

Levy and Classification

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History

- It was collected 3000 Years Back like
 - Tax on transportation of goods including ferry tax
 - Tax on entertainment
- 46 services in all as per kautlaiyas arthashastra
- Services have grown due to non interference and requirement to follow fewer laws.
- Initially 3 Services currently more than 100
- Covers not only literates or organised sector but also illiterates and unorganised sectors

History

- There is no separate Act for Service Tax law.
- The same is governed by Chapter V & VA of Finance Act, 1994
- Though there was a thought about separate Act, the same was turned down with the expectation that GST would be introduced.

Extent, Commencement & Application

- Chapter V extends to the whole of India except the State of Jammu and Kashmir.
- It has come into force w.e.f. 28.06.1994
- It shall apply to taxable services provided on or after 28.06.1994

What is Service Tax ?

- Supposed to be Tax on 'Service'
- Section 65(95) – means tax leviable under the provisions of Chapter – V of F.A. 1994
- Service=an intangible commodity in the form of human effort such as labor, skill or advice
- As per Law it Can be much more than common understanding unless it is barred.
- Whether it can be on Goods/ Intangible property/ interest on loans/ hire purchase?

Charging Section 66

- There shall be levied a tax (Service Tax) at the rate of twelve per cent. of the value of taxable services referred to in specified sub-clauses of Section 65(105).
- Presently 105 clauses are specified. 8 clauses were deleted. Total clauses 113 from a to zzzzm.

To see whether it is covered

- Whether there is service different from goods
- See Section 65(105) of F.A. 1994
- Whether it is provided by the defined person?
- Whether it is provided to the defined person?
- Whether the service is the defined service?

From which date it is taxable

- All the services were not taxable from same date.
- Even in the same category of Services there were amendments.
- One has to first identify the category and then go to the history of the said category to see
 - from when it was introduced,
 - Whether there was any amendment
 - Whether there was any clarification
 - Whether there was any new category which was introduced later

Classification-65A

- Classification has to be made in terms of sub-clauses (105) of Sec. 65
- If it is classifiable under two or more sub-clauses
 - Sub-clause with most specific description should be preferred over general description.
 - Composite Services having combination of different services , it should be classified as if they consisted of a service which gives them essential character.
 - If it cannot be done so, the classification would be under the sub-clause appearing first.

Exemptions

- General Exemptions maybe examined.
- Small service provider exemption.
- Specific exemptions to be examined.
- Examine the expenditure/ income profile supplier/ customer profile
- Examination of availability of Exemption
 - Conditions to be fulfilled.
 - When in doubt should be interpreted strictly
 - Alternative Options Evaluated

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Questions??

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