

C A - I P C C	FOR NOV 2017 EXAM
INDIRECT TAX AMENDMENTS	

Applicability of Indirect Tax Laws for Nov 2017 exam: As amended by the Finance Act, 2016 including significant notifications and circulars issued up to 30-Apr-2017. These notes include all applicable amendments in the syllabus w.r.t. the syllabus applicable for May 2017 exam. Students are advised to additionally read the applicable amendment notes issued earlier for May 2017 exam, apart from the regular study material.

A**SERVICE TAX****A.1 Mega Exemption Notification**

9. Services provided,-

- (a) by an **educational institution** to its students, faculty and staff;
- (b) to an educational institution, by way of,-
- (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Government;
 - (iii) security or cleaning or house-keeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution

Provided that nothing contained in clause (b) of this entry shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. (Notification No. 10/2017 dated 08-Mar-2017 applicable w.e.f. 01-Apr-2017)

Educational institution means an institution providing 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 recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course.

9B. Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme, -

- (a) two year full time ~~residential~~ Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management; **(Amended by Notification No. 07/2017 dated 02-Feb-2017)**
- (b) fellow programme in Management;
- (c) five year integrated programme in Management.

23A. Services provided to the Government by way of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating at a Regional Connectivity Scheme Airport, against consideration in the form of Viability Gap Funding (VGF).

This exemption shall not apply on or after the expiry of a period of one year from the date of commencement of operations of the Regional Connectivity Scheme Airport as notified by the Ministry of Civil Aviation.
(Inserted by Notification No. 07/2017 dated 02-Feb-2017)

- 26D.** Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.

(Inserted by Notification No. 07/2017 dated 02-Feb-2017)

- 29.** Services by the following persons in respective capacities -

(g) **Upto 11-Jan-2017:** business facilitator or a business correspondent to a banking company with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company's rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding;

Substituted w.e.f. 12-Jan-2017: business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch

[Notification No. 1/2017 dated 12-Jan-2017]

- 30.** Services by way of carrying out,-

(Whole Entry Substituted w.e.f. 31-Mar-2017)

(i) any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption; or

Process amounting to manufacture or production of goods means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944, or the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 or any process amounting to manufacture of opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force.

(ii) any intermediate production process as job work not amounting to manufacture or production in relation to-

- (a) agriculture, printing or textile processing;
- (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985 (5 of 1986);
- (c) any goods excluding alcoholic liquors for human consumption, on which appropriate duty is payable by the principal manufacturer; or
- (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;

- 34.** Services **received** from a provider of service located in a **non- taxable territory** by-

- (a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
- (b) an entity registered under section 12AA of the Income tax Act for the purposes of providing charitable activities; or

Exception for clause (a) or (b): Online information and database access or retrieval services

(w.e.f. 01-Dec-2016; clause (b) w.e.f. 30-Jan-2017)

(c) a person located in a non-taxable territory;

Exception for Entry 34: Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India

(w.e.f. 22-Jan-2017)

- 64.** Services by an acquiring bank, to any person in relation to settlement of an amount upto Rs. 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.

(Inserted by Notification No. 52/2016 dated 08-Dec-2016)

Acquiring bank means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

A.2 Retrospective Exemptions

Service	Related Entry in Mega Exemption Notification	Exemption granted for the period	Notification No.
Services by operators of Common Effluent Treatment Plant by way of treatment of effluent	43 (inserted w.e.f. 01-Apr-2015)	01-Jul-2012 to 31-Mar-2015	08/2017 dated 20-Feb-2017
Services by way of admission to a museum	45 (inserted w.e.f. 01-Apr-2015)	01-Jul-2012 to 31-Mar-2015	09/2017 dated 28-Feb-2017

A.3 Abatement for determining the taxable value

[Notification No. 26/2012-ST dated 20-Jun-2012 as amended upto Notification No. 4/2017 dated 12-Jan-2017]

Sl. No.	Description of taxable service	Value of taxable service	Conditions
11 (upto 21-Jan-2017)	Services by a tour operator in relation to,- (i) a tour, only for the purpose of arranging or booking accommodation for any person	10%	(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken. (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, includes only the service charges for arranging or booking accommodation for any person but does not include the cost of such accommodation.
	(ii) tours, other than (i) above	30%	(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour and the amount charged in the bill is the gross amount charged for such a tour.
Thus CENVAT credit is allowed on input service of another tour operator, which are used for providing the taxable service.			
11 (w.e.f. 22-Jan-2017)	Services by a tour operator	60%	(i) CENVAT credit on inputs and capital goods used for providing the taxable service, has not been taken. (ii) The bill issued for this purpose indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.

A.4 Due date of payment of service tax [Rule 6(1) of Service Tax Rules, 1994]**[Proviso inserted by Notification No. 6/2017 dated 30-Jan-2017]**

In case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, the service tax payable for the month of December, 2016 and January, 2017, shall be paid to the credit of the Central Government by the 6th day of March, 2017

A.5 Concept of aggregator

Aggregator means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator.

Amendment by Notification No. 2/2017 dated 12-Jan-2017 applicable w.e.f. 22-Jan-2017

Aggregator shall not include such person who enables a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes subject to following conditions, namely:-

(a) the person providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes has a service tax registration; and

(b) whole of the consideration for services provided by such service provider is received directly by such service provider and no amount, which forms part of the consideration of services of such service provider, is received by the aggregator directly from either recipient of the service or his representative.

A.6 Service tax liability under Reverse Charge Mechanism [Sec 68(2)]**(Notification No. 30/2012 – ST dated 20-Jun-2012 as amended upto Notification No. 3/2017-ST dated 12-Jan-2017)**

Sr. No.	Description of a service	% of service tax payable by the person providing service	% of service tax payable by any person liable for paying service tax other than the service provider
(1)	(2)	(3)	(4)
10.	Any taxable services by any person who is located in a non-taxable territory and received by any person located in the taxable territory other than non-assesse online recipient (w.e.f. 1-Dec-2016) (Import of services)	Nil	100%
12.	Services provided or agreed to be provided by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India (w.e.f. 22-Jan-2017)	Nil	100%

A.7 Online information and database access or retrieval services**(Amendment to Service Tax Rules, 1994 by Notification No. 48/2016 ST dated 09-Nov-16 w.e.f. 01-Dec-16)****A.7.1 Definitions**

- **Non-assesse online recipient** means Government, a local authority, a governmental authority or an individual receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

In case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assessee online recipient, a person receiving such services shall be deemed to be a non-assessee online recipient, if such person does not have service tax registration.

- **Online information and database access or retrieval services** means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology and includes electronic services such as,-

- advertising on the internet;
- providing cloud services;
- provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet;
- providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;
- online supplies of digital content (movies, television shows, music, etc.);
- digital data storage; and
- online gaming.

A.7.2 Service Provider is the person liable to pay tax (Reverse Charge not applicable)

In case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assessee online recipient, provider of service located in a non-taxable territory shall be the person liable for paying service tax:

If such service provider....	Then the Person Liable to Pay Tax is....
Does not have physical presence in India	The person representing such service provider
Has neither physical presence nor any representative in taxable territory	The person appointed by such service provider for the purpose of paying service tax

A.7.3 Intermediary liable to pay tax

An intermediary

- located in the non-taxable territory
- including an electronic platform, a broker, an agent or any other person, by whatever name called,
- who arranges or facilitates provision of such service
- but does not provides the main service on his account

shall be deemed to be

- receiving such services from the service provider in non-taxable territory and
- providing such services to the non-assessee online recipient

except when such intermediary satisfies all the following conditions, namely:-

- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question, its supplier in non-taxable territory and the service tax registration number of the supplier in taxable territory;
- (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge i.e. intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-assessee online recipient and the supplier of such services;
- (c) the intermediary involved in the supply does not authorise delivery;
- (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the service provider.

A.7.4 Conditions for deeming the recipient to be located in the taxable territory

If such services are received by any person located in the taxable territory, person receiving such services shall be deemed to be located in the taxable territory if any 2 of the following non-contradictory conditions are satisfied, namely :-

- (a) the location of address presented by the service recipient via internet is in taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the service recipient settles payment has been issued in the taxable territory;
- (c) the service recipient's billing address is in the taxable territory;
- (d) the internet protocol address of the device used by the service recipient is in the taxable territory;
- (e) the service recipient's bank in which the account used for payment is maintained is in the taxable territory;
- (f) the country code of the subscriber identity module (SIM) card used by the service recipient is of taxable territory;
- (g) the location of the service recipient's fixed land line through which the service is received by the person, is in taxable territory.

A.7.5 Other special provisions for Online information and database access or retrieval services

- **Mega Exemption Notification – Entry 34(a) (Refer Para A.1)**
- **Registration** application to be made in Form ST-1A:

A person located in non taxable territory liable for paying the service tax in the case of **online information and database access or retrieval services** may make an application for registration in **form ST-1A** for registration within a period of 30 days from the date of levy or commencement of supply of taxable services in the taxable territory in India. Notwithstanding anything contrary in the rules, the registration shall be deemed to be granted in **form ST-2A** from the date of receipt of the application. **(w.e.f. 1-Dec-2016)**

- Relaxation in requirements of **Invoice**

In case of **online information and database access or retrieval services** provided or agreed to be provided in taxable territory by a person located in the non-taxable territory, an invoice, a bill or a challan shall include any document, by whatever name called, whether or not serially numbered, but containing name and address of the person receiving taxable service to the extent available and other required information. **(w.e.f. 01-Dec-2016)**

A person located in non-taxable territory providing online information and database access or retrieval services to a non-assesse online recipient located in taxable territory may issue online invoices not authenticated by means of a digital signature for a period upto 31-Jan-2017.

(w.e.f. 19-Dec-2016)

- **Reverse Charge Notification - Entry 10 (Refer Para A.6)**