

## **Export of Services Rules, 2005**

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## **Export of Services Rules, 2005**

In exercise of the powers conferred by PR773"sections 93 and 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 15.3.2005.

### **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 R.2 of the CENVAT Credit Rules, 2004;
- (c) "input service" shall have the meaning assigned to it in clause (1) of R.2 of the CENVAT Credit Rules, 2004.

### **3. Export of taxable service :-**

**1** (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) and (zzzr) 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), (ztl), (zzm), (zzn), (zzo), (zzp), (zzs), (zzt), (zzv), (zzw), (zzx), (zzy), (zzzd), (zzze), (zzzf) and (zzzp) 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;

(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.

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

(a) such service is delivered outside India and used outside India; and

(b) payment for such service provided outside India 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."

In the Export of Services Rules, 2005 (hereinafter referred to as the said rules), In the said rules, for rule 3, shall be substituted, in place of :- "3. Export of taxable service.- The export of taxable service shall mean, (1) in relation to taxable services specified in sub-clauses (d), (p), (q), (v) "(zzq),(zzza), (zzzb),(zzzc) and (zzzh)" of clause (105) of S.65 of the Finance Act, 1994, such taxable services as are provided in relation to an immovable property which is situated outside India; "Provided that for the purposes of this sub-rule, any taxable services provided shall be treated as export of services only if- (a) such service is delivered outside India and used in business or for any other purpose outside India; and (b) payment for such service provided is received by the service provider in convertible foreign exchange." (2) in relation to taxable services 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), (zzj), (zzl), (zzm), (zzn), (zzo), (zzp), (zzs), (zzt), (zzv), (zzw), (zzx),"(zzy),(zzzd), (zzze), (zzzf)" of clause (105) of S.65 of the Finance Act, 1994, such services as are performed outside India: "Provided further that for the purposes of this sub-rule, any taxable services provided shall be treated as export of services only if- (a) such service is delivered outside India and used in business or for any other purpose outside India; and (b) payment for Such service provided is received by the service provider in convertible foreign exchange." Provided that if such a taxable service is partly performed outside India, it shall be considered to have been performed outside India; (3) in relation to taxable services, other than, - (i) the taxable services specified in sub-clauses (a), (f), (h), (i), (j), (l), (m), (n), (o), (p), (q), (s), (t), (u), (v), (w), (x), (y), (z), (zb), (zc), (zi), (zj), (zn), (zo), (zq), (zr), (zt), (zu), (zv), (zw), (zza), (zzc), (zzd), (zzf), (zzg), (zzh), (zzi), (zzj), (zzl), (zzm), (zzn), (zzo), (zzp), (zzq), (zzs), (zzt), (zzv), (zzw), (zzx),(zzy), (zzza), (zzzb), (zzze), (zzzf) and (zzzh)"; and (ii) the taxable service specified in sub-clause "(d) and (zzzc)" as are provided in relation to an immovable property, of clause (105) of S.65 of the Finance Act, 1994, - (i) such taxable services which are provided and used in or in relation to commerce or industry and the recipient of such services is located outside India: Provided that if such recipient has any commercial or industrial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of services only if - (a) order for provision of such service is made by the recipient of such service from any of his commercial or industrial establishment or any office located outside India; (b) service so ordered is delivered outside India and used in business outside India; and (c) payment for such service provided is received by the service provider in convertible foreign exchange; (ii) such taxable services which are provided and used, other than in or in relation to commerce or industry, if the recipient of the taxable service is located outside India at the time when such 'services are received. 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 Nos. S.O.429(E), dt. 18.7.1986 and S.O.643(E), dt. 19.9.1996. " by the Finance Act, 1994 (32 of 1994).

**4. Export without payment of service tax :-**

Any service, which is taxable under clause (105) of Section 65 of the Finance Act, 1994 , 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.