

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
NOTIFICATION
No. 48/2016-Service Tax,**

New Delhi, the 9th November, 2016

G.S.R..... (E). - In exercise of the powers conferred by sub-section (1), read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994,namely:-

1. (1) These rules may be called the Service Tax (Fourth Amendment) Rules, 2016.

(2) They shall come into force on the 1st day of December, 2016.

2. In the Service Tax Rules, 1994,-

(i) in rule 2, in sub-rule (1),-

(a) after clause (ccb), the following clause shall be inserted, namely:-

‘(ccba) “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;

Explanation.- For the purposes of this clause, “governmental authority” means an authority or a board or any other body :

- (i) set up by an Act of Parliament or a State legislature; or
- (ii) established by Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constituion;’;

(b) after clause (ccc), the following clause shall be inserted, namely:-

‘(ccd) “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,-

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

(c) in clause (d),-

(i) in sub-clause (i),-

(a) in item (G), after the words “taxable service”, the words “other than online information and database access or retrieval services,” shall be inserted;

(b) after item (G), following item shall be inserted, namely:-

“(H) in relation to services provided or agreed to be provided by way of online information and database access or retrieval services, by any person located in a non-taxable territory and received by any person in the taxable territory other than non-assesse online recipient, recipient of such service;”;

(ii) in sub-clause (ii), the following provisos shall be inserted, namely:-

“Provided that 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, provider of service located in a non-taxable territory shall be the person liable for paying service tax:

Provided further that 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, 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-assesse 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-assesse 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:

Provided also that 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, any person located in taxable territory representing such service provider for any purpose in the taxable territory shall be the person liable for paying service tax:

Provided also that 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, if the service provider does not have a physical presence or does not have a representative for any purpose in the taxable territory, the service provider may appoint a person in the taxable territory for the purpose of paying service tax and such person shall be liable for paying service tax:

Provided also that 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 any person located in the taxable territory, person receiving such services shall be deemed to be located in the taxable territory if any two 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:

Provided also that 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, a person receiving such services shall be deemed to be a non-assesse online recipient, if such person does not have service tax registration under these rules.”;

(ii) in rule 4, in sub rule (1), after third proviso, the following proviso shall be inserted, namely:-

“Provided also that 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 thirty days from the date on which the service tax under section 66B of the Act is levied or the person located in non taxable territory has commenced supply of taxable services in the taxable territory in India and notwithstanding anything contrary in these rules, the registration shall be deemed to be granted in form ST-2A from the date of receipt of the application.”;

(iii) in rule 4A, in sub-rule 1, after the sixth proviso, the following proviso shall be inserted, namely:-

“Provided also that 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, as the case may be, 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 information in such documents as required under this sub-rule.”;

(iv) in rule 7, in sub-rule (1) after the letters and figure “ST-3A”, the word, letters and figure “or ST-3C” shall be inserted;

(v) after Form ST-1, the following Form shall be inserted, namely :-

“FORM ST- 1A

[Application form for registration under section 69 of the Finance Act, 1994 (32 of 1994) for person in non-taxable territory providing online information and database access or retrieval services in India]

(Please tick appropriate box below)

New Registration

Amendments to information declared by the existing Registrant.

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(iii) Phone Number

(iv) e-mail ID

4. Category of Registrant

(i) Person liable to pay service tax

(ii) Online information and database access or retrieval services provider whose aggregate value of such services provided in taxable territory in a financial year exceeds nine lakh rupees.

5. Name, Designation, Address, Phone Number and email ID of the Authorised Signatory/Signatories:

(i) Name

(ii) Designation

(iii) Address

(iii) Phone Number

(iv) e-mail ID

6. Name, Designation, Address, PAN, Phone number and email ID of the Authorised agent in the taxable territory (if any):

(i) Name

(ii) Designation

(iii) Address

2. Address of the business premises:

Unit No.	<input type="text"/>	Complex (If applicable)	<input type="text"/>
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Street No.	<input type="text"/>	Street/ Farm Name	<input type="text"/>
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Suburb/ District	<input type="text"/>
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City/ Town	<input type="text"/>
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Pin Code	<input type="text"/>
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Registered Physical Address	<input type="text"/>
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Country (Full Name):	<input type="text"/>
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3. This certificate is issued incorporating the changes intimated by the applicant and the previous certificate of registration bearing Registration Number _____ issued on _____ stand cancelled.

Place:

Date:

*Name and Designation of the Central Excise
Official with official seal*

CC : (by e-mail) to the Pay and Accounts Officer (Commissionerate Name)”;

(vii) after Form ST-3B, the following Form shall be inserted, namely,-

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Note: “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.

Part C – Service Tax Payable

S.No	Tax	Amount in Indian Rupees
C1	Service Tax Payable	Total of values mentioned under Column 8 of table under Part-B
C2	Swachh Bharat Cess Payable	Total of values mentioned under Column 9 of table under Part-B
C3	Krishi Kalyan Cess Payable	Total of values mentioned under Column 10 of table under Part-B

Part D – Service tax Paid in Advance

Amount of Service tax paid in advance under sub-rule (1A) of rule 6 of the Service Tax Rules, 1994:

1.	2.	3.	4.
S.No	Challan No	Date	Amount
1.			
2.			
3.			
.			
.			
D1	Total Service tax paid in Advance		Σ

Part E – Swachh Bharat Cess Paid in Advance

Amount of Swachh Bharat Cess paid in advance under sub-rule (1A) of rule 6 of the Service Tax Rules, 1994:

1.	2.	3.	4.
S.No	Challan No	Date	Amount

1.			
2.			
3.			
.			
.			
E1	Total Swachh Bharat Cess paid in Advance		Σ

Part F – Krishi Kalyan Cess Paid in Advance

Amount of Krishi Kalyan Cess paid in advance under sub-rule (1A) of rule 6 of the Service Tax Rules, 1994:

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1.	2.	3.	4.
S.No	Challan No	Date	Amount
1.			
2.			
3.			
.			
.			
F1	Total Krishi Kalyan Cess Paid in Advance		Σ

Part G – Service Tax paid consequent to the point of taxation

Amount of service tax paid consequent to the point of taxation:

1.	2.	3.	4.
S.No	Challan No	Date	Amount
1.			
2.			
3.			
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.			

G1	Total service tax paid consequent to the point of taxation	Σ
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Note: “point of taxation” means the point in time when a service shall be deemed to have been provided as determined under the provisions of Point Of Taxation Rules, 2011.

Part H – Swachh Bharat Cess Paid consequent to the point of taxation

Amount of Swachh Bharat Cess paid consequent to the point of taxation:

1.	2.	3.	4.
S.No	Challan No	Date	Amount
1.			
2.			
3.			
.			
.			
H1	Total Swachh Bharat Cess paid consequent to the point of taxation		Σ

Part I – Krishi Kalyan Cess Paid consequent to the point of taxation

Amount of Krishi Kalyan Cess paid in advance under sub-rule (1A) of rule 6 of the Service Tax Rules, 1994:

1.	2.	3.	4.
S.No	Challan No	Date	Amount
1.			
2.			
3.			
.			
.			
I1	Total Krishi Kalyan Cess Paid consequent to the point of taxation		Σ

Part J – Total Tax Paid with respect to the taxable services provided in the period for which return is filed

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
S.No	Tax	Advance	Apr/ Oct	May/ Nov	Jun/ Dec	July/ Jan	Aug/ Feb	Sep/ Mar	Total in Apr- Sep/Oct- Mar	Amount in Indian Rupees
J1	Service Tax Paid									D1 + G1
J2	Swachh Bharat Cess Paid									E1 + H1
J3	Krishi Kalyan Cess Paid									F1 + I1

Part K – Arrears, Interest, Penalty, any other amount etc. Paid

S.No	Month	Apr/ Oct	May/ Nov	Jun/ Dec	July/ Jan	Aug/ Feb	Sep/ Mar	Total
K1	Arrears of Service tax paid							
K2	Amount collected as service tax and paid in terms of section 73A of Finance Act, 1994							
K3	Interest paid							
K4	Penalty paid							
K5	Amount of Late fee paid, if any.							
K6	Any other amount paid (please specify)							
K7	Total amount of service tax arrears, interest, penalty and any other amount , etc. made K7 = (K1+K2+K3+K4+K5+K6)							

K8	Arrears of Swachh Bharat Cess (SBC) paid							
K9	Amount collected as SBC and paid in terms of section 73A of Finance Act, 1994							
K10	Interest on SBC paid							
K11	Penalty on SBC paid							
K12	Total amount of SBC arrears, interest, penalty and any other amount , etc. made K12 = (K8+K9+K10+K11)							
K13	Arrears of Krishi Kalyan Cess (KKC) paid							
K14	Amount collected as KKC and paid in terms of section 73A of Finance Act, 1994							
K15	Interest on KKC paid							
K16	Penalty on KKC paid							
K17	Total amount of KKC arrears, interest, penalty and any other amount , etc. made K17 = (K13+K14+K15+K16)							
K18	Total Arrears of revenue K18 = (K7 +K12+K17)							

Part L – Challan details of payments made regarding Part K

1.	2.	3.	4.
S.No	Challan No	Date	Amount
1.			
2.			
3.			
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L1	Total amount Paid	Σ
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Part M – Self Assessment Memorandum

- (a) I/We declare that the above particulars are in accordance with the records and books maintained by me/us and are correctly stated.
- (b) I/We have assessed and paid the service tax as per the provisions of the Finance Act, 1994 and the rules made thereunder.
- (c) I/We have paid duty within the specified time limit and in case of delay, I/We have deposited the interest leviable thereon.
- (d) I/We have filed this Return within the specified time limit and in case of delay, I/We have deposited the amount towards late filing as prescribed under rule 7C of the Service Tax Rules, 1994:
- (e) I have been authorised as the person to file the return on behalf of the service provider.

Place:

Date:

(Name and Signature of Assesse or Authorised Signatory)".

[F. No.354/149/2016 -TRU]

(Anurag Sehgal)
Under Secretary to the Government of India

Note:- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 2/94-SERVICE TAX, dated the 28th June, 1994 vide number G.S.R. 546 (E), dated the 28th June, 1994 and last amended vide notification No. 43/2016-Service Tax, dated the 28th September, 2016 vide number G.S.R. 923 (E), dated the 28th September, 2016.