

# Tax & You - Service Tax Voluntary Compliance Encouragement Scheme, 2013

Government has introduced a new Scheme to encourage Service Tax defaulters to pay up outstanding taxes and become compliant, voluntarily and without penal consequences.

The following is an overview of the changes proposed.

## 1. Applicability

Any person who has failed to pay, as of 1<sup>st</sup> March 2013, service tax liability, including Education Cess, relating to the period 1<sup>st</sup> October 2007 to 31<sup>st</sup> December 2012 can take advantage of the Scheme, subject to other conditions discussed below.

## 2. Restrictions

The following persons are not entitled to take benefit of the scheme.

1. Anyone who has been issued before 1<sup>st</sup> March 2013 a notice or order under section 72, 73, 73A of the Finance Act, 1994 relating to the tax being declared under this Scheme.
2. Anyone who has furnished a service tax return and disclosed the true liability, but has not paid the disclosed amount of service tax or any part thereof for the period covered by this Scheme.
3. If notices or orders of determination have been issued in respect of any period on any service tax issue, the Scheme will not be applicable on such issue for subsequent period.

## 3. Declaration

If someone wishes to take benefit of the Scheme, a Declaration will have to be filed with the designated officers on or before 31<sup>st</sup> December 2013.

The designated officer will acknowledge receipt of the declaration. The Form of declaration and information provided are yet to be prescribed.

## 4. Payment of tax under the Scheme

The declaring party will have to pay a minimum 50% of the declared tax on or before 31<sup>st</sup> December 2013 and the balance by 30<sup>th</sup> June 2014.

## 5. Failure to pay

Default in paying tax dues declared under the Scheme by the above dates would not invalidate the declaration.

Default in paying tax dues can be made good by paying it by 31<sup>st</sup> December 2014 along with interest from 1<sup>st</sup> July 2014 till the date of payment.

For dues that remain unpaid after 31<sup>st</sup> December 2014, recovery proceedings can be initiated as per the normal provisions.

## 6. Discharge (Compliance) certificate

On application to the designated officer enclosing evidences of complete payment of tax dues, including interest (if any) for delayed payment under this Scheme, the designated officer will issue an 'Acknowledgement of Discharge' as a compliance.

## 7. Immunity

On obtaining the Acknowledgement of Discharge, for the default disclosed, immunity is granted from:

- a. penalty
- b. interest
- c. any other Proceeding

## 8. Rejection of declaration

The Designated officer can reject a declaration made by a person only in the following cases:

1. If an enquiry or investigation, for service tax not levied or not paid or short-levied or short-paid, is initiated in any of the following manners and is pending as on 1<sup>st</sup> March 2013:
  - a. a search
  - b. issuance of summons
  - c. requiring production of accounts, documents or other evidence
2. An audit is initiated and is pending as on 1<sup>st</sup> March 2013.

Recording the reasons for rejection in writing, the designated officer will pass an order rejecting the declaration.

## 9. False Declaration

In cases where the Commissioner of Central Excise believes the declaration made under the Scheme to be a substantially false, the Commissioner can issue a show-cause notice for non-payment or short payment of tax within one year from the date of declaration. In such cases, the regular provisions for the recovery of taxes will apply.

## 10. Refund of tax

Tax paid under this Scheme is not refundable.

## Conclusion

This is a welcome Scheme and defaulting taxpayers would find it very attractive to take advantage. Of course, several details and clarifications are awaited.

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