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Tax  
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## Indirect Tax Alert

4 March 2009  
Volume: IDTX/9/2009

### Service Tax Exemption Granted to Special Economic Zones<sup>1</sup>

The Central Government has issued a Notification ('subject Notification') granting exemption from service tax in respect of the taxable services which are provided in relation to the authorized operations in a Special Economic Zone (SEZ) and are received by a developer or a unit of an SEZ. This Notification supercedes the earlier exemption granted in respect of services provided to a developer or a unit of an SEZ and prescribes a new set of conditions and procedures. The exemption is available whether or not the said taxable services are provided in the SEZ.

#### Conditions for grant of exemption under the subject notification:

- The exemption shall be in respect of taxable services required by the developer or unit of an SEZ, in relation to the authorized operations in the SEZ, which are approved by the Approval Committee ('specified services').
- The developer or SEZ unit should use such specified services in relation to the authorized operations in the SEZ and pay service tax on such specified services.
- The exemption shall be provided by way of a refund of the service tax paid on the specified services.
- Cenvat Credit of the service tax paid on the specified services should not be taken under the Cenvat Credit Rules, 2004.
- No other exemption or refund can be claimed in respect of service tax paid on the specified services by the developer or SEZ unit.
- The exemption shall be applicable in respect of service tax paid on the specified services on or after the date of publication of the subject Notification.

#### Procedure to claim exemption under the subject notification:

- The service provider, who is the person liable to pay service tax in respect of the specified services, shall pay the service tax.

In case the developer or SEZ Unit is a service recipient liable to pay

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service tax, by virtue of specific provisions of service tax law, such as services provided from outside India and received in India, exemption can be claimed by such recipient.

- The developer or SEZ Units shall file a refund claim with the jurisdictional Assistant Commissioner (AC) / Deputy Commissioner (DC) of Central Excise for refund of service tax paid on the specified services.
- Developers or SEZ units who are not registered under the Central Excise provisions or the Service tax provisions would be required to file a declaration in the prescribed form for allotment of a service tax code number.
- The claim for refund of service tax should be filed within 6 months from the date of the actual payment of service tax to the service provider by the developer or SEZ unit.
- The claim for refund shall be accompanied by the following documents -
  - Copy of the list of specified services as approved by the Approval Committee;
  - Documents evidencing payment of service tax on the specified services; and
  - Declaration by the developer or SEZ Unit that the specified services are received in relation to authorised operations in the SEZ.
- The AC / DC of Central Excise on being satisfied that the specified services have been used in relation to the authorized operations in the SEZ, shall refund the service tax paid on such specified services.
- Where refund is made erroneously, the service tax refunded shall be recoverable under the service tax provisions.

*Source:*

1. *Notification No. 9/2009-ST dated March 3, 2009*

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