

India  
Tax  
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## Indirect tax Alert

**IDTX/21/2009**  
24<sup>th</sup> September 2009

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### **Notification granting exemption from Service Tax<sup>1</sup>**

The Central Government has issued a notification granting a limited exemption from the levy of Service Tax under the category of Business Auxiliary Services to taxable services provided by a service provider during the course of manufacture or processing of alcoholic beverages for or on behalf of the service recipient. The exemption granted is limited to the value of the inputs, excluding capital goods, used for providing the taxable services.

The exemption is subject to the fulfillment of the following conditions -

- Cenvat credit should not have been taken under the Cenvat Credit Rules, 2004;
- Documentary proof indicating the value of the inputs is available;
- The service provider who also manufactures or processes alcoholic beverages on his own account or under any other arrangement is required to maintain separate accounts of receipt, production, inventory, dispatches of goods as well as financial transactions relating to such activities.

The exemption is effective from 23<sup>rd</sup> September 2009.

### **Notification amending the Export of Services Rules, 2005<sup>2</sup>**

The Central Government has issued a notification amending the Export of Services Rules, 2005 ('Export Rules') in order to classify the taxable services introduced by the Finance (No.2) Act, 2009, as follows –

- Legal Consultancy Services provided in relation to immovable property are classified under the group where export of services is based on the criteria that the immovable property is located outside India.
- Legal Consultancy Services which is not in relation to immovable property shall be classified under the residual category, where the following specific conditions are required to be fulfilled –

- The services are provided in relation to business or commerce; and
  - The recipient of the services is located outside India.
- Cosmetic and Plastic Surgery Services and Transportation of Coastal Goods and Goods Transported Through National Waterways and Inland Water Services shall be deemed to be export of services, if such services are wholly or partly performed outside India.

The aforementioned taxable services shall be treated as export of services only if the following common conditions are fulfilled in addition to the specific conditions mentioned above -

- The services are provided from India and used outside India; and
- The payment for such services is received by the service provider in convertible foreign exchange.

The amendment is effective from 23<sup>rd</sup> September 2009.

### **Notification amending the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006<sup>3</sup>**

The Central Government has issued a notification amending the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 ('Import Rules') to categorise the taxable services introduced by the Finance (No.2) Act, 2009, as follows –

- Legal Consultancy Services provided from outside India, in relation to immovable property shall be deemed to be import of services if the immovable property is situated in India.
- Legal Consultancy Services provided from outside India which are not in relation to immovable property shall be deemed to be import of services if the services are received by a recipient located in India for use in relation to business or commerce.
- Cosmetic and Plastic Surgery Services and Transportation of Coastal Goods and Goods Transported Through National Waterways and Inland Water Services shall be deemed to be import of services if such services are wholly or partly performed in India.

The amendment is effective from 23<sup>rd</sup> September 2009.

### **Source**

1. *Notification No. 39/2009-Service Tax dated 23<sup>rd</sup> September 2009.*
2. *Notification No. 38/2009-Service Tax dated 23<sup>rd</sup> September 2009.*
3. *Notification No. 37/2009-Service Tax dated 23<sup>rd</sup> September 2009.*

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