

Export Of Service Rules, 2005

CONTENTS

1. Short title and commencement
2. Definitions
3. Export of taxable service
4. Export without payment of service tax
5. Rebate of service tax

Export Of Service Rules, 2005

In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement :-

- (1) These rules may be called the Export of Services Rules, 2005.
- (2) They shall come into force on the 15th day of March, 2005.

2. Definitions :-

In these rules, unless the context otherwise requires,-

- (a) "Act" means the Finance Act, 1994 (32 of 1994);
- (b) "input" shall have the meaning assigned to it in clause (k) of rule 2 of the CENVAT Credit Rules, 2004;
- (c) "input service" shall have the meaning assigned to it in clause (l) of rule 2 of the CENVAT Credit Rules, 2004.

3. Export of taxable service :-

(1) Export of taxable services shall, in relation to taxable services,-

(i) specified in sub-clauses (d), (p), (q), (v), (zzq), (zzza), (zzzb), (zzzc), (zzzh), (zzzr), ⁴[(zzzy), (zzzz) and (zzzza)]⁴ of clause (105) of section 65 of the Act, be provision of such services as are provided in relation to an immovable property situated outside India;

(ii) specified in sub-clauses (a), (f), (h), (i), (j), (l), (m), (n), (o), (s), (t), (u), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv),(zw), (zza), (zzc), (zzd), (zzf), (zzg), (zzh), (zzi), (zzl), (zzm), (zzn), (zzo), (zzp), (zzs), (zzt), (zzv), (zzw), (zzx), (zzy), (zzzd), (zzze),[(zzzf), (zzzp), (zzzzg), (zzzzh) and (zzzzi)]⁶ of clause (105) of section 65 of the Act, be provision of such services as are performed outside India:

Provided that where such taxable service is partly performed outside India, it shall be treated as performed outside India;

[Provided further that where the taxable services referred to in sub-clauses (zzg), (zzh) and (zzi) of clause (105) of section 65 of the Act, are provided in relation to any goods or material or any immovable property, as the case may be, situated outside India at the time of provision of service, through internet or an electronic network including a computer network or any other means, then such taxable service, whether or not performed outside India, shall be treated as the taxable service performed outside India;]⁵

(iii) specified in clause (105) of section 65 of the Act, but excluding,-

(a) sub-clauses (zzzo) and (zzzv);

(b) those specified in clause (i) of this rule except when the provision of taxable services specified in sub-clauses (d), (zzzc) and

(zzzr) does not relate to immovable property; and

(c) those specified in clause (ii) of this rule, when provided in relation to business or commerce, be provision of such services to a recipient located outside India and when provided otherwise, be provision of such services to a recipient located outside India at the time of provision of such service:

Provided that where such recipient has commercial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of service only when order for provision of such service is made from any of his commercial establishment or office located outside India.

[Provided further that where the taxable service referred to in sub-clause (zzzzj) of clause (105) of section 65 of the Act is provided to a recipient located outside India, then such taxable service shall be treated as export of taxable service subject to the condition that the tangible goods supplied for use are located outside India during the period of use of such tangible goods by such recipient.]⁷

2[(2) The provision of any taxable service specified in sub-rule (1) shall be treated as export of service when the following conditions are satisfied, namely:-

(a) such service is provided from India and used outside India; and

(b) payment for such service [x x x] **3** is received by the service provider in convertible foreign exchange.

Explanation.- For the purposes of this rule "India" includes the designated areas in the continental shelf and Exclusive Economic Zone of India as declared by the notifications of the Government of India in the Ministry of External Affairs numbers S.O. 429(E), dated the 18th July, 1986 and S.O.643(E), dated the 19th September, 1996.]²

4. Export without payment of service tax :-

Any service, which is taxable under clause (105) of section 65 of the Act, may be exported without payment of service tax.

5. Rebate of service tax :-

Where any taxable service is exported, the Central Government may, by notification, grant rebate of service tax paid on such taxable service or service tax or duty paid on input services or inputs, as the case may be, used in providing such taxable service and the rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure, as may be specified in the notification.¹