

A close-up photograph of a hand holding a key. The hand is positioned on the left side of the frame, with the thumb and index finger gripping the key's head. The key is a standard metal key with a notched bit. The background is a dark blue gradient.

# Tax Review

Point of Taxation Rule, 2011

May 2011 - Update 4



# Service Tax

- Point of Taxation Rules, 2011 ('**POT Rules**') has been enacted vide Notification No 18/2011-ST dated March 1, 2011.
- POT Rules has replaced the earlier mechanism of determination of payment of service tax and determination of effective rate of tax which should be applied for the purpose of discharging service tax liability.
- Option has been granted to the assessee to continue to pay service tax on receipt basis till 30<sup>th</sup> June, 2011 ie, the POT Rules shall come into effect from 1<sup>st</sup> July, 2011.
- It has been further provided that professionals namely, Architects, Interior decorators, Chartered Accountants, Cost Accountants, Company secretaries, Scientists and Legal Consultants will continue to pay service tax on receipt basis instead of accrual basis



# Service Tax

- Changes as brought in POT Rules and corresponding amendments are as follows:

Earlier	Amended Scenario
Rule 6 of Service Tax Rules, 1994 ("Rules") provided for payment of service tax by 5 <sup>th</sup> / 6 <sup>th</sup> of next month following the month in which payment was received from the customer towards provision of taxable services or following the month in which the advance was received from the customer towards services to be provided.	Rule 6 of the Rules provides for payment of service tax by 5 <sup>th</sup> / 6 <sup>th</sup> of next month following the month in which service is provided in terms of POT Rules, hereinafter referred to as "Point of Taxation".
Rate of effective tax as applicable was not prescribed	Rule 4 of POT Rules prescribed the effective rate of tax

## Determination of Point of Rendering of Service:

Rule 3 of POT Rules provides that services shall be determined to have been provided or deemed to have been provided as under:

First Event	Subsequent Event	Point of Taxation
Issuance of Invoice	Rendering of service or receipt of payment	Issuance of Invoice
Services Rendered and Invoice is issued within 14 days of completion of service	Invoice issued or receipt of payment	Issuance of Invoice
Services Rendered and Invoice is issued after 14 days of completion of service	Invoice issued or receipt of payment	Date of completion of Service
Receipt of Advance	Invoice issued or completion of Service or receipt of payment	Receipt of advance
Receipt of Payment	Invoice issued or completion of Service	Receipt of payment

## Determination of Point of Rendering of Service in case of continuous supply of services ("CSS"):

First Event	Subsequent Event	Point of Taxation
Issuance of Invoice	Completion of Service or receipt of advance	Issuance of invoice
Completion of service	Invoice issued within 14 days	Issuance of invoice
Completion of Service	Invoice not issued within 14 days	Date of completion of service
Receipt of advance or payment	Invoice issued or services completed	Receipt of advance or payment

**Note:** CSS has been defined as services provided or to be provided for a period exceeding three months. The following services have been categorized as CSS:

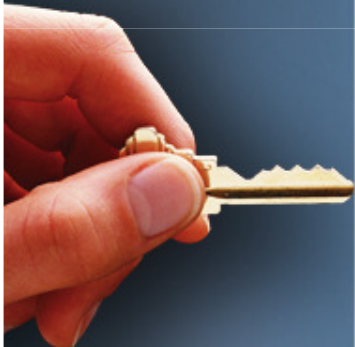
- Telecommunication Service
- Commercial or Industrial Construction Service
- Construction of Residential Complex
- Internet Telecommunication Service
- Works Contract Service

These services will be considered 'CSS' irrespective of the period for which they are provided or to be provided. Other services will be considered 'CSS' only if they are provided or to be provided continuously for a period exceeding three months.



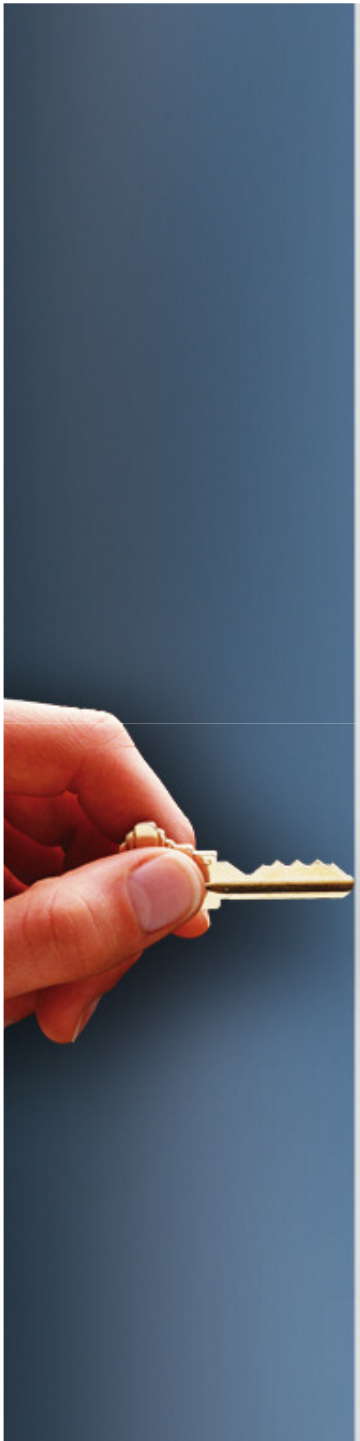
## Determination of effective rate of service tax in:

Event prior to change of effective rate	Event subsequent to change of effective rate	Effective Rate applicable for discharge of service tax liability
Provision of service, issuance of Invoice and receipt of payment	N.A.	Prior to change
Services rendered	Invoice issued and payment received	As Applicable on date of issuance of Invoice or date of receipt of payment, whichever is earlier
Services rendered and invoice issued	Payment received	As applicable at the time of issuance of Invoice
Services rendered and payment received	Invoice issued	As applicable at the time of receipt of Payment
Invoice issued and payment received	Service provided	As applicable on the date of issuance of Invoice or date of receipt of payment, whichever is earlier



## Determination of effective rate of service tax:

Event prior to change of effective rate	Event subsequent to change of effective rate	Effective Rate applicable for discharge of service tax liability
Invoice issued	Payment received and Services rendered	As applicable on the date of Receipt of payment
Payment received	Invoice issued and services rendered	As applicable on the date of issuance of Invoice
Invoice issued and payment received before the service became taxable	N.A.	No Service Tax
Service provided before the service became taxable	Invoice within 14 days and payment received after tax became effective	No Service tax
Payment received before service became taxable	Invoice issued within 14 days of providing of service	No service tax



### **Determination of POT in certain special cases:**

- In case of Export of Service, POT shall be the date of receipt of payment provided the payment is received within the period specified by the RBI.
- In case the payment is not received within the stipulated time, the POT would be determined as explained in previous slides.
- In case of services where the service tax is payable under reverse charge, if the payment is made within 6 months of date of invoice, POT shall be the date of payment. Else, POT shall be determined as per slides defined above.
- In case of associated enterprises where the person providing services is outside India, the POT shall be the date of credit in the books of account of the person receiving the services or the date of making the payment, whichever is earlier.
- Adjustment of service tax paid is allowed if service is not subsequently provided and provision has been made for reduction of tax on count of credit notes.



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