true and correct;

7. Duties and obligations of the Service Tax Return Preparer.- The Service Tax Return Preparer shall-

(a) prepare the return with due diligence;

(b) affix his signature on the return prepared by him;

(c) furnish the return as specified in sub-paragraph (2) of paragraph 5;

- (d) hand over a copy of the return to the person whose return is prepared and furnished by him;
- (e) retain a copy of the acknowledgment of having furnished the return;
- (f) in respect of returns prepared and furnished by him maintain record of the following, namely:-
 - (i) the name of assessee whose returns have been prepared and furnished by him during that month;
 - (ii) the Service Tax Code(STC) number and premises code of such assessee;
 - (iii) period for which return is filed;
 - (iv) date of furnishing the return;
 - (v) authority with whom return is filed;
 - (vi) amount of tax payable;
 - (vii) amount of tax paid;
 - (viii) the fee charged and received by him
- (g) furnish a statement of particulars mentioned in item (vi) for every month on or before the seventh day of the immediately following month to the Resource Centre.

8. Selection and responsibilities of the Partner Organisation.- (1) The Board shall select a Partner Organisation to partner with the Resource Centre for implementation of the Scheme.

(2) The Partner Organisation shall function under the overall guidance and control of the Resource Centre and follow the instructions issued to it by the Resource Centre from time to time about implementation of the scheme.

(3) The Partner Organisation shall be responsible to carry out the activities which it is required to carry out under paragraph 4 of this Scheme.

(4) The Partner Organisation shall maintain the profile of the Service Tax Return Preparers during their training and monitor their performance as Service Tax Return Preparers.

(5) The Partner Organisation shall perform its functions to the satisfaction of the Resource Centre.

(6) The Board may, on the recommendation of the Resource Centre, terminate the agreement with the Partner Organisation and may -

(a) enter into an agreement with any other Partner Organisation; or

(b) assign its functions to the Resource Centre,

if in its opinion, the Partner Organisation has failed to perform its functions properly.

9. Incentive to Service Tax Return Preparers.- An assessee shall pay a fee as may be mutually agreed upon between an assessee and the Service Tax Return Preparer. The Board recommends, as a yardstick, a fee of rupees one thousand rupees per return prepared by the Service Tax Return Preparer.

10. Maintenance of particulars relating to Service Tax Return Preparers.- (1) The Resource Centre shall, in relation to each Service Tax Return Preparer, shall itself maintain the particulars, or direct the Partner Organisation to maintain such particulars, which may be necessary to assess his performance.

(2) The Resource Centre may issue instructions to the Service Tax Return Preparers from time to time.

11. Withdrawal of certificate given to the Service Tax Return Preparer.- (1) The Resource Centre may warn a Service Tax Return Preparer for the deficiencies in his work and his misconduct, and may proceed for cancellation of his certificate in any one or more of the following circumstances, namely,-

(i) if he fails to give a copy of the return to the assessee;

(ii) if he prepares a return but fails to affix his signature thereon;

(iii) if he fails to furnish his name and unique identification number in the return prepared by him;

- (iv) if he fails to enter any information made available to him by the assessee, correctly in the return prepared by him;
- (v) if he makes repeated mistakes relating to computation of service tax in the returns prepared by him;
- (vi) if he is engaged in any financial irregularity, forgery or fraud;
- (vii) if he willfully attempts to furnish incorrect information in return
- (viii) if he is involved in any other irregularity which, in the opinion of the Chief Commissioner or the Commissioner of Central Excise, is grave in nature;
- (ix) if he fails to comply with the directions issued by the Resource Centre from time to time;
- (x) if he fails to upgrade his skills as required by the Resource Centre from time to time.

(2) A Service Tax Return Preparer may continue to act as such, unless-

- (i) the Certificate issued to him under this Scheme is suspended or withdrawn by the Resource Centre; or
- (ii) this Scheme is withdrawn by the Board.

12. Responsibilities and functions of the Resource Centre.- (1) The Resource Centre shall be responsible for day to day administration of the Scheme.

(2) The functions of the Resource Centre shall include-

- (i) to specify, with prior approval of the Board,
 - (a) the number of persons to be enrolled during a financial year for training to act as Service Tax Return Preparers;
 - (b) the number of centres for training and their location where at training to be imparted during a financial year;
 - (c) the number of persons to be trained at each centre for training during a financial year;
- (ii) to specify the curriculum and all other matters relating to the training of Service Tax Return Preparers;
- (iii) maintain the particulars relating to the Service Tax Return Preparers as required in paragraph 10 of this Scheme;
- (iv) any other function which is assigned to it by the Board for the purposes of implementation of the Scheme.

[F.No. 137/318/2007-CX.4]

(Gautam Bhattacharya)

Joint Secretary to Government of India
