GOVERNMENT OF INDIA

MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF FOREIGN TRADE

POLICY CIRCULAR NO 10 /2002-2007 Dated: 1st August , 2002

To

All Licensing Authorities
All Commissioners of Customs,

Subject: Registration with the Service Tax Authorities for Application under EPCG Licence for Service providers.

Attention is invited to Public Notice No 12 dated 02.05.2002 wherein for applications under the EPCG Scheme by service providers, one of the documents prescribed was the Registration certificate with the Service Tax authorities.

Section 69 of Chapter V of the Finance Act, 1994 (as amended by the Finance Act. 1997, 1998, 1999, 2000 and 2001) pertaining to registration goes as under: "Every person liable to pay the service tax under this chapter or the rules made there under shall, with in such time in such manner and in such form as may be prescribed, make an application for registration to the Superintendent of Central Excise."

This indicates that only those service providers who are liable to pay the service tax can apply for registration with the Service tax authorities.

Part (72) of Section 65 of Chapter V of the Finance Act , 1994 (as amended) lists out these taxable services as under:

(72) "taxable service" means any service provided –
(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognized stock exchange;
(b) to a subscriber, by the telegraph authority in relation to a telephone connection;
(c) to a subscriber, by the telegraph authority in relation to a pager;
(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance businesses;
(e) to a client, by an advertising agency in relation to advertisement, in any manner;
(f) to a customer, by courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;
(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;
(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;
(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;
(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;
(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner;
(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;
(m) to a client, by a Mandap keeper in elation to the use of Mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any rendered as a caterer;
(n) to any person, by a tour operator in relation to a tour;
(o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;
(p) to a client, by an architect in his professional capacity, in any manner;
(q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether manmade or otherwise, in any manner;
(r) to a client by a management consultant in connection with the management of any organisation, in any manner;
(s) to a client, by a practising chartered accountant in his professional capacity, in any manner;
(t) to a client, by a practising cost accountant in his professional capacity, in any manner;
(u) to a client, by a practising company secretary in his professional capacity, in any manner;
(v) to a client, by a real estate agent in relation to real estate;
(w) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;
(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;
(y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;
(z) to a client, by an underwriter in relation to underwriting, in any manner;
(za) to a client, by a scientist or technocrat or any science or technology institution or organisation, in relation to scientific or technical consultancy;
(zb) to a customer, by a photography studio or agency in relation to photography, in any manner;
(zc) to a client, by any commercial concern in relation to holding of convention, in any manner;
(zd) to a subscriber, by the telegraph authority in relation to a leased circuit;
(ze) to a subscriber, by the telegraph authority in relation to a communication through telegraph;
(zf) to a subscriber, by the telegraph authority in relation to a communication through telex;
(zg) to a subscriber, by the telegraph authority in relation to a facsimile communication;
(zh) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;
(zi) to a client, by a video production agency in relation to video-tape production, in any manner;

"taxable service" means any service provided –

(zj) to a client, by a sound recording studio or agency in relation to any kind of sound recording;
(zk) to a client, by a broadcasting agency or organization in relation to broadcasting, in any manner;
(zl) to a policy holder or insurer, by an actuary or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services;
(zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;
(zn) to any person, by a port or any person authorised by the port, in relation to port services, in any manner;
(zo) to a customer, by an authorised service station, in relation to any service or repair of motor cars or two wheeled motor vehicles; in any manner and the term "service provider" shall be construed accordingly;

However this list is subject to amendments from time to time . In tune with the provisions of Chapter V of the Finance Act pertaining to "Service Tax" and the proviso under PN 12 dated 02.05.2002, it is hereby clarified that in case of applications under EPCG for the service sector by service providers, the registration certificate from the Service Tax Authorities would be insisted upon only if the service provided under the EPCG Licence is "taxable" as per Part (72) of Section 65 of Chapter V of the Finance Act , 1994 (as amended from time to time).

This issues with the approval of the Director General of Foreign Trade .

A.B. Menon
Deputy DGFT

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