

Negative Blues - III

Service Tax applicability on Advocates / CAs, etc. from 1st July 2012

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With the introduction of negative list based levy of service tax with effect from 01.07.2012, the service tax applicability for advocates, Chartered Accountants, etc. are tabulated below.

S.No	Service Provider	Service Recipient	Applicability of levy	Remarks
1	Individual advocate	Other than Business entity	Service Tax exempted vide S.No. 6 of Notification 12/2012	Business entity is defined in Section 65B (17) as “any person ordinarily carrying out any activity relating to industry, commerce or any other business”. As per this definition, an individual shopkeeper would also be a business entity. If he engages an individual advocate in connection with his business entity, the exemption will not apply. If he engages an individual advocate not in connection with his business, then the exemption can be claimed.
2	Individual Advocate	Business entity	Service tax is payable. As per S.No. 5 of Notification 15/2012 service tax is payable by the business entity receiving the service	Refer to the definition of “business entity” as above.
3	Firm of advocates	Individual / Business entity	Service tax is payable by the service provider	Exemption is available only for services provided by an “individual advocate” to any person

				other than a business entity. Reverse charge is also not applicable here.
4	Legal services provided by persons other than "advocates". Eg. Tax Consultants / CAs, etc.	Individual / Business entity	Service tax is payable by the service provider.	The exemption is only when the service is provided by an individual "advocate". Even the reverse charge is applicable only when the service is provided by individual "advocate". The term "advocate" is also defined with reference to the Advocates Act.