

57. INSURANCE BUSINESS SERVICES (LIFE INSURANCE)

(A) **Date of Introduction:** 16.08.2002 (Notification No.8/2002-S.T. dated 01.08.2002)

(B) **Definition and scope of service:**

"Taxable Service" means any service provided or to be provided to a policy holder or any person, by an insurer, including re-insurer carrying on life insurance business in relation to risk cover in life insurance;

[Section 65 (105) (zx) of Finance Act, 1994 as amended]

"Insurer" means any person carrying on the general insurance business or life insurance business and includes a re-insurer";

[Section 65 (58) of Finance Act, 1994 as amended]

"Life Insurance Business" has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);

[Section 65 (61) of Finance Act, 1994 as amended]

"Policy Holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);

[Section 65 (80) of Finance Act, 1994 as amended]

(C) **Rate of Tax & Accounting Code:**

	Rate of Tax	Accounting Code
Service Tax	10% of the value of services	00440185
Education Cess	2% of the service tax payable	00440298
Secondary and Higher Education cess	1% of the service tax payable.	00440426
Other – Penalty/interest	As levied or applicable	00440186

(Rate of tax is effective from 24.02.2009.)

(D) **Classification of Taxable Services:**

- (1) The classification of taxable services shall be determined according to the terms of the sub-clauses (105) of section 65;
- (2) When for any reason , a taxable service is prima facie, classifiable under two

or more sub-clauses of clause (105) of section 65, classification shall be effected as follows :-

- (a) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;
- (b) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;
- (c) when a service cannot be classified in the manner specified in clause (a) or clause (b), it shall be classified under the sub-clause which occurs first among the sub-clauses which equally merits consideration.

(Sec.65A of Finance Act,1994)

(E) Valuation of taxable services for charging Service tax

(1) Service tax chargeable on any taxable service with reference to its value shall,—

(i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;

(ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money, with the addition of service tax charged, is equivalent to the consideration;

(iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.

(2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

(3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the value shall be determined in such manner as may be prescribed.

Explanation.—For the purposes of this section,—

(a) "consideration" includes any amount that is payable for the taxable services provided or to be provided;

(b) "money" includes any currency, cheque, promissory note, letter of credit, draft, pay order, travellers cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value;

(c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and 'book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

(Sec.67 of Finance Act,1994)

Inclusion in or Exclusion from value of certain expenditure or cost:

(1) Where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expenditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.

[Rule 5(1) of Service Tax (Determination of Value) Rules,2006]

(2) The expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:-

- (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods or services procured;
- (ii) the recipient of service receives and uses the goods or services so procured by the service provider in his capacity as pure agent of the recipient of service;
- (iii) the recipient of service is liable to make payment to the third party;
- (iv) the recipient of service authorizes the service provider to make payment on his behalf;
- (v) the recipient of service knows that the goods and services for which payment has been made by the service provider shall be provided by the third party;

- (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;
- (vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and
- (viii) the goods or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

[Rule 5(2) of Service Tax (Determination of Value) Rules,2006]

(F) Clarifications issued by the Board/ Ministry:

Life insurance business including insurance auxiliary service relating to life insurance – (1) [Section 65 defined “life insurance business” as to have meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938. The taxable service has been defined in section 65 as “any service provided, to a policy holder, by a insurer carrying on life insurance business, in relation to life insurance business”.

(2) Definition of “life insurance business” as per the aforesaid section of the Insurance Act, 1938 is as follows :

“Life insurance business” means the business of effecting contract of insurance upon human life, including and contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include-

- (a) the granting of disability and double or triple indemnity accident benefit, if so provided in the contract of insurance,
- (b) the granting of annuities upon human life, and
- (c) the granting of superannuation allowances and annuity payable out of any fund applicable solely to the relief and maintenance of person engaged in any particular profession, trade or employment or of the dependent of such person.

(3) Insurance auxiliary services relating to general insurance business were brought into tax net last year with effect from 16-7-2001. This levy has now been extended to cover the insurance auxiliary service relating to life insurance also.

(4) Services covered in this category are the services provided by the insurance agents to the insurer/policy holder, by actuary to the insurer or by an

intermediary or insurance intermediary to insurer/policy holders. Insurance agents provide service to insurance company in relation to marketing of insurance policies. They also provide service to the policy holder by providing information/advice on the types of insurance policies, processing of documentation, remitting of insurance premium, etc. Actuarial services are provided by the actuaries to the insurance companies. They cover diverse field such as calculating insurance risks and premia, insurance claims adjustment services such as services of investigating claims, determining the amount of loss or damages covered by the insurance policies and negotiating settlements, services of examining claims which have been investigated and authorization and insurance consultancy services.

(5) The service providers in this category includes insurance agents, insurance surveyors and loss adjusters, actuaries insurance consultants and insurance brokers. In the case if insurance surveyors and loss adjusters, actuaries insurance consultants, the service provided mainly to the insurance companies (insurer) while in the case of insurance agents, the service is provided to both the insurer and the policy holder. Service tax is liable to be paid by the insurance auxiliary service provider except in case of insurance agents. Insurance agents normally do not charge the policy holder. However, the insurance company pays the agent a commission (usually as a percentage of the insurance premium) on a periodic basis.

(2) The service tax is applicable services provided on or after 16-8-2002 and any payment made for the services provided prior to this date will not be liable to tax even though payment is made on or after the 16-8-2002.

[vide M.F.(D.R) letter D.O.F.No.B 11/4/2002-TRU dated 1/8/2002.]

Life Insurance services- (1) In Budget 2004, it has been decided to levy service tax on that portion of the service which pertains to risk element. They levy would not be applicable to such premium of the existing policies, which were paid before the new levy comes into force.

(2) It has been provided that in the case of composite policies (risk plus saving) life insurer can at his option pay 1% of the total premium towards discharge of service tax liability [See Rule 6(7A) of the Service Tax Rules, 1994]. This shall not be applicable in case an insurance policy is towards risk only or where the premium gives details of risk premium and other premium separately. (refer Notification No.11/2004-S.T. dated 10-9-2004). However, those insurance companies who want to pay tax on risk premium as certified by the Appointed Actuary on a company basis can do so. The insurance companies may be allowed to pay monthly service tax provisionally, based on estimates. The monthly estimated (i.e. provisional) duty payment for the entire company would be based on a provisional certificate issued by the Appointed Actuary, subject to final certification at the end of the year. At the end of the financial year, when the sum at risk is calculated and certified by the Actuary, the liabilities would be finalized and the companies would pay the balance tax or adjust the excess tax paid.

[vide C.B.E & C Circular No.80/10/2004-S.T. dated 1.07.2004]

(G) Exemption & Exclusion:

1. Exemption to Small Scale Service Providers:

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts taxable services of aggregate value not exceeding **Ten lakh** rupees in any financial year from the whole of the service tax leviable thereon under section 66 of the said Finance Act:

Provided that nothing contained in this notification shall apply to,-

- (i) taxable services provided by a person under a brand name or trade name, whether registered or not, of another person; or
- (ii) such value of taxable services in respect of which service tax shall be paid by such person and in such manner as specified under sub-section (2) of section 68 of the said Finance Act read with Service Tax Rules, 1994.

2. The exemption contained in this notification shall apply subject to the following conditions, namely:-

(i) the provider of taxable service has the option not to avail the exemption contained in this notification and pay service tax on the taxable services provided by him and such option, once exercised in a financial year, shall not be withdrawn during the remaining part of such financial year;

(ii) the provider of taxable service shall not avail the CENVAT credit of service tax paid on any input services, under rule 3 or rule 13 of the CENVAT Credit Rules, 2004 (herein after referred to as the said rules), used for providing the said taxable service, for which exemption from payment of service tax under this notification is availed of;

(iii) the provider of taxable service shall not avail the CENVAT credit under rule 3 of the said rules, on capital goods received in the premises of provider of such taxable service during the period in which the service provider avails exemption from payment of service tax under this notification;

(iv) the provider of taxable service shall avail the CENVAT credit only on such inputs or input services received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable;

(v) the provider of taxable service who starts availing exemption under this notification shall be required to pay an amount equivalent to the CENVAT credit taken by him, if any, in respect of such inputs lying in stock or in process on the date on which the provider of taxable service starts availing exemption under this notification;

(vi) the balance of CENVAT credit lying unutilised in the account of the taxable service provider after deducting the amount referred to in sub-paragraph (v), if any, shall not be utilised in terms of provision under sub-rule (4) of rule 3 of the said rules and shall lapse on the day such service provider starts availing the exemption under this notification;

(vii) where a taxable service provider provides one or more taxable services from one or more premises, the exemption under this notification shall apply to the aggregate value of all such taxable services and from all such premises and not separately for each

premises or each services; and

(viii) the aggregate value of taxable services rendered by a provider of taxable service from one or more premises, does not exceed rupees **ten lakhs** in the preceding financial year.

3. For the purposes of determining aggregate value not exceeding **tenlakh** rupees, to avail exemption under this notification, in relation to taxable service provided by a goods transport agency, the payment received towards the gross amount charged by such goods transport agency under section 67 for which the person liable for paying service tax is as specified under subsection (2) of section 68 of the said Finance Act read with Service Tax Rules, 1994, shall not be taken into account.

Explanation.- For the purposes of this notification,-

(A) “brand name” or “trade name” means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, logo, label, signature, or invented word or writing which is used in relation to such specified services for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified services and some person using such name or mark with or without any indication of the identity of that person;

(B) “aggregate value not exceeding ***ten lakh rupees** means the sum total of first consecutive payments received during a financial year towards the gross amount, as prescribed under section 67 of the said Finance Act, charged by the service provider towards taxable services till the aggregate amount of such payments is equal to ten lakh rupees but does not include payments received towards such gross amount which are exempt from whole of service tax leviable thereon under section 66 of the said Finance Act under any other notification.

4. This notification shall come into force on the 1st day of April, 2005.

[Notification No. 6/2005-ST, dated 1-3-2005. *Amended by Notfn.No. 8/2008-ST dated 01.03.2008]

2. Services to UN Agencies

Services provided to United Nations or an International Organizations are exempt.

[Notification No. 16/2002-ST, dated 2-8-2002]

3. Export of service: Any service which is taxable under clause 105 of Section 65 may be exported without payment of service tax.

(Rule 4 of Export of Services Rules,2005)

4. Exemption to services provided to a developer of SEZ or a unit of SEZ:

Exempts the taxable services specified in clause (105) of section 65 of the said Finance Act, which are provided in relation to the authorized operations in a Special Economic Zone, and received by a developer or units of a Special Economic Zone, whether or not the said taxable services are provided inside the Special Economic Zone, from the

whole of the service tax leviable thereon under section 66 of the said Finance Act subject to certain conditions. (Refer notification for details)

{ Notification No. 09/2009ST dated 03.03.2009 (Prior to 03.03.2009 Notfn.No4/2004-ST dated 31.03.2004)}

5. Exemption to value of goods & material sold by service provider: In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts so much of the value of all the taxable services, as is equal to the value of goods and materials sold by the service provider to the recipient of service, from the service tax leviable thereon under section (66) of the said Act, subject to condition that there is documentary proof specifically indicating the value of the said goods and materials.

(Notification No. 12/2003-ST dated 20.06.2003 effective from 01.07.2003)

6. Exemption to taxable services provided by TBI and STEP: All taxable services, provided by a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Govt. of India from the whole of the service tax leviable thereon subject to certain conditions and procedures. (Refer notification for details)

(Notification No.09/2007 ST dated 01.03.2007)

7. Exemption to taxable services provided by entrepreneurs located within the premises of TBI or STEP: All taxable services, provided by an entrepreneur located within the premises of a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Govt. of India from the whole of the service tax leviable thereon subject to certain conditions and procedures. (Refer notification for details)

(Notification No.10/2007 ST dated 01.03.2007)

8. Exemption to services provided to Foreign Diplomatic Missions or Consular Post in India: All services provided by any person, for the official use of a Foreign Diplomatic Mission or Consular Post in India are exempted from service tax subject to certain conditions and procedures. (Refer notification for details)

(Notification No. 33/2007-ST dated 23.05.2007)

9. Exemption to services provided for personal use of a family member of Diplomatic Agent or Career Consular Officers posted in Foreign Diplomatic Mission/Consular Post in India: All services provided by any person, for personal use of family member of Diplomatic Agents or Career Consular officers posted in a Foreign Diplomatic Mission or Consular Post in India are exempted from service tax subject to certain conditions and procedures. (Refer notification for details)

(Notification No. 34/2007-ST dated 23.05.2007)
