



Finance Bill, 2015 has been enacted as Finance Act, 2015 (Act No. 20 of 20 15) on 14th May, 2015 after the assent of President of India. The provisions of Finance Act, 2015 shall therefore, become applicable w.e.f. 14.05.2015 save as otherwise provided in the Act. Such provisions shall be notified to be in force only from the notified date for which a notification shall be issued soon. Changes applicable for Service Tax is summarized as under :

**(A) Effective date 14 May, 2015.**

The following provisions in Service Tax become applicable w.e.f. 14th May, 2015 –

1. Penalty provisions in section 76 :

Penalty for failure to pay service tax. In cases not involving fraud, collusion, etc. with the intent to evade payment of Service Tax, the penalty provisions are rationalised in the following manner –

- no penalty is to be paid if Service Tax and interest is paid within 30 days of service of notice under section 73 (1) and proceedings in respect of such service tax and interest shall be deemed to have been concluded;
- penalty shall not exceed 10% of Service Tax amount involved;
- where shortfall of unpaid service tax is paid along with interest & penalty within 30 days from date of receipt of adjudication order under section 73(2), penalty will be reduced to 25% of the penalty imposed by the order;
- if the amount of penalty is increased by appellate order over and above the amount determined under section 73(2), the time period of 30 days for paying a reduced penalty i.e. 25% of the penalty imposed shall be counted from the date of appellate order.

2. Penalty provisions in section 78

Section 78 stipulates penalty for failure to pay service tax in cases involving fraud, collusion, etc. with the intent to evade payment of service tax. The provisions are rationalised in the following manner –

- Penalty shall be 100% of Service Tax amount involved in such cases. However, in respect of the cases where the details relating to such transactions are recorded in specified record for the period 8-Apr-2011 to 14-May-2015 (the date when the Finance Bill, 2015 receives the assent of the President), the penalty shall be 50% of the service tax so determined. The term 'specified records' is defined for this purpose;
- where shortfall of unpaid service tax is paid along with interest & penalty within 30 days from date of service of notice under section 73(1), penalty will be reduced to 15% of the service tax amount and proceedings in respect of such service tax, interest and penalty shall be deemed to have been concluded;
- where shortfall of unpaid service tax is paid along with interest & penalty within 30 days from date of receipt of adjudication order under section 73(2), penalty will be reduced to 25% of the penalty imposed by the order;
- if the amount of service tax is modified by appellate order, then the interest and penalty amount shall also stand modified accordingly, and the time period of 30 days for paying a reduced penalty i.e. 25% of the modified penalty shall be counted from the date of appellate order.



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3. New section 78B being transitory provisions for new penal provisions

4. Omission of section 80 regarding waiver of penalties

5. Scope of consideration u/s 67 to include reimbursement of expenses

Value of taxable service shall include all reimbursable expenditure or cost incurred and charged by the service provider. The government may prescribe circumstances & conditions in which such reimbursable expenditure would not be included in the value of taxable service.

6. New / amended definitions of Foreman of chit fund, Government, Lottery distributor or selling agent

7. Services provided by the government are included in the Negative List subject to a few exceptions. Further, specified services received by the government are also exempt. Hitherto, the term “government” was not defined in the Act or the notification. This had given rise to interpretational issues. To address such issues, the term “government” is now defined. Hence, only services provided to the Central & State Governments & Union territories, and respective departments of all three will be exempt. Exemption from service tax will not be available for services provided to entities created under a statute or otherwise, the accounts of which are not required to be kept as per Article 150 of the Constitution & rules framed there under.

8. Illustration in section 66F

Section 66F(1) provides that the main service and any input service utilised for rendering such main service shall be classified independently. An illustration is inserted in section 66F(1) explaining the difference between main service and an input service used for providing such main service. As illustrated, service provided by RBI is included under the Negative List (Section 66D). But agency service provided by other banks to RBI is not included in the Negative List. As such, agency services are input services used by RBI for provision of its main service. Accordingly, banks providing agency service to or in relation to services of RBI, are liable to pay Service Tax on the agency services.

9. Amendment in section 73(1B) for recovery without SCN and other changes in section 73. Section 73(4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.

10. When a service provider furnishes a return under self-assessment but does not pay service tax in part or full, the Government is empowered to initiate recovery proceedings by any mode provided in section 87 which includes bank attachment and attachment of properties. It is now provided that such recovery proceedings can be initiated without serving any notice.



**(B) Effective from notified date (expected to be notified soon)**

**(1) Change of rate of Service Tax**

**(2) Levy of Swachh Bharat Cess**

**(3) New / revised definition of amusement facility, entertainment event, processing or production of goods in section 65B**

**(4) Omission of definition of support services**

**(5) Changes in negative list (section 66D)**

**(6) Composite rate of Service Tax in Rule 6(7), 6(7A), (7B) and (7C) of Service Tax Rules, 1994. (pertaining to lottery, air travel etc)**

**(7) New exemptions / changes in exemption notification No. 25/2012-ST [Entry Nos 30 (job work); admission to exhibition of films, circus, sporting event etc.**

**(8) Change in reverse charge (Notification No. 30/2012-ST)**