

BUDGET 2013

Analysis- Service Tax proposals

March 05' 2013 [Budget presented on 28th February'2013]

Index



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1. Overview

The underlying theme behind the Union Budget of 2013 was to bring more clarity in the tax laws, providing a stable tax regime, strengthening the tax administration and ensuring a fair mechanism for dispute resolution.

There has been no change proposed in the basic rates of Service Tax. However, with some explanations, modifications, inclusions and clarifications the finance minister has tried to consolidate the amendments made in the Union Budget of 2012.

We have analyzed the proposed changes, their applicability and their impact, in this special report.

2. Changes in Negative list

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Title	Section/ Notification	Changes proposed	Effective from
Inclusion of courses in the Negative List	Section 65B(11)(i) (Amended)	<ul style="list-style-type: none"> It has been proposed that vocational education course provided by Educational Institutions affiliated to State Council of Vocational Training shall also be exempt, in addition to National Council for Vocational Training. 	The date of enactment of Finance Bill, 2013.
Exclusion of courses from Negative List	Section 65B(11)(ii) (Omitted)	<ul style="list-style-type: none"> The courses run by institutes affiliated to National Skill Development Corporation will now be taxable. 	The date of enactment of Finance Bill, 2013.

....contd. (Changes in Negative list)

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Title	Section/ Notification	Changes proposed	Effective from
Process of manufacture or production under Medical and Toilet Preparations Act, 1955	Section 65B(40)(ii) (Amended)	<ul style="list-style-type: none"> Under Section 65B(40)(ii) the definition of "process amounting to manufacture or production of goods" is being expanded to include processes under the Medical and Toilet Preparations (Excise Duty) Act, 1955. It is to be noted earlier it only included manufacture and produce of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics. 	The date of enactment of Finance Bill, 2013.
Omission of the word seed from expression 'seed testing'	Section 66D(d)(i) (Amended)	<ul style="list-style-type: none"> The word 'seed' is proposed to be omitted from the expression 'seed testing' found in Section 66D(d)(i). Consequently, all kinds of testing like soil testing, animal feed testing etc. related to agriculture industry will be covered by negative list. 	The date of enactment of Finance Bill, 2013.

3. Changes in abatements (w.e.f.01.03.2013)



[Notification No.2/2013-st Dated 1-3-2013 Amending Notification No. 26/2012-st Dated. 20-6-2012]

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S.No.	Service	Particulars	Proposed taxable portion	Existing taxable portion
1.	Construction of complex, building or civil structure or a part thereof	A dual rate of abatement has been prescribed: (a) If intended for sale as a residential unit having carpet area upto 2000 sq. ft. or Where amount charged is less than one crore rupees.	75%	75%
		(b) In all other cases (whether it is a residential unit or a commercial unit).	70%	75%

4. CENVAT Credit Rules, 2004

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Title	Rule	Changes proposed w.e.f 1 st March'2013 <u>Vides Notification No. 3/2013-central Excise (N.T.)</u> <u>Dated. 1-3-2013</u>
Recovery of CENVAT Credit wrongly taken	3(5), 3(5A), 3(5B) (Amended)	<ul style="list-style-type: none"> An explanation inserted after the proviso to sub-rule 5B of Rule 3 of CENVAT Credit Rules, 2004, if the manufacturer of goods or the provider of output service fails to pay the amount payable on: <ul style="list-style-type: none"> i. Inputs or capital goods removed as such, ii. The capital goods are removed after being used, whether as capital goods or as scrap or waste, and iii. Input, or capital goods before being put to use is written off fully or partially, <p>Then, it shall be recovered, in the manner as provided in Rule 14, for recovery of CENVAT credit wrongly taken.</p>

5. Penalties and Prosecution

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Title	Section/ Notification	Changes proposed	Effective from
Penalty on failure to take registration under Service Tax	Section 77(a) (Amended)	<ul style="list-style-type: none"> The penalty of Rs. 10,000 or Rs. 200 per day of default, whichever is higher has been done away with. Now the maximum penalty on failure to obtain service tax registration will be Rs. 10,000 only. 	The date of enactment of Finance Bill, 2013.
Personal penalty on director, manger etc. of a company	Section 78A (Newly inserted)	<ul style="list-style-type: none"> Proposed penalty of Rs. 1 lakh on director, manager, secretary or any other officer of the company in respect of specified offences which are: <ul style="list-style-type: none"> (a) Evasion of service tax; (b) Issuance of invoices for services not rendered; (c) Wrongful availment of input service tax credit on services not received; (d) Collect and fail to pay service tax beyond a period of six months from the date on which such payment becomes due. 	The date of enactment of Finance Bill, 2013.

....contd. (Penalties and Prosecution)

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Title	Section/ Notification	Changes proposed	Effective from
Offences and penalties	Section 89(1) (d) 89(2) (Amended)	<ul style="list-style-type: none"> In case an assessee collects amount exceeding Rs. 50 lakh but fails to pay the amount to the credit of Central Government beyond six months [Section 89(1)(d)], the period of imprisonment is being increased from 3 years to 7 years. For sub-section (2) if any person is convicted again for the offence specified under Section 89, then in that case for second and every subsequent offence the imprisonment may extend to seven years. 	The date of enactment of Finance Bill, 2013.
Cognizance of Offences	Section 90 (Newly inserted)	<ul style="list-style-type: none"> Section 90 is being introduced to provide clear distinction between cognizable and non-cognizable offence. If assessee collects any amount exceeding Rs. 50 lakhs as service tax but fails to pay the amount to Central Government, shall be a cognizable and non-bailable offence. All other offences specified under Section 89 (i.e. knowingly evading the payment of service tax, wrongful availment and utilization of input service tax credit on services not received, maintaining false books of account or not furnishing the information required), shall be non-cognizable and bailable. 	The date of enactment of Finance Bill, 2013.

....contd. (Penalties and Prosecution)

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Title	Section/ Notification	Changes proposed	Effective from
Power to arrest	Section 91 (Newly inserted)	<ul style="list-style-type: none"> Commissioner of Central Excise has been empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise, to arrest a person for specified offences particularly nonpayment of collected service tax; Further, the person arrested for cognizable (non-bailable) offences must be informed about the grounds of arrest and must be presented before the magistrate within 24 hours. The provisions of the Code of Criminal Procedure, 1973 must be complied with. 	The date of enactment of Finance Bill, 2013.

6. Bonanza for Defaulters

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Title	Service Tax Voluntary Compliance Encouragement Scheme, 2013	Effective from
Payment of service tax liability without any interest, penalty or any proceedings	<p><u>Eligible person:</u></p> <ul style="list-style-type: none"> ▪ A person who has undetected tax liability for the tax period 1st October, 2007 to 31st December, 2013, as on 1 March, 2013; ▪ In respect of which no notice or an order of determination under Section 72 or Section 73 or Section 73A has been issued before the 1st day of March, 2013. <p><u>Ineligible person:</u></p> <ol style="list-style-type: none"> 1) A person against whom investigation or inquiry is pending as on 1st March, 2013, by issue of search warrant or summons or by way of audit; 2) Person who has furnished return u/s 70 and disclosed his true liability but has not paid the disclosed amount of service tax. <p><u>Conditions:</u></p> <ul style="list-style-type: none"> ▪ File a declaration of the dues before the authority before 31st December, 2013. <p><u>Payment of Tax:</u></p> <ul style="list-style-type: none"> ▪ Pay at least 50% of tax declared, before 31st December, 2013; ▪ Balance before 30th June, 2014 (no interest will be charged); ▪ If paid after 30th June, 2014 then pay before 31st Dec, 2014 (along with interest computed w.e.f 1st July, 2014). 	The date of enactment of Finance Bill, 2013.

....contd. (Bonanza for Defaulters)

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Title	Service Tax Voluntary Compliance Encouragement Scheme, 2013	Effective from
...contd.	<p><u>Benefits of the scheme:</u></p> <ul style="list-style-type: none"> Immunity from interest, penalty, or any other proceedings under the Act. <p><u>False declaration:</u></p> <ul style="list-style-type: none"> In case of, failure to pay tax dues by the specified date or substantially false declaration, the benefit under the scheme will not be available. 	The date enactment of Finance Bill, 2013.

7. Other important changes

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Title	Particulars	Changes in Mega Exemption <u>Notification No. 25/2012 dated 20.06.2012 vide Notification No. 3/2013 dated 01.03.2013</u>	Effective from
Withdrawal of benefit of Exemption	(a) Exemption to educational institution amended.	<ul style="list-style-type: none"> ▪ Exemption available in respect of services provided by Educational Institution, of auxiliary educational services and renting of immovable property, has been withdrawn. ▪ However, such services provided to Educational Institution, remains exempt. 	01.04.2013
	(b) Exemption to AC Restaurants withdrawn.	<ul style="list-style-type: none"> ▪ Earlier only those air-conditioned restaurants were taxable under service tax which had license to serve alcoholic beverages, in relation to serving of food or beverage or both. ▪ Now all kinds of restaurants, food joints (whether or not serving alcoholic beverages) having the facility of air-conditioning in any part of the premises are taxable. 	01.04.2013
	(c) Exemption in relation to copyright of cinematography films amended.	<ul style="list-style-type: none"> ▪ The benefit of exemption in relation to copyrights for cinematograph films will now be available only to films exhibited in a cinema hall or theatre. 	01.04.2013

....contd. (Other important changes)

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Title	Particulars	Changes in Mega Exemption <u>Notification No. 25/2012 dated 20.06.2012 vide Notification No. 3/2013 dated 01.03.2013</u>	Effective from
Withdrawal of benefit of Exemption.	(d) Parking of Vehicle for general public.	<ul style="list-style-type: none"> All parking services shall now be taxable. 	01.04.2013
	(e) Aircraft repair and maintenance.	<ul style="list-style-type: none"> Exemption granted to any person providing aircraft repair and maintenance services to Government, a local authority, or a government authority stands withdrawn. 	01.04.2013
Extension of benefit of Exemption	(a) Services provided by goods transport agency.	<ul style="list-style-type: none"> Exemption on transportation of following goods : <ol style="list-style-type: none"> Agricultural produce & foodstuffs; Relief materials for specified purposes; Chemical fertilizers & oilcakes; Registered newspapers or magazines, and Defense equipments. 	01.04.2013

....contd. (Other important changes)

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Title	Section	Advance Ruling Authority Vides [Notification No. 4/2013-st Dated 1-3-2013]	Effective from
Scope of Advance Ruling	Section 96A(b)	<ul style="list-style-type: none"> Earlier only (a) specified joint ventures, (b) Indian subsidiaries of foreign holding company, and (c) public sector companies were eligible for seeking advance ruling. Now the scope of advance ruling is being extended to cover "Resident public limited company" as well. 	01.03.2013

8. About us



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- Blue Consulting or 'BC' provides value added and high quality **Finance & Accounts Outsourcing Services to Domestic Companies in India.**
- BC, has its roots in a well established, **four decade old chartered accountants firm.**
- We invest great deal of time and efforts in understanding our client's business which ensures that we **provide customized solutions** to their specific needs and requirements.
- We are a strong and stable of team of **55 people.**
- Key associates at BC have **rich experience in the area of Finance, Taxation, Accounts, Management and Information Technology.**
- We take **complete ownership and responsibility of the F&A processes** outsourced to us and render services strictly within agreed timelines.



9. Contact us

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*"A dream is not that
which you see in sleep
A dream is that
which does not let you sleep"*

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