

3. Existing scheme for levy, assessment & collection of Service Tax in India

Levy and assessment

Prior to 1.07.2013, Service tax was levied on specified services and the responsibility of payment of the tax is generally cast on the service provider but for few exceptions. System of self-assessment of Service Tax Returns by service tax assesseees has been introduced w.e.f. 01.04.2001. The jurisdictional Superintendent of Central Excise is authorized to cross verify the correctness of self assessed returns. These tax returns have to be filed half yearly.

With effect from 1.07.2012, Service Tax regime based on negative list has been introduced

The Central Excise officers are authorized to conduct surveys to bring the prospective service tax assesseees under the tax net. Directorate General of Service Tax at Mumbai oversees the activities at the field level for technical and policy level coordination.

Legal provisions

The provisions relating to Service Tax were brought into force with effect from 1st July 1994. It extends to the whole of India except the state of Jammu & Kashmir. The chronological list of taxable services with date of their introduction is given below:

The following services were brought under the tax net in the year 1994-95:

1	Telephone	01.07.1994 {This service has been de-notified and grouped as 'Telecommunication Services' w.e.f.01.06.2007 vide Notfn. .23/07 ST dated 22.05.07 and Sec.135 of Finance Act,2007 (22 of 2007)}
2	Stock broker	01.07.1994
3	General Insurance	01.07.1994

Rate of service tax was 5% adv.

The Finance Act (2) 1996 enlarged the scope of levy of Service Tax covering three more services viz.,

4	Advertising agencies	01.11.1996
5	Courier agencies	01.11.1996

6	Radio pager services.	01.07.1994 {This service has been de-notified and grouped as 'Telecommunication Services w.e.f. 01.06.2007 vide Notfn. No.23/07 ST dated 22.05.07 and Sec.135 of Finance Act,2007 (22 of 2007)}
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Rate of service tax was 5%.

The Finance Act of 1997 further extended the scope of service tax to cover a larger number of services rendered by the following service providers, from the dates indicated against each of them.

(7)	Consulting engineers	(7 th July, 1997)
(8)	Custom house agents	(15 th June, 1997)
(9)	Steamer agents	(15 th June, 1997)
(10)	Clearing & forwarding agents	(16 th July, 1997)
(11)	Air travel agents	(1 st July, 1997)
(12)	Tour operators	01.09.1997 (exempted upto 31.3.2000 Notification No.52/98, 8 th July, 1998, reintroduced w.e.f. 1.4.2000)
(13)	Rent-a-Cab Operators	16.07.1997 (exempted from 1.3.1999 upto 31.3.2000 Vide Notification No.3/99 Dt.28.2.99, reintroduced w.e.f. 1.4.2000)
(14)	Manpower recruitment Agency	(7 th July, 1997)
(15)	Mandap Keepers	(1 st July, 1997)

The services provided by **goods transport operators, out door caterers and pandal shamiana contractors** were brought under the tax net in the budget 1997-98, but abolished vide Notification No.49/98, 2nd June, 1998.

The Service Tax was leviable @ 5% on the 'gross amount' charged by the service provider from the client, from the dates as notified and indicated above.

Following new services were brought under the Service Tax net in the 1998-99 Union Budget. These services were notified on 7th October, 1998 and were subjected to levy of Service Tax w.e.f. 16th October, 1998.

16	Architects	16.10.1998
17	Interior Decorators	16.10.1998
18	Management or Business Consultants	16.10.1998
19	Practicing Chartered Accountants	16.10.1998
20	Practicing Company Secretaries	16.10.1998
21	Practicing Cost Accountants	16.10.1998
22	Real Estates Agents/Consultants	16.10.1998
23	Credit Rating Agencies	16.10.1998
24	Security Agencies	16.10.1998
25	Market Research Agencies	16.10.1998
26	Underwriters Services	16.10.1998

In case of mechanized slaughter houses, since exempted, vide Notification No.58/98 dtd. 07.10.1998, the rate of Service Tax was used to be a specific rate based on per animals slaughtered.

The rate of service tax was 5% on gross amount charged by the service provider.

In the Finance Act'2001, the levy of service tax was extended to the following services with effect from 16.07.2001:

27	Scientific and technical consultancy services	16.07.2001
28	Photography	16.07.2001
29	Convention	16.07.2001
30	Telegraph	16.07.2001 {This service has been de-notified and grouped as 'Telecommunication Services w.e.f. 01.06.2007 vide Notfn. No.23/07 ST dated 22.05.07 and Sec. 135 of Finance Act,2007 (22 of 2007)}
31	Telex	16.07.2001

		{This service has been de-notified & grouped as 'Telecommunication Services' w.e.f.01.06.2007 vide Notfn. No.23/07 ST dated 22.05.07 and Sec.135 of Finance Act,2007 (22 of 2007)}
32	Facsimile (fax)	16.07.2001 {This service has been de-notified and grouped as 'Telecommunication Services' w.e.f.01.06.2007 vide Notfn. No.23/07 ST dated 22.05.07 and Sec.135 of Finance Act,2007 (22 of 2007)}
33	Online information and database access or retrieval	16.07.2001
34	Video Tape Production services	16.07.2001
35	Sound recording	16.07.2001
36	Broadcasting	16.07.2001
37	Insurance auxiliary services in relation to General Insurance	16.07.2001
38	Banking and other financial services	16.07.2001
39	Port Services (by Major Ports).	16.07.2001
40	Authorized Service Stations	16.07.2001
41	Leased circuits Services	16.07.2001{This service was de-notified and grouped as 'Telecommunication Services' w.e.f.01.06.2007 vide Notfn. No.23/07 ST dated 22.05.07 and Sec.135 of Finance Act,2007 (22 of 2007)}

The rate of service tax was 5% on gross amount charged by the service provider.

In the Budget 2002-2003, the following services were added to the tax net with effect from 16.08.2002:

42	Life Insurance services	16.08.2002
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43	Insurance auxiliary services in relation to Life Insurance	16.08.2002
44	Cargo handling	16.08.2002
45	Storage and warehousing services	16.08.2002
46	Event Management	16.08.2002
47	Cable operators	16.08.2002
48	Beauty parlors	16.08.2002
49	Health and Fitness centers	16.08.2002
50	Fashion designer	16.08.2002
51	Rail travel agents.	16.08.2002
52	Dry cleaning services.	16.08.2002

Rate of service tax was 5% (till 13.05.2003) on the gross amount charged by the service provider.

In the Budget 2003-04, the following new services along with extension to the existing services were added to the tax net with effect from 01.07.2003:

53	Commercial Training & Coaching centers	01.07.2003
54	Technical testing and analysis	01.07.2003
55	Technical inspection and certification service.	01.07.2003
56	Management, Maintenance or Repair services	01.07.2003
57	Erection, Commissioning and Installation Services	01.07.2003
58	Business Auxiliary Services	01.07.2003
59	Internet café	01.07.2003
60	Franchise Services	01.07.2003
61	Foreign Exchange Broker	01.07.2003
62	Port Services (Other or Minor Ports)	01.07.2003{extension to port services}

The rate of Service Tax was 5% till 13.05.2003 and from 14.05.2003 the rate was increased to 8% of the gross amount charged by the service provider on all the taxable services till 09.09.2004.

In the Budget 2004-05, 10 more services were introduced in the service tax net along with reintroduction of some existing services w.e.f 10.09.2004 as follows:

63	Out door Caterer's service (re-introduced)	10.09.2004
64	Pandal or Shamiana service (re-introduced)	10.09.2004
65	Airport Services	10.09.2004
66	Transport of Goods by Air Services	10.09.2004
67	Business Exhibition Services	10.09.2004
68	Construction Services in relation to commercial or Industrial Building	10.09.2004
69	Intellectual Property Services	10.09.2004
70	Opinion Poll Services	10.09.2004
71	TV or Radio Programme Production Services	10.09.2004
72	Survey and Exploration of Minerals Services	10.09.2004
73	Travel Agent's Services other than Rail and Air travel agents	10.09.2004
74	Forward Contract Services	10.09.2004

The rate of service tax on these services as well as all other services was enhanced from 8% to 10% with effect from 10th September, 2004. Besides this, 2% Education Cess on the amount of service tax was introduced. Thus the effective service tax rate was 10.2% including Education Cess w.e.f 10.09.2004.

Vide Notfn. No.33/2004 ST. 34/2004-ST and 34/2004-ST, all dated 3.12.2004, the following service was brought under service net with effect from 01.01.2005.

75	Transport of goods by road (earlier Goods Transport Operators service re- introduced).	01.01.2005
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The rate of service tax was 10% plus 2% Education Cess.

In the Budget 2005-06, 9 more services were brought under the service tax net with effect from 16.06.2005, as detailed below-

76	Transport of goods through pipe line or other conduit Services	16.06.2005
77	Site Formation & Clearance etc. Services	16.06.2005
78	Dredging Services	16.06.2005
79	Survey & Mapmaking Services	16.06.2005
80	Cleaning Services	16.06.2005
81	Membership of Clubs & Associations	16.06.2005
82	Packaging Services	16.06.2005
83	Mailing list compilation & Mailing Services	16.06.2005
84	Construction Services in relation to Residential Complexes	16.06.2005

The rate of service tax was 10% plus 2% Education Cess till 17.04.2006 and from 18.04.2006 rate was enhanced to 12% Plus 2 % Education Cess.

In the Budget 2006-07, 15 more services were brought under the service tax net with effect from 01.05.2006 vide Notfn.No.15/2006-ST dated 25.04.2006 and Finance Act, 2006 (21 of 2006) as detailed below:

85	Sale of space or time for advertisement	01.05.2006
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86	Auctioneers' Services	01.05.2006
87	ATM Operation, maintenance or management Services	01.05.2006
88	Business Support Services	01.05.2006
89	Credit Card, Debit Card, Charge Card or other payment Card Services	01.05.2006
90	Internet Telecommunication Services	01.05.2006
91	Public Relations Services	01.05.2006
92	Services provided by Recovery Agent	01.05.2006
93	Services provided by Registrar to an Issue	01.05.2006
94	Services provided by Share Transfer Agent	01.05.2006
95	Ship Management Services	01.05.2006
96	Sponsorship Services	01.05.2006
97	Transport by Cruise ship services	01.05.2006
98	Transport of goods in container by rail services ('Other than Govt. Railway') The words 'other than Govt. Railways' have been deleted w.e.f.01.09.2009)	01.05.2006
99	Transport of passengers by air on international journey services	01.05.2006

Rate of service tax from 18-04-2006 to 10.05.2007 was 12% plus 2% Education Cess on service tax. **With effect from 11.05.2007 the rate of service tax became 12% plus 2% Education Cess on service tax plus 1% Secondary & Higher Education Cess on service tax (Aggregating to 12.36%)**

In the Budget 2007-08, 7 more services were brought under the service tax net with effect from 01.06.2007, and 6 existing services were grouped with Telecommunication Services vide Notfn.No.23/2007-ST dated 22.05.2007 and Finance Act, 2007 (22 of 2007), as per the details given below:

100	Asset Management Services	01.06.2007
101	Development & Supply of Content	01.06.2007

	Services	
102	Designing Services	01.06.2007
103	Mining of Mineral, Oil or Gas	01.06.2007
104	Renting of immovable property services	01.06.2007
105	Works Contract Services	01.06.2007
106	Telecommunication Services	01.06.2007 (This is not a new service but the existing services viz. Telephone services, pager, facsimile, telegraph, leased circuit, telex were grouped under it)

Rate of service tax was 12% plus 2% Education Cess plus 1% Secondary & Higher Education cess (Aggregating to 12.36%)

In the Budget 2007-08, the scope of service tax was extended to cover 6 more services with effect from 16.05.2008 vide Notfn.No.18/2008-ST dated 10.05.2008 and Finance Act, 2008 (18 of 2008), as per the details given below:

107	Services of Clearing & Processing House	16.05.2008
108	Registered or Recognised Associations' services in relation to sale or purchase of goods and forward contract	16.05.2008
109	Information Technology Services	16.05.2008
110	Investment Management Services under ULIP	16.05.2008
111	Services of Recognised Stock Exchange	16.05.2008
112	Supply of tangible goods services	16.05.2008

Rate of service tax w.e.f.11.05.2007 was 12% + 2% (of service tax) education Cess + 1% (of service tax) Secondary & Higher Education Cess.

From 24.02.2009, Rate of service tax became 10% + 2% (of service tax) education Cess + 1% (of service tax) Secondary & Higher Education Cess (aggregating to 10.30%)..

In budget 2009, following three new services have been brought under service tax net vide Finance (No.02) Act, 2009 (33 of 2009) and taxed w.e.f.01.09.2009 vide Notification No. 26/2009 ST dated 19.08.2009.

113	Cosmetic or Plastic Surgery Services	01.09.2009
114	Transport of Coastal goods, Goods through National Waterways or Goods through Inland Waterways	01.09.2009
115	Legal Consultancy Services	01.09.2009

From 24.02.2009, Rate of service tax became 10% + 2% (of service tax) education Cess + 1% (of service tax) Secondary & Higher Education Cess (aggregating to 10.30%)

In the Budget 2010 vide Finance (14/2010) Act, 2010, the scope of service tax was extended to cover 8 more services w.e.f.01.07.2010 vide Notification No.24/2010 ST dated 22.06.2010 as per details given below.

116	Promotion, marketing or organizing of games of chance including lottery, bingo etc. services	01.07.2010
117	Health services undertaken by Hospitals or Medical establishments	01.07.2010
118	Maintenance of Medical Records services	01.07.2010
119	Promotion of Brand of Goods/Services etc.	01.07.2010
120	Services of Permitting Commercial Use or Exploitation of any event	01.07.2010
121	Electricity Exchange Services	01.07.2010
122	Copyright Services	01.07.2010
123	Services provided by Builder in relation to preferential location, internal/external development etc.	01.07.2010

From 24.02.2009, Rate of service tax became 10% + 2% (of service tax) education Cess + 1% (of service tax) Secondary & Higher Education Cess (aggregating to 10.30%)

In the Budget 2011 vide Finance (8/2011) Act, 2011, the scope of service tax was extended to cover 2 more services w.e.f.01.05.2011 vide Notification No.29/2011 ST dated 25.04.2011 as per details given below.

124	Services of Air-conditioned restaurants having license to service alcoholic beverages in relation to service of food or beverages.	1.5.2011
125	Services of providing of accommodation in hotels / inns/ clubs/ guest houses/ campsite for a continuous period of less than three months	1.5.2011

Note- Six services among listed above at Sr. No. 1,6,30,31,32 and 41 were merged with "Telecommunication Service" with effect from 01.06.2007)

From 01.04.2012 onwards, Rate of service tax became 12% + 2% (of service tax) education Cess + 1% (of service tax) Secondary & Higher Education Cess (aggregating to 12.36%).

From 01.07.2012, there is a paradigm shift in the levy of service tax. That is service tax has been imposed on all services other than those specified in the negative list. There are 17 such services specified in the negative list.

Administrative mechanism.

Service Tax is administered by the Central Excise & Service tax Commissionerates and the Service Tax Commissionerates working under the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance, Government of India. LTUs are also collecting Service Tax in respect of the Large Tax Paying units registered with them.

Government from the very beginning adopted a flexible approach concerning Service Tax administration so that the assesseees and the general public gain faith and trust in the tax measure so that voluntary tax compliance, one of the avowed objectives of the Citizens Charter, is achieved. Substantive and procedural liberalization measures, adopted over the years for this purpose, are clear manifestations of the above approach. Following are some of the measures adopted in that direction:

- A. Under Section 67 of the Finance Act, 1994, Service Tax is levied on the gross or aggregate amount charged by the service provider on the receiver. Rule 6(1) of the Service Tax Rules, 1994 has provided that Service Tax shall be paid to the credit of the Government account in respect of the services deemed to be provided as per the rules framed in this regard. Point of Taxation Rules, 2011 has provided the point in time when a service shall be deemed to have been provided; Rule 3 of the said rule provides that for the purposes of these rules, unless otherwise provided, 'point of taxation' shall be,-
- (a) the time when the invoice for the service provided or agreed to be provided is issued:

Provided that where the invoice is not issued within the time period specified in Rule 4A of Service tax Rules, 1994, the point of taxation shall be date of completion of provision of the service.

- (b) In a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

Provided that for the purposes of clauses (a) and (b), -

- (i) In case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service;
- (ii) Wherever the provider of taxable service receives a payment up to rupees one thousand in excess of the amount indicated in the invoice, the point of taxation to the extent of such excess amount, at the option of the provider of the taxable service, shall be determined in accordance with the provisions of clause (a).]

Explanation – For the purpose of this rule, wherever any advance by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

Rule 4. Determination of point of taxation in case of change in effective rate of tax. – Notwithstanding anything contained in rule 3, the point of taxation in cases where there is a change in effective rate of tax in respect of a service, shall be determined in the following manner, namely:-

- (a) In case a taxable service has been provided before the change in effective rate of tax,-

- (i) Where the invoice for the same has been issued and the payment received after the change in effective rate of tax, the point of taxation shall be date of payment or issuing of invoice, whichever is earlier; or
 - (ii) Where the invoice has also been issued prior to change in effective rate of tax but the payment is received after the change in effective rate of tax, the point of taxation shall be the date of issuing of invoice; or
 - (iii) Where the payment is also received before the change in effective rate of tax, but the invoice for the same has been issued after the change in effective rate of tax, the point of taxation shall be the date of payment;
- (b) In case a taxable service has been provided after the change in effective rate of tax,-
- (i) Where the payment for the invoice is also made after the change in effective rate of tax but the invoice has been issued prior to the change in effective rate of tax, the point of taxation shall be the date of payment; or
 - (ii) Where the invoice has been issued and the payment for the invoice received before the change in effective rate of tax, the point of taxation shall be the date of receipt of payment or date of issuance of invoice, whichever is earlier; or
 - (iii) Where the invoice has also been raised after the change in effective rate of tax but the payment has been received before the change in effective rate of tax, the point of taxation shall be date of issuing of invoice.

(for details Point of Taxation Rules, 2011 may be referred)

B. Assesseees are given the liberty to pay tax on the value of taxable service, provided by them in a month, by the 6th of the following month if tax is deposited electronically and 5th of the following month if tax is deposited in any other case. Further, in case the assessee is individual or proprietary firm or partnership firm, tax payment is required to be made **only once in a quarter i.e by 6th of the following quarter** if tax is deposited electronically and 5th of the following quarter if tax is deposited in any other manner.

- (i) The process of registration of assesseees has been considerably simplified.
- (ii) No separate accounts have been prescribed for the purposes of Service Tax. It has been provided that accounts being maintained by the assesseees under any other law in force would be sufficient. This has placed the Department at considerable inconvenience to itself, so as to minimize difficulties for the assesseees.
- (iii) The Finance Act, 2001 has introduced self assessment for service tax returns; thereby sparing the assesseees from the rigours of routine scrutiny and assessment.

- (iv) Frequency of filing the returns in the form of ST 3 or ST3A as the case may be is minimized. Filing of Statutory return has been made half yearly and by the 25th of the month following the half-year ending on 31st March and 30th September. Every assessee shall file the Half-yearly return electronically.

- (v) Penal provisions do exist in respect of Service Tax also. Failure to obtain registrations, failure to pay the tax, failure to furnish the prescribed returns, suppression of the correct value of the taxable services and failure to comply with notice do attract penal provisions as prescribed. But, it is also provided that no penalty is imposable on the assessee for any of the above failures, if the assessee proves that there was reasonable cause for the failure. This provision has been inserted to take care of the genuine difficulties of the new assessees.

- (vi) Service Tax Credit Rules, 2002, have been replaced by the CENVAT Credit Rules, 2004, introduced by the Finance Act, 2004, where under CENVAT credit has been extended across the sectors i.e. goods and services.