

No.1002-15/2011-12/Taxation/BSNL/ 300

Dated: 7/08/2012

To

The Chief General Managers,

1. All Telecom Circles/ Metro Telephone Districts/Maintenance Regions/ Project Circles
2. Task Force/ Data Network/ NCES/QA/ T&D/ Telecom Stores/ Telecom Factories/ CPAO (ITI Bills)/ IT Circle, Pune
3. ALTTC/BRBRAITT/NATFM

Sub.: Exemption of Service Tax on taxable service with specified description as is in excess of Service Tax calculated on the specified percentage of amount charged by the service provider subject to relevant conditions- w.e.f. 01.07.2012-reg.

Ref.: Department of Revenue, MOF, Government of India Notification No. 26/2012-Service Tax dated 20/06/2012.

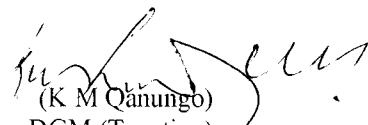
Kindly find enclosed herewith the notification cited above under reference, whereby Department of Revenue, Ministry of Finance, Government of India has exempted the taxable services with specified description from so much of the Service Tax leviable thereon under section 66B of the Finance Act, 1994, as is in excess of the Service Tax calculated on a value which is equivalent to a specified percentage of the amount charged by such service provider for providing the said taxable services, unless specified otherwise, subject to the relevant specified conditions mentioned therein.

In view of the above, Service Tax is payable on the abated value [percentage(%) of value of taxable service on which Service Tax is payable as mentioned in the column no. 3 of the above mentioned notification] of taxable services specified in the above mentioned notification subject to fulfillment of conditions mentioned in column no. 4 therein. The said notification has been issued in supersession of the Notifications No. 13/2012-ST dated 17.03.2012 of the Department of Revenue, Ministry of Finance, Government of India.

It is requested to kindly go through the above mentioned notifications and contents of the same may be brought to the notice of all concerned for taking necessary action.

This issues with the approval of competent authority.

Encl:- Referred Notifications may be downloaded from BSNL's Intranet Portal under Director (Finance)- EF & Taxation.


(K M Qanungo)
DGM (Taxation)
BSNL C.O.

Copy for information & necessary action to:-

1. IFAs of above mentioned Circles of BSNL.
2. All PGMs/Sr.GMs/GMs of Finance wing of BSNL Corporate office.
3. GM(CA), BSNL CO, New Delhi-1

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 26/2012- Service Tax

New Delhi, the 20th June, 2012

G.S.R. (E) - In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act), and in supersession of notification number 13/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 211 (E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service of the description specified in column (2) of the Table below, from so much of the service tax leviable thereon under section 66B of the said Act, as is in excess of the service tax calculated on a value which is equivalent to a percentage specified in the corresponding entry in column (3) of the said Table, of the amount charged by such service provider for providing the said taxable service, unless specified otherwise, subject to the relevant conditions specified in the corresponding entry in column (4) of the said Table, namely:-

Table

Sl. No.	Description of taxable service	Percentage	Conditions
(1)	(2)	(3)	(4)
1	Services in relation to financial leasing including hire purchase	10	Nil.
2	Transport of goods by rail	30	Nil.
3	Transport of passengers, with or without accompanied belongings by rail	30	Nil.
4	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	70	(i) CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
5	Transport of passengers by air, with or without accompanied belongings	40	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.

6	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	60	Same as above.
7	Services of goods transport agency in relation to transportation of goods.	25	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
8	Services provided in relation to chit	70	Same as above.
9	Renting of any motor vehicle designed to carry passengers	40	Same as above.
10	Transport of goods in a vessel	50	Same as above.
11	Services by a tour operator in relation to,- (i) a package tour	25	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.
	(ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	10	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.
	(iii) any services other than specified at (i) and (ii) above.	40	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the

			CENVAT Credit Rules, 2004 (ii)The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.
12	Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority	25	(i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004 (ii)The value of land is included in the amount charged from the service receiver

Explanation.

A. For the purposes of exemption at Serial number 1 -

- (i) The amount charged shall be an amount, forming or representing as interest, i.e. the difference between the installments paid towards repayment of the lease amount and the principal amount contained in such installments;
- (ii) the exemption shall not apply to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee, which shall be added to the amount calculated in terms of (i) above.

B. For the purposes of exemption at Serial number 4 -

The amount charged shall be the sum total of the gross amount charged and the fair market value of all goods and services supplied in or in relation to the supply of food or any other article of human consumption or any drink (whether or not intoxicating) and whether or not supplied under the same contract or any other contract, after deducting-

- (i) the amount charged for such goods or services supplied to the service provider, if any; and
- (ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

C. For the purposes of exemption at Serial number 12 --

The amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract, after deducting-

- (i) the amount charged for such goods or services supplied to the service provider, if any, and
- (ii) the value added tax or sales tax, if any, levied thereon.

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

2. For the purposes of this notification, unless the context otherwise requires, -

- a. "chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount,
- b. "package tour" means 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 tour to the person undertaking the tour,
- c. "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours,

3. This notification shall come into force on the 1st day of July, 2012.

[F.No. 334 /I/ 2012-TRU]

(Rajkumar Digvijay)
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 13/2012- Service Tax

New Delhi, the 17th March, 2012

G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Finance Act), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service of the description specified in column (2) of the Table below, from so much of the service tax leviable thereon under section 66B of the said Finance Act, as is in excess of the service tax calculated on a value which is equivalent to a percentage specified in the corresponding entry in column (3) of the said Table, of the gross amount charged by such service provider for providing the said taxable service, subject to the relevant conditions specified in the corresponding entry in column (4) of the said Table, namely:-

Table

Sl.No.	Description of taxable service	Percentage	Conditions
(1)	(2)	(3)	(4)
1	Financial leasing services including equipment leasing and hire purchase	10	Nil.
2	Transport of goods by rail	30	Nil.
3	Transport of passengers, with or without accompanied belongings by rail	30	Nil.
4	Supply of food or any other article of human consumption or any drink, in a premises, including hotel, convention center, club, pandal, shamiana or any place specially arranged for organizing a function	70	CENVAT credit on any goods classifiable under chapter 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004.
5	Transport of passengers by air, with or without accompanied belongings	40	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
6	Renting of hotels, inns, guest houses, clubs,	60	Same as above.

	campsites or other commercial places meant for residential or lodging purposes.		
7	Transport of goods by road by Goods Transport Agency	25	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
8	Services provided in relation to chit	70	Same as above.
9	Renting of any motor vehicle designed to carry passengers	40	Same as above.
10	Transport of goods in a vessel from one port in India to another	50	Same as above.
11	(i) Services provided or to be provided to any person, by a tour operator in relation to a package tour	25	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.
	(ii) Services provided or to be provided to any person, by a tour operator in relation to a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	10	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.
	(iii) Services, other than services specified in (i) and (ii) above, provided or to be provided to any person, by a tour operator in relation to a tour	40	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.

(ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.

Explanation. -

A. For the purposes of exemption at Serial number 1 -

- (i) Consideration received for the purpose of computing the gross amount charged is an amount, forming or representing as interest, i.e. the difference between the installment paid towards repayment of the lease amount and the principal amount contained in such installment paid;
- (ii) the exemption shall not apply to an amount, other than an amount forming or representing as interest, charged by the service provider such as lease management fee, processing fee, documentation charges and administrative fee.

B. For the purposes of exemption at Serial number 4 -

Consideration received for the purpose of computing the gross amount charged is the sum total of the gross amount and the value of all goods, excluding the value added tax, if any, levied on goods or services supplied free of cost for use in or in relation to the supply of food or any other article of human consumption or any drink, under the same contract or any other contract:

Provided that where the value of goods or services supplied free of cost is not ascertainable, the same shall be determined on the basis of the fair market value of the goods or services that have closely available resemblance.

2. For the purposes of this notification, unless the context otherwise requires,-

(a) "chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount,

(b) "package tour" means 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 tour to the person undertaking the tour,

(c) "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours,

(d) "financial leasing" means a lease transaction where—

- (i) contract for lease is entered into between parties for leasing of a specific asset;

- ..
- (ii) the contract is for use and occupation of the asset by the lessee;
 - (iii) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and
 - (iv) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;

3. This notification shall come into force from the date on which section 66B of the Finance Act, 1994 comes into effect.

(Samar Nanda)
Under Secretary to the Government of India

[F. No. 334/1/2012 -TRU]

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