

GMJ



FAQ  
ON  
SERVICE TAX  
PROVISIONS  
RELATED TO  
TRAVEL  
AGENTS  
&  
TOUR  
OPERATORS

A GPS knowledge initiative

Compiled by

**GMJ**

3rd & 4th Floor, Vastu Darshan Bldg., B Wing,  
Azad Road, Above Central Bank of India,  
Near BMC Office, Andheri (E.),  
Mumbai - 400 069

For





## *From the desk of* **Global Panorama Showcase (GPS)**

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### **Dear Fellow Travel Agents, Tour Operators & Travel Professionals,**

This is 1st Edition of F.A.Q. on Service Tax Provisions with an effort, made by us to bring about the relevant provisions and changes there in that have happened in service tax in a simpler manner.

After several discussions with various fraternity members and inputs received from the trade we have drawn a list of possible sources of revenue and businesses that a travel agent or tour operator may indulge in. We might not have covered all possible aspects of travel options and services' being rendered by the fraternity members as the Law is very vibrant and there are continuous changes.

This being our maiden attempt towards preparing the F.A.Q. on service tax provisions applicable to our fellow Travel Agent and Tour Operator we are sure that most of your queries and misconceptions shall be cleared and answered with respect to the services being offered to your clients and a more clear picture in terms of the correct manner of implementation, collection and payment of service tax and as to how to discharge the service tax liabilities in a more efficient and accurate manner.

The views expressed are on the basis of the statutory law which became effective from 1st July, 2012 i.e. under the negative list approach.

We express our sincere thanks and gratitude to GMJ and especially to CA-Manish Gadia and CA-Jinit Shah for their patience, valuable time and efforts spent to answer all our queries. They are working in the service tax matters for tour and travel industry since last 8 years and have taken collectively 34 seminars and have addressed around 2,500 Travel Agents and Tour Operators. They have also represented Tour & Travel Industry before CBEC on various issues faced by the industry and some of which has also been accepted by the Board and accordingly the Law has been changed.

We request you to please feel free to write to us for your queries on our email id: [tax@gps-india.com](mailto:tax@gps-india.com) or alternatively download our GPS app and send the query through the same to our tax consultants directly.

**Harmandeep Singh Anand**  
Co-Founder

**Rishiraj Singh Anand**  
Co-Founder

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# INTRODUCTION

Service Tax is leviable on all services provided or agreed to be provided excluding services covered under negative list and exemption notifications and further shall also depend on the place of provision i.e. location of the services provided.

The same is collected as per Point of Taxation Rules, 2011 from the person liable to pay service tax. Person liable to pay service tax is governed by Service Tax Rules, 1994 he may be service provider or any other person other than service provider as per Notification No. 30/2012-ST, dated 20th June, 2012.

Few services are presently exempt in public interest via Mega Exemption Notification 25/2012-ST, dated 20th June, 2012, as amended from time to time and few services are charged to service tax at abated rate as per Notification No. 26/2012-ST, dated 20th June, 2012.

Currently, as on July, 2016, service tax rate is 15% on the value of services provided or agreed to be provided. Further, Swachh Bharat Cess (SBC) & Krishi Kalyan Cess (KKC) is levied at the rate of 0.5% each, also on the value of services provided or agreed to be provided. SBC has been introduced w.e.f. 15th November, 2015 & KKC has been introduced w.e.f. 1st June, 2016. The material is prepared based on this new effective rate of service tax of 15% (14% + 0.5% + 0.5%).

The material below and the discussions therein are in the form of FAQ on service tax provisions relating to Travel and Tourism Industry.



# AIR TICKET BOOKINGS BY AIR TRAVEL AGENTS



1

**Air Travel Agent (ATA) issues tickets from own stock / login (issues from own capping / own deposits / agency credit card from airline website). Whether service tax shall be applicable on the same and at what rate?**

**1.1** The Service tax can be paid by the ATA by following any of the following 2 options :

**On Commission: Service tax shall be paid @ 15% on the following -**

- If Processing Fees / Transaction Fees is charged then service tax shall be payable on Commission plus Processing Fees / Transaction Fees.
- If there is no Processing Fees / Transaction Fees then service tax shall be payable only on Commission.

**NOTE :** For the purpose of service tax the term commission would include commission, PLB, Upload Incentive, Free tickets and any other revenue received from Airlines.

**On Basic Fare: Service tax (inclusive of SBC & KKC) shall be paid @ 0.75% (in case of domestic tickets) or 1.5% (in case of international tickets) on the following -**

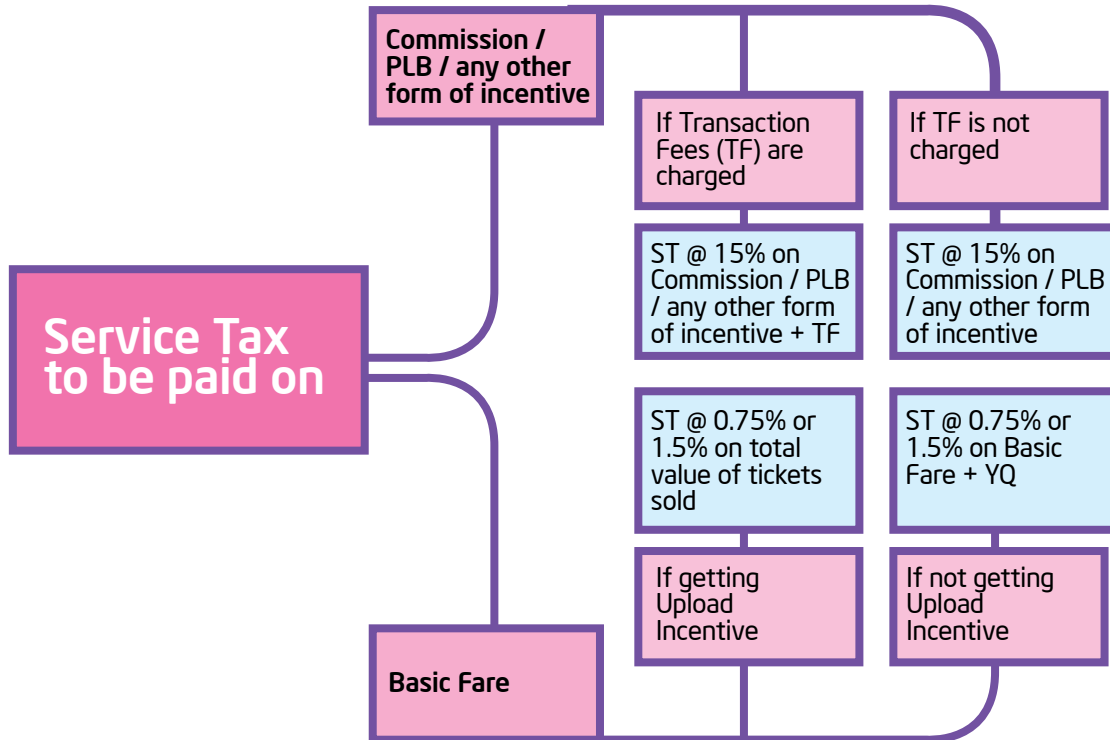
- **Getting Upload incentives :** If ATA is getting Upload Incentive from any of the Airlines then Service Tax shall be payable on the total value of the tickets sold, irrespective of whether it has received Upload Incentive from any particular Airlines or not.
- **Not Getting Upload incentives :** If ATA is not getting Upload Incentive from any of the Airlines then service tax shall be payable on Basic Fare plus YQ.

**NOTE :** BASIC FARE means that part of the air fare on which commission is normally paid to the air travel agent by the airline.



ATA

1.2 The aforesaid is shown in the flowchart below for simplicity purposes



**NOTE :** TF may be recovered in any other name also such as Management fees, service fees, processing fees or in any other similar name directly relating to ticketing.

**RECOMMENDATION :** It is recommended that ATA use the term Booking Fees instead of any other terminology used such as Transaction Fees, Management Fees, Service Fees, Processing Fees or any other similar fees.

1.3 The option, once exercised, shall apply uniformly in respect of all the bookings of passage for travel by air made by him and shall not be changed during a financial year under any circumstances.





**2**

**ATA buys tickets from another agent and in some cases agent get some commission and in some cases they do not get any commission. Whether service tax would be applicable in both cases above?**

- 2.1** Service tax would be applicable as stated in Para 1 above.
- 2.2** If no commission is paid to the agent even then the service tax would be payable as per the aforesaid rates. In such cases, basic fare on which commission is normally paid shall be considered for computation of service tax.
- 2.3** The agent to whom the service tax is charged can get the Cenvat credit of service tax paid by him, against the service tax liability on commission received by them from the airlines or IATA agents.
- 2.4** Disclosure in Return: ATA should disclose in the service tax returns separately service tax payable by them and Cenvat credit of service tax separately and not to disclose the same as nil in the return.

**3**

**ATA charges service charge on invoice for booking of air tickets. Whether service tax would be applicable on the said service charges? Whether service tax is also applicable on service charges charged towards cancellation and modification?**

- 3.1** As stated in Para 1 above, the ATA can opt for any of the following options.

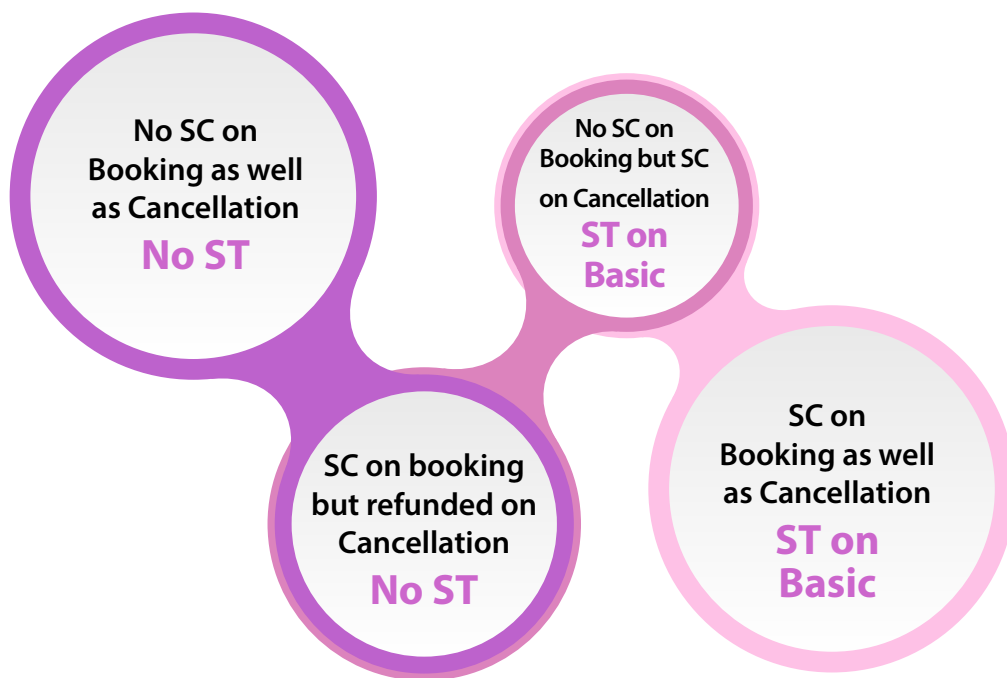




**3.2** With respect to service charges (SC) on cancellation and modification of tickets service tax shall be leviable as per the option opted, as stated above, at the time of booking of tickets i.e.

- If ATA is paying service tax on basic fare on booking of tickets then service tax on cancellation / modification will also have to be discharged on basic fare of the ticket which was booked.

The said is explained with the help of the flow - chart as under :



- If ATA is paying service tax on commission then service tax on cancellation / modification will have to be discharged on the charges levied by the ATA to its clients. Hence, if any amount is charged by the ATA to its clients for cancellation / modification of tickets then ATA will charge service tax @ 15% on the said charges to its clients.



**4**

Airlines pays upload incentives on advance payments received by them from the ATAs. Say, on advance payment of Rs. 1,00,000/- by the ATA to the airlines in return the ATAs get the buying power of Rs. 1,01,500/- i.e. Rs. 1,500/- extra buying power will be given to the ATA. Whether service tax would be applicable on the said extra booking power?

- 4.1** The said booking power shall be considered as commission to the ATAs and the same shall be liable to service tax as explained above in Para 1 above.

**5**

Sub-Agent should charge service tax to whom i.e. the consolidator from whom the tickets are purchased or from the passengers for whom the tickets are booked?

- 5.1** If the sub-agent is on commission method then it has to charge service tax to consolidator on the commission and also to the passengers if any booking fees, etc. is charged to the passengers.
- 5.2** If the sub-agent is on Basic Fare method then it has to charge service tax to the consolidators as they are providing services to consolidators. However, if any booking fee is charged to passengers also then sub-agent can charge service tax to passengers or consolidators, any one of them.

**6**

If the air tickets are booked for the passengers located outside taxable territory i.e. located outside India or in the State of Jammu and Kashmir then whether service tax has to be paid on the same?

- 6.1** If the air tickets are booked for the passengers located outside taxable territory then service tax has to be paid on the same irrespective of whether the booking is for domestic tickets or international tickets.

## II

# SEGMENT PAYOUT FROM CRS/GDS



7

ATA gets segment payout from CRS/GDS for reservations i.e. ATAs use software's of certain companies to book tickets among which is Amadeus India, a marketing company representing Amadeus International Software (parent). Besides Amadeus, there are other software providers in India namely Worldspan, Galileo, and Abacus. All these providers compete amongst each other for share of agency business by promoting their software. This is because the revenue of these companies depends on number of flight reservation segments booked using their software. This way they get paid by the airlines for every flight reservation booked by the agency. The segment payout received from these CRS/GDS is towards loyalty bonus for using their software exclusively. Whether service tax would be applicable on the said segment payout?





- 7.1** There shall be service tax liability on the same. Services have been defined as any activity carried out by a person for another for consideration. Thus, any act for which consideration is received shall be considered as services. In the instant case, the ATAs are carrying out the act of booking tickets through the softwares of the said companies exclusively for which they are receiving consideration.
- 7.2** Now, it has been clarified by CBEC vide F. No. 334/8/2016-TRU dated 29.02.2016 that incentives received by the Air Travel Agents (ATAs) from the Companies providing Computer Reservation System (CRS) are for using the software and platform provided by the CRS like Galileo, Amadeus, etc. The CRS are providing these incentives either for achieving the targeted booking of air tickets or for loyalty for booking of air tickets using their software system.
- 7.3** The service provided by CRS is to the Airlines and Air Travel Agent is promoting the service provided by CRS to Airlines. Thus, the service provided by the ATAs to CRS is neither covered in the negative list nor exempt by a notification. Therefore, service tax is leviable on the same.
- 7.4** In the instant case, the ATAs shall charge service tax @ 15% to the CRS/GDS through an invoice raised on CRS/GDS.

**8**

**For the above services, if the ATA directly enters into contract / agreement with the CRS/GDS outside India and the services are provided directly to the said CRS/GDS outside India then whether service tax will be applicable on the same or not?**

- 8.1** The aforesaid services falls under the recipient based criteria, thus service tax shall not be applicable on the same.

### III

## VISA AND PASSPORT ASSISTANCE



9

**ATA gets visas (directly through embassy)/ passports done and charges Visa fees, service charges for Visa and Passport, courier charges and DD charges to the clients. Whether service tax would be applicable on the said charges?**

- 9.1** Earlier, the activity of obtaining Visa & Passports was not considered to be taxable service, hence were not liable to service tax till 30th June, 2012. However, the Finance Act, 2012 has been amended and the definition of the term 'service' is inserted.
- 9.2** The new changes are a shift from the old system, where only services of specified descriptions are subjected to tax. In the negative list regime all services, except those specified in the negative list and mega exemption notification, will be subject to taxation.
- 9.3** The act of obtaining passports and Visa is not covered by negative list of services. Therefore the act of obtaining Visa & passports shall be construed to be an activity and service tax shall be leviable on it.
- 9.4** Service tax @ 15% would be leviable on the said charges charged by the ATA to its clients, except on charges, which represent actual statutory fees towards the Visa, subject to the fulfillment of conditions laid down in Rule 5(2) of the Service Tax (Determination of Valuation) Rules, 2006.



**10**

**ATA gets visas done through Visa Facilitation Centers (VFCs) authorized by embassies / Visa Handling Agents which levy their service fee and Service tax on their service fees and visa charges and in turn the agents charge Visa fees, service charges, courier charges and DD charges. Whether service tax would be applicable on the said charges?**

- 10.1** Service tax @ 15% would be leviable on the said charges charged by the ATA to its clients, except on charges towards Visa fees, subject to fulfillment of conditions laid down in Rule 5(2) of the Service Tax (Determination of Valuation) Rules, 2006, and claim set off of the service tax paid to VFCs.
- 10.2** VFCs / Visa Handling agents may charge service tax to the ATA on the said service fees, in such a case the ATA can take Cenvat credit of the said service tax against the service tax charged by them to their clients.

**11**

**ATA may just provide professional consultancy and charge service fees for the same to clients. Whether service tax is leviable on the same?**

- 11.1** Service tax @ 15% shall be leviable on the same as it falls within the meaning of service as defined in the service tax laws.

**12**

**All the aforesaid cases are further explained with Illustration:**

- 12.1** Say, a Consulate of a particular country charges Rs. 5,000/- towards Visa Fees to a travel agent 'A'. The said travel agent 'A' charges to another travel agent 'B' Rs. 5,000/- towards Visa Fees and another Rs. 500/- towards courier charges, DD charges and his own service charge, showing Rs. 5,000/- separately on the invoice and also attaching the Visa fee receipt alongwith the invoice as proof.
- In the aforesaid scenario the travel agent 'A' will charge service tax @ 15% on Rs. 500/- through an invoice raised on agent 'B'. The invoice should show Visa fees separately and alongwith the invoice a copy of Visa fee receipt should be attached.



- 12.2** Further, agent 'B' charges to the end client 'C' (in whose name the Visa is procured) Rs. 5,000/- towards Visa fees and another Rs. 1,000/- towards courier charges, DD charges and his own service charge, showing Rs. 5,000/- separately on the invoice and also attaching the Visa fee receipt alongwith the invoice as proof.
- In the aforesaid scenario the travel agent 'B' will charge service tax @ 15% on Rs. 1,000/- through an invoice raised on the end client 'C'. The invoice should show Visa fees separately and alongwith the invoice a copy of Visa fee receipt should be attached.
  - The agent 'B' will take CENVAT of service tax paid, to agent 'A', on Rs. 500/- against its liability on Rs. 1,000/- & shall pay only the net service tax to the government treasury.
- 12.3** It should be noted that no service tax on Rs. 5,000/- shall be applicable if the Visa fees is shown separately on the invoice and alongwith the said invoice a copy of Visa fee receipt is also attached. However, if the copy of Visa fee receipt is not attached with the invoice then service tax shall be applicable on the full amount including said Rs. 5,000/- also.
- 12.4** Further, it should be noted that no mark-up should be done on the Visa fees, for service tax not to be applicable on the same. However, if mark-up is done then service tax shall be applicable not only on the mark-up but on the full amount i.e. including the original visa fee of Rs. 5,000/-.

### 13

**In many cases, the ATAs do bulk visas i.e. Visas of more than one single client are obtained and in such a scenario many-a-times only single receipt is received by the ATA for payment of visa fees of all the clients together. Whether service tax would be applicable on the visa fees also since the visa fee receipt is not in the name of the individual client?**

- 13.1** It should be noted that no service tax shall be applicable on the Visa fees, if the Visa fees is shown separately on the invoice and alongwith the said invoice a copy of Visa fee receipt is also attached.

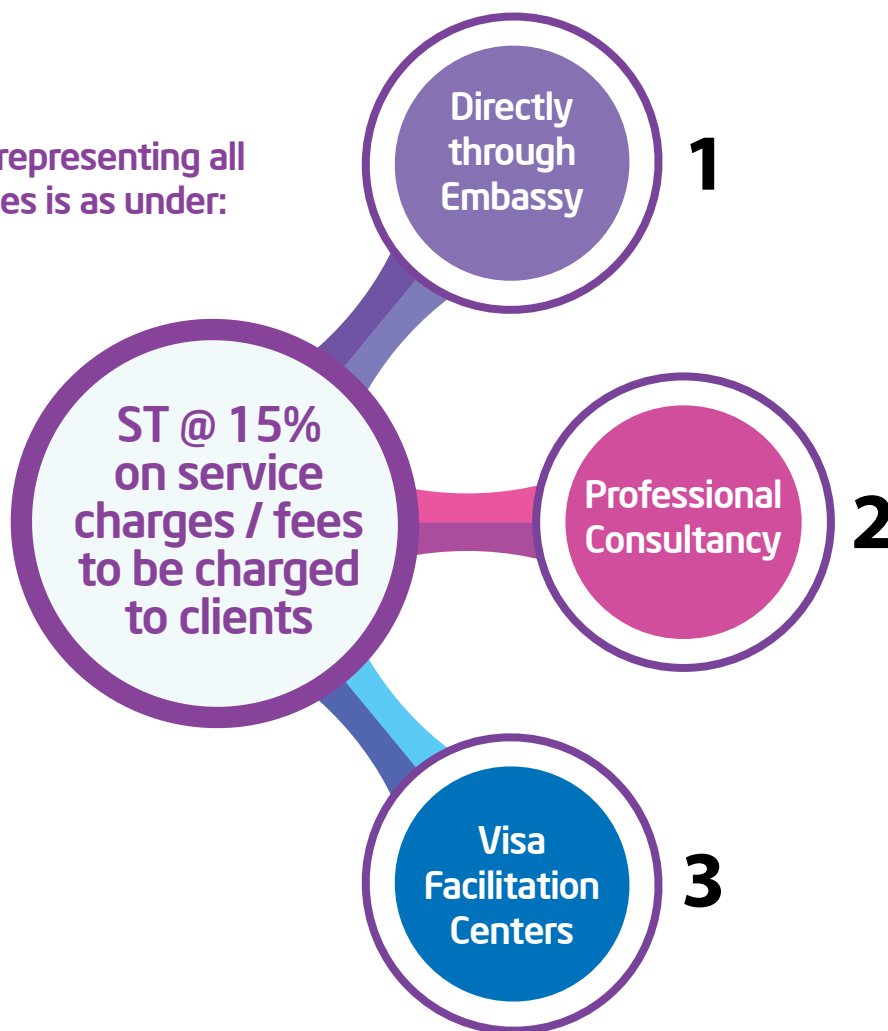




- 13.2** However, bulk visa fees payment the ATA does not receive the receipt in one single client's name it just mentions the quantum of persons for whom the visa fees is paid.
- 13.3** In such a scenario, the ATA has to keep the copy of visa as well of the client and attach the same with the invoice & copy of visa fee receipt so as to avoid any litigation in future since such visas also mention the amount of visa fees paid for obtaining the visa.

**14**

Flow chart representing all 3 possibilities is as under:





# IV DOMESTIC & INTERNATIONAL MEDICLAIM POLICIES AND TRAVEL INSURANCE BY TRAVEL AGENTS



15

**Travel Agents issues medicaid policies and travel insurance for clients through various providers and gets commission on cut and pay basis or at the end of the month (for overseas policies). Whether service tax would be applicable on the said commission?**

- 15.1** The Travel Agents must be registered Insurance agent to issue medicaid policies and travel insurance in India. The agents are required to register with IRDA as per Insurance Act, 1938 and if the commission is received by the said travel agents from Indian Insurance company than said Insurance company is liable to pay service tax on commission paid to insurance agent under reverse charge mechanism.



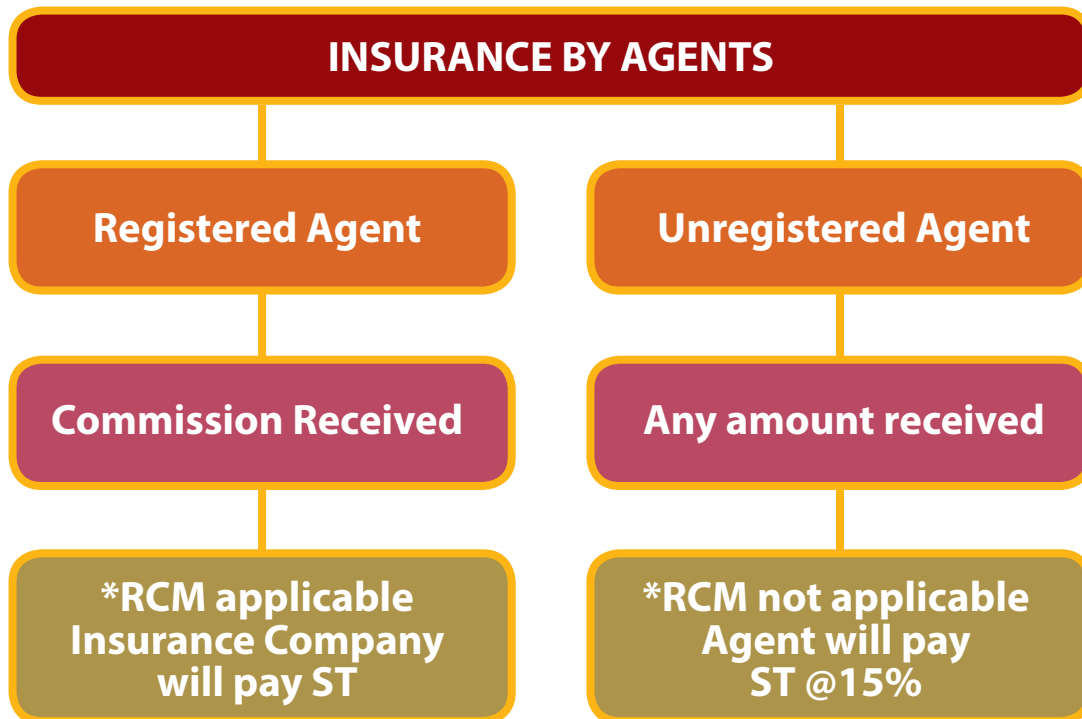


**16**

**Any amount (in whatever name called) received from the insurance company by the unregistered travel agents i.e. agent not holding license as stated above, whether any such amount would be liable to service tax?**

**16.1** Any amount, by whatever name called, be it, consultancy charges, professional fees, etc. received by the unregistered travel agents shall be liable to service tax.

**16.2** The aforesaid two transactions are depicted in the below Flow chart



\* RCM – Reverse Charge Mechanism

V

## INTERNATIONAL ROAMING SIM CARDS & TALKTIME BY TRAVEL AGENTS



17

**Travel Agents sells SIM cards and talk times i.e. recharge coupon vouchers and may get commission on the same or may add a markup and sell the same to the clients. Whether service tax is applicable on such commission or on markups?**

- 17.1** The travel agents sell the SIM card or recharge coupon vouchers to the subscribers i.e. in the case of travel agents their clients. Such SIM cards and recharge coupon vouchers have pre-printed MRP and the telegraph authorities are required to pay service tax on MRP which represents the value of taxable service provided by them to the consumer. The MRP includes the commission of such selling agents or distributors.
- 17.2** The selling agents or distributors who sell the SIM cards or recharge coupon vouchers are exempt from payment of service tax on the amount earned for the services of selling rendered by them; vide Notification No. 25/2012 – Service Tax dated 20th June, 2012, entry number 29.
- 17.3** The aforesaid concept shall be applicable if the agent is selling the SIM cards and recharge coupon vouchers on MRP but if the agents charge some extra charges such as agency charges, etc. to the clients then service tax would have to be paid by the agents on such charges @ 15%.



# VI

## CRUISE BOOKING BY TRAVEL AGENTS



18

Travel agents sell cruises (sailing abroad and may be in India as well) and get commission on the same. Whether service tax is applicable on the said commission? Further the travel agents may also sell excursions while the cruise takes intermediate stops during the itinerary. Whether any service tax shall be applicable on the said bookings, of short trips in between intermediate stops, charged to the clients?

- 18.1** The travel agents booking cruises for their clients' gets commission from the main / master agent of the ship-liners, who provide the services of travel by cruise. Such commissions are liable to service tax @ 15% and the same is to be charged to the main / master agent and the invoice for the same needs to be raised on the main / master agent by the travel agents.
- 18.2** The main / master agent would also be required to charge service tax to the ship-liners for the commission received by them effective from 1st July, 2012 hence whatever service tax paid to the travel agents by the main / master agents shall be available for set-off against the service tax liability of the main / master agents.



**18.3** The aforesaid is depicted in the below Flow Chart :



**18.4** Service tax on charges to sell excursions while the cruise takes intermediate stops during the itinerary:

- If the agent does any bookings for short trips for clients while the cruise takes intermediate stops then service tax shall be applicable on the same on the charges charged to clients.
- Service tax shall be applicable as per package tour as explained in Para 26 and Para 29

19

Travel agents sell the cruise for same price to the clients or may add markup to the price and sell the same. What would be the service tax liability on the same?

▪ **Sells cruise at same price to clients** : If travel agents sell the cruise at same price to the clients then there would be no service tax liability on the said cruise price. Say, the agent has sold the booking to client for Rs. 80,000/- i.e. at the same price on which the booking was done by travel agent. In such a scenario there shall be no service tax liability on the same, provided if the invoice for the said booking by the ship-liner is in the name of the client and has been attached with the invoice of the travel agent to the client or the ship-liner has issued the invoice directly in the name of the client (and on account of the travel agent) and the travel agent passes on the same to the client then there shall be no service tax on the same.

▪ **Sells cruise at markup** : The travel agent adds markup to the booking and sells the same to client. Say, Travel agent issues the invoice of Rs. 90,000/- to the client which was originally booked by the travel agent for Rs. 80,000/- then in such a case the travel agent will have to charge service tax on Rs. 10,000/- @ 15% if the invoice from the ship-liner is in the name on the client and the copy of the same is attached with the invoice issued by the travel agent to the client. However, if the invoice from ship-liner is not in the name of the client then service tax on the full value of Rs. 90,000/- will have to be charged by the travel @ 4.5%, if abatement is taken.

**19.1** The aforesaid is tabulated below for the purpose of simplicity:

PARTICULARS	SERVICE TAX
Sells cruise at same price	Nil
<b>Sells at markup :</b>	
Invoice of ship-liner is forwarded to clients	15% on the mark-up
No copy of invoice is forwarded to clients	4.5% on the full amount



## VII

# BOOKING OF DOMESTIC & INTERNATIONAL TRAIN / BUS TICKETS AND PASSES BY TRAVEL AGENTS



20

Travel agents book domestic and international train, such as Euro rails, etc. or bus tickets and passes for the clients and they receive commission for the same from the transporters. Whether service tax is applicable on the same? Further, if the travel agent charges some service charge or fee to the clients and shows the cost of transportation separately on the invoice, whether such service charge or fee is liable to service tax?

- 20.1 Commission received from agents or transporters:** Service tax @ 15% is liable to be paid on the same and the travel agents needs to charge the same to the agents or the transporters, as the case may be, through an invoice.
- 20.2 Service charge or fee to clients located in taxable territory<sup>1</sup> for Domestic bookings:** Service tax @ 15% is liable to be paid on the same and the travel agents needs to charge the same to the clients through an invoice. However, the cost of transportation should be shown separately on the invoice.
- 20.3 Service charge or fee / margin to clients located in non-taxable territory<sup>2</sup> for Domestic Bookings:** Service tax @ 15% is liable to be paid on the same and the travel agents needs to charge the same to the clients through an invoice. However, the cost of transportation should be shown separately on the invoice.





**20.4** Service charge or fee / margin to clients located in taxable territory<sup>1</sup> for International bookings: Service tax @ 15% is liable to be paid on the same and the travel agents needs to charge the same to the clients through an invoice. However, the cost of transportation should be shown separately on the invoice.

<sup>1</sup> Taxable Territory would mean the whole of India except the State of Jammu and Kashmir.

<sup>2</sup> Non-taxable territory means the territory other than taxable territory i.e. the State of J&K and all countries other than India.

**20.5** Service charge or fee / margin to clients located in non-taxable territory for International Bookings: Service tax @ 15% is liable to be paid on the same and the travel agents needs to charge the same to the clients through an invoice. However, the cost of transportation should be shown separately on the invoice.

**21**

**What is the taxability status of services provided of transportation of passengers by a stage carrier? What effect shall it bear on Tour Operators?**

**21.1** Effective from 1st June, 2016 transportation of passenger by a stage carrier having air condition facility is taxed as the same has been excluded from exemption notification. Also, abatement of 60% in line with contract carriage will be available. Thus, the Stage Carriers / Operators will charge service tax in such cases.

**21.2** A stage carrier means a motor vehicle adapted to carry more than six passengers excluding the driver at separate fares paid for individual passengers either for the whole journey or for stages of the journey.

**For Example:** BEST buses in Mumbai are stage carrier transportation. Accordingly the fares of A/C BEST buses or private bus operators such as Neeta Volvo (AC buses) will attract service tax.

**21.3** In effect, exemption is available to Non A/C stage carrier transportation.





**21.4** Hence, the tour operators selling, A/C bus tickets will have to take care and consider the service tax element involved in the ticket cost purchased by them and accordingly give quotes to clients.

**21.5** Summary in tabular form:

Location of Service Receiver	Bookings	Rate of Service tax
On Commission		
Any location, whether in taxable territory or non-taxable territory	Any booking, whether domestic booking or international booking	15%
On Service Charges or margin		
In taxable territory	Domestic	15%
In non-taxable territory	Domestic	15%
In taxable territory	International	15%
In non-taxable territory	International	15%

**21.6** Further, a chart depicting the liability of the travel agent and Cenvat credit available is given below:

<b>Booking by Agents</b>	<ul style="list-style-type: none"> <li>▪ Commission from Main / Master Agents</li> <li>▪ ST @15% on Commission</li> <li>▪ To be charged to Main / Master Agent</li> </ul>
<b>Booking by Main / Master Agents</b>	<ul style="list-style-type: none"> <li>▪ Commission from Parent Company</li> <li>▪ ST @15% on Commission</li> <li>▪ To be charged to Parent Company</li> <li>▪ Main / Master Agent will claim set-off of ST paid to Agent against their liability</li> </ul>
<b>Eurorails, etc.</b>	<ul style="list-style-type: none"> <li>▪ ST charged by the Main / Master Agent will be cost to Eurorails, etc.</li> </ul>



## VIII

# DOMESTIC CAR HIRE / RENTAL BOOKING BY THE TRAVEL AGENT



22

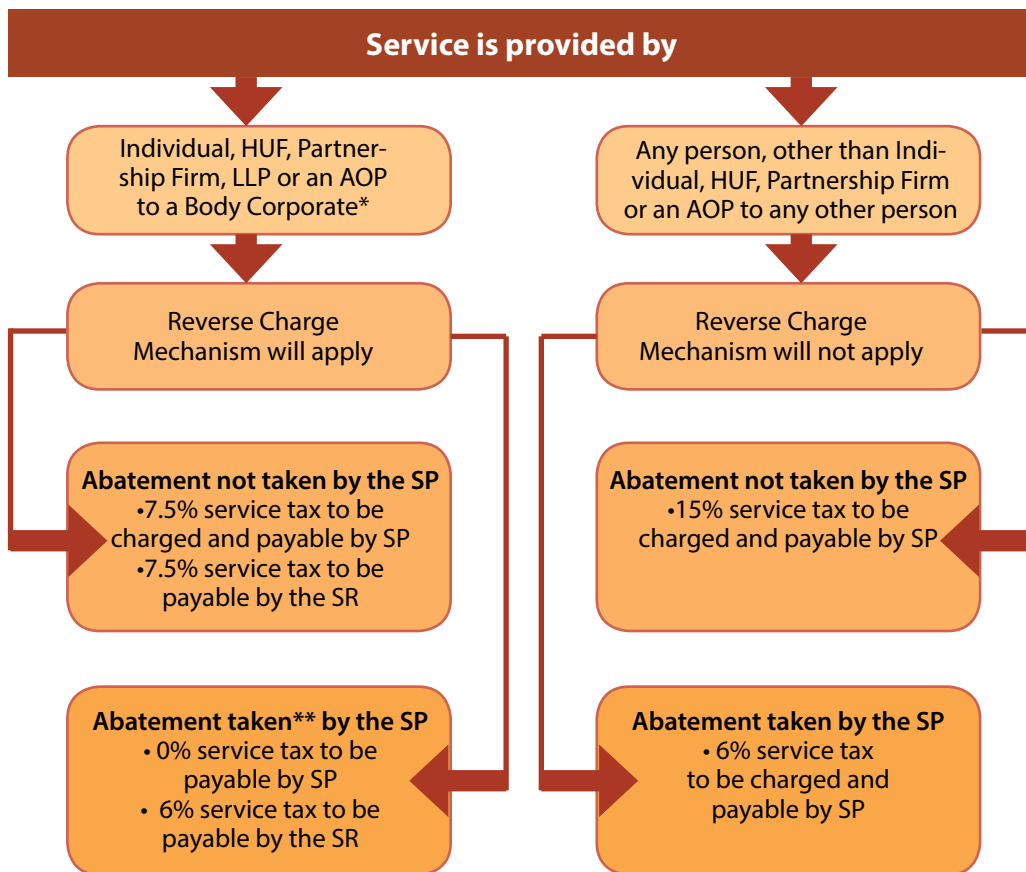
Travel Agent may book car on behalf of client and client pays directly to the car rental company and the travel agent gets commission from the said car rental company or the travel agent may make payment to the car rental company and charge net cost and markup to the clients. Whether service tax is applicable on the said two transactions? Whether the position of liability would be same if the service is provided by the agent (operator) to another agent (operator), be it, its own car or car taken on hire?

**22.1** Services provided to the Clients located in taxable territory :

- **Commission basis** : The travel agent getting commission from the car rental companies is liable to pay service tax @ 15% and the same is to be charged to the car rental company through an invoice.
- **Net cost and markup basis** : The applicability of service tax on the said transaction depends upon the status of the entity of the service provider and service receiver and the abatement scheme opted for by the service provider, which can be understood from the following flow chart :

The aforesaid is depicted in the following flow chart and meaning of acronyms used in the flow - chart is as under:

- HUF - Hindu Undivided Family
- AOP - Association of Persons
- SP - Service Provider
- SR - Service Receiver



\* Body Corporate means a private limited or public limited company, whether incorporated within India or outside India.

\*\* In the said service abatement of 60% is available to the service provider and if abatement is taken by the service provider then the service provider cannot take the CENVAT Credit of inputs, capital goods and input services used for providing the taxable service.

\*\* Further, the value of service should include fair market value of all goods (including fuel) and services supplied by the service receiver<sup>3</sup>.



## 22.2 Services provided to clients located in non-taxable territory:

- **Commission basis** : The travel agent getting commission from the car rental companies is liable to service tax @ 15% and the same is to be charged to the car rental company through an invoice. Further, if the travel agent is just the collecting agent wherein the car rental companies issues the invoices directly in the name of the clients and the travel agent is receiving commission then service tax as stated shall be applicable on the commission @ 15%.

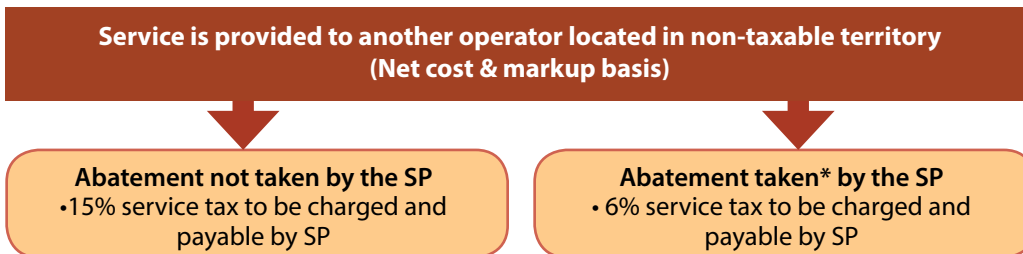
Illustration : ABC Car Rentals Ltd. is giving cars on hire to a travel agent for Rs.3,000/- who in turn provides the same to its clients say Mr. Z. at same rate and the travel agent is receiving commission @ 5% on said Rs. 3,000/- from ABC Car Rentals Ltd. then service tax is to be paid @ 15% on said commission of Rs. 150/- (5% on Rs.3,000/-) only. Further, on the said invoice of Rs. 3,000/- no service tax shall be charged by the travel agent if in such a case ABC Car Rentals Ltd. is issuing invoice directly in the name of Mr. Z.

- **Net cost and markup basis** : The applicability of service tax on the said transaction depends upon the status of the entity of the service receiver and abatement scheme opted for by the service provider or not, which can be understood from the aforesaid flow chart in Para 22.1 above.

## 22.3 Services of giving cars on hire / rentals are provided to another agent i.e. Operator to Operator:

- **Commission basis** : The travel agent getting commission from the car rental companies is liable to service tax @ 15% and the same is to be charged to the car rental company through an invoice.

- **Net cost and markup basis** : The applicability of service tax on the said transaction depends upon the abatement scheme opted for by the service provider or not, which can be understood from the flow chart as under:





**Note:**

- a. Reverse Charge Mechanism shall not apply in case of services of giving cars on hire / rentals are provided to another agent i.e. Operator to Operator, as it is applicable in Para 22.1 above.
- b. Abatement of 60% is available to the service provider and if abatement is taken by the service provider then the service provider cannot take the CENVAT Credit of inputs, capital goods and input services used for providing the taxable service. However, w.e.f 1st October, 2014 Cenvat credit of input services of renting of motorcab is available i.e. operator to operator Cenvat credit is available even if abatement is taken.

**Further, the Cenvat credit is available as tabulated under :**

Sr. No.	Service Provider has charged service tax on	Cenvat available
1	40% i.e. SP has charged ST on abated value	Full Cenvat
2	Full value i.e. SP has charged ST on full value	40% Cenvat

In short, the service receiver can take Cenvat credit of only 40% irrespective of whether service provider is charging service tax on full value or on 40%.

For example : 'A' rented a motor cab to 'B' for Rs. 10,000/- and 'B' rented the motor cab to 'C' for Rs. 15,000/-, where both 'A' and 'B' are registered as Rent-a-cab operators. Following are the two scenarios possible:

- i. 'A' avails the abatement - In this scenario, 'A' avails abatement of 60% and charges service tax of Rs. 600/- ( $10,000 \times 15\% \times 40\%$ ) to 'B'. Since, 'A' has charged service tax only on 40%; full amount can be availed as Cenvat Credit by 'B' as tabulated above.
- ii. 'A' does not avail abatement - In this scenario, 'A' does not avail abatement and charges service tax of Rs. 1,500 ( $10,000 \times 15\%$ ) to 'B'. Since, A has charged service tax on full amount; only 40% of the Cenvat Credit amount, i.e. Rs. 600/- can be availed by 'B' as explained above.



# IX

## INTERNATIONAL CAR HIRE / RENTAL BOOKING BY THE TRAVEL AGENT



23

Travel Agent may book car on behalf of client and client pays directly to the car rental company and the travel agent gets commission from the said car rental company or the travel agent may make payment to the car rental company and charge net cost and markup to the clients. Whether service tax is applicable on the said two transactions? Whether the position of liability would be same if the service is provided by the agent (operator) to another agent (operator), be it, its own car or car taken on hire?

**23.1** Services provided to the Clients located in taxable territory:

- **Commission basis** : The travel agent getting commission from the car rental companies is liable to service tax @ 15% and the same is to be charged to the car rental company through an invoice.
- **Net cost and markup basis** : The applicability of service tax on the said transaction depends upon the status of the entity of the service provider and service receiver and the abatement scheme opted for by the service provider which can be understood from the above flow chart in Para 22.1.

**23.2** Services of giving cars on hire / rentals are provided to clients located in non-taxable territory:

- **Commission basis** : The travel agent getting commission from the car rental companies outside India is liable to service tax @ 15% and the same is to be charged to the car rental company through an invoice.
- **Net cost and markup basis** : Not liable to service tax. In case where, the travel agent books car in UK from his office in Punjab for the client located in J & K, then activity of such booking may be construed to be performed outside India and thus it shall be considered as services not provided in taxable territory and hence not liable to service tax. However, department may take a different stand and consider the activity to be taxable.



### 23.3 Summary of the above:

Service Provider (SP)	Service Receiver (SR)	Remarks	Rate of Service Tax	
			Abatement not taken	Abatement taken
DOMESTIC BOOKINGS				
Individual, HUF, Partnership Firm, LLP or AO	Body Corporate located in taxable territory	Reverse Charge Mechanism will apply		
SP			7.5%	Nil
SR			7.5%	6%
Individual, HUF, Partnership Firm, LLP or AO	Any person, located in taxable territory, other than Body Corporate	Reverse Charge Mechanism will not apply		
SP			15%	6%
SR			Nil	Nil
Any person, other than Individual, HUF, Partnership Firm, LLP or an AOP	Any person located in taxable territory	Reverse Charge Mechanism will not apply		
SP			15%	6%
SR			Nil	Nil
One agent (operator)	Another agent (operator) located in taxable territory or to a client located in non-taxable territory	Reverse Charge Mechanism will not apply		
SP			15%	6%
SR			Nil	Nil



## INTERNATIONAL BOOKINGS

Individual, HUF, Partnership Firm, LLP or AO	Body Corporate located in taxable territory	Reverse Charge Mechanism will apply	7.5%	Nil
SP			7.5%	6%
SR				
Individual, HUF, Partnership Firm, LLP or AO	Any person, located in taxable territory, other than Body Corporate	Reverse Charge Mechanism will not apply	15%	6%
SP			Nil	Nil
SR				
Any person, other than Individual, HUF, Partnership Firm, LLP or an AOP	Any person located in taxable territory	Reverse Charge Mechanism will not apply	15%	6%
SP			Nil	Nil
SR				
Any person	Any person not located in taxable territory	Reverse Charge Mechanism will not apply	15%	6%
SP			Nil	Nil
SR				



# X

## DOMESTIC / INTERNATIONAL HOTEL BOOKINGS



### 24

Tour Operators do hotel booking, both domestic and international. Clients pay directly to the hotels and tour operators gets commission from the hotels. In some cases, the booking is done through some another agent or tour operator and for this also the tour operator gets commission from another agent or tour operator. Further, in few cases, clients pay to the tour operator and they in turn pay it to the hotel after deducting their service charges. Whether service tax would be applicable on the said commission from the hotels and agents and service charges charged to the clients?

#### 24.1 Domestic Hotel Bookings:

- On Commission from hotels and agents: If the tour operators do not alter the nature and the value of the services and if the value is altered the hotel is aware of the same then service tax shall be paid @ 15% on the said commission amount. The service tax should be charged to the hotels or agents, as the case may be, through an invoice.
- On service charges, if the client is located in taxable territory: If the tour operators alter the nature and the value of the services and book the tour on principal to principal basis then service tax has to be paid @ 15%, if abatement is not claimed, on the service charges. The service tax should be charged to the clients through an invoice. If abatement<sup>4</sup> is claimed by the tour operator then service tax @ 1.5% will be applicable.
- On service charges, if the client is not located in taxable territory: If the tour operators alter the nature and the value of the services and book the tour on principal to principal basis then service tax has to be paid @ 15%, if abatement is not claimed, on the service charges. The service tax should be charged to the clients through an invoice. If abatement is claimed by the tour operator then service tax @ 1.5% will be applicable.

<sup>4</sup> If abatement is claimed by the Tour Operator then they cannot take the CENVAT credit on inputs, input services and capital goods used for providing the taxable services. Further, the amount charged in the invoice shall include cost for arranging or booking of such accommodation and the charges for the said accommodation should be indicated separately in the invoice. However, w.e.f. 1st October, 2014 Cenvat credit of input services of another Tour Operator shall be available.





- Cut and Pay basis: If the tour operator receives commission on cut and pay basis i.e. they receive monies from clients towards hotel accommodation only and nothing towards service charges and the tour operator retains his portion of commission to be received from the hotel or other agents in such a case service tax has be paid @ 15% on the commission amount.

#### 24.2 International Hotel Bookings:

- **On Commission from hotels and agents** : If the tour operators do not alter the nature and the value of the services and if the value is altered the hotel is aware of the same then service tax shall be paid @ 15% on the said commission amount, irrespective of whether the commission is received in Indian Rupees or Foreign Currency.
- **On service charges, if the client is located in taxable territory** : If the tour operators alters the nature and the value of the services and book the tour on principal to principal basis then service tax has to be paid @ 15% on the service charges, if abatement is not claimed. The service tax should be charged to the clients through an invoice. If abatement is claimed by the tour operator then service tax @ 1.5% will be applicable.
- **On service charges, if the client is not located in taxable territory** : Not liable to service tax. In case where, the agent books hotel in UK from his office in Mumbai for his client in the State of J & K, then activity of such booking may be construed to be performed outside India and thus it shall be considered as services not provided in taxable territory and hence not liable to service tax. However, department may take a different stand and consider the activity to be taxable.

#### 24.3 The aforesaid are explained with the help of the illustrations as below :

- Hotel Accommodation charges (irrespective of domestic and international booking) are Rs. 10,000/- and the tour operator is to receive commission from the hotel say @ 10% of the hotel booking and in such a scenario if the client pays Rs. 10,000/- to the tour operator and he retains his 10% (Rs. 1,000/-) and remits the balance Rs. 9,000/- to the hotel in such a case he has to charge service tax to the hotel @ 15% on commission of Rs. 1,000/- and he cannot take the benefit of abatement as the nature and value of service has not changed.
- Hotel Accommodation charges (irrespective of domestic and international booking) are Rs. 10,000/- and the tour operator has been given free hand to do the booking between Rs. 9,000/- to Rs. 11,000/- and he is to receive commission from the hotel say @ 10% of the hotel booking and in such a scenario if the tour operator charges Rs. 9,500/- to the client and hotel is aware of such booking and tour operator pays Rs. 9,500/- to the hotel (which he receives from the clients) and he retains his 10% (Rs. 950/-) and remits the balance Rs. 8,550/- to the hotel in such a case he has to charge service tax to the hotel @ 15% on commission of Rs. 950/- and he cannot take the benefit of abatement even though the value of service has been changed but the hotel is aware of the same.



- Hotel Accommodation charges are Rs. 10,000/- and the tour operator charges Rs. 12,000/- to the client and client pays Rs. 12,000/- to the tour operator who in turn pays Rs. 10,000/- to the hotel. This transaction is principal to principal. In such a scenario, the tour operator's liability depends upon the location of the service receiver. If the service receiver (client) is located within taxable territory then tour operator can either pay service tax @ 15% on Rs. 2,000/- or can avail abatement benefit and pay service tax @ 1.5% on Rs. 12,000/- and service tax will be charged to the client through an invoice. If the service receiver (client) is located outside taxable territory then the activity of such international booking may be construed to be performed outside India and thus it shall be considered as services not provided in taxable territory and hence not liable to service tax.

#### 24.4 Summary in tabular form:

Loacation of Service Receiver	Bookings	Rate of Service Tax	
		Abatement not taken	Abatement taken
On Commission			
Any location, whether in taxable territory or non-taxable territory	Any booking, whether domestic booking or international booking	15%	No such facility available
On Service Charges			
In taxable territory	Domestic	15%	1.5%
Not in taxable territory – if SR criteria then PPS outside India	Domestic	15%	1.5%
In taxable territory	International	15%	1.5%
Not in taxable territory	International	No Service Tax	



25

Tour Operators at the time of hotel bookings provides room with Breakfast / Lunch / Dinner facilities or with meals and transfers, the same is provided by the hotels itself as a package and charged by hotel towards accommodation or as accommodation charges. Whether service tax would be applicable on the same and at what rate?

- 25.1 The applicability of service tax on the said transaction will depend upon the contract / agreement (whether written or through email) between the tour operator and the clients.
- Contract between tour operator and client of purely of arranging accommodation: In such a case service tax would be applicable as explained in Para 24 above.
  - Contract between tour operator and client is of arranging accommodation and providing breakfast / lunch / dinner and / or transfers: In such contracts it shall be considered as package tours and service tax shall be applicable @ 15% on service charges, if abatement benefit is not taken. However, if abatement is taken then service tax applicable will be @ 15% on 30% of the value of the package i.e. effective rate shall be 4.5%. Further, even if any of the services are availed after the initial booking of the tour then it has to be considered as part of the package and thus these shall also be included in the package.

**Note:** There is no straight jacket formula that can be laid down to determine whether a service is to be included in the package or considered on stand-alone basis. Each case has to be individually examined in the backdrop of the facts of each individual case.



# XI

## INBOUND PACKAGE TOURS PROVIDED BY THE TOUR OPERATOR



26

**Whether there shall be service tax applicability on inbound tour package organized by the tour operator?**

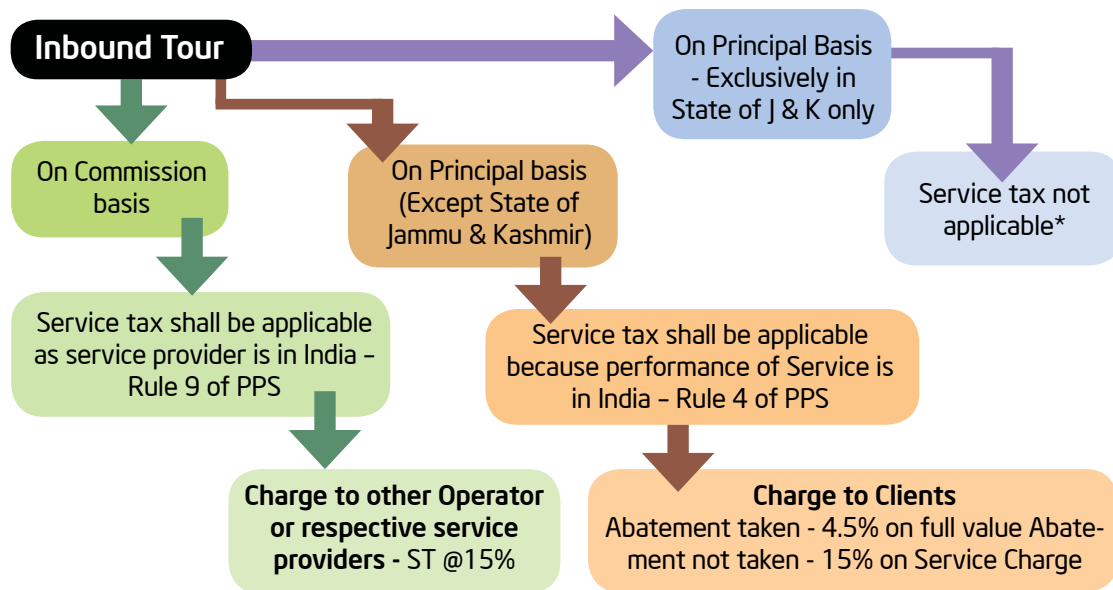
- 26.1** Tours organized by the Tour Operator, within India for the tourist coming from abroad is generally known as inbound tour. The levability of service tax on cross-border transaction involving India and a foreign country shall be determined on or from 1st July, 2012 in terms of Section 66C of The Finance Act, 1994 read with Place of Provision of Service Rules, 2012 (PPS). There may be two types of contracts entered into by the tour operator. First the tour operator receives commission i.e. it has booked the tour on commission basis or second on principal basis i.e. on its own account has done the various bookings and then raises bill on the client.
- 26.2** A Package Tour would mean a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package to the person undertaking the tour.
- 26.3** In cases where the tour operator is receiving commission for booking of tour for another tour operator service tax shall be leviable in India in terms of Rule 9 of PPS.
- 26.4** If the tour operator has booked the Inbound tour on principal basis (Except for tour of the State of Jammu and Kashmir) then service tax shall be leviable in India in terms of Rule 4 of PPS on the said transaction.
- 26.5** In case where the Tour operator has booked tour on principal basis for a tour in State of J & K, and the entire service is provided there only, then service tax is not leviable in India.



## 26.6 Rate of Service Tax:

- **On Commission** : Service tax @ 15% shall be payable by the tour operator on the said commission and the same should be charged to the other tour operator or the respective service providers, through an invoice. The service tax would be applicable irrespective of whether the commission is received in Indian Rupees or Foreign Currency.
- **On Principal basis** : Service tax shall be charged @ 15% only on the service charges charged to the clients towards the said package tour, if abatement benefit is not taken. However, if abatement<sup>5</sup> is taken then service tax @ 4.5% shall be levied on the full bill value i.e. on service charges including charges for such tour.

26.7 The aforesaid is shown in the form of flow-chart:



\* The aforesaid is based on the fact that the client is from outside India and further based on the assumption that entire service is provided within the state of Jammu & Kashmir. In case where, the tour operator books Hotel in State of J & K from his office in Mumbai, then activity of Hotel booking may be construed to be incidental to the main activity of Tour Service which is provided in State of J & K and the entire activity may not be taxable. However, department may take a different stand and consider the activity to be taxable.

<sup>5</sup> If abatement is claimed by the Tour Operator then they cannot take the CENVAT credit on inputs, input services and capital goods used for providing the taxable services. Further, the amount charged in the invoice shall indicate that it is inclusive of charges of such tour. However, w.e.f. 1st October, 2014 Cenvat credit of input services of another Tour Operator shall be available.



27

**Whether any Cenvat Credit is eligible to the Tour Operator if he avails the benefit of abatement?**

- 27.1 Cenvat Credit on Inputs, Capital goods and Input Services: No Cenvat Credit on Inputs, Capital goods and Input Services can be availed by Tour Operator if he wants to take the benefit of abatement.
- 27.2 Cenvat Credit on Input Service of another Tour Operator: W.e.f. 1st October, 2014 a Tour Operator can take Cenvat credit of Service Tax charged by another Tour Operator, even if the abatement is taken.

28

**Tour Operator is preparing its own package tour and in the course he is availing the services of rent-a-cab operator services, does direct booking of Hotel and books another Hotel through another Tour Operator. Rent-a-cab Operator, the Hotel and the other Tour Operator charges service tax for their services, whether the Tour Operator can take credit of the same?**

- 28.1 The Tour Operator selling the package tour may charge service tax on abated value and simultaneously can take Cenvat credit of service tax charged to him by another Tour Operator.

28.2 The aforesaid is tabulated as under:

Sr. No.	Services availed from	Cenvat credit available or not
1	Rent-a-cab Operator of taking Motor Vehicle on hire	No
2	Tour Operator for hotel booking or any other bookings	Yes
3	Hotels, for Short Term Accommodation Services	No



## XII

# OUTBOUND PACKAGE TOURS PROVIDED BY THE TOUR OPERATOR



29

### Whether there shall be service tax applicability on outbound tour package organized by the tour operator?

- 29.1 Tours organized by the Tour Operator, outside India, for the tourist going abroad is generally known as outbound tour. There may be two types of contracts entered into by the tour operator. First the tour operator receives commission i.e. it has booked the tour on commission basis or second on principal basis i.e. on its own account has done the various bookings and then raises bill on the client.
- 29.2 In cases where the tour operator organizes tour for person located in India, on principal to principal basis, then service tax shall be leviable in India in terms of Rule 8 of PPS on the said transaction.
- 29.3 In cases where Indian Tour operator organizes a tour to UK for a person residing in Dubai, and when the entire service provision is outside India, then no service tax is leviable in India.
- 29.4 However, in the above case, even if a small part of Service is provided in India (Except in the state of J & K), then service tax shall be leviable in India in terms of Rule 4 of PPS.
- 29.5 In cases where the Indian tour operator is receiving commission for booking of outbound tour for another tour operator (Indian/ Foreign) service tax shall be leviable in India in terms of Rule 9 of PPS.





#### **29.6 Rate of Service Tax:**

- On Commission: Service tax @ 15% shall be payable by the tour operator on the said commission and the same should be charged to the other tour operator or the respective service providers, through an invoice.
- On Principal basis: Service tax shall be charged @ 15% only on the service charges charged to the clients towards the said package tour, if abatement benefit is not taken. However, if abatement is taken then service tax @ 4.5% shall be levied on the full bill value i.e. on service charges including charges for such tour.

**29.7** However, it must be noted that, effective 20th August, 2014, services provided in respect of religious pilgrimage are exempt if provided by:

- Kumaon Mandal Vikas Nigam Limited, (a Government of Uttarakhand Undertaking for Kailash Mansarovar Yatra)
- The Haj Committee or State Haj Committee for Haj Yatra

**29.8** The above exemption is available only in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement.

**29.9** As the exemption is available effective 20th August, 2014, for the period 1st July, 2012 to 19th August, 2014 service tax was applicable on the aforesaid service but due to common practice prevalent during that time, no service tax was paid on the above mentioned services.

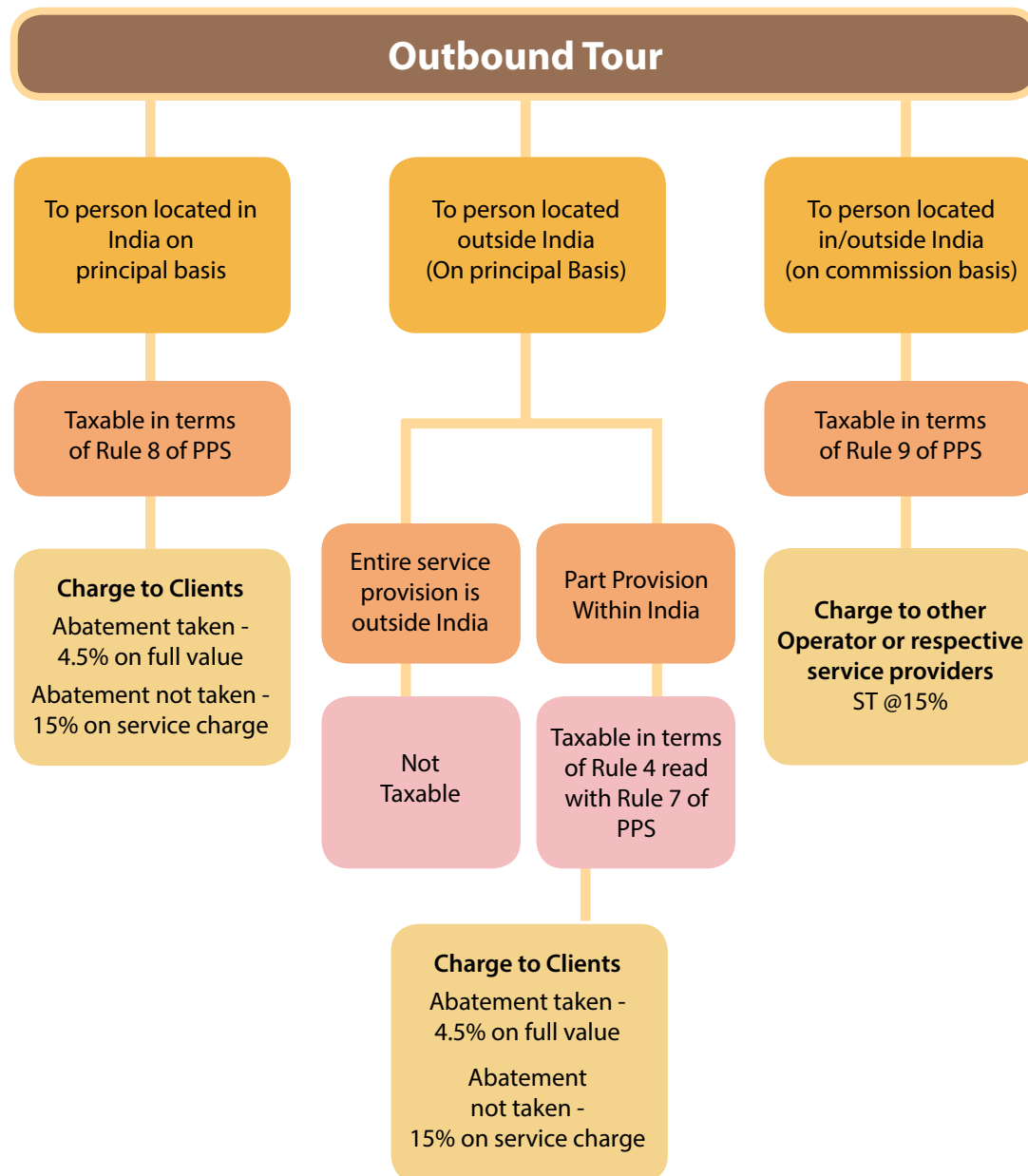
**29.10** Now, the Central Government has directed that service tax on the said activity shall not be paid for the period from 1st July, 2012 to 19th August, 2014.





44

29.11 The aforesaid is shown in the form of flow-chart:



## XIII

# SERVICES RELATED TO SIGHTSEEING / TRANSFERS / ENTRANCE FEES / SHOW TICKETS AWARD FUNCTIONS ETC. ARE PROVIDED IN ISOLATION TO PERSONS TRAVELLING OVERSEAS

30

Tour Operators provides / sells these services collectively or individually and may receive commission or sell on principal basis i.e. net cost and markup. Whether service tax is applicable on such services and at what rate?

- 30.1** If the aforesaid services are provided collectively then the service tax applicability shall be as explained above in Para 26 and 29 with respect to inbound and outbound package tour, as the said collective provision of service shall be considered as a package of tour and not services in individuality.
- 30.2** If the aforesaid services are provided individually then the applicability of the service tax shall be analysed individually on each service as under:
- **Sightseeing:** The applicability of service tax shall be as per the applicability as explained above for inbound and outbound package tours. The service tax rate shall be 4.5% if abatement is taken by the tour operator.
  - **Transfers:** The applicability of service tax shall be as per the applicability as explained above for inbound and outbound package tours. The service tax rate shall be 4.5% if abatement is taken by the tour operator.
  - **Entrance Fees and Show Tickets:** Prior to 1st June, 2015 admission to entertainment events or Access to amusement facilities was in the negative list entry; hence there was no service tax applicability on the same. However from 1st June, 2015 the same has been omitted.



From the aforesaid it is apparent that sale of tickets or passes for entry to any of the entertainment event or amusement facility as stated above shall be liable to service tax along with the entry tickets for museum, etc. which shall also be liable to service tax. Hence, the tour operators selling entry tickets for such parks, etc. will have to take care and consider the service tax element involved in the ticket cost purchased by them and accordingly give quotes to clients. The same is illustrated below:

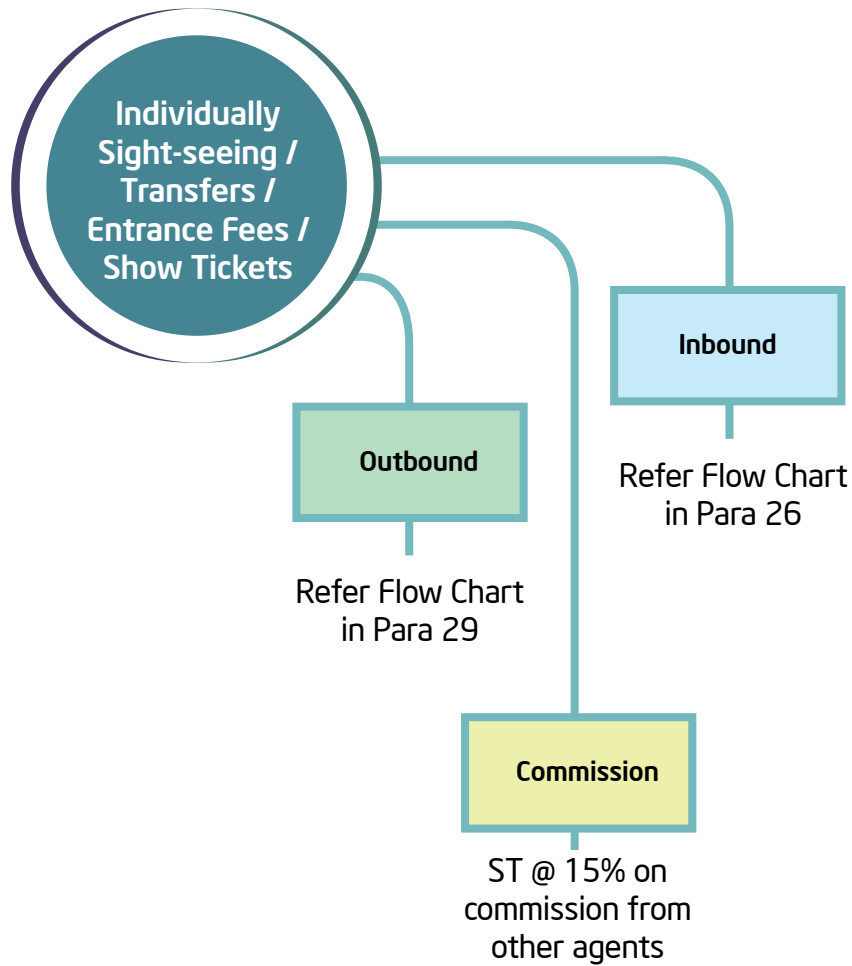
Particulars	Upto 31st May, 2015	From 1st June, 2015
Entry ticket to amusement facilities such as Parks, etc. of Rs. 1,000/- each for 10 tickets	10,000	10,000
Service Tax (15% on Rs. 10,000/-) will be charged by the Amusement Parks, etc.	--	1,500
Ticket cost to the Operator	10,000	11,500

- Award Function, Concerts, etc.: Further, effective from 1st June, 2015 services by way of right to admission to Award function, concert, pageant, musical performance or any non-recognized sporting event, where the consideration for admission is more than Rs. 500/- per person service tax shall be applicable on the same.
  - Ropeway, Cable Car or Tramway: Also, effective from 1st April, 2016 exemption on services of transportation of passengers by ropeway, cable car or aerial tramway has been withdrawn and made taxable. Hence, operators of such ropeways, cable cars or aerial tramways will charge service tax on the tickets for the same.
- Hence, the tour operators selling such tickets in their package to the customers will have to take care and consider the service tax element involved in the ticket cost purchased by them and accordingly give quotes to clients.

**30.3** It is to be noted that in case if the commission is also received from the respective service providers or from other tour operators, for individual cases in Para 30.2 above, then service tax @15% is to be paid and the same needs to be charged through an invoice to the respective service providers or the other tour operator, as the case may be.

Say, a Tour Operator is booking a sightseeing or transfers, etc. from ABC for Rs. 3,000/- who in turn provides the same to its clients say Mr. Z. at same rate and the travel agent is receiving commission @ 5% on said Rs. 3,000/- from ABC then service tax is to be paid @ 15% on said commission of Rs. 150/- (5% on Rs.3,000/-) only. Further, on the said invoice of Rs. 3,000/- no service tax shall be charged by the Tour Operator if in such a case ABC is issuing invoice directly in the name of Mr. Z.

**30.4** The above are shown in the form of flow chart below:



## FOREIGN EXCHANGE



31

Agents obtain foreign currency exchange for their clients and for this they receive commission from the money changer / bank and in few cases they sell to the clients the foreign currency after adding a nominal markup. Whether there shall be service tax applicability on the said commission and markup?

**31.1** Licensed Foreign Exchange Dealer: The tour operator shall be registered or licensed operator to deal in foreign currency and if they hold the said license only then they receive commission from the money changer / banks.

The said operators have the option to pay service tax as follows:

- @ 15% on the commission amount, or
- As specified in the table below:

Gross amount of currency exchanged.	Amount of Tax applicable before SBC & KKC	Amount of Tax applicable after SBC & KKC
<b>Upto Rs. 1,00,000/-</b>	<b>0.14%</b> of gross amount of currency exchanged subject to a minimum tax of <b>Rs. 35/-</b>	<b>0.15%</b> of gross amount of currency exchanged subject to a minimum tax of <b>Rs. 37.5/-</b>
<b>Rs. 1,00,001 to Rs. 10,00,000/-</b>	<b>Rs. 140 + 0.07%</b> of gross amount of currency exchanged in excess of Rs. 1,00,000/-	<b>Rs. 150 + 0.075%</b> of gross amount of currency exchanged in excess of Rs. 1,00,000/-
<b>Rs. 10,00,001 and above</b>	<b>Rs. 770 + 0.014%</b> of gross amount of currency exchanged in excess of Rs. 10,00,000/- subject to a maximum tax of <b>Rs. 7,000/-</b>	<b>Rs. 825 + 0.015%</b> of gross amount of currency exchanged in excess of Rs. 10,00,000/- subject to a maximum tax of <b>Rs. 7,500/-</b>

# XV

## PROFESSIONAL & CONSULTANCY CHARGES



32

Agents work out itinerary for the clients and for this they charge consultancy fees for the same and also assist students for their admission process and charge professional fees for the same. Whether service tax is applicable on the said consultancy fees and professional fees?

**32.1** The said services of consultancy with respect to itinerary and assistance for admission process shall be liable to service tax @ 15% as the said activities falls under the definition of service.





## OTHER SERVICES

33

**Tour Operators enter into agreements with Companies who are into Leisure and Hospitality Industry whereby the Tour Operator is appointed as the Direct Selling Agent (DSA). Tour Operators agrees to provide its own office staff and infrastructure which can be used exclusively for promoting and marketing activities of such Leisure and Hospitality Companies for which some consideration is received by Tour Operator. Whether Service Tax is leviable on such services? If yes, then under which category service tax shall be payable?**

- 33.1** Service Tax shall be applicable on the services provided to such Leisure and Hospitality Companies, whereby Tour Operators shall do the promotion and marketing of such companies' products.
- 33.2** Further, such Tour Operators shall be considered as providing promotion and marketing services to such companies from its own infrastructure thus service tax shall be applicable on the said services under the category of 'Business Auxiliary Services'.



## XVII

# MISCELLANEOUS PROVISIONS



34

Whether any Advances received for any of the services to be provided by the ATA or TO shall be liable to service tax or service tax shall be applicable only at the time of provision of services?

**34.1** Service tax shall be liable to be paid on the advances received also. Thus, for any services to be provided in future if some payment is received in advance then service tax shall be payable on such advances as well.

35

### E-Payment of Service Tax:

**35.1** Following is the summary of the monetary limit available to the assessee for the e-payment of Service Tax:

From	To	Monetary Limits
1/10/2006	31/03/2010	Above 50 Lakhs
01/04/2010	31/12/2012	Above 10 Lakhs
01/01/2014	30/09/2014	Above 1 Lakhs
01/10/2014	--	Mandatory, irrespective of the amount paid in the previous F.Y.

**35.2** Thus from 1st October, 2014 e-payment of Service tax has become mandatory. Penalty for non - compliance of the same shall be Rs. 10,000/-.

**35.3** However, Assistant Commissioner /Deputy Commissioner may empower an assessee to deposit the tax manually.



## Interest Rates:

**36.1** Earlier, fixed interest rate of 18% was prescribed irrespective of delay in payment of service tax liability. Further, w.e.f. 1st October, 2014, flexible rate of Interest for late payment of service tax based on period of delay in payment of service tax was introduced as tabulated below,

Sr. No.	Period of Delay	Simple Interest Rate *
1.	Upto Six Months	18 per cent
2.	More than six months and upto one year	a) 18 percent for the first six months of delay; and b) 24 per cent for the delay beyond six months
3.	More than one year	a) 18 percent for the first six months of delay; b) 24 per cent for the period beyond six months upto one year; and c) 30 percent for any delay beyond one year.

\* Note : For assessee having a taxable turnover upto sixty lakhs in preceding financial year, interest rate shall be reduced by 3% for every period of delay.

**36.2** However, w.e.f. 14th May, 2016, new rates have been introduced, tabulated as under,

Sr. No.	Situation	Simple Interest Rate*
1.	Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due	24% p.a.
2.	Other than in situations covered under serial number 1 above	15% p.a.

\* Note: For assessee having a taxable turnover upto sixty lakhs in preceding financial year, interest rate shall be reduced by 3% for every period of delay.





- 36.3** The interest slab rate of 18% / 24% / 30% will no longer be applicable. However, in case of any liability due pertaining to the period prior to 14th May, 2016, and payment for the same is made on or after 14th May, 2016 then interest shall be calculated at the old slab rates till 13th May, 2016, after which, the new rates shall be used.

**37**

## Payment of Service Tax by One Person Companies & HUF [W.e.f. 1st April, 2016]

- 37.1** Payment of service tax by HUF and One Person Companies (OPC) (whose aggregate value of taxable services from one or more premises is up to Rs. 50 lakhs in the previous financial year) is made in lines with Individuals, Proprietary Firm and Partnership Firm on quarterly basis. Also, such OPC has been provided the option to pay service tax on receipt basis.
- 37.2** The same is tabulated for all entities as under:

Constitution of Assessee	Due Date for payment of tax
<ul style="list-style-type: none"> <li>Individual</li> <li>Proprietary Concern</li> <li>Partnership Firm</li> <li>HUF</li> <li>OPC (having aggregate value of taxable services provided is less than Rs. 50 lakhs or less in the previous financial year)</li> </ul>	Quarterly Payment
	<ul style="list-style-type: none"> <li>a. In case of the first three quarters - 6th day of the month immediately following the quarter in which service is deemed to be provided as per Point of Taxation Rules, 2011</li> <li>b. In case of the last quarter, i.e. quarter ending in the month of March - 31st March of the quarter in which service is deemed to be provided as per Point of Taxation Rules, 2011</li> </ul>
<ul style="list-style-type: none"> <li>Any other Assessee</li> </ul>	Monthly Payment
	<ul style="list-style-type: none"> <li>a. In case of all months other than March - 6th day of the month immediately following the month in which service is deemed to be provided as per Point of Taxation Rules, 2011</li> <li>b. In case of the month of March - 31st March</li> </ul>



# XVIII

## Summary of revised rate of Service Tax effective from 1st June, 2015



Rate of Service Tax

Possible Scope of Service	Description / Category of Service	From 01.06.15 to 14.11.15 @ 14%	From 15.11.15 to 31.05.16 @ 14.5%	W.E.F 01.06.16 @ 15%
1	2	3	4	5
a. Air ticket bookings. b. Service charges towards cancellation & modification of bookings. c. Upload incentives.	<b>Air Travel Agent Services</b> On Commission	14%	14.50%	15%
	On Basic Fare Domestic International	0.70% 1.40%	0.725% 1.45%	0.75% 1.50%
	<b>Tour Operator Services</b> Package Tour	3.50%	3.625%	-
a. Cruise bookings on mark-up basis. b. Charges to sell excursions while the cruise takes intermediate stops during the itinerary. c. Service charges to clients for train & bus bookings, if the same is done as a part of the tour. d. Service charges to clients for booking of hotel accommodations. e. Service Charges to clients on inbound and outbound package tours.	Other than Package & Accommodation	5.60%	5.80%	-
	Package Tour + Other than PT & Accommodation	-	4.35% (where applicable)	4.50%
	Accommodation only	1.40%	1.45%	1.50%



f. Service charges to clients for sightseeing, transfers, etc. g. Consultancy fees for working out the itinerary for the clients.				
	Consultancy Services	14%	14.50%	15%
Note: The possible scope of services (above) may fall under any of the description of services depending upon the case to case as to how the customers want the services from the Tour Operator.				
Car hire / rental charges to clients.	<b>Rent-a-cab Scheme</b>			
	<b>Operator Services</b>			
	Abatement	5.60%	5.80%	6%
	No Abatement	14%	14.50%	15%
Service charges on train / rail tickets bookings, if the same is done as a stand-alone booking.	<b>Rail Travel Agents service</b>	14%	14.50%	15%
a. Any amount, by whatever name called, be it, consultancy charges, professional fees, etc. received by the unregistered travel agents towards mediclaim policies & travel insurance. b. Agency charges charged to clients for selling of SIM cards or recharge coupon vouchers. c. Cruise bookings on commission basis d. Commission from agent / transporter for booking / bus. e. Commission from car hire / Rental Company. f. Commission from hotels for booking accommodations. g. Commission towards inbound and outbound package tours. h. Commission from other tour operators or service providers towards Sightseeing, Transfers, etc. i. Promotion & Marketing of Leisure and Hospitality Companies products.	<b>Business Auxiliary Service</b>	14%	14.50%	15%





Service Charges on bus tickets bookings, if the same is done as a stand-alone booking.	<b>Travel Agent for booking of passage (other than air/rail travel agents)</b>	14%	14.50%	15%
Planning or Organising an event	<b>Event Management</b>	14%	14.50%	15%
a. Segment Payout received from CRS/GDS. b. Visa and Passport assistance on stand-alone basis, irrespective of whether the same is done directly through embassy or through VFCs. c. Professional consultancy Visa and Passport assistance. d. Professional Fees for assisting students in their admission process.	<b>Other Taxable Services</b>	14%	14.50%	15%

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## **GLOBAL PANORAMA SHOWCASE**

(A division of Jagsons Travels Pvt. Ltd.)

**H.O.:** Jagsons Enclave, 117A-Central Avenue

Nagpur - 440018, India

Ph : +91-712-6640200 (100 Lines)

Cell : +91-9225248070 / +91-9225248069

Email : harmandeep@gps-india.com

**MUMBAI :** 59/2656, Safalya CHS, Gandhi Nagar

MIG Club Road, Next to Bank of Maharashtra

Bandra (E), Mumbai 400051, India

Ph : +91-22-26382700, Cell : +91-9820224272

Email : madhu@gps-india.com

[www.gps-india.com](http://www.gps-india.com)