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PAYMENT OF SERVICE TAX AND FILING OF RETURNS

UNIT – 1 : PAYMENT OF SERVICE TAX

Learning objectives

After reading this unit, you will be able to:

- “ identify persons liable to pay service tax.
- “ get an insight of the basic principles underlying the procedures relating to payment of service tax.
- “ know the time period for paying service tax.
- “ comprehend the manner of payment of service tax.

1.1 Person liable to pay service tax

By now you have understood the basic concepts of service tax and the provisions relating to taxable services. In this unit, the procedures relating to payment of service tax have been discussed. The service provider rendering taxable services is liable to pay service tax (with some exceptions) to the Central Government at regular intervals of time.

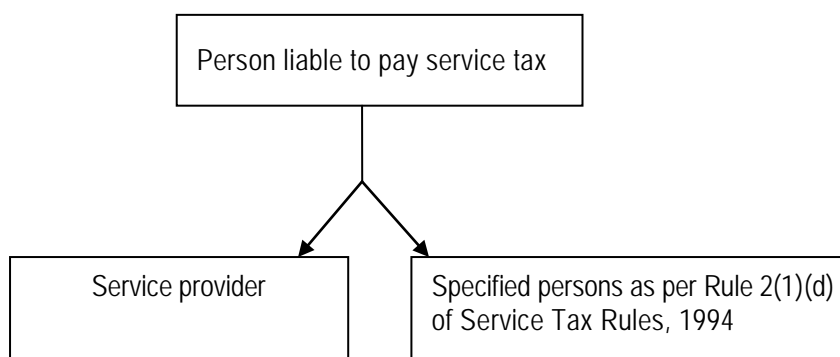
Section 68 of the Finance Act, 1994 is the principal section which fixes responsibility to pay service tax. The powers to decide time and manner of payment of service tax have been granted to the Central Government vide Rule 6 of the Service Tax Rules, 1994.

As per section 68, every person providing taxable service to any person, pays service tax at the rate specified in section 66 in the prescribed manner and within the prescribed period. The period and the manner is prescribed in Rule 6 of the Service Tax Rules, 1994 which have been discussed in paras 1.9 and 1.11 respectively.

However, in respect of certain services notified by the Central Government, the service tax thereon is paid by certain specified persons in the prescribed manner. In pursuance of this power, the Central Government in Rule 2(1)(d) of Service Tax Rules, 1994 has notified specific class of persons who are liable to pay service tax.

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Thus, as a general rule a service provider is liable to pay service tax, but in the cases and circumstances mentioned in Rule 2(1)(d), service receiver or the specified persons are liable to pay service tax. The above mentioned principle can be understood by the following diagram:



Following list provides the notified taxable services and the specified persons/class of persons who are liable to pay service tax thereon as per rule 2(1)(d) of Service Tax Rules, 1994:

- (i) in relation to general insurance business, the person liable to pay service tax is the insurer or re-insurer, as the case may be, providing such service.
- (ii) in relation to insurance auxiliary service provided by an insurance agent, the person liable to pay service tax is the person carrying on general insurance business or the life insurance business as the case may be, in India.
- (iii) in relation to any taxable service provided or to be provided by any person from a country other than India and received by any person in India, the person liable to pay service tax is the recipient of such service.
- (iv) in relation to taxable service provided by a goods transport agency, where the consignor or consignee of goods is,-
 - (a) any factory registered under or governed by the Factories Act, 1948;
 - (b) any company formed or registered under the Companies Act, 1956;
 - (c) any corporation established by or under any law;
 - (d) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India;
 - (e) any co-operative society established by or under any law;
 - (f) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 or the rules made thereunder; or
 - (g) any body corporate established, or a partnership firm registered, by or under any law,

the person liable for paying service tax is any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage.

- (v) in relation to business auxiliary service of distribution of mutual fund by a mutual fund distributor or an agent, as the case be, the person liable for paying service tax is the mutual fund or asset management company, as the case may be, receiving such service.
- (vi) in relation to sponsorship service provided to any body corporate or firm located in India, the person liable to pay service tax is the body corporate or firm, as the case may be, who receives such sponsorship service.

1.1.1 Sub-contractors liable to service tax: A taxable service provider outsources a part of the work by engaging another service provider, generally known as sub-contractor. Service tax is paid by the service provider for the total work. A question arises as to whether service tax is liable to be paid by the service provider known as sub-contractor who undertakes only part of the whole work.

A sub-contractor is essentially a taxable service provider. The fact that services provided by such sub-contractors are used by the main service provider for completion of his work does not in any way alter the fact of provision of taxable service by the sub-contractor.

Services provided by sub-contractors are in the nature of input services¹ (Input services are services which are used by a service provider for providing the output service). Service tax is, therefore, leviable on any taxable services provided, whether or not the services are provided by a person in his capacity as a sub-contractor and whether or not such services are used as input services. The fact that a given taxable service is intended for use as an input service by another service provider does not alter the taxability of the service provided.

1.2 Payment both on receipt and accrual basis

As per rule 6(1) of the Service Tax Rules, 1994, service tax is payable on service deemed to be provided as per Point of Taxation Rules, 2011. As per Point of Taxation Rules, 2011:-

In case the invoice is issued within the prescribed period of 14 days from the date of completion of provision of service, service tax is payable on:-

(a) *date of invoice*

or

(b) *date of payment*

whichever is earlier.

However, in case the invoice is not issued within 14 days of the completion of the provision of

¹ The concept of input services and output services shall be dealt in detail in Paper 8 : Indirect Tax Laws at the Final level under CENVAT Credit Rules, 2004.

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the service, service tax is payable on:-

(a) *date of completion of service*

or

(b) *date of payment*

whichever is earlier.

Further, in case of certain specified services such as architect's services, legal consultancy services, etc. as also in case of advance, service tax is payable on receipt basis, i.e. when the consideration for the services are received. Hence, service tax is payable on both cash and accrual basis.

1.3 Service tax not payable on free Services

Section 67(1)(iii) and Service Tax (Determination of Value) Rules, 2006 (as inserted w.e.f. 19.04.2006) make provisions for valuation even when consideration is not ascertainable. However, these provisions apply only when there is consideration. If there is no consideration i.e., in case of free service, section 67 and Service Tax (Determination of Value) Rules, 2006 cannot apply.

Thus, no service tax is payable when value of service is zero as the charging section 66 provides that service tax is chargeable on the value of taxable service. Hence, if the value is zero the tax will also be zero even though the service may be taxable. However, this principle applies only when there is really a 'free service' and not when its cost is recovered through different means.

1.4 Service Tax liable to be paid even if not collected from the Client

Section 68 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per Rule 2(1)(d). This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver.

However, sometimes it may happen that the assessee is not able to charge service tax because of the nature of service or he fails to recover the service tax from the client/customer as he is not aware that his services are taxable. Hence, in these cases the amount recovered from the client in lieu of having rendered the service will be taken to be inclusive of service tax and accordingly tax payable will be calculated by making back calculations.

For example, if bill amount is ₹ 5,000 and service tax is not shown separately in invoice, then service tax payable shall be computed as follows:

$$5000/110.30 \times 10.30 = ₹ 467$$

It may be noted that service tax payable is not ₹ 515 computed by applying 10.30% to ₹ 5000. The value of the taxable service in this case is ₹ 4533.

The example given above can be solved by using the following formulae:

Value of taxable service = $[\text{Gross amount charged}/(100 + \text{rate of tax})] \times 100$

Service tax = $[\text{Gross amount charged}/(100 + \text{rate of tax})] \times \text{rate of tax}$

1.5 Service tax payable on advance received

Service tax is payable as soon as any advance is received as:

- (i) the taxable service includes "service to be provided", and
- (ii) the payments received before, during, or after the provision of taxable service, form part of the gross amount charged for the taxable services.

For example, a security agency takes a contract to provide security services to a client for the month of October for a consideration of ₹ 50,000. It receives an advance of ₹ 25,000 from the client in the month of September. In this case service tax shall be payable by the security agency on the amount of ₹ 25,000 received as an advance even though the service has not been provided at that time.

When advance payment is received for a service which is non-taxable at the time of receipt of payment but becomes taxable during the course of provision of service, such payments would have to be apportioned appropriately between the two periods and that part of service provided on or after the service becomes taxable service, is only liable for service tax.

When payment is received in advance for services to be provided but subsequently the services are not actually provided, then in such cases service tax paid is liable to be refunded.

1.6 Service tax collected from the recipient of service must be paid to the Central Government [Section 73A]

Every person, who is liable to pay service tax and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service from the recipient of taxable service in any manner as representing service tax, must pay the amount so collected immediately to the credit of the Central Government. This provision ensures that the service provider does not collect excess amount from the recipient of the service in the name of service tax.

Further, where any person who has collected any amount, which is not required to be collected, from any other person, in any manner as representing service tax, such person should also immediately pay the amount so collected to the credit of the Central Government.

1.7 Interest on amount collected in excess [Section 73B]

Where an amount has been collected, in excess of the tax assessed or determined and paid, for any taxable service from the recipient of such service, the person who is liable to pay such amount

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shall, in addition to the amount, be liable to pay interest. The interest shall also be payable by the person who has collected any amount, which is not required to be collected as service tax.

With effect from 01.04.2011, *the interest shall be payable @ 18% p.a* from the first day of the month succeeding the month in which the amount should have been paid till the date of payment of such amount.

Where such amount is reduced or increased in appeal, the interest payable thereon shall be on such reduced or increased amount.

Note: Rate of interest on amount collected in excess for period prior to 31.03.2011 was 13% p.a. and rate is 18% p.a. for the period starting from 01.04.2011.

Concession of 3%, for specified assessees

In the case of a service provider, whose value of taxable service provided in a financial year does not exceed ₹ 60 lakh during any of the financial years of the notice issued under section 73A(3) or during the preceding financial year, as the case may be, such rate of interest shall be reduced by 3% per annum.

Hence, a concessional rate of interest of 15% per annum is available to the tax payers whose turnover during any of the years covered in the notice issued under section 73A(3) or the preceding financial year is below ₹ 60 lakh.

1.8 Due date for payment of service tax

Provisions of rule 6(1) *inter alia* provides as follows:

Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) by an individual or a proprietary firm or a partnership firm:-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following quarter
2.	In any other case	5 th day of the following quarter
3.	<i>In the case service is deemed to be provided in the quarter ending in March</i>	<i>31st day of March</i>

Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) in any other cases (company and HUF):-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through	6 th day of the following

	internet banking	month
2.	In any other case	5 th day of the following month
3.	<i>In the case service is deemed to be provided in the month of March</i>	<i>31st day of March</i>

The due dates for payment of service tax in case of different assessees are tabulated below:

I. Individuals, proprietary concerns and partnership firms	
Quarters	Due dates
1 st April to 30 th June	5 th July
1 st July to 30 th September	5 th October
1 st October to 31 st December	5 th January
1 st January to 31 st March	31 st March
II. Persons other than individuals, proprietary concerns and partnership firms	
Months	Due dates
April	5 th May
May	5 th June
June	5 th July
July	5 th August
August	5 th September
September	5 th October
October	5 th November
November	5 th December
December	5 th January
January	5 th February
February	5 th March
March	31 st March

If the last day of payment of service tax is a public holiday, tax can be paid on next working day.

1.9 Manner of payment

In case, the assessee is not required to make the e-payment of the service tax and the assessee opts to make payment by the conventional mode, following procedure would be followed:

(a) **Payment of service tax by GAR-7 challan**

(i) **Bank to have EASIEST facility**

Duty is payable in authorized bank by way of GAR-7 challan where Bank is having 'EASIEST' facility (Earlier, it was a TR-6 challans).

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(ii) Single copy challan

GAR-7 challan is a single copy challan with tax payer's counterfoil at the bottom of challan. Both challan and counterfoil are to be filled in by assessee. The challan should be on white paper with black printing.

(iii) Challan to be serially numbered

The challans should be serially numbered from 1st April on wards.

(iii) Details required in GAR-7 challan

Details to be filled in GAR-7 challan are as follows-

- (a) Full name of assessee
- (b) Complete Address
- (c) Telephone number
- (d) PIN code
- (e) Assessee's STC Code (15 digit)
- (f) Commissionerate name
- (g) Commissionerate Code
- (h) Division Code
- (i) Range Code
- (j) Accounting Code of service tax/cess
- (k) Amount tendered in ₹ (6 columns)
- (l) Total
- (m) Total Rupees in words
- (n) Cash/Cheque/Draft/Pay order No. and date
- (o) Bank on which Cheque/Draft/Pay order No. is drawn.

(iv) Relevant details to be repeated on counterfoil

Relevant among these details like assessee code, amount tendered in ₹, accounting code of service tax/cess etc. are repeated in the Tax payer's counter-foil. Details filled in the challan and Taxpayer's counter-foil should be identical.

(v) Receipt of payment

The counterfoil duly receipted by Bank with stamp of Bank will be given by receiving Bank to assessee.

The stamp of receiving bank will contain Challan Identification Number (CIN). This CIN will have to be quoted in the return.

(vi) Evidence of payment of service tax

The Taxpayers acknowledgement is the evidence of payment. The Challan Identification Number (CIN) appearing on this acknowledgement will have to be quoted in the return. The banks will be giving the tax payer a computer generated acknowledgement/receipt with the various details including the CIN.

(b) Payment of service tax by TR-6 challan

Earlier, the service tax was required to be paid by TR-6 challan.

In case of payment by TR-6 challan:-

- (a) Four copies of TR-6 were required to be submitted to authorized Bank.
- (b) These were required to be marked as Original, Duplicate, Triplicate and quadruplicate.
- (c) Two copies of challan were returned by bank duly stamped after amount is paid and two copies were retained by bank.
- (d) One copy was to be submitted to excise authorities along with monthly return.
- (e) Out of two copies retained by Bank, one copy was sent to Excise authorities directly for their accounting and cross verification of the credit entries made by assesses.
- (f) If cash was deposited, receipted challan was given immediately by bank. However, if payment was made by cheque, challan used to be given duly receipted only after the realization of cheque. However, credit could be taken as soon as cheque is deposited in collecting bank for collection.

EASIEST (Electronic Accounting System in Excise and Service Tax)

(i) What is EASIEST scheme?

EASIEST has been developed to make payment of tax easy. The facility is available with 28 banks. The payment is made by GAR-7 challan. Assessee had to make one singly copy of challan and its counterfoil.

This mode of payment can be used only by assesses whose payment of service tax (including tax paid through CENVAT credit) was less than ₹ 10 lakhs in previous year. For other assesses, e-payment is mandatory.

(ii) Benefits of EASIEST to the taxpayer

- (a) Only one copy of the challan has to be filled instead of earlier four copies.
- (b) Facility of online verification of the status of tax payment using CIN.

(iii) Challan Identification Number (CIN)

Challan Identification Number (CIN) is a 20 digit unique identifier which will be given on the Taxpayer's computer generated acknowledgement /receipt. This number is a combination of the BSR code of the bank branch (first 7 digits), the date of deposit (next 8 digits) and

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Challan Serial Number (last 5 digits).

(iv) Service Tax Code Number

Assessee code/registration number/STC code are all one and the same. It is a 15-character identification number allotted by the system to the assessee based on the PAN number or temporary number (if PAN is not submitted) when the registration details are entered in the Central Server. The 15-character assessee code will be available in the registration certificate issued to the assessee by the Assistant Commissioner/Deputy Commissioner of the Division.

The first 10 digits of the STC code are 10 character PAN issued by Income tax authorities. Next two are 'ST'. Last three are numeric code 001, 002, 003 etc. The concerned person has to apply in a prescribed form to obtain STC.

The main objective of allocating an alphanumeric number by the Government agencies is to identify the assessee/exporters/importers. It is also used to identify in some cases the concerned office where the person would be assessed or registered. Further alphanumeric number helps in processing of the information in relation to the assessee on computers. Quoting of service tax code number on all the related documents has become compulsory from 1.7.2002.

1.9.1 Payment in case of multiple service provider : A multiple service provider (a service provider rendering more than one taxable service) can use single GAR-7 challan for payment of service tax on different services. However, amounts attributable to each such service along with concerned accounting codes should be mentioned clearly in the column provided for this purpose in the GAR-7 challan. Alternatively, separate GAR-7 challans may be used for payment of service tax for each service provided by the service provider.

1.9.2 E-payment of service tax : With effect from 01.04.2010, an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of ₹ 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year.

E-payment of service tax facilitates anytime, anywhere payment of the service tax. Moreover, after the payment of service tax online, the receipt of the same is generated instantly. It provides the convenience of making online payment of Central excise and service tax through Bank's Internet banking service. E-payment of the service tax can be made through ACES.

For e-payment, assessee should open a net banking account with one of the authorized banks (currently there are 28 banks). For effecting payment, assessee can access the ACES website and click on the e-payment link that will take them to the EASIEST portal or they can directly visit the EASIEST portal.

1.10 Advance payment of service tax

The assessee has been provided with a facility to make advance payment of service tax on his own volition and adjust the amount so paid against the service tax which he is liable to pay for

the subsequent period. Such facility shall be available when the assessee:

- (i) intimates the details of the amount of service tax paid in advance, to the Jurisdictional Superintendent of Central Excise within a period of 15 days from the date of such payment, and
- (ii) indicates the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed under section 70.

1.11 Points to be remembered while paying service tax

The following important points should be kept in mind while paying service tax:

- “ Service tax is to be paid on the value of taxable services which is charged by an assessee. Any income tax deducted at source is included in the charged amount. Therefore, service tax is to be paid on the amount of income tax deducted at source also.
- “ Where the amount of service tax is paid in cash, the date of payment is the date on which cash is tendered to the designated bank.
- “ Payment of service tax into non-designated banks does not amount to payment of service tax.
- “ In case the amount of service tax is paid by cheque, the date of presentation of cheque to the bank designated by Central Board of Excise and Customs shall be considered as the date of payment, subject to realization of cheque.
- “ Payment should be rounded off in multiple of rupees.

1.12 Adjustment of Service Tax paid when service is not provided either wholly or partially

Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee:

- (a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or*
- (b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.*

1.13 Adjustment of excess amount paid towards service tax liability

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, the assessee may adjust such excess amount paid by him against his service tax

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liability for the succeeding month or quarter, as the case may be. However, such an adjustment is subject to the following conditions:

- (i) Self-adjustment of excess credit would not be allowed in case of reasons involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification.
- (ii) Excess amount paid and proposed to be adjusted should not exceed ₹ 2,00,000 for the relevant month or quarter. However, in case of assessee's opting for centralized registration excess amount can be adjusted without any monetary limit provided the excess amount paid is on account of delayed receipt of details of payments from branch offices. (Centralized registration can be obtained when an assessee provides taxable service from more than one premises on fulfillment of certain specified conditions²).
- (iii) Adjustment can be made only in the succeeding month or quarter.
- (iv) The details of self-adjustment should be intimated to the Superintendent of Central Excise within a period of 15 days from the date of such adjustment.

1.13.1 Adjustment of excess amount paid as service tax in case of renting of immovable property service : In case of renting of immovable property service, a deduction of property taxes paid in respect of the immovable property is allowed from the gross amount charged for renting of the said immovable property vide *Notification No.24/2007 ST dated 22.05.2007*. However, where any amount in excess of the amount required to be paid towards service tax liability has been paid on account of non-availment of such deduction, such excess amount may be adjusted against the service tax liability within 1 year from the date of payment of such property tax. The details of such adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of 15 days from the date of such adjustment.

1.14 Recovery of the amount of service tax short paid/not paid under self-assessment

Where an amount of service tax payable has been self-assessed under sub-section (1) of section 70 of the Act, but not paid, either in full or part, the same, shall be recoverable alongwith interest in the manner prescribed under section 87 of the Act.

1.15 Provisional payment of service tax

In case the assessee is unable to correctly estimate, at the time of the deposit, the actual amount of service tax for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. The

² Concepts relating to registration and centralized registration shall be dealt in detail in Paper 8 : Indirect Tax Laws at the Final level.

concerned officer may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him.

For the purpose of provisional assessment at the time of filling the return, the assessee is required to file a statement in form ST-3A giving detail of difference between service tax deposited and the service tax liable to be paid for each month. The quarterly or half yearly statements should also accompany.

The Assistant/Deputy Commissioner of Central Excise, on the basis of memorandum in form ST-3A may complete the assessment after calling for necessary documents or records, if need be.

1.16 Special provision for payment of service tax in case of air travel agent

The person liable for paying service tax in relation to the services provided by an air travel agent has an option to pay an amount calculated at the rate of:

- (i) 0.6% of the basic fare in the case of domestic bookings, and
- (ii) 1.2% of the basic fare in the case of international bookings,

of passage for travel by air, during any calendar month or quarter, as the case may be, towards the discharge of his service tax liability instead of paying service tax @ 10%.

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

The expression "basic fare" means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

1.17 Special provision for payment of service tax in case of life insurer carrying on life insurance business

An insurer carrying on life insurance business shall have the option to pay tax:

- (i) *on the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;*
 - (ii) *1.5% of the gross amount of premium charged from a policy holder in all other cases;*
- towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Chapter V of the said Act.*

Option not available in certain cases

Such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

1.18 Special provision for payment of service tax in case of services provided in relation to purchase or sale of foreign currency including money changing

Person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, provided by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorized money changer, referred to in section 65(105)(zm) and section 65(105)(zzk) as amended had the option to pay an amount at the following rates instead of paying service tax @ 10%:-

S.No.	For an amount	Service tax shall be calculated at the rate of
1.	Upto ₹ 100,000	0.1 % of the gross amount of currency exchanged or ₹ 25 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 100 + 0.05 % of the gross amount of currency exchanged
3.	Exceeding ₹ 10,00,000	₹ 550 + 0.01 % of the gross amount of currency exchanged or ₹ 5,000 whichever is lower

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year [Proviso to sub-rule (7B)].

1.19 Special provision for payment of service tax in case of distributor or selling agents of lotteries

An optional mode of payment of service tax has been provided to a distributor or selling agent of lotteries. The distributor or selling agents rendering the taxable service of promotion, marketing or organising/assisting in organising lottery can discharge their service tax liability in the following manner instead of paying service tax at the rate specified in section 66 of Chapter V of the said Act:-

Where the guaranteed lottery prize payout is > 80%	₹ 6000/- on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
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Where the guaranteed lottery prize payout is < 80%	₹ 9000/- on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
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Points to be noted:-

1. In case of online lottery, the aggregate face value of lottery tickets will be the aggregate value of tickets sold.
2. The distributor/selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The new service provider can exercise such option within one month of providing the service.
3. The option once exercised cannot be withdrawn during the remaining part of the financial year.
4. For the financial year 2010-11, the distributor or selling agent will have to exercise such option by 07.11.2010.

Meaning of important terms

- (a) **Distributor or selling agent:** means an individual or firm or body corporate or other legal entity under law so appointed by the Organising State through an agreement to market and sell lotteries on behalf of the Organising State [Rule 2(c) of the Lottery (Regulation) Rules, 2010] and shall include the distributor/selling agent authorized by lottery organizing State.
- (b) **Draw:** means a method by which the prize winning numbers are drawn for each lottery/lottery scheme by operating the draw machine or any other mechanical method based on random technology which is visibly transparent to the viewers [Rule 2(d) of the Lottery (Regulation) Rules, 2010].
- (c) **Online lottery:** means a system created to permit players to purchase lottery tickets generated by the computer or online machine at the lottery terminals where the information about the sale of a ticket and the player's choice of any particular number or combination of numbers is simultaneously registered with the central computer server [Rule 2(e) of the Lottery (Regulation) Rules, 2010].
- (d) **Organising State:** means the State Government which conducts the lottery either in its own territory or sells its tickets in the territory of any other State [Rule 2(f) of the Lottery (Regulation) Rules, 2010].

1.20 Interest on delayed payment of service tax [Section 75]

In case payment of service tax is made after its due date, interest is leviable on the amount of tax liable to be paid for the period of delay. Payment of interest is mandatory in all circumstances. There is no provision to waive this interest on delayed payment of service tax.

Every person who fails to deposit the service tax or any part thereof to the account of Central Government within the prescribed period has to pay simple interest at a rate not below 10%

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p.a. but not exceeding 36% p.a. as may be notified by the Central Government. Currently, the notified **rate of interest is 18%**.

For computing the period of delay in payment of service tax, the month is counted from the next day from the date on which the payment of service tax was due. For example, if service tax is payable by 5th of a month, one month period for computation of interest would be from 6th of that month to 5th of the next month.

Note: Rate of interest on delayed payment of service tax for period between 10.09.2004 and 31.03.2011 was 13% p.a. and rate is 18% p.a. for the period starting from 01.04.2011.

Concession of 3%, for specified assessees

In case of a service provider, whose value of taxable service provided in a financial year does not exceed ₹ 60 lakh during any of the financial years covered by the notice or during the preceding financial year, as the case may be, such rate of interest shall be reduced by 3% per annum.

Hence, a concessional rate of interest of 15% per annum is available to the tax payers whose turnover during any of the years covered in the notice or the preceding financial year is below ₹ 60 lakh.

UNIT – 2 : FILING OF RETURNS

Learning objectives

After reading this unit you will be able to:

- .. understand the procedure relating to filing of service tax returns.
- .. know the frequency of filing returns.
- .. be aware of the due date for filing returns.

2.1 Persons liable to file returns

After understanding the concept of payment of service tax let us now delve with the scheme of filing of service tax returns.

Section 70 of the Finance Act, 1994 is the principal section which fixes the responsibility of filing of returns. It *inter alia* provides that every person liable to pay service tax shall himself assess the tax due on the services provided by him and shall furnish a return to the Superintendent of Central Excise. The return shall be furnished in such manner and at such frequency as may be prescribed. Rule 7 of the Service Tax Rules, 1994 prescribes the form, manner and frequency of furnishing the return.

Sub section (2) of section 70 stipulates that certain notified person or class of persons shall also furnish to the Superintendent of the Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

2.2 Periodicity and form for return

The prescribed form for the service tax returns is 'Form ST-3'. This form is applicable in case of all assessees. In case of provisional payment of service tax, the assessee has to file a statement giving details of the difference between the service tax deposited and the service tax liable to be paid for each month in a memorandum in Form 'ST-3A' which should accompany the return in 'Form ST-3'.

The return is to be furnished **half yearly**. In other words, the return should cover the periods of 1st April to 30th September (first half-year) and 1st October to 31st March (second half-year) of a financial year.

2.3 Due dates for filing of service tax returns

The service tax return, in Form ST-3 should be filed on half yearly basis by the 25th of the month following the particular half year. The due dates on this basis are tabulated as under:

Half year	Due date
1 st April to 30 th September	25 th October
1 st October to 31 st March	25 th April

2.3.1 When the due date falls on public holiday: In case the due date of the filing of return i.e., either 25th October or 25th April falls on a public holiday, the assessee can file the return on the immediately succeeding working day.

2.4 Delayed return

Section 70(1) *inter alia* provides for filing of periodical return after the due date with the prescribed late fee of not more than ₹ 2,000. Thus, a delayed return can be furnished by paying the prescribed late fee.

2.4.1 Late fee for delay in furnishing return: The prescribed late fee for furnishing a delayed return is given in the following table:

S. No.	Period of delay	Late fee
(a)	15 days from the date prescribed for submission of the return	₹ 500
(b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return	₹ 1,000
(c)	Beyond 30 days from the date prescribed for submission of the return	An amount of ₹ 1,000 plus ₹ 100 for every

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		day from the 31 st day till the date of furnishing the said return
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However, the total late fee for delayed submission of return shall not exceed ₹ 2,000. Further, where the assessee has paid the prescribed late fee for delayed submission of return, the proceedings, if any, in respect of such delayed submission of return shall be deemed to be concluded.

2.4.2 Late fee may be reduced/waived where service tax payable is nil: Where the gross amount of service tax payable is nil, the Central Excise Officer may, on being satisfied that there is sufficient reason for not filling the return, reduce or waive the penalty (late fee).

2.5 Revised return

An assessee can submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of 90 days from the date of submission of the original return.

2.6 Contents of the return

General details, like financial year, half year period (April-September or October-March), name of the assessee, registration number of the premises for which return is being filed, category of taxable services are required to be furnished. Apart from this, some significant month-wise details also need to be furnished. For instance:

- (i) amount received towards taxable service
- (ii) amount received in advance towards taxable service to be provided
- (iii) amount billed for exempted services and services exported without payment of tax
- (iv) amount billed for services on which tax is to be paid
- (v) abatement claimed - value
- (vi) notification number of abatement and exemption
- (vii) service tax payable
- (viii) education cess payable
- (ix) GAR-7 challan date and number
- (x) credit details for service tax provider/recipient

2.7 Documents to be submitted along with the return

Along with ST-3 return following documents should be attached:

- (i) copies of GAR-7 challans which indicate the payment of service tax for the months/quarter

covered in the half-yearly return

- (ii) a memorandum in form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. Form-ST-3A is to be attached only when the assessee opts for provisional payment of service tax.

2.7.1 First return : Every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time or the 31st day of January, 2008, whichever is later, a list in duplicate, of-

- (i) all the records prepared or maintained by the assessee for accounting of transactions in regard to,-
 - (a) providing of any service, whether taxable or exempted;
 - (b) receipt or procurement of input services and payment for such input services;
 - (c) receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
 - (d) other activities, such as manufacture and sale of goods, if any.
- (ii) all other financial records maintained by him in the normal course of business.

2.8 Manner of filing returns

The service tax return in Form ST-3 should be filed in triplicate along with the copies of GAR-7 challans for the quarters (in case of individual, proprietary concerns and partnership firms) or months (in other cases) covered in the half-yearly return. The return should be furnished to the Superintendent of Central Excise.

The assessee may also file the return with the concerned Divisional Office by registered post if he finds it difficult to file the return in person. However, the assessee should stick on to the due date and ensure that the return reaches the Divisional Office on or before the due date.

2.8.1 Return in case of multiple service providers: For an assessee who provides more than one taxable service, filing of a single return is sufficient. However, the details in each of the columns of the Form ST-3 have to be furnished separately for each of the taxable service rendered by him. Thus, instead of showing a lump sum figure for all the services together, service-wise details should be provided in the return.

2.9 E-filing of returns

The facility of e-filing of returns was earlier optional for the assessee. With effect from 01.04.2010, e-filing of returns has now made the electronic filing of returns mandatory for the assessee who has paid total service tax of ₹ 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year.

E-filing is a facility for the electronic filing of service tax returns by the assessee from his

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office, residence or any other place of choice, through the Internet, by using a computer.

E filing of returns is an assessee facilitation measure of the Department in continuation of its modernization and simplification program. It is an alternative to the manual filing of returns.

2.10 Nil return

Even if no service has been provided during a half year and no service tax is payable; the assessee has to file a Nil return within the prescribed time limit.

2.11 Scheme for submission of returns through Service Tax Return Preparers [Section 71]

The Finance Act, 2008 has inserted a new section 71 to provide for the scheme for submission of returns through service tax returns preparers. Section 71 provides that the Central Board of Excise and Customs (Board) may frame a Scheme for the purposes of enabling any person or class of persons to prepare and furnish a return under section 70 and authorise a Service Tax Return Preparer to act as such under the Scheme.

A Service Tax Return Preparer shall assist the person or class of persons to prepare and furnish the return in such manner as may be specified in the Scheme framed under this section.

“Service Tax Return Preparer” means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section. “Person or class of persons” means such person, as may be specified in the Scheme, who is required to furnish a return required to be filed under section 70.

The Scheme framed by the Board may provide for the following, namely:—

- (a) the manner in which and the period for which the Service Tax Return Preparer shall be authorised under sub-section (1);
- (b) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Service Tax Return Preparer;
- (c) the code of conduct for the Service Tax Return Preparer;
- (d) the duties and obligations of the Service Tax Return Preparer;
- (e) the circumstances under which the authorisation given to a Service Tax Return Preparer may be withdrawn;
- (f) any other matter which is required to be, or may be, specified by the Scheme for the purposes of this section.

In this regard, it may be noted that Service Tax Return Preparers Scheme, 2009 has been notified. Further, Form No. ST-3 in Service Tax Rules, 1994 has also been amended to furnish the details of name and identification of Service Tax Return Preparers in case the return has been prepared by them.