

NEGATIVE LIST UNDER SERVICE TAX

1.1. Negative List

Negative list is the list of services as provided in Section 66D which have been specifically excluded from the scope of Taxable Services. Taxation of Services – An Education Guide dated 20.06.2012 provides the following clarification in this regard:

“5. . . .

B.1. Negative List:

- 1. There is paradigm shift in the way services are proposed to be taxed in future. Taxation will be based on what is popularly known as “Negative List of Services.”*
- 2. In simple words, it means that if an activity meets the characteristics of a “service” it is taxable unless specified in the Negative list, comprising 17 heads listed in proposed new section 66D, or otherwise exempted by a notification issued under section 93 of the Act. Most of the 88 exemptions at present will be either rescinded, being no more needed, or modified in some manner, or merged in a mega notification, leaving the final tally of exemptions to just 10.”*

The list as provided in Finance Act, 1994 is as follows:

“66D. The negative list shall comprise of the following services, namely:—

- a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—*
 - (i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;*
 - (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;*
 - (iii) transport of goods or passengers; or*
 - (iv) ¹[support services], other than services covered under clauses (i) to (iii) above, provided to business entities;*
- b) services by the Reserve Bank of India;*
- c) services by a foreign diplomatic mission located in India;*
- d) services relating to agriculture or agricultural produce by way of—*
 - (i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or ²[testing];*
 - (ii) supply of farm labour;*
 - (iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;*
 - (iv) renting or leasing of agro machinery or vacant land with or without structure incidental to its use;*
 - (v) loading, unloading, packing, storage or warehousing of agricultural produce;*
 - (vi) agricultural extension services;*

¹ Words “support services” substituted by Finance Act, 2015 and to be replaced with the phrase “any services” to be effective from a date to be notified.

² Substituted for “seed testing” as proposed by Finance Act, 2013 w.e.f. May 10, 2013

- (vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;
- e) trading of goods;
- f) ³[services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption];
- g) ⁴[selling of space slots for advertisements in print media];
- h) service by way of access to a road or a bridge on payment of toll charges;
- i) betting, gambling or lottery;
- ⁵[Explanation.— For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in Explanation 2 to clause (44) of section 65B.]
- j) ⁶[Omitted];
- k) transmission or distribution of electricity by an electricity transmission or distribution utility;
- l) services by way of—
- (i) pre-school education and education up to higher secondary school or equivalent;
 - (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;
- m) services by way of renting of residential dwelling for use as residence;
- n) services by way of—
- (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
 - (ii) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers;
- o) service of transportation of passengers, with or without accompanied belongings, by—
- (i) a stage carriage;
 - (ii) railways in a class other than—
 - (A) first class; or
 - (B) an air conditioned coach;
 - (iii) metro, monorail or tramway;
 - (iv) inland waterways;
 - (v) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
 - (vi) ⁷[metered cabs or auto rickshaws;]
- p) services by way of transportation of goods—
- (i) by road except the services of—
 - (A) a goods transportation agency; or
 - (B) a courier agency;
 - (ii) by an aircraft or a vessel from a place outside India upto the customs station of clearance in India; or
 - (iii) by inland waterways;
- q) funeral, burial, crematorium or mortuary services including transportation of the deceased.”

³ Substituted by Finance Act, 2015 w.e.f. May 14, 2015. Prior to its substitution, the Explanation read as under: “any process amounting to manufacture or production of goods;”

⁴ Substituted by Finance (No.2) Act, 2014 read with Notification No. 18/2014 dated 25.8.2104 w.e.f. October 1, 2014. Prior to its substitution, clause read as under:

“selling of space or time slots for advertisements other than advertisements broadcast by radio or television”

⁵ Inserted by Finance Act, 2015 w.e.f. w.e.f. June 1, 2015 read with Notification No. 14/2015-ST dated May 19, 2015.

⁶ Omitted by Finance Act, 2015 w.e.f. w.e.f. June 1, 2015 read with Notification No. 14/2015-ST dated May 19, 2015. Prior to Omission, the clause read as under:

“admission to entertainment events or access to amusement facilities”

⁷ Substituted by Finance (No.2) Act, 2014 read with Notification No. 18/2014 dated 25.8.2104 w.e.f. October 1, 2014. Prior to its substitution, clause read as under:

“metered cabs, radio taxis or auto rickshaws;”