

Service Tax Notification 23/2015. Swachh Bharat Cess shall be applicable on the Abated Value Calculated at specified Percentage

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)**

New Delhi, the 12th November, 2015

NOTIFICATION No. 23 /2015-Service Tax

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) read with sub-section (5) of section 119 of the Finance Act, 2015 (20 of 2015), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) **No. 22/2015-Service Tax, dated the 6th November, 2015**, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide number G.S.R. 843 (E), dated the 6th November, 2015, namely:-

In the said notification, after the proviso, the following shall be inserted, namely:-

“ Provided further that Swachh Bharat Cess shall be leviable only on that percentage of taxable value which is specified in column (3) for the specified taxable services in column (2) of the Table in the notification No. 26/2012-Service Tax, dated 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) vide number G.S.R. 468 (E), dated the 20th June, 2012.

Explanation.- It is hereby clarified that value of taxable services for the purposes of the Swachh Bharat Cess shall be the value as determined in accordance with the Service Tax (Determination of Value) Rules, 2006. ”

[F.No. 354/129/2015 - TRU]

**(K. Kalimuthu)
Under Secretary to the Government of India**

Service Tax Notification 24/2015. Applicability of Reverse Charge Mechanism to the Levy of Swachh Bharat Cess

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

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

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**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

New Delhi, the 12th November, 2015

NOTIFICATION No. 24 /2015-Service Tax

G.S.R.....(E) . — In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994) read with sub-section (5) of section 119 of the Finance Act, 2015 (20 of 2015), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby provides that notification No. 30/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 472 (E), dated the 20th June, 2012 shall be applicable for the purposes of Swachh Bharat Cess mutatis mutandis.

[F.No. 354/129/2015 - TRU]

(K. Kalimuthu)
Under Secretary to the Government of India

**Service Tax Notification-Swachh Bharat Cess on the Business of Air Travel, Insurance,
Money Changing, Lottery Distributor or Selling Agents**

**[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)**

New Delhi, the 12th November, 2015

NOTIFICATION No. 25/2015-Service Tax

G.S.R. (E).-In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:-

1. (1) These rules may be called the Service Tax (Second Amendment) Rules, 2015.
- (2) They shall come into force on the 15th day of November, 2015.

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2. In the Service Tax Rules, 1994, in rule 6, after sub-rule (7C), the following sub-rule shall be inserted, namely:-

(7D) The person liable for paying the service tax under sub-rule (7), (7A), (7B) or (7C) of rule 6, shall have the option to pay such amount as determined by multiplying total service tax liability calculated under sub-rule (7), (7A), (7B) or (7C) of rule 6 by 0.5 and dividing the product by 14 (fourteen), during any calendar month or quarter, as the case may be, towards the discharge of his liability for Swachh Bharat Cess instead of paying Swachh Bharat Cess at the rate specified in sub-section (2) of section 119 of the Finance Act, 2015 (20 of 2015) read with notification No.22/2015-Service Tax, dated the 6th November, 2015, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 843 (E), dated the 6th November, 2015, and the option under this sub-rule once exercised, shall apply uniformly in respect of such services and shall not be changed during a financial year under any circumstances.”

1. This notification shall come into force from the 15th day of November, 2015.

[F.No. 354/129/2015 - TRU]

(K. Kalimuthu)

Under Secretary to the Government of India

Note.--The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) by notification No. 2/94-Service Tax, dated the 28th June, 1994 vide number G.S.R. 546 (E), dated the 28th June, 1994 and last amended by notification No. 05/2015 – Service Tax, dated the 1st March, 2015, published in the Gazette of India, Extraordinary, vide number G.S.R. 159(E), dated the 1st March, 2015

CBEC Clarifications FAQ on the Levy of Swachh Bharat Cess from 15-11-2015

**Ministry of Finance
Press Release**

12 November, 2015

Clarifications on Swachh Bharat Cess

Swachh Bharat Cess will come into effect from 15th November 2015, at the rate of 0.5% on all services, which are presently liable to service tax. This will translate into a tax of 50 paise only on every one hundred rupees worth of taxable services. The proceeds from this cess will be used for financing and promoting Swachh Bharat initiatives.

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Some doubts are being raised with respect to the levy of Swachh Bharat Cess, such as,-

- (i) what would be Swachh Bharat Cess on services where service tax is being paid under the alternative rates of service tax?**
- (ii) what would be the value of taxable services for computation of Swachh Bharat Cess?**
- (iii) whether reverse charge mechanism would apply for the levy of Swachh Bharat Cess?**
- (iv) what would be the point of taxation for Swachh Bharat Cess?**

In this regard, it is clarified that answers to the above queries are in the provisions of sub-section (5) of Section 119 of the Finance Act, 2015 by which all the provisions of service tax as contained in Chapter V of the Finance Act, 1994 have been made applicable to Swachh Bharat Cess. It is, thus, very clear that all the provisions including those related to computation of taxable value, assessment, exemption, payment, penalty applicable to service tax would also apply in respect of Swachh Bharat Cess.

Service tax is presently levied at alternative rates in respect of service provided by air travel agents, life insurance service, service in relation to sale/purchase of foreign exchange including money changing and service by lottery distributors/selling agents, subject to fulfilment of conditions prescribed under the Service Tax Rules. Option has been provided for levy of Swachh Bharat Cess also at alternative rates in respect of the above mentioned services. The alternate rate of Swachh Bharat Cess would be:

Service Tax Liability (at the alternate rate) X 0.5/14.

As regards the taxable value for the levy of Swachh Bharat Cess, it would be the same on which service tax is levied. Swachh Bharat Cess would be calculated on abated value or value arrived at under the Service Tax (Determination of Value) Rules, 2006, as the case may be. For example, the effective Swachh Bharat Cess in respect of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, having the facility of air-conditioning or central air-heating in any part of the establishment, would be 0.5% of 40% i.e. 0.2%. The cumulative service tax and Swachh Bharat Cess liability would be 5.8% (14.5% of 40%) of the total amount charged.

Similarly, a person liable to pay service tax on reverse charge basis would be laible to pay Swachh Bharat Cess also on reverse charge basis. As regards Point of Taxation, since this levy has come for the first time and all services (except those services which are in the Negative List or are wholly exempt from service tax) are being taxed, it is a new levy, which was not in existence earlier. Rule 5 of Point of Taxation Rules would be applicable in this case. Therefore, in case where payment has been received and invoice is raised before the service becomes taxable, i.e., prior to 15th November, 2015, there is no liability of Swachh Bharat Cess. In case payment has been received before the service became taxable and invoice is raised within 14 days, i.e. upto 29th November, 2015, even then the service tax liability does not arise. Swachh Bharat Cess will be payable on services which are provided on

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or after 15th Nov, 2015, invoice in respect of which is issued on or after that date and payment is also received on or after that date. Swachh Bharat Cess will also be payable where service is provided on or after 15th Nov, 2015 but payment is received prior to that date and invoice in respect of such service is not issued by 29th Nov, 2015.

Thus, it may be seen that all issues relating to Swachh Bharat Cess are addressed in the Service Tax provisions itself by virtue of the applicability of Chapter V of the Finance Act, 1994 and the rules made thereunder.

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