

Service Tax - Basic Points on Application and Implementation

Speaker: Service Tax is a value added tax. Service tax is something that is applied for any service provided or received. Service is any activity for consideration carried out by a person for another and includes a declared service. Any activity for consideration carried out by a person for another person is called service.

As per the Finance Act, 2012, all services shall be treated as taxable services except those services which are included in the negative list of services. NGO's which are registered under section 12AA of the Income Tax Act, 1961 will be exempted as well as NGOs providing charitable services as per 2(k) of Service Tax Law.

What is 2 (k) of Service Tax Law?

It says NGOs engaged in public health (HIV/AIDS); NGOs engaged in advancement of religion; NGOs engaged in advancement of educational programmes; NGOs engaged in preservation of environmental preservation;

NGOs engaged in advancement of any other general public utility – are exempted. If the NGO is providing services related to advancement of any other general public utility, then the taxable service is exempted up to Rs. 10 Lac.

What is consideration? "Where it is provided that donation to a charitable organisation is not a consideration, unless charity is obligated to provide something in return." This means that if a donation is given then it is fine. If you receive it from a corporate a contribution or a grant and it says whenever you hold any meeting, our logo should be there or there should be some kind of visibility, which is part of the contract.

Service Tax Law interprets it as there is something and some consideration is given in return. And in those kinds of situations, the amendment in 2012 mentions that this is not without consideration and therefore, service tax will apply. Hence, one needs to be very careful in terms of the grant contract we undertake. Project grant and restricted fund shall not be treated as a service.

But when the grant agreement has any clause where any benefit of business value is going to the donor, then it shall be treated as a taxable service. Whenever you are negotiating with a corporate donor or any other agency where they would like themselves be displayed prominently then there is a flow back of the consideration. Will CSR grant be considered as taxable service? If it provides business advantage of some kind in return of, in display of advertisement it will invite service tax.

Compliance requirement:

- Register yourself with the Service Tax Law authorities
- An online application form, file it and you are registered.
- Every person who has provided taxable service exceeding 9 lacs in the preceding financial year falls under it.
- Payment is due on 5th of the following month.

- Every month one needs to pay the service tax collected. In case of March, the due date is 31st in order to ensure payment within the same financial year. If the payment mode is online, then the due date is 6th of the following month.
- Returns for Service Tax FC3 are to be filed twice in one financial year. The due date for the first half of the year, with the first half year ending being 31st September, is 25th October and similarly 25th of April for the second half.
- Interest for delayed payment is 13 per cent per annum.
- Issue of invoice, bill, challan by a Service Tax Assessee is mandatory as per Rule 4A of Service Tax Rules, 1994. If you comply with the Service Tax Law then every payment has to be supported by an invoice. There should be an invoice where you are charging service tax and then depositing it. Every invoice, bill or challan should mention the serial number, name, address and registration number of the service provider, pan number, description, classification and value of taxable service. It is very essential for all the mentioned details to be present on the invoice.

Service Tax to be charged 12.63 per cent on top of the value and that should be collected and deposited with the Govt and returns should be filed.