

# Tax & You: Budget 2016

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The service tax proposals in the Budget of 2016 have wide ramifications. The budget proposes withdrawal of exemptions, enhancement of scope of reverse charge, amendments in negative list etc.

Few of the changes are with immediate effect, i.e. from 01-03-2016, some of the changes are effective from 01-04-2016, few from 01-06-2016, a few changes are effective from on enactment of bill or a date to be notified later.

Snapshots of all these are divided in to the following sections:

1. Changes with immediate effect i.e. 01-03-2016.
2. Changes effective from 01-04-2016.
3. Changes effective from 01-06-2016.
4. Changes effective on enactment.
5. Changes effective on a date to be notified later

Most changes are proposals put forth by the Finance Minister. Before these become law, there will be some debate in Parliament and they may undergo some amendments. The finality of the changes will come about after that, which could be around May 2016. Each change proposal comes with fine print, conditions and details. This note only highlights the changes and gives an overview. It is important to understand all the details before taking action.

# 1. Changes Effective from March 1, 2016

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## **A. Exemptions Withdrawn**

Exemption with respect to construction, erection, commissioning or installation of original works pertaining to monorail or metro in respect of contracts entered into on/after 01.03.2016, is withdrawn.

## **B. New Exemptions**

The following services are now granted exemption:

1. Services by way of construction, erection, commissioning, etc. in respect of-
  - a. Housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY)
  - b. Low cost houses up to a carpet area of 60 m<sup>2</sup> in a housing project under "Affordable housing in Partnership" component of PMAY
  - c. Low cost houses up to a carpet area of 60 m<sup>2</sup> in a housing project under any housing scheme of the State Government.
2. Services provided by the Indian Institutes of Management (IIM) to their students, by way of the specified educational programmes.

## **C. Other Amendments**

1. CENVAT credit is being allowed to service providers providing services by way of transportation of goods by a vessel from India to abroad.
2. Time limit for filing application for refund of CENVAT Credit in case of export of services has been amended to be 1 year from the date of:
  - a. Receipt of payment in convertible foreign exchange if the provision of service has been completed prior to receipt of such payment, or,
  - b. Date of issue of invoice, if payment for the service has been received in advance prior to the date of issue of the invoice.
3. Information Technology Software on media bearing Retail Sale Price (RSP) is exempted from service tax provided central excise duty is paid on RSP in accordance with section 4A of the Central Excise Act.
4. Mutual exclusiveness of levy of excise duty and Service Tax on Information Technology Software in respect of software recorded on media "NOT FOR RETAIL SALE" is being ensured by exempting from excise duty only that portion of the transaction value on which Service Tax is paid.

## 2. Changes Effective from April 1, 2016

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### **A. Exemptions Withdrawn**

With a view to broaden the tax base, following exemptions are to be withdrawn:

1. Exemption from Services provided by-
  - a) A senior advocate to an advocate or partnership firm of advocates providing legal service; and
  - b) A person represented on an arbitral tribunal to an arbitral tribunal.are withdrawn.

Note: Service tax would be payable under forward charge on such services.

2. Exemption from transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway is withdrawn.

### **B. New Exemptions**

The following services are now granted exemption

1. Services of life insurance business provided by way of annuity under the National Pension System.
2. Services provided by Employee Provident Fund Organisation (EPFO) to employees.
3. Services provided by Insurance Regulatory and Development Authority (IRDA) of India.
4. Regulatory Services provided by SEBI are now exempt.
5. Services of general insurance business provided under 'Niramaya' Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies.
6. Services provided by Biotechnology incubators approved by Biotechnology Industry Research Assistance Council (BIRAC) to the incubatees.
7. Services provided by National Centre for Cold Chain Development by way of knowledge dissemination.
8. Services provided by training partners by way of skill/vocational training under Deen Dayal Upadhyay Grameen Kaushalya Yojana
9. Services of assessing bodies empaneled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship.

### **C. Amendment in Existing Exemptions**

1. Service tax payable on a performance in folk or classical art forms of music/ dance/ theatre is exempt provided the consideration thereof does not exceed Rs. 1,00,000 per performance. This limit has been increased to Rs. 1,50,000 per performance.

### **D. Rationalisation of abatements along with the conditions for availing such abatements.**

The details of abatements and the amendments are as under:

<b>Sl.No.</b>	<b>Rationalization of Abatements</b>	<b>Existing</b>	<b>Proposed</b>
1.	Credit of input services is being allowed on transport of passengers by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
2.	Credit of input services is being allowed on transport of goods, other than in containers, by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
3.	Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.	4.2% Without credit	5.6% With input service credit
4.	Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
5.	The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats).	3.5%/ 4.2%	4.2%
6.	The abatement rate in respect of services by a tour operator in relation to packaged tour and other than packaged tour is being rationalized at 70%.	3.5%/5.6% of amount charged	4.2%of amount charged
7.	The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 60%, without CENVAT credit on inputs, input services and capital goods.	4.2%	5.6%
8.	The abatement rate on services of foreman to a chit fund is being rationalized at the rate of 30%, without CENVAT credit on inputs, input services and capital goods.	14%	9.8%

## **E. Other Amendments**

1. The benefit of quarterly payment of service tax is now extended to One Person Company (OPC) and HUFs.
2. The benefit of payment of service tax on receipt basis is also extended to an OPC whose aggregate value of services provided is up to Rs. 50 lakh in the previous financial year.
3. Services provided by a Mutual Fund agent/distributor to a Mutual Fund/ Asset Management Company is now taxable under forward charge. This will enable claiming of small scale exemption to agents having turnover of less than Rs. 10 Lakhs.
4. An insurer carrying on life insurance business now has an option to pay tax at 1.4% instead of 3.5% of the total premium charged on single premium annuity (insurance) policies, provided the amount allocated for investment/savings on behalf of policy holder is not intimated to such policy holder at the time of providing of service.
5. Assessee having turnover beyond a certain threshold (amount to be notified later) shall be required to file an annual return apart from the two half-yearly returns being filed now.
6. The CENVAT Credit Rules are being amended to improve credit flow, reduce the compliance burden and associated litigation, particularly those relating to apportionment of credit between exempted and non-exempted final products / services.
7. Input service distributor can also distribute the CENVAT credit in respect of service tax paid on the input services to its outsourced manufacturing units.

### 3. Changes Effective from June 1, 2016

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1. Krishi Kalyan Cess on all taxable services at the rate of 0.5% of the value of taxable services. CENVAT credit can be claimed on the cess paid on amendment of CENVAT credit Rules, 2004.
2. Service tax is now applicable on transportation of passengers, with or without accompanied belongings, by an air-conditioned stage carriage.

## 4. Changes Effective on enactment.

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Following changes will be effective from the date of enactment.

1. The definition of service is amended to specifically state that service tax is leviable on activities undertaken by lottery distributors and selling agents of the state Government, in relation to lotteries.
2. Interest rates on delayed payment of service tax is as under

<b>Condition</b>	<b>Interest Rate</b>
Taxable turnover in the previous year is less than Rs. 60 Lakhs	12% p.a.
Service tax collected but not deposited	24% p.a.
In all Other cases	15% p.a.

3. The time-limit for issuance of show cause notice, for recovery of service tax not levied/paid/short-levied/short paid/erroneously refunded, for non-fraud cases is proposed to be enhanced by 1 year, i.e. from 18 months to 30 months.
4. Power to arrest is proposed to be restricted only in cases where the tax payer has collected the tax of more than Rs 2 crore, but not deposited with the Government.
5. The monetary limit for launching prosecution is increased to Rs. 2 crore of the amount of service tax collected but not deposited to the credit of the Central Government beyond a period of 6 months from the date on which such payment becomes due.

## 5. Changes Effective on a date to be notified later

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These changes are effective on a date to be notified later after the enactment of the bill.

1. Indirect Tax Dispute Resolution Scheme, 2016 is being introduced to provide the assessee, an opportunity to settle the cases pending before Commissioner (Appeals), after payment of duty, interest and 25% of penalty.

However this scheme will not apply in following cases:

- a. Where prosecution has already been launched.
- b. Involving narcotics and psychotropic substances.
- c. Involving detention under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act.

### Disclaimer:

This document is aimed at explaining in broad terms the proposals of the Budget according to our understanding of the law. It should not be taken as professional advice for decision making. It is intended to make you more informed. To take decisions on such issues, please consult a professional. E&OE.