

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

Trade Notice No. 9/2009-S.Tax

Dated: 6-7-2009.

Subject: Service Tax-Union Budget-2009-10-Instructions –Reg.

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The Finance Bill has been introduced in the Lok Sabha on 6<sup>th</sup> July 2009. The Changes in Service Tax effected by the Finance Bill, 2009 and the Notifications issued will come into force as specified in the letter and notifications.

2. The Budget Bulletins brought out by the Directorate of Publicity and Public Relations can be obtained on payment from Central Excise Policy Section, O/o the Commissioner of Central Excise, No.1, Williams Road, Contonment, Trichy-1 on or after 8-7-2009.

3. Salient features of the Budget Proposal regarding Service Tax is enclosed herewith (Ministry's TRU letter, Explanatory Notes and Notifications). The same is also available on the website of Central Excise & Customs, namely <http://cbec.gov.in>

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

(Issued from C.No.IV/16/805/2009-S.Tax)

Encl.: As above.

Sd/-  
(R. SARAVANA KUMAR)  
JOINT COMMISSIONER (T).

To  
The Mailing list I / II / III.

Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit  
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Gautam Bhattacharya  
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**D.O. F. No.334/13/2009-TRU**  
New Delhi, 6<sup>th</sup> July, 2009

Dear Chief Commissioner/ Director General/Commissioner,

The Finance Minister has introduced the Finance (No. 2) Bill, 2009 in the Lok Sabha on the 6<sup>th</sup> of July, 2009. Clause 112 of the Finance (No 2) Bill, 2009 covers all the changes relating to Chapter V of Finance Act, 1994. Changes are also being proposed in the provisions of the,-

- CENVAT Credit Rules, 2004;
- Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007; and
- Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.

Notification Nos. 16/2009-ST to 23/2009-ST and 16/2009-CE (NT) all dated 7<sup>th</sup> July, 2009 refer. Details of the changes are explained in the Explanatory Notes. The salient features of the changes are discussed hereinafter.

2. **New Services included in the list of Taxable Services**

The following new services are proposed to be included in the list of taxable services. These services would get covered under the list of taxable services from a date to be notified after the enactment of Finance (No. 2) Bill, 2009.

2.1 **Transport of Goods through Rail:** Presently, transportation of goods in containers by rail, by other than Government railways is taxable under section 65(105)(zzzp) since 2006. It is now proposed to impose service tax on goods transported by railways including Government railways, whether in containers or otherwise. Suitable abatement and exemption to specified goods would be provided through issuance of notification at the appropriate time.

2.2 **Transport of Coastal Goods; and Goods transported through Inland water:** Coastal goods (as defined under the Customs Act) and transport of goods through National Waterways, and inland waters are proposed to be brought under tax net. Suitable abatement and exemption to specified goods would be provided through issuance of notification at the appropriate time.

2.3 **Legal Consultancy Service:** As in the case of management consultancy or engineering consultancy service, any consultancy, advice or technical assistance provided in any discipline of law is proposed to be subjected to service tax. However, the tax would be limited to services provided by a business entity to another business entity. It has been defined that a business entity includes firms, associates, enterprises, companies etc. but does not include an individual. Thus, services provided by an individual advocate either to an individual or even to a business entity would be outside the scope of the taxable service. Similarly, the services provided by a corporate legal firm to an individual would also be outside the purview of taxable service. Any service of appearance before any court of law or any statutory authority would also be kept outside this levy.

#### 2.4 Cosmetic and Plastic Surgery service:

2.4.1 Beauty treatment service provided by saloons, beauty parlors and beauticians are taxable since 2002. The service now proposed to be taxed is cosmetic surgery and plastic surgery undertaken to preserve or enhance physical appearance or beauty. As per common definition, surgery is a medical technology consisting of a physical intervention on tissues. As a general rule, a procedure is considered surgical when it involves cutting of a patient's tissues or closure of a previously sustained wound. Commonly surgery is performed in a sterile environment with anesthesia and antiseptic conditions using surgical instruments. It also includes 'non-invasive' surgery.

2.4.2 Some of the commonly known aesthetic/cosmetic surgeries are abdominoplasty (tummy tuck); blepharoplasty (eyelid surgery); mammoplasty; buttock augmentation and lift; rhinoplasty (reshaping of nose); otoplasty (ear surgery); Rhytidectomy (face lift); liposuction (removal of fat from the body); brow lift; cheek augmentation; facial implants; lip augmentation; forehead lift; cosmetic dental surgery; orthodontics; aesthetic dentistry; laser skin surfacing etc.

2.4.3 However, any reconstructive surgery undertaken to restore one's appearance, anatomy or bodily functions affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma would be outside the scope of this service. These processes could be undertaken to correct impairment caused by burns, fractures or congenital abnormalities like cleft lip etc.

### 3. **Alteration in the scope of existing taxable services :**

The following alteration/modifications have been done in the existing taxable services. These changes would come into effect from a date to be notified after the enactment of the Finance (No. 2) Bill, 2009.

3.1 Modification in Business Auxiliary Service (BAS) [section 65(19)]: It may be recalled that production or processing of goods for or on behalf of a client falls within the purview of this service. However, if any such activity amounts to manufacture within the meaning of section 2(f) of the Central Excise Act, the same is excluded from its purview. This exclusion has been modified to state that it would apply only if the activity results in manufacture of 'excisable goods'. Both the words/phrases i.e. 'manufacture' and 'excisable goods' would have the same meaning as defined under the Central Excise Act. The impact of this change would be that even if a process of manufacture is undertaken for the client, but the resultant product does not fall under the category of excisable goods, such as alcoholic beverages, the service tax would be attracted. Certain other goods which would also fall under BAS on account of the proposed change would be kept outside the tax net by way of exemption notification, to be issued at the appropriate time.

3.2 Stock-broker Service [section 65(105)(a)]: The present definition of a stock-broker [section 65(101)] includes sub-broker as well. A number of cases have been booked in the recent past where the sub-brokers have been asked to pay tax on the remuneration they receive from the stockbroker. Previously, the sub-brokers could issue contract note and receive amounts from the investors. With effect from 01.06.2005, SEBI regulations have prohibited sub-brokers from these activities. The role of sub-brokers has thus reduced substantially. Considering that the entire broking charges are anyway taxable at the hands of stock-broker and a large number of small sub-brokers have to comply with the service tax laws, the sub-brokers have been excluded from the purview of service tax by making suitable amendment in the definition of stock-broker. It is also clarified that such sub-brokers should also not be charged to service tax as commission agents under Business Auxiliary Service. For this purposes, specific exemption notification would be issued at the appropriate time.

3.3 Information Technology Software Service [section 65(105)(zzzzz)]: A correction has been carried out in the definition of the taxable service by replacing the word 'acquiring' by the word 'providing', considering the fact that it is the providing of 'right to use' and not the acquiring of 'right to use' is a taxable service. This amendment would have retrospective effect from 16.05.2008, when the service came into effect.

**4. Other changes in the Finance Act, 1994:**

4.1 While most of the procedures under service tax law are aligned to that of the central excise, one of the exceptions is the treatment to an order-in-original passed by an officer subordinate to Commissioner, if the same is not acceptable to the Commissioner on account of its lack of legality or appropriateness. While section 35E of the Central Excise Act, 1944 prescribes a departmental appeal being filed against such order before the Commissioner (Appeals), section 84 of the Finance Act, 1994 prescribes revision of such orders, which amounts to recalling the order and re-adjudicating it. Field formations as well as trade has requested that the service tax procedure should be amended to make it in line with the central excise procedure. The same has been done by suitably amending section 84 with certain consequential amendments in section 86. This provision would come into effect from the date of enactment of the Finance (No. 2) Bill, 2009. All cases decided before this date would continue to be governed by the existing provisions.

4.2 The service tax rules suffer from the deficiency of not having provisions relating to (1) relevant date for determination of rate of service tax and (2) place of provision of taxable services. For this purposes section 94 of the Act is being amended to empower the Central Government to make rules in this regard. This provision would come into effect from the date of enactment of the Finance (No. 2) Bill, 2009.

4.3 Goods Transport Agents (GTAs) receive several services from other service providers (such as warehouse keeper, cargo handlers, C&F agents) during the movement of goods, en-route. While these individual services are taxable at the hands the service providers, the GTA cannot take credit of tax paid on such services, as the abatement allowed to them is subject to condition that no credit should be availed. This matter was agitated by the GTAs, and the government agreed to exempt such services. Consequently, notification No. 1/2009-ST dated 05.01.2009 was issued. It was, however, pointed out by GTAs that litigation is pending for the past period. In this regard Board's letter F. No. 137/175/2007-CX.4 (Vol. II) dated 22.04.2009 was sent to the field formations to identify such cases, as the Government has promised to drop all past demands/litigation on this matter, latest by the end of August, 2009. In order to enable the field formations to dispose of the pending demands and discharge the notices issued for the past period, the said notification No. 1/2009-ST is being given retrospective effect (with effect from 01.01.2005) through changes made in the Finance (NO. 2) Bill, 2009. Upon the enactment of the Bill, field formations must be directed to take up these cases on priority and ensure that all such cases are disposed of latest by 31<sup>st</sup> August, 2009.

**5. Amendments in Rules (pertaining to service taxpayers):**

5.1 Changes in the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007: These rules provide a simplified procedure for working out the tax liability by the service providers providing works contract service. Instead of working out the service element from the value of works contract and paying service tax at full rate (i.e. 10%) the service provider is allowed to pay 4% on the 'gross amount charged' for the works contract. The reason for prescribing the lower rate under the scheme is that the service provider need not bifurcate the gross value of works contract. It was expected that the gross value should be shown to include the total value of materials as well as services used in providing the taxable services. However, it has been reported that in certain cases, the taxpayers are not including the full value of the goods required for execution of works contract for working out

service tax liability under the Composition Scheme by either excluding the value of goods received free of cost from their client or splitting the contract into a sale contract (for a portion of goods required to execute the works contract) and works contract (for only a portion of the total value of goods and the labor charges), thus reducing the value of works contract for the purposes of calculating service tax. In order to plug this loophole, the Explanation appearing in sub-rule (3) is being amended to provide that the composition scheme would be available only to such works contracts where the gross value of works contract includes the value of all goods used in or in relation to the execution of works contract whether received free of cost or for consideration under any other contract. This condition would not apply to those works contracts, where either the execution of works contract has already started or any payment (whether in part or in full) has been made on or before the date of the amendment, i.e. 07.07.2009, from which the said amendment becomes effective (refer notification No.23/2009-ST dated 07.07.2009).

## 5.2 Amendments made in CENVAT Credit Rules (pertaining to service tax)

5.2.1 Rule 3(5B) of the CENVAT Credit Rules provide that, if value of any input or capital goods on which CENVAT credit has been taken, is written off fully or where provision to write off has been made in the books of account before being put to use, the 'manufacturer' shall pay an amount equivalent to the CENVAT credit taken on such item. Similar provision is presently not prescribed in case of taxable service provider. The said sub-rule is being amended to bring taxable service provider within the ambit of the said restriction. This provision would come into force immediately (Refer notification No.16/2009-CE (NT), dated 07.07.2009).

5.2.2 Rule 6(3) provides an option for a provider of taxable as well as exempt services, using common inputs or input services, but opting not to maintain separate accounts to pay an amount of 8 per cent of the value of exempted service. This provision was made when the rate of tax on taxable services was 12 per cent. Since the service tax rate has been reduced to 10 per cent, the said amount payable on the exempted services is being reduced from 8 per cent to 6 per cent of the value of exempted service. This provision would come into force immediately (Refer notification No.16/2009-CE (NT), dated 07.07.2009).

5.2.3 For changes made in the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006, please see para 7.1

## 6. Exemptions:

6.1 Private bus operators, who operate buses on specific inter-state or intra-state routes, are required to pay service tax as they ply their buses having 'contract carriage permits' and thus fall within the definition of tour operators. On the other hand the State Undertakings run buses, which run on the same route carrying passengers, are not subjected to service tax as these buses bear 'stage carriage permit'. In order to bring parity between the two, the services provided by the tour operators undertaking point-to-point transportation of passengers in a vehicle bearing contract carriage permit is being fully exempted from service tax, provided such transportation is not in relation to tourism or conducted tours, or charter or hire. (Notification No. 20/2009-ST dated 07.07.09 refers).

6.2 Sale and purchase of foreign exchange/money changing were made taxable in the past. The inter-bank transactions of purchase or sale of foreign currency, when undertaken by scheduled banks, is being exempted. (Notification No. 19/2009-ST dated 07.07.09 refers). Scheduled banks under this notification mean the banks, which are included in the Second Schedule of the Reserve Bank of India Act, 1934

6.3 Associations, including trade associations, are taxable under clubs and association service. Federation of Indian Export Promotion Organization (FIEO) and twenty-one specified export promotion councils sponsored by the Department of Commerce or by the Ministry of Textiles are being exempted from the levy of service

tax under the said service. This exemption would remain valid till 31.03.2010. (Notification No. 16/2009-ST dated 07.07.09 refers)

6.4 All the exemptions mentioned above would come into force immediately

**7. Changes in territorial jurisdiction:**

7.1 Vide notification No. 1/2002-ST dated 01.03.2002, the provisions of Chapter V of the Finance Act, 1994 (which governs the levy and collection of service tax were extended to the designated areas in the Continental Shelf of India (CSI) and the Exclusive Economic Zone (EEZ) of India, as declared by Ministry of External Affairs Notification Nos. S.O. 429(E) dated 18.07.1986 and S.O. 643 (E) dated 09.09.1996. Notification No. 1/2002-ST has been amended to extend the provisions of Chapter V of the Finance Act, 1994 to installations, structures and vessels in the entire CSI and EEZ of India. Thus, services provided to or from CSI and EEZ of India would be covered within the ambit of the provisions relating to service tax w.e.f. 07.07.2009 (Notification No. 21/2009-ST dated 07.07.09 refers). Consequential changes have also been made in the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 (Notification No. 22/2009-ST dated 07.07.09 refers).

**8. Changes in the scheme for refund of service tax to the exporters of goods:**

8.1 Notification No. 41/2007-ST dated 06.10.2007 provides for a scheme of refund of service tax paid on taxable services, received and used in connection with export of goods by the merchant/manufacturer-exporter. This notification has been amended several times in order to include a number of taxable services within the scheme and also to facilitate speedier disposal of the refund claims. The Board has also issued a number of circulars. Despite these efforts, representations have been received from trade and industry that there are inordinate delays in grant of refund claims and in many cases the refund is denied or notices are issued to the exporters. On the other hand, the field formations have expressed difficulties in implementing the conditions and following the procedures laid down in the said notification and the circulars issued from time to time. In order to ensure that exporters get refunds speedily, the entire scheme has been revamped. The new scheme would consist of two parts.

**8.2 Exemption to taxable services**

The following two services have been exempted, if they are used for export of goods and where the liability to pay the tax on such services is on the exporter himself, on reverse charge basis, -

- (i) Transport of goods by road, from the place of removal to any ICD, CFS, port or airport; or from any CFS or ICD to the port or airport; and
- (ii) Services provided by a foreign commission agent for procuring orders.

This has been done in order to avoid the circuitous route of first paying the tax and then receiving the refund. An exporter registered with an export promotion council, sponsored by Ministry of Commerce or Ministry of Textiles, having Import-Export Code Number and registered with the Department under section 69 of the Finance Act, 1994 for his liability under reverse charge is eligible to claim this exemption. (Notification No. 18/2009-ST dated 07.07.2009 refers).

**8.3 Modified Refund Scheme**

Notification No. 41/2007-ST is being superseded by Notification No. 7/2009-ST dated 07.07.2009 prescribing refund scheme in respect of 16 taxable services. Service of 'terminal handling' has been added in the existing list of taxable services. The service 'transport of goods through road' is also included in this list to cover such exporters who are not liable to pay service tax under reverse charge mechanism. The services of foreign commission agents have been deleted from the list, as it is comprehensively covered under Notification No. 18/2009-ST dated 07.07.2009. While the general structure of the notification is similar to that of

Notification No. 41/2007-ST, the new scheme is essentially trust based i.e. refund is to be granted on self-certification/certification by Chartered Accountant.

8.4 A note is being annexed to this letter giving details of the scheme. All officers dealing with the scheme should be advised read it carefully. The jurisdictional Chief Commissioners and Commissioners are requested to ensure that the scheme is followed in its letter and spirit and the prescribed time period is strictly adhered to. In case of any difficulty or doubt in implementing the scheme, the same may kindly be brought to the notice of the undersigned or of the officers mentioned below immediately. It must be kept in mind that smooth implementation of this scheme is high on the priority of the CBEC.

## **9. General**

9.1 Changes explained above are not exhaustive and are meant to bring the salient features to your notice. No part of this letter, including the explanations or elaboration, should be treated as part of statutory provisions or the notifications, neither do they have any overriding effect on them nor should they be used for interpreting the statutory provisions or the notifications issued. Therefore the text of the statutory provisions and the wordings of the notifications should be read carefully for interpreting the law.

9.2 While utmost care has been taken to draft the statutory provisions and the notifications, in case you find any omission/error while going through the same, kindly bring the same to our notice immediately. It is also desirable to have interactive sessions with field officers and the trade and industry to obtain their views, feedback and suggestions, which may also be intimated to us at the earliest.

9.3 If there is any comment, doubt, difficulty or suggestions on any issue relating to interpretation or implementation of the statutory provisions or the notifications mentioned above, it may kindly be brought immediately to my notice or to the notice of,-

- **Shri Roopam Kapoor, OSD(TRU)**  
**Tel: 23095590; email: roopamkapoor@gmail.com**
- **Shri J.M. Kennedy, Director (TRU)**  
**Tel: 23092634; email: jm.kennedy@nic.in**
- **Shri Samar Nanda, Technical Officer (TRU)**  
**Tel : 23092037; email: samarnanda@gmail.com**

With regards

Yours sincerely,

(Gautam Bhattacharya)

Encl: A note on new scheme for exporters

To  
All Chief Commissioners/ Director Generals.  
All Commissioners of Service Tax  
All Commissioners of Central Excise

Annexure to JS (TRU-II) D.O. letter F. No. 334/ /2009-TRU  
dated 06.07.2009 regarding Note on  
New Service Tax Exemption/Refund Scheme for Exporters

The Government and the Board have taken a serious view of the constant complaints of delay and rejection of the refund claims made under notification No. 41/2007-ST dated 06.10.2007. Considering the difficulties faced by the field formations in granting the refunds speedily and the exporters in receiving the refund amounts in time, it has been decided to revamp the entire scheme. This has been done through two notifications, namely, 17/2009-ST and 18/2009-ST both dated 07.07.2009. The steps to be taken by the claimant of refund and the departmental officers have been explained here in a sequential way so that both find it easy to follow.

2. Independently, the Chief Commissioners may direct the Commissioners under their jurisdictions, having cases pertaining to refund scheme under notification No. 41/2007-ST pending (as on 06.07.2009) at different stages to take an immediate stock. The information should be gathered in a stage wise manner as mentioned below:

- (a) Claims received but not processed
- (b) Refund claims processed, claimants asked to furnish details of the documents but no response received
- (c) Response received and further examination is on
- (d) Objections have been finalized but notices are yet to be issued
- (e) Notices issued but adjudication process not complete
- (f) All formalities completed but refund claim has not been disposed of or refund not yet granted
- (g) Pending for any other reasons (Please state the reasons)
- (h) Total [sum of (a) to (g)].

The above details should contain both the number of claims and amount of refund involved.

3. The report mentioned above may be compiled for all Commissionerates under the zonal jurisdiction and the zonal report may be sent to the undersigned latest by 31.07.2009.

4. The new scheme, which consists of two parts, is discussed in para 5 and 6 below.

5. **Exemption scheme under notification No. 18/2009-ST dated 07.07.2009**

5.1 **Availability:** The exemption would be available,-

- 1) on two taxable services, viz. (i) Transport of Goods by Road from any CFS or ICD to Port/Airport of Exports or from the place of removal (i.e. factory) to CFS, ICD, Port or Airport of Exports; (ii) service provided by a foreign commission agent who causes sale of goods abroad;
- 2) to exporters of goods who are registered with Export promotion councils and are holding import export code number and are also registered with service tax/central excise authorities as they are otherwise required to pay service tax on the above services received, under reverse charge mechanism;
- 3) in case of a foreign commission agent, to the extent of tax on commission upto 10% of fob of export value (i.e. 1% of service tax + applicable cess). In case payment made to agents is in excess of the said limit, service tax on reverse charge basis would have to be paid on the excess amount without any exemption or refund;



5.2 Procedure:

- 1) An exporter who desires to avail the exemption must first inform the jurisdictional AC/DC in Form EXP – 1 before availing such exemption for the first time, so that the department is in know of such exporters who would be claiming the exemption. It is advised that a running serial number should be allotted during the receipt of the intimation and the same should be mentioned on the intimation letter and receipt thereof. This number should be the identification number of an exporter claiming refund;
- 2) The exporter should preserve the originals of relevant document issued in his name evidencing provision of taxable service for which exemption has been claimed and should self-certify on the face of such documents,- (i) the receipt of services; and (ii) their use in export of goods. While the exporter would avail the exemption on his own, he is required to file a half-yearly return (in form EXP - 2 annexed to the notification) to the jurisdictional AC/DC, giving the details of the exports made and the quantum of exemption availed, within 15 days from the end of half-year (for exporters who opt for this exemption immediately on its introduction from 07.07.2009, first such return would be due on 15<sup>th</sup> October, 2009).
- 3) The following documents should be enclosed with the return:
  - (a) Self-attested copies of shipping bill/bill of exports pertaining to the exports in respect of which the exemption has been claimed;
  - (b) Self-attested copies of bill of lading/airway bill pertaining to above exports;
  - (c) The original invoice/bill/challan issued by the provider of taxable service in the name of the exporter showing the description and value of taxable service provided and the service tax payable thereon;
  - (d) The said original invoice/bill/challan should be self-certified by the exporter or by an authorised person in the following format-

“It is certified that the service mentioned in this bill/invoice/challan issued in my/our name pertaining to \_\_\_\_\_ (name of taxable service) has been received by me/us and that the said taxable service has been fully utilized in export of goods covered under shipping bill/airway bill No. \_\_\_\_\_ dated \_\_\_\_\_.”
  - (e) Additional documents required as per the condition laid down as per Column (4) of the Table annexed to the notification;

5.4 The field officers must ensure that all exporters who have opted for the scheme have filed their returns. Even in case an exporter does not avail any benefit under this notification during a half year, he should file a Nil return prescribed under this notification. Conversely, it should also be verified that those who have filled returns have intimated the department earlier.

6. **Refund Scheme under notification No. 17/2009-ST:**

6.1 This notification replaces earlier notification No. 41/2007-ST and aims to provide exemption through refund of tax paid on specified services on certification basis.

6.2 Availability: The exemption would be available to the,-

- 1) specified services mentioned in Column (3) of the Table annexed to the notification;
- 2) exporters of goods who are registered with the Export Promotion Councils exporters and having import export code;

- 3) exporters of goods who have paid the value of taxable service received including the service tax thereon to the provider of taxable service and they have not claimed Cenvat credit on such service tax paid;
- 4) claim of refund which is for Rs.500 or more.

6.3 Procedure:

- 1) An exporter, who is not a manufacturer-exporter and is not registered with the department, shall first file a declaration in Form A-2 (annexed to the notification) for obtaining a service tax code from the Office of AC/DC Central Excise under whose jurisdiction the registered/head office of the exporter falls. Such code will be given within 7 days from the date of receipt of the Form A -2;
- 2) The refund claim should be filed in Form A-1 (annexed to the notification) within one year from the date of export of goods. The exporter has the choice to file separate refund claim for individual exports (i.e. one shipping bill/bill of export) or he can bunch the documents relating to several exports and file them together;
- 3) The following documents should be filed alongwith the claim:
  - (i) Self-attested copies of shipping bill/bill of exports pertaining to the exports in respect of which the refund (s) has/have been claimed;
  - (ii) Self-attested copies of bill of lading/airway bill pertaining to above exports;
  - (iii) The original invoice/bill/challan issued by the provider of taxable service in the name of the exporter showing the description and value of taxable service provided and the service tax payable thereon;
  - (iv) The said original invoice/bill/challan should be certified by in the manner mentioned below;
  - (v) in case the amount of total claim is upto 0.25% of the total declared fob value of the export under the claim, such certificate will be issued by the exporter or by an authorized person;
  - (vi) in case the amount exceeds the above limit, such certification shall be done by the Chartered Accountant who audits the annual accounts of the exporter under the provisions of the Companies Act, 1956 or the Income Tax Act, 1961;
  - (vii) in either case the proforma of certification will be as follows:  
 "It is certified that the services mentioned in this bill/invoice/challan issued in my/our name pertaining to \_\_\_\_\_ (name of taxable service) has been received by me/us, that I/we have paid the value of the service and the service tax thereon and that the said taxable service has been fully utilized in export of goods covered under shipping bill/airway bill No. \_\_\_\_\_ dated \_\_\_\_\_."
  - (viii) additional documents required as per the condition laid down as per Column (4) of the Table annexed to the notification.
- 4) While receiving a claim it must be ensured that the claim is complete in all respects and the required documents have been enclosed properly. In case any default or deficiency is noticed after the claim has been received, the claim can be returned back within 5 working days from the date of its receipt. Beyond that period the claim has to be accepted and processed;
- 5) The claim would be examined as mentioned in para (3) of the notification and the refund shall be made within one month from the receipt of the claim unless the issue is of the nature mentioned in proviso to the said para (3);
- 6) The claim should not be subjected to pre-audit irrespective of the amount of claim.

7. The Commissioner in charge should be vigilant and undertake periodic review to ensure that no claim is held up beyond the prescribed time limit of one month unless there are acceptable reasons for the same.

8. All Chief Commissioners are requested to forward a status report for the zone, separately for each of the notification in the format enclosed. The report should reach the Board latest by the dates mentioned with the formats.

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## EXPLANATORY NOTES – SERVICE TAX

A. The following changes are being proposed in the Finance (No.2) Bill, 2009 [refer clause 112 of the Finance (No.2) Bill, 2009].

(I) Section 65 is being amended to :

(a) specifically include and define the following services, in the list of taxable services, namely:-

- (i) Service provided in relation to transport of coastal goods and goods through National Waterways and Inland Water,
- (ii) Service provided in relation to transport of goods by rail,
- (iii) Cosmetic and plastic surgery service,
- (iv) Legal consultancy service.

(The above changes will come into effect from a date to be notified, after the enactment of the Finance Bill, 2009).

(b) extend or modify the scope of certain services, namely:-

- (i) Business auxiliary service [Section 65 (19) ], so as to provide that only those processes which result in the manufacture of excisable goods (as defined in the Central Excise Act) are excluded from the purview of Business auxiliary service.
- (ii) Information technology service [Section 65 (105) (zzzze)], to replace the word, 'acquiring', with the word, 'providing' [appearing in serial number (iv) and (v) of the definition].The amendment is being given retrospective effect from 16.05.2008.
- (iii) Stock-broker service [Section 65 (101)], to exclude sub-broker from its ambit. As a result sub-brokers will be outside the ambit of service tax.

(The above changes will come into effect from a date to be notified, after the enactment of the Finance Bill, 2009).

(II) Section 66 pertaining to “charge of service tax” is being amended, to include the services which are individually specified, for inclusion in the list of taxable service.

(III) Section 84 is being amended, to abolish the revision procedure prescribed in Section 84. Revision of orders by the Commissioner is being replaced, with the filing of departmental appeals before the Commissioner of Central Excise (Appeals), similar to the Central Excise provisions. Consequential changes are effected in Section 86. A saving clause is being provided, to protect the pending cases.

- (IV) Section 94 is being amended, to empower the Central Government, to frame rules with respect to the place of supply of taxable services, and the relevant date for determination of service tax.

(The above changes will come into effect from the date of enactment of the Finance Bill, 2009).

B. Amendments in the Rules and existing Notifications:

- (I) The scope of notification No.1/2002-ST dated 01.03.2002 is being enlarged, by extending the applicability of service tax provisions to installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zone of India [refer notification No. 21/2009-ST dated 07.07.2009].
- (II) Explanation provided in the Works Contract Rules, 2007 is being modified, so as to allow the benefit of optional composition scheme, only for such works contracts, where the taxpayer declares the entire value of goods (whether supplied under any other contract for a consideration or otherwise) and services used in the execution of the works contract, as the 'gross value' charged for the works contract. This restriction would not apply to the current works contracts where either the execution has commenced or any payment been made on or before 07.07.2009 [refer notification No.23/2009-ST dated 07.07.2009].
- (III) Rule 6(3) of the Cenvat Credit Rules, 2004 is being amended, to reduce the amounts to be paid on clearances of exempted goods and on provision of exempted services, from 10% to 5% in case of Central Excise and from 8% to 6% in case of service tax respectively [refer notification No.16/2009-CE(N.T.) dated 07.07.2009].
- (IV) Rule 3(5B) of the Cenvat Credit Rules, 2004 is being amended, so as to provide that a service provider shall pay back the amount of credit taken on inputs/capital goods fully written off [refer notification No. 16/2009-CE(N.T.) dated 07.07.2009].

(The above changes would come into effect immediately).

C. Exemptions:

- (I). Exemption from service tax is being provided, to inter-state or intra-state transportation of passengers, in a vehicle bearing 'contract carriage permit', with specified conditions [refer notification No. 20/2009-ST dated 07.07.2009].
- (II). Exemption from service tax (leviable under "club or association" service) is being provided, to the Federation of Indian Export Organizations (FIEO) and specified Export Promotion Councils, on the membership or any other fee collected by

them. This exemption is valid up to 31.03.2010[refer notification No.16/2009-ST dated 07.07.2009]

(III). Exemption from service tax (leviable under “banking and other financial services” or “foreign exchange broker” services) is being provided, to inter-bank purchase and sale of foreign currency between scheduled banks [refer notification No.19/2009-ST dated 07.07.2009].

(IV). Refund Scheme for Exporters:

Notification No.41/2007-ST dated 06.10.2007 provides for refund of service tax paid on services, which though not in the nature of input services, are relatable to export goods. The scheme is being revamped, to ensure speedier grant of refunds, to the exporters. The salient features of the new scheme, being notified under two notifications, No.17/2009-ST and No.18/2009-ST, both dated 07.07.2009, are as follows:

- (a) Under notification No.18/2009-ST dated 07.07.2009, two taxable services, namely, ‘transport of goods by road’ and ‘commission paid to foreign agents’ have been exempted from the levy of service tax, if the exporter is liable to pay service tax on reverse charge basis. The present cap of 10% on commission agency charges has been retained, and the exporter will have to pay service tax on the amount of commission which is in excess of 10%.
- (b) Superseding notification No.41/2007-ST dated 06.10.2007, a revised refund scheme is being brought into effect under notification No.17/2009-ST dated 07.07.2009. The salient features of this scheme are:-
- ‘Terminal handling charges’ is being added in the list of eligible services.
  - The time period for filing refund claim is being increased to one year from the date of export. The condition for filing refund claims once in a quarter is also being dispensed with. Now the exporter can file a refund claim anytime after export.
  - A simplified format is being prescribed for filing refund claims.
  - Many of the conditions that were imposed under the previous scheme have been deleted.
  - Self certification is being introduced to ensure speedier sanction and disbursement of refunds. In case, where the total refund claim does not exceed 0.25% of the total f.o.b. value of the exports under a claim, a self-certification by the exporter on the invoice, bill or challan, to the effect that: (a) the eligible services have been received by the exporter; (b) the service tax payable thereon has been reimbursed by the exporter, and (c) such services have been used for the export, would be

sufficient. The refunds shall be granted within one month without any pre-audit.

- In cases, where the amount of refund claim exceeds 0.25% of the f.o.b. value of exports, the invoice, bill or challan submitted by the exporter should be certified by the Chartered Accountant, who audits his annual accounts. On the basis of such certification, the refund claim shall be sanctioned by the department within one month, without any pre-audit.

(All these exemptions would come into effect immediately).

D. Giving retrospective effect to certain exemptions:

(I) The exemption given vide notification number 1/2009 dated 05.01.2009 to persons providing specified services to goods transport agency is being given retrospective effect from 1<sup>st</sup> day of January, 2005.

(This exemption will come into effect the date of enactment of Finance Bill, 2009).

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,  
SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

New Delhi, the 7<sup>th</sup> July, 2009.

Notification No. 16/2009-Service Tax

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service, referred to in sub-clause (zzze) of clause (105) of section 65 of the Finance Act, provided or to be provided by the following associations, from the whole of the service tax leviable thereon under section 66 of the said Finance Act, namely:-

- (i) Federation of Indian Export Organisations, Niryat Bhawan, Rao Tula Ram Marg, Opposite Army Hospital Research and Referral, New Delhi-110 016;
- (ii) Engineering Export Promotion Council, Vanijya Bhawan, 1st Floor, International Trade Facilitation Centre, 1/1, Wood Street, Kolkata - 700016;
- (iii) Project Exports Promotion Council of India, H-118, Himalaya House, 11th Floor, 23, Kasturba Gandhi Marg, New Delhi – 110001;
- (iv) Basic Chemicals, Pharmaceuticals and Cosmetics Export Promotion Council, Jhansi Castle, 4th floor, 7-Cooperage Road, Mumbai – 400039;
- (v) Chemicals and Allied Products Export Promotion Council, World Trade Centre, 14/IB, Ezra Street, Kolkata – 700001;
- (vi) Council for Leather Exports, 3rd floor, CMDA Tower-2 Gandhi Irwin Bridge Road, Egmore, Chennai – 600008;
- (vii) Sports Goods Export Promotion Council, 1-E/6, Swami Ram Tirth Nagar, Jhandewalan Extn. New Delhi – 100055;
- (viii) Gem and Jewellery Export Promotion Council, Diamond Bazar, 5th floor, 391-A, Dr.D.Bhadkamkar Marg, Mumbai-400 004;
- (ix) Shellac Export Promotion Council, Vanijya Bhawan International Trade Facilitation Centre, 1/1 Wood Street, 2nd Floor, Kolkata – 700016;
- (x) Cashew Export Promotion Council, Post Box No.1709, Chittor Road, Ernakulam South., Cochin – 682016;
- (xi) The Plastics Export Promotion Council, Crystal Tower, Gundivali Road No. 3, Off Sir M.V.Road, Andheri(East), Mumbai-400 069;



- (xii) Export Promotion Council for Export Oriented Units and Special Economic Zones Units, 705, Bhikaji Cama Bhawan, Bhikaji Cama Place, New Delhi – 110066;
- (xiii) Pharmaceutical Export Promotion Council, 101, Aditya Trade Center, Ameerpet, Hyderabad– 500038;
- (xiv) Apparel Export Promotion Council, Apparel House, Institutional Area, Sector-44, Gurgaon-122003, Haryana;
- (xv) Carpet Export Promotion Council, 101-A/1, Krishna Nagar, (Behind Government Senior Secondary School), Safdarjung Enclave, New Delhi 110029;
- (xvi) Cotton Textile Export Promotion Council, Engineering Centre, 5th Floor, Mumbai - 400 004;
- (xvii) Export Promotion Council for Handicrafts, Plot No.1,Pocket 6 and 7,Sector-C,Local Shopping Centre, Vasant Kunj, New Delhi - 110 070;
- (xviii) Handloom Export Promotion Council, 18, Cathedral Garden Road, Nunagambakkam, Chennai 600 034;
- (xix) Indian Silk Export Promotion Council, 62, Mittal Chambers, 6th Floor, Nariman Point, Mumbai - 400 021;
- (xx) Powerloom Development Export Promotion Council, 16, Ist Floor, Mittal Chambers, Nariman Point, Mumbai -400 021;
- (xxi) Synthetic and Rayon Textile Export Promotion Council, Resham Bhavan, 78, Veer Nariman Point Road, Mumbai - 400 020;
- (xxii) Wool and Woollens Export Promotion Council, 312/714, Ashoka Estate, 24, Barakhamba Road, New Delhi - 110 001.

2. The notification shall remain in force upto and inclusive of the 31<sup>st</sup> day of March, 2010.

[F.No.334/13/2009-TRU]

(Prashant Kumar)  
Under Secretary to the Government of India

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of the Government of India in the Ministry of Finance (Department of Revenue) notification No.41/2007-Service Tax, dated the 6<sup>th</sup> October, 2007, published in the Gazette of India, Extraordinary, vide number G.S.R. 645(E), dated the 6<sup>th</sup> October, 2007, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services specified in column (3) of the Table below (hereinafter referred to as specified services) received by an exporter of goods (hereinafter referred to as the exporter) and used for export of goods (hereinafter referred to as said goods) pertaining to sub-clauses of clause(105) of section 65 of the said Act specified in the corresponding entry in column(2) of the said Table, from the whole of the service tax leviable thereon under section 66 and section 66A of the said Act, subject to the conditions specified in the corresponding entry in column (4) of the said Table:

Provided that–

- (a) the exemption shall be claimed by the exporter for the specified service received and used by him for export of the said goods;
  - (b) the exemption claimed by the exporter shall be provided by way of refund of service tax paid on the specified service used for export of the said goods;
  - (c) the exporter claiming the exemption has actually paid the service tax on the specified service to its provider;
  - (d) no CENVAT credit of service tax paid on the specified service used for export of said goods has been taken under the CENVAT Credit Rules, 2004;
- (2) the exemption shall be given effect to in the following manner, namely:-
- (a) the person liable to pay service tax under section 68 of the said Act on the specified service provided to the exporter and used for export of the said goods shall not be eligible to claim exemption for the specified service;
  - (b) the manufacturer-exporter, who is registered as an assessee under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall claim the exemption by filing a claim for refund of service tax paid on specified service to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of manufacture, in Form A-1;
  - (c) the exporter who is not so registered under the provisions referred to in clause (b) , shall before filing a claim for refund of service tax, file a declaration in Form A-2 with the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having the jurisdiction over the registered office or the head office, as the case may be, of such exporter;
  - (d) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code (STC)

number to the exporter, referred to in clause (c), within seven days from the date of receipt of the said Form A-2;

(e) the exporter, referred to in clause (b) or (c) , shall file the claim for refund of service tax to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of manufacture, registered office or the head office, as the case may be, of such exporter in Form A-1;

(f) the claim for refund shall be filed within one year from the date of export of the said goods.

Explanation.- For the purposes of this clause the date of export shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under section 51 of the Customs Act, 1962 (52 of 1962);

(g) for each taxable service specified in column(3) of the said Table, the exporter shall enclose all the documents specified in corresponding entry in column (4) of the said Table and the Form A-1 with the claim of refund;

(h) no refund claim shall be allowed if the same is for an amount less than rupees five hundred;

(i) where -

(A) the total amount of refund sought under a claim is upto 0.25% of the total declared free on board value of export;

(B) the exporter is registered with Export Promotion Council sponsored by the Ministry of Commerce or the Ministry of Textiles;

(C) subject to the provisions of (A) and (B) above, each document specified in clause (b) and in column (4) of the said Table shall be enclosed with the claim;

(D) invoice, bill or challan, or any other document issued in the name of the exporter, showing payment for such service availed and the service tax payable shall be submitted in original after being certified in the manner specified in sub-clauses (E) and (F);

(E) the exporter is a proprietorship concern or partnership firm, the documents enclosed with the claim shall be certified by the exporter himself and where the exporter is a limited company, the documents enclosed with the claim shall be certified by the person authorised by the Board of Directors;

(F) the documents enclosed with the claim shall contain a certificate from the exporter or the authorised person to the effect that specified service, to which the document pertains, has been received, the service tax payable thereon has been paid and the specified service has been used for export of goods under the shipping bill number;

(j) where the amount of refund sought under a claim is more than 0.25% of the declared free on board value of export, such certification, shall be done by the Chartered Accountant who audits the annual accounts of the exporter for the purposes of the Companies Act, 1956 (1 of 1956) or the Income Tax Act, 1961(43 of 1961), as the case may be;

(3) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after satisfying himself,-

- (i) that the claim filed is complete in every respect;
- (ii) that all the documents requiring certification have been filed after due certification;  
and
- (iii) about the arithmetical accuracy of the claim,

shall refund the service tax paid on the specified service within a period of one month from the receipt of said claim:

Provided that where the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise has reason to believe that the claim, or the enclosed documents are not in order or that there is a reason to deny such refund, he may, after recording the reasons in writing, take action, in accordance with the provisions of the said Act and the rules made thereunder;

(4) where any refund of service tax paid on specified service utilised for export of said goods has been paid to an exporter but the sale proceeds in respect of the said goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such service tax refunded shall be recoverable under the provisions of the said Act and the rules made thereunder, as if it is a recovery of service tax erroneously refunded:-

**Table**

Sr.No.	Classification of sub-clauses of clause (105) of section 65 of the said Act	Taxable Services	Conditions
(1)	(2)	(3)	(4)
1.	(d)	Service provided to an exporter by an insurer, including a re-insurer carrying on general insurance business in relation to insurance of said goods.	Exporter shall submit document issued by the insurer, including re-insurer, for payment of insurance premium and the document shall be specific to export goods and shall be in the name of the exporter.
2.	(zn)	Service provided by a port or any person authorised by the port in respect of the export of said goods.	
3.	(zzh)	Service provided by a technical testing and analysis agency, in relation to technical testing and analysis of said goods.	
4.	(zzi)	Service provided by a technical inspection and certification agency in relation to inspection	

		and certification of export goods.	
5.	(zzl)	Service provided by other port or any person authorised by that port in respect for export of said goods.	
6.	(zzp)	(i) Service provided for transport of said goods from the inland container depot to the port of export;  (ii) Service provided to an exporter in relation to transport of export goods directly from the place of removal, to inland container depot or port or airport, as the case may be, from where the goods are exported.	(i) Exporter shall certify that the benefit of exemption provided vide notification number 18/2009-S.T. has not been claimed; and  (ii) details, those are specified in the invoice of exporter relating to export goods, are specifically mentioned in the lorry receipt and the corresponding shipping bill.
7.	(zzzp)	(i) Service provided for transport of said goods from the inland container depot to the port of export, and  (ii) services provided to an exporter in relation to transport of export goods directly from the place of removal to inland container depot or port or airport, as the case may be, from where the goods are exported.	Invoice issued by the exporter in relation to export goods shall indicate the inland container depot or port or airport from where the goods are exported.
8.	(zzzd)	Specialised cleaning services namely disinfecting, exterminating, sterilising or fumigating of containers used for export of said goods provided to an exporter.	
9.	(zza)	Service provided for storage and warehousing of said goods.	
10.	(f)	Service provided by a courier agency to an exporter in relation to transportation of time-sensitive documents, goods or articles relating to export, to a destination outside India.	(i) The receipt issued by the courier agency shall specify the importer-exporter code (IEC) number of the exporter, export invoice number, nature of courier, destination of the courier including name and address of the

			recipient of the courier; and  (ii) exporter produces documents relating to the use of courier service to export goods.
11.	(h)	Service provided by a custom house agent in relation to export goods exported by the exporter.	Exporter shall produce,-  (i) invoice issued by custom house agent for providing services specified in column (3) specifying,-  (a) number and date of shipping bill;  (b) number and date of the invoice issued by the exporter relating to export goods;  (c) details of all the charges, whether or not reimbursable, collected by the custom house agent from the exporter in relation to export goods;  (ii) details of other taxable services provided by the said custom house agent and received by the exporter, whether or not relating to export goods.
12.	(zm)	(i) Service provided in relation to collection of export bills;  (ii) Service provided in relation to export letters of credit such as advising commission, advising amendment, confirmation charges;  (iii) Service of purchase or sale of foreign currency, including money changing provided to an exporter in relation to export goods.	
13.	(zzk)	Service of purchase or sale of foreign currency including money changing provided to an exporter in relation to export goods.	

14.	(zzzzj)	Service of supply of tangible goods for use, without transferring right of possession and effective control of tangible goods, provided to an exporter in relation to goods exported by the exporter.	
15.	(j)	Service provided by a clearing and forwarding agent in relation to export goods exported by the exporter.	Exporter shall produce,- (i) invoice issued by clearing and forwarding agent for providing services specified in column (3) specifying,- (a) number and date of shipping bill; (b) description of export goods; (c) number and date of the invoice issued by the exporter relating to export goods; (d) details of all the charges, whether or not reimbursable, collected by the clearing and forwarding agent from the exporter in relation to export goods; (ii) details of other taxable services provided by the said clearing and forwarding agent and received by the exporter, whether or not relatable to export goods.
16.	classified under any sub-clause of clause (105) of section 65.	Payment of service tax paid on services commonly known as terminal handling charges.	

[F.No.341/15/2007-TRU]

(Prashant Kumar)

Under Secretary to the Government of India

**Form- A1**

[see Paragraph 2(b) and 2(e)]

Application for claiming Refund of Service Tax paid under Notification No.17/2009-S.T., dated 07 - 07-2009

To,  
The Deputy/Assistant Commissioner of Central Excise

Sir,





		ce).							bill.

9. Declaration:-

I / We hereby declare that-

(i) the information given in this application form is true, correct and complete in every respect and that I am authorised to sign on behalf of the exporter;

(ii) no CENVAT credit of service tax paid on the specified services used for export of said goods shall be taken under the CENVAT Credit Rules, 2004;

(iii) the exemption has been claimed for service tax which has been actually paid on the specified services;

(iv) I / we shall maintain records pertaining to export goods and the taxable services used for export of the said goods and shall make available, at the declared premises, at all reasonable time, such records for inspection and examination by the Central Excise Officer authorised in writing by the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be.

Date:

Place:

Signature and full address of Exporter  
(Affix stamp)

**Form A-2**

*[see Paragraph 2(d)]*

Declaration to be given by merchant exporter under Clause 2(c) of the notification No. 17/2009- ST dated 07/07/2009

1. Name of the exporter:

2. Address of the registered office or head office of the Exporter :

3. Permanent Account Number (PAN) of the Exporter :

4. Import Export Code (IEC) of the Exporter :

5. Details of Bank Account of the Exporter :

(a) Name of the Bank :

(b) Name of the Branch :

(c) Account Number :

6. (a) Constitution of Exporter [Proprietorship /Partnership /Registered Private Limited Company /Registered Public Limited Company /Others (specify)]

(b) Name, address and telephone number of proprietor /partner /director

7. Name, designation and address of the authorised signatory / signatories:

8. I / We hereby declare that-

(i) the information given in this application form is true, correct and complete in every respect and that I am authorised to sign on behalf of the exporter;

(ii) I / we shall maintain records pertaining to export goods and the taxable services used for export of the said goods and shall make available, at the declared premises, at all reasonable time, such records for inspection and examination by the Central Excise Officer authorised in writing by the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be.

(Signature of the applicant / authorised person with stamp)

Date:

Place:

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service received by an exporter of goods (hereinafter referred to as the exporter) and used for export of goods (hereinafter referred to as the said goods), of the description specified in column (3) of the Table below (hereinafter referred to as the specified service), pertaining to sub-clauses of clause (105) of section 65 of the said Act specified in the corresponding entry in column (2) of the said Table, from the whole of the service tax leviable thereon under section 66 and section 66A of the said Act, subject to the conditions specified in column (4) of the said Table, namely:-

Table

<b>Serial No.</b>	<b>Sub-clause</b>	<b>Description of the taxable service</b>	<b>Conditions</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
<b>1.</b>	(zzp)	Service provided to an exporter for transport of the said goods by road from any container freight station or inland container depot to the port or airport, as the case may be, from where the goods are exported; or Service provided to an exporter in relation to transport of said goods by road directly from their place of removal, to an inland container depot, a container freight station, a port or airport, as the case may be, from where the goods are exported.	The exporter shall have to produce the consignment note, by whatever name called, issued in his name.
<b>2.</b>	(zzb)	Service provided by a commission agent located outside India and engaged under a contract or agreement or any other	(1)The exporter shall declare the amount of commission paid or payable to the commission agent

		<p>document by the exporter in India, to act on behalf of the exporter, to cause sale of goods exported by him.</p>	<p>in the shipping bill or bill of export, as the case may be.</p> <p>(2) The exemption shall be limited to one per cent of the free on board value of export goods for which the said service has been used.</p>
			<p>(3) The exemption shall not be available on the export of canalised item, project export, or export financed under lines of credit extended by Government of India or EXIM Bank, or export made by Indian partner in a company with equity participation in an overseas joint venture or wholly owned subsidiary.</p> <p>(4) The exporter shall submit with the half yearly return after certification of the same as specified in clause (g) of the proviso-</p> <p>(i) the original documents showing actual payment of commission to the commission agent; and</p> <p>(ii) a copy of the agreement or contract entered into between the commission agent located outside India and the exporter in relation to sale of export goods, outside India:</p>

Provided that-

- (a) the exemption shall be available to an exporter who,-
  - (i) informs the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the factory or the regional office or the head office, as the case may be, in Form EXP1, before availing the said exemption;
  - (ii) is registered with an export promotion council sponsored by the Ministry of Commerce or the Ministry of Textiles, as the case may be;
  - (iii) is a holder of Import-Export Code Number;
  - (iv) is registered under section 69 of the said Act;
  - (v) is liable to pay service tax under sub-section (2) of section 68 of said Act, read with sub-clause (iv) or sub-clause (v) of clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994, for the specified service;
- (b) the invoice, bill or challan, or any other document issued by the service provider to the exporter, on which the exporter intend to avail exemption, shall be issued in the name of the exporter, showing that the exporter is liable to pay the service tax in terms of item (v) of clause (a);
- (c) the exporter availing the exemption shall file the return in Form EXP2 every six months of the financial year, within fifteen days of the completion of the said six months;
- (d) the exporter shall submit with the half yearly return, after certification, the documents in original specified in clause (b) and the certified copies of the documents specified in column (4) of the said Table;
- (e) the documents enclosed with the return shall contain a certification from the exporter or the authorised person, to the effect that taxable service to which the document pertains, has been received and used for export of goods by mentioning the specific shipping bill number on the said document.
- (f) where the exporter is a proprietorship concern or partnership firm, the documents enclosed with the return shall be certified by the exporter himself and where the exporter is a limited company, the documents enclosed with the return shall be certified by the person authorised by the Board of Directors;
- (g) where the amount of service tax in respect of the service specified against serial No. 2 of the Table exceeds one per cent. of the free on board value of the export then, the amount in excess of the said one per cent. shall be paid within the period specified under rule 6 of the Service Tax Rules, 1994;

[F.No.341/15/2007-TRU]

(Prashant Kumar)  
Under Secretary to the Government of India

**Form- EXP1**  
*[see Paragraph (a)(i)]*

S.No-----

(to be filled in by the office of jurisdictional  
Assistant / Deputy Commissioner)

To,  
The Deputy Commissioner /Assistant Commissioner of Central Excise  
Sir,

I/We intend to avail the exemption from service tax under Notification No.18/2009-ST, dated.....in respect of services for transport of said goods by road or services provided by a commission agent located outside India, which have been used for export of goods and the relevant particulars are as follows.

1. Name of the exporter.
2. Service Tax Registration No.
3. Division ..... Commissionerate .....
4. Membership No. the Export Council
5. Name of the Export Council
6. Address of the registered / head office of exporter:
7. Tel. No. and e-mail ID of the exporter.....:
8. Import -Export Code No.....
9. Details of Bank Account (Name of Bank, branch address and account number)

I/we undertake that I/we shall comply with the conditions laid down in the said notification and in case of any change in aforementioned particulars, I/We shall intimate the same.

Date:

Place:

Signature and full address of Exporter

(Affix stamp)

Receipt (to be given by office of Assistant Commissioner/ Deputy Commissioner having jurisdiction)

Received Form EXP1 dated --/-- submitted by \_\_\_\_\_ ( name of the exporter). The said intimation is accepted and given acknowledgment No. \_\_\_\_\_ ( S. No. Above)

For Assistant, / Deputy Commissioner

(Stamp)

**Form- EXP2**  
*[see Paragraph (c)]*

To,  
The Deputy Commissioner /Assistant Commissioner of Central Excise  
Sir,

I/We have availed exemption of service tax under Notification No.18/2009-ST. dated 7<sup>th</sup> July, 2009 in respect of services, namely, the services provided for transport of said goods by road services provided by a commission agent, located outside India and have used the same for export of goods during the period from ..... to..... and the relevant particulars are as follows.

1. Name of the exporter.
2. Address of the registered / head office of exporter
3. Tel. No. and e-mail ID of the exporter.....:
4. Service Tax Registration No.
5. Division ..... Commissionerate .....
6. Membership No. Of the Export Council
7. Import Export Code No.....
8. Name of the Export Council
9. Details of Bank Account (Name of Bank, branch address and account number)

**Table-A**

S. No.	<b>Details of goods exported (on which exemption of service tax availed) during the six months ending on.....</b>						
	<b>Details of Shipping Bill/ Bill of export</b> (Please enclose self attested copy of Shipping Bill or Bill of Export) and <b>Details of goods exported</b> (in case of exports of more than one commodity, please fill in the proforma, commodity-wise)						
No	Date	Date of Let export order	Export invoice no	Date	Description of goods exported	Quantity (please mention the unit)	FOB value (in rupees in lakh)

**Table-‘B’**

<b>Details of specified services used for export of goods, covered under</b>	<b>Details of</b>	<b>Total amount</b>
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<b>the Shipping Bill or Bill of Export mentioned in Table 'A' in respect of which the exemption has been availed during the six months ending on.....</b>						Documents attached showing the use of such services for export, the details of which are mentioned in Table 'A' (self attested)	of service tax claimed as exemption (rupees in lakhs)
Name of service provider	Address of service provider	Invoice no	Date	Description of specified service	Classification under the Finance Act, 1994		

**9. Declaration:-**

I / We hereby declare that-

- (i) I have complied with all the conditions mentioned in notification No18/09-ST, dated 7<sup>th</sup> July, 2009;
- (ii) the information given in this application form is true, correct and complete in every respect and that I am authorised to sign on behalf of the exporter;
- (iii) no CENVAT credit of service tax paid on the specified services used for export of said goods taken under the CENVAT Credit Rules, 2004;
- (iv) I / we, am/ are enclosing all the required documents.

Further, I understand that failure to file the return within stipulated time or non-enclosure of the required document, duly certified, would debar me/us for the refund claimed aforesaid.

Date:

Place:

Signature and full address of Exporter

(Affix stamp)

**Enclosures: as above**



Notification

New Delhi, the 7<sup>th</sup> July, 2009

No.19/2009 – Service Tax

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service, referred to in sub-clause (zm) or (zzk), as the case may be, of clause (105) of section 65 of the Finance Act, provided to a Scheduled bank, by any other Scheduled bank, in relation to inter-bank transactions of purchase and sale of foreign currency, from the whole of the service tax leviable thereon under section 66 of the said Finance Act.

[F.No.334/13/2009-TRU]

(Prashant Kumar)  
Under Secretary to the Government of India

Notification

New Delhi, the 7<sup>th</sup> July, 2009

No.20/2009 – Service Tax

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service referred to in sub-clause (n) of clause (105) of section 65 of the Finance Act, provided or to be provided to any person, by a tour operator having a contract carriage permit for inter-state or intra-state transportation of passengers, excluding tourism, conducted tours, charter or hire service, from whole of the service tax leviable thereon under section 66 of the said Finance Act.

[F.No.334/13/2009-TRU]

(Prashant Kumar)  
Under Secretary to the Government of India

Notification  
No.21/2009 – Service Tax

New Delhi, the 7<sup>th</sup> July, 2009

G.S.R (E).- In exercise of the powers conferred by clause (a) of the sub-section (6) of section 6 and clause (a) of sub-section (7) of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976), the Central Government hereby makes the following amendments in the Government of India in the Ministry of Finance (Department of Revenue) notification No. 1/2002 – Service Tax, dated the 1st March, 2002, published in the Gazette of India Extraordinary, vide number G.S.R. 153 (E), dated the 1<sup>st</sup> March 2002, namely :-

In the said notification, for the portion beginning with the words “designated areas in the Continental Shelf” and ending with the words “with immediate effect”, the words “installations, structures and vessels in the continental shelf of India and the exclusive economic zone of India” shall be substituted.

[F.No.334/13/2009-TRU]

(Prashant Kumar)  
Under Secretary to the Government of India

Notification

New Delhi, the 7<sup>th</sup> July, 2009

No.22/2009 – Service Tax

G.S.R. (E).- In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Taxation of Services (Provided from outside India and Received in India) Rules, 2006, namely :-

1. (1) These rules may be called the Taxation of Services (Provided from outside India and Received in India) Amendment Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Taxation of Services (Provided from outside India and Received in India) Rules, 2006, in rule 2, for clause (e), the following clause shall be substituted, namely:-

‘(e) “India” includes the installations, structures and vessels in the continental shelf of India and the exclusive economic zone of India;’.

[F.No.334/13/2009-TRU]

(Prashant Kumar)

Under Secretary to the Government of India

Note.-The principal rules were notified vide notification No. 11/2006- Service Tax, dated the 19<sup>th</sup> April 2006 and published vide number G.S.R. 227(E), dated the 19<sup>th</sup> April, 2006 and last amended vide notification No. 6/2008- Service Tax, dated the 1<sup>st</sup> March, 2008, vide number G.S.R.150(E), dated the 1<sup>st</sup> March, 2008.

G.S.R. (E).- In exercise of the powers conferred by sections 93 and 94 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following rules further to amend the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, namely:-

1. (1) These rules may be called the Works Contract (Composition Scheme for Payment of Service Tax) Amendment Rules, 2009.  
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, in rule 3,-
  - (A) in sub-rule(1), for the Explanation, the following Explanation shall be substituted, namely:-

“Explanation.-For the purposes of this sub-rule, gross amount charged for the works contract shall be the sum,-

    - (a) including-
      - (i) the value of all goods used in or in relation to the execution of the works contract, whether supplied under any other contract for a consideration or otherwise; and
      - (ii) the value of all the services that are required to be provided for the execution of the works contract;
    - (b) excluding-
      - (i) the value added tax or sales tax as the case may be paid on transfer of property in goods involved; and
      - (ii) the cost of machinery and tools used in the execution of the said works contract except for the charges for obtaining them on hire:  
Provided that nothing contained in this Explanation shall apply to a works contract, where the execution under the said contract has commenced or where any payment, except by way of credit or debit to any account, has been made in relation to the said contract on or before the 7<sup>th</sup> day of July, 2009.”;
  - (B) after sub-rule(3), the following sub-rule shall be added, namely :-

“(4). The option under sub-rule (3) shall be permissible only where the declared value of the works contract is not less than the gross amount charged for such works contract.”.

[F.No.334/13/2009-TRU]

(Prashant Kumar)  
Under Secretary to the Government of India

Note:- The principal rules were notified vide notification No.32/2007,-Service Tax, dated the 22<sup>nd</sup> May, 2007 and published vide number G.S.R.378(E), dated the 22<sup>nd</sup> May, 2007 and amended vide notification No.7 /2008-Service Tax, dated the 1<sup>st</sup> March, 2008, published vide No. G.S.R. 151 (E), dated the 1<sup>st</sup> March, 2008.

G.S.R. (E).- In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

1. (1) These rules may be called the CENVAT Credit (Amendment) Rules, 2009.  
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), in rule 2, in clause (k), in Explanation 2, after the words “factory of the manufacturer”, the following shall be inserted, namely:-  
“but shall not include cement, angles, channels, Centrally Twisted Deform bar(CTD) or Thermo Mechanically Treated bar(TMT) and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods”.
3. In the said rules, in rule 3, for sub-rule (5B), the following sub-rule shall be substituted, namely:-  
“(5B) If the value of any,  
(i) input, or  
(ii) capital goods before being put to use,  
on which CENVAT credit has been taken is written off fully or where any provision to write off fully has been made in the books of account, then the manufacturer or service provider, as the case may be, shall pay an amount equivalent to the CENVAT credit taken in respect of the said input or capital goods:  
Provided that if the said input or capital goods is subsequently used in the manufacture of final products or the provision of taxable services, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier subject to the other provisions of these rules.”.
4. In the said rules, in rule 6, in sub-rule (3), for clause (i), the following clause shall be substituted, namely:-  
“(i) the manufacturer of goods shall pay an amount equal to five per cent. of value of the exempted goods and the provider of output service shall pay an amount equal to six per cent. of value of the exempted services; or”.

[F.No.334/13/2009-TRU]

(Prashant Kumar)

Under Secretary to the Government of India

Note.- The principal rules were notified vide notification No. 23/2004-Central Excise (N.T.), dated the 10<sup>th</sup> September 2004, vide number G.S.R.600(E), dated the 10<sup>th</sup> September,2004, and last amended by notification No. 50/2008-Central Excise (N.T.), dated the 31<sup>st</sup> December, 2008, vide number G.S.R. 908(E), dated the 31<sup>st</sup> December, 2008.