

Demystifying the rate change

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Rate of service tax is revised to 14 % w.e.f. 01.06.2015.

There will be no Education CESS and Secondary and Higher Education CESS on service tax from 01.06.2015.

No Swachh Bharat CESS. Date for this levy has not been notified.

As per Rule 4 of the Point of Taxation Rules, 2011 (POT Rules), applicability of the new rate of 14 % is explained as below.

S.No.	Service Provided	Invoice raised	Payment received	ST Rate Applicable	Remarks
1	Before 01.06.15	After 01.06.15	After 01.06.15	14 %	Rule 4 (a) (i)
2	Before 01.06.15	Before 01.06.15	After 01.06.15	12.36%	Rule 4 (a) (ii)
3	Before 01.06.15	After 01.06.15	Before 01.06.15	12.36%	Rule 4 (a) (iii)
4	After 01.06.15	Before 01.06.15	After 01.06.15	14 %	Rule 4 (b) (i)
5	After 01.06.15	Before 01.06.15	Before 01.06.15	12.36 %	Rule 4 (b) (ii)
5	After 01.06.15	After 01.06.15	Before 01.06.15	14 %	Rule 4 (b) (iii)

The balance of Education CESS and Secondary and Higher Education CESS in the Cenvat Account of a service provider cannot be used after 01.06.2015, as there is no such cess from 01.06.2015, on the output services provided. The balance may be carried forward as such for some time, awaiting further instructions.

The amount payable under Rule 6 of Cenvat Credit Rules, 2004 is revised from 6 % to 7 % with effect from 01.06.2015, in respect of exempted services. Please note, for exempted goods, it continues to be 6 %. For those who are following proportionate reversal under Rule 6 (3A), there are no changes.

In case of continuous supply of services, Rule 3 of POT Rules prescribes the manner of determination of Point of Taxation. But, Rule 4 of the said rules, dealing with applicability of rates in cases of change of rates is a non obstante provision and hence Rule 4 has to be applied, even for continuous supply of services. Let us see an example.

Service Period April 2015 to June 2015. Total amount charged Rs.30,000 (@ Rs.10,000 pm). Let us assume that the invoice has been raised before 01.06.2015. Service is being provided both prior to change of rate (April and May 2015) and after the change of rate (June 2015).

- If the entire amount of Rs.30,000 is received before 01.06.2015, Service Tax applicable would be only 12.36 %. {No rule specifically covers this situation. For April and May 2015 - Either Rule 4 (a) (ii) or 4 (a) (iii); For June 2015 - Rule 4 (b) (ii)}

- If the entire amount of Rs.30,000 is received on or after 01.06.2015, for the services provided in April / May 2015, service tax is applicable only at 12.36 % (i.e. on Rs.20,000). {Rule 4 (a) (ii)}

- But, for the services provided during June 2015 (after the change of rate), since the amount is also received after 01.06.2015, service tax will be 14 % on the proportionate value, i.e. Rs.10,000. i.e. Supplementary invoice should be raised for 2 % service tax on Rs.10,000. Though Education CESS and Secondary & Higher Education CESS are not applicable for this Rs.10,000 (on the date of POT, these CESSes are not in force), the same would have been already paid while raising invoice before 01.06.2015 and nothing could be done. (May the service receiver, who has borne its incidence, can claim refund of it) {Rule 4 (b) (i)}

- If an amount of Rs.25,000 is received before 01.06.2015, no additional service tax is payable on the said Rs.25,000, though Rs.5,000 out of Rs.25,000 pertain to June 2015. For the remaining Rs.5,000, pertaining to June 2015, additional service tax of 2 % has to be paid. Though Education CESS and Secondary & Higher Education CESS are not applicable for this Rs.5,000 (on the date of POT, these CESSes are not in force), the same would have been already paid while raising invoice before 01.06.2015 and nothing could be done. (May the service receiver, who has borne its incidence, can claim refund of it).

Lo and behold, a simple change of 12 % into 14 % leads to so much of complications. That's our law!