

# Rajasthan Housing Board, Jaipur

No. F2(8)/Comp./2013-14/ST-142/ 419-

Dated : 12/9/12

## Circular

### Sub : Regarding deduction and treatment of Service tax

As you are aware that since 01-07-2012 Vide Notification No. 32/2012-ST dated 20-06-2012 Issued by the Ministry of Finance, Government of India enforces the service receiver and service providers to pay their proportionate service tax under the Reverse Charge Mechanism (RCM) where both are required to get registered with service tax department and to pay tax w.e.f. 01-07-2012 and onwards.

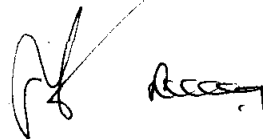
If service Provider (Contractor) is any Individual, HUF partnership firm (whether registered or not) including AOP, then RHB is liable to deduct and pay 50% of the service tax from the contractors bill under RCM in case of 'works contract services'.

### Services Chargeable to tax under RCM :-

(The Provisions of section 68(2) of the Finance Act, 1994 r.w. rule 2 (i) (iv) (d) and notification No. 30/2012-ST dated 20-06-2012 provides for service receiver to be one of the person liable to pay service tax)

SN.	Description of Service	Liability in (%) of		Nature of Person	
		Service Provider	Service Receiver	Service Provider	Service Receiver
1-	GTA : Freight payer in specified cases of Consignor/Consignee	0%	100%	Goods Transport Agency	Consignor or consignee being factory, registered society, co-operative society, registered dealer, body corporate, partnerships firms, LLP and association of persons
2-	In respect of services provided or agreed to be provided by way of Sponsorship service	0%	100%	Sponsorship provider	Body Corporate/ Partnership firm
3-	(i) Service provided by Arbitral tribunal	0%	100%	Arbitral Tribunal	Business Entity
	(ii) In respect of services provided or agreed to be provided by Individual Advocate or a firm of Advocates by way of legal services	0%	100%	Advocate / Firm of Advocates	Any service receiver

4-	Support service provided by any government/local authority excluding – (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) & (iii) of clause (a) of section 66(D) of the Finance Act, 1994.	0%	100%	Government/local authority	Any service receiver
5-	(a) In respect of services provided or agreed to be provided by way of renting/hiring of any passenger motor vehicle on abated value to any person who is not engaged in the similar line of business	0%	100%	Individual/ HUF/Prop/ Partnership	Company/ business entity
	(b) In respect of services provided or agreed to be provided by way of renting/hiring of any passenger motor vehicle on non abated value to any person who is not engaged in the similar line of business	60%	40%	Individual/ HUF/Prop/ Partnership	Company/ business entity
6-	In respect of services provided or agreed to be provided by way of Supply of manpower or security services for any purpose.	25%	75%	Any Service provider being any individual, HUF or partnership firm, whether registered or not, including association of persons, located in taxable territory	Any service receiver being a business entity registered as body corporate, located in the taxable territory



7-	In respect of services provided or agreed to be provided for service portion in execution of <u>'Works Contract'</u> .*	50%	50%	Any service provider being any individual, HUF or partnership firm, whether registered or not, including association of persons, located in taxable territory	Any service receiver being a business entity registered as body corporate, located in the taxable territory.
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It is clarified that Service Tax has to be separately shown in the Running bill/Final bill of works. Proper record of deduction / payment of Service Tax should be maintained by introducing a separate column in the Work Register of the contractor as well as separate accounts in ledger should be maintained for each and every head of Service Tax.

#### **\* Works Contracts [(u/c 66 E (h))]**

"Works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property.

*Pure labour contracts* do not fall in the definition of works contract. Hence these would be leviable to service tax like any other service on full value of the bill/contract.

**The value of 'service' and amount of Service Tax under works contract has to be computed as under :-**

1. **Original work** – 40% value of the total work is to be treated 'the value for applicability of service tax'. 12.00% service tax + 2% Ed. Cess on ST + 1% Higher Ed. Cess on ST (i.e. total @12.36%) is to be charged on the 40% of the bill amount/total works done.

2. **Calculation of Service Tax (on works contract) would be either in following two ways :-**

i) a)  $\frac{\text{Total Gross amount of bill (including ST)} \times 40}{100} = \text{Value of Service}$

100

b)  $\frac{\text{Value of Service} \times 12.36}{100} = \text{Service Tax (including Cess)}$

100

Or

ii)  $\frac{\text{Total Gross amount of bill (including ST)} \times 4.944}{100} = \text{Service Tax (including Cess)}$

100

3. **Maintenance or repair or reconditioning or restoration or servicing of any goods – 70%** of value of the total work is to be treated 'the value for applicability of service tax'. 12.00% of service tax + 2% Ed. Cess on ST + 1% Higher Ed. Cess on ST (i.e. total @ 12.36%) is to be charged on the 70% of the value service.
4. **Works contract not included in (1) and (2) above - 60%** of value of the total work to be treated the value for applicability of service tax. 12.00% of service tax + 2% Ed. Cess on ST + 1% Higher Ed. Cess on ST (i.e. total @ 12.36%) is to be charged on the 60% of the value service.
5. **Income Tax deduction (TDS) has to be made on the gross amount of the bill including the amount of Service Tax.**
6. **Passed order in Measurement Book as well as in Contractor bill should be mentioned as under :-**

		Bill Passed for (Rs. Four Lac only)	Rs. 4,00,000/-
<b>(i) Pay by deductions :-</b>			
SD @10%	Rs. 40,000	} Rates and amount shown here are illustrative only.	
Service Tax	Rs. 19776		
Income Tax @ 2%	Rs. 8000		
Royalty @ 1%	Rs. 4000		
<b>Total</b>	<b>Rs. 71,776</b>		
Less : Service Tax paid to Contt. under RCM @ 50%	Rs. 9888		
<b>Total deductions</b>	<b>Rs. 61,888</b>		<b>(-) 61,888</b>
<b>(ii) Pay by Cheque</b> (Rs. three lac thirty eight thousand one hundred twelve only)			<b>Rs. 3,38,112</b>
<b>Grand Total</b>			<b>Rs. 4,00,000</b>

7. **Posting in General Ledger under head 'Service Tax' should be on both side, (In the example mentioned above, posting in CR (Credit) side will be of Rs. 19776 whereas in DR (Debit) side for Rs. 9888). Difference in credit and debit sides will be the amount payable by Board to Service Tax Department.**

**As a Service Provider Rajasthan Housing Board is liable to charge and to pay the service tax on the 25 % of the total cost of the flat/house @ 12 % ST + 2 % Ed. Cess on ST + 1 % higher Ed. Cess on ST (Say @ 12.36 % ). RHB is not liable to charge/pay the service tax on purely OUT RIGHT SALE basis houses/ flats, where entire consideration is received after issuance of completion certificate by the competent authority.  
No service tax is leviable on the consideration received for the Auctioned property, as the entire consideration is received one time.**

*(Handwritten signature)*

**Some of the queries/doubts regarding applicability of Service Tax in various type of Contracts in RHB are being resolved here under :-**

S.No.	Nature of Work	Applicability of Service Tax
1	Construction of Residential Houses for sale to allottees	Service Tax is leviable under RCM as per system mentioned above.
2	Construction of Shops/Shopping Complex	Service Tax is leviable under RCM as per system mentioned above.
3	Construction of Roads in Colonies- a) Internal Roads b) External/Peripheral roads	No service tax is leviable as these roads are for use by general public. Service Tax is not leviable being exempt per entry no. 13(a) of Exemption Notification no. 25/2012 dated 20.6.2012
4	Construction of Staff Quarters of RHB for own employees (if quarters not for sale)	No service tax is leviable as per entry No. 12(f) of Exemption Notification no. 25/2012 dated 20.6.2012
5	Development Works in RHB Colonies- a) Construction of Parks and park boundary b) Plantation and arboriculture works in RHB Colonies c) Contract of Maintenance and up keeping of parks d) Repair & maintenance work of roads e) Repair and maintenance of Office buildings	No service tax is leviable as per entry no. 12(a) of Exemption Notification No. 25/2012 dated 20.6.2012 No Service Tax shall be leviable. Service Tax is leviable under RCM as per System Mentioned above. No service tax is leviable on repair and maintenance work of roads as per entry no. 13(a) of Exemption Notification no. 25/2012 dated 20.6.2012. Service Tax is leviable under RCM as per System Mentioned above.
6	Laying and jointing of pipe lines for- a) drinking water b) water treatment c) sewerage treatment or disposal etc. in RHB Colonies	No service tax is leviable as per entry no. 12(e) of Exemption Notification No. 25/2012 dated 20.6.2012 (The contractor who had provided the services will not charge the service tax in the bill)
7	As per notification no. 25/2012 dated 20.06.2012 entry no. 14(c) no Service Tax is leviable on Services by way of construction, erection, commissioning, or installation of original works pertaining to low cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the "Scheme of Affordable Housing in Partnership" framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India.	

**Some important and notable provisions regarding Service Tax :-**

- Failure to obtain registration is liable to penalty u/s 77 upto Rs. 10,000 per default.
- **Payment of Service Tax is to be done in (Form GAR 7) on monthly basis by 5<sup>th</sup> day of the following month.**
- **Returns :** Every assessee is required to file the returns electronically.

Returns (Form ST-3)	
For the half year:	To be filed by
1st April to 30th September	25 th October
1st October to 31st March	25th April

➤ **Revised Returns and belated Returns**

Returns to rectify mistakes and omissions can be revised within 90 days from the date of submission of original return. Belated returns can also be filed on payment of prescribed late fees.

➤ **Stringent Penalties**

- No registration – penalty of Rs. 10,000 per case
- Failure to maintain proper records/invoices etc. – penalty upto Rs. 10,000/-
- Interest @ 18% p.a. is payable as delayed payments
- Late filing of returns – penalty upto Rs. 20,000/-
- Delayed payments – Rs. 100 per day or 1 percent of tax every month subject to maximum of 50% of tax.
- Suppression of information/tax evasion – upto 100% of tax.
- Personal penalty for offences on directors/officers – upto Rs 1 lakh
- **Non payment of taxes collected – attachment of property / prosecution / arrest / imprisonment.**

Office order issued earlier vide no. F2(8)/Comp/ST-142/334 dated 12.08.2013 is partially modified regarding effectiveness of recovery of Service Tax dues. Now proportionate share of Service Tax payable on the part of Board is only to be recovered from the concerned Contractors / Firm / persons w.e.f. **1<sup>st</sup> July, 2012** instead of 1<sup>st</sup> April, 2007.

Separate agreement wise detailed statement is to be prepared before effecting old recoveries of Service Tax. If any amount of Service Tax has already been deposited by the Contractor, it may be considered after receiving attested photocopies of the challans along with an affidavit mentioning work order wise details of so deposited amounts and taking responsibility thereof.

It is therefore, enjoined upon to all officers concerned of the Board to take proper measures, independent due diligence, timely and suo moto compliance of the orders and Circulars issued by the Board.

  
Housing Commissioner

Copy to the following for Information/Compliance:-

1. PS to Chairman, RHB, Jaipur.
2. PS to Housing Commissioner, RHB, Jaipur.
3. Chief Engineer – I/II/HQ, RHB, Jaipur.
4. Addl. Chief Engineer – I/II/III, RHB, Jaipur/The Chairman, AVS-LC, Jaipur.
5. Dy. Housing Commissioner, Circle I/ II/ III, – Jaipur/ Jodhpur I & II/ Alwar/ Kota/ Udaipur/ Bikaner.
6. All Resident Engineer, RHB, Dn .....
7. All Sr. A.O., RHB, Jaipur.
8. All Accounts Officer/ Asstt. Accounts Officer, RHB, Circle .....
9. Joint Director (SA) with the instructions to upload on website of Board as well as on e-mail of Concerned Officers.

  
Financial Advisor