

CORPORATE ADVISORY ALERT – 'SWACHH BHARAT CESS'

As per the Finance Act, 2015, vide Notification No. 22/2015 - Service Tax dated November 6, 2015 issued by the Ministry of Finance, Government of India, **Swachh Bharat Cess (Clean India Cess)** will be levied @ 0.50% on the taxable value of the service.

So, with effect from November 15, 2015 the effective Service Tax rate has been revised from 14% to 14.5% (i.e. 14% Service Tax + 0.50% Swachh Bharat Cess). This Service Tax rate (or the rates applicable to that service) will be applicable on charges levied as per the General Schedule of Features and Charges for your account/s.

Example:

Value of taxable service	₹ INR 100
Add: Service Tax @ 14%	₹ INR 14
Add : Swachh Bharat Cess @ 0.50%	₹INR 0.50
Total	₹ INR 114.50

As a result of this notification, all Octagona Invoices after November 15, 2015 to your company shall bear a service tax rate of 14.5% instead of 14%.

Also, your esteemed company has to take this into consideration for services provided on or after 15th November 2015, invoice in respect of which is issued on or after that date and payment is also received on or after that date.

Further, please note below some frequently asked questions about this new development.

Q.1 What is Swachh Bharat Cess (SBC)?

Ans. It is a Cess which shall be levied and collected in accordance with the provisions of Chapter VI of the Finance Act, 2015, called Swachh Bharat Cess, as service tax on all the taxable services at the rate of 0.5% of the value of taxable service.

Q.2 What is the date of implementation of SBC?

Ans. The Central Government has appointed 15th day of November, 2015 as the date from which provisions of Swachh Bharat Cess will come into effect (notification

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No.21/2015-Service Tax, dated 6th November, 2015 refers).

Q.3 Whether SBC would be leviable on exempted services and services in the negative list?

Ans. Swachh Bharat Cess is not leviable on services which are fully exempt from service tax or those covered under the negative list of services.

Q.4 Why has SBC been imposed?

Ans. SBC has been imposed for the purposes of financing and promoting Swachh Bharat initiatives or for any other purpose relating thereto.

Q.5 How will the SBC be calculated?

Ans. SBC would be calculated in the same way as Service tax is calculated. Therefore, SBC would be levied on the same taxable value as service tax.

Q.6 Whether SBC would be required to be mentioned separately in invoice?

Ans. SBC would be levied, charged, collected and paid to Government independent of service tax. This needs to be charged separately on the invoice, accounted for separately in the books of account and paid separately under separate accounting code which would be notified shortly. SBC may be charged separately after service tax as a different line item in invoice. It can be accounted and treated similarly to Education cesses.

Q.7 What would be effective rate of service tax and SBC post introduction of SBC?

Ans. Effective rate of service tax plus SBC, post introduction of SBC, would be [14% + 0.5%].

Q.8 Whether SBC is a 'Cess' on tax' and we need to calculate SBC @ 0.50% on the amount of service tax like we were earlier doing for calculating Education Cess and SHE Cess?

Ans. No, SBC is not a cess on Service Tax. SBC shall be levied @ 0.5% on the value of taxable services.

Q.10 Whether SBC is levied on all or selected services?

Ans. The Central Government was empowered to impose SBC either on all or some of the taxable services. Vide notification No 22/2015-ST dated 6-11-2015, Government has notified 4 that SBC shall be applicable on all taxable services except services which are either fully exempt from service tax under any notification issued under section 93(1) of the Finance Act, 1994 or are otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

Q.11 How will the SBC be calculated for services under reverse charge mechanism?

Ans. In case of reverse charge under section 68(2) of the Finance Act, 1994, the liability has been shifted from service provider to the service recipient. As per section 119 (5) of the Finance Act, 2015, the provisions of Chapter V of the Finance Act, 1994, and the rules made thereunder are applicable to SBC also. Thus, the reverse charge under section 68(2) of the Finance Act, 1994, is made applicable to SBC. In this context, to clarify, Government has issued notification No. 24/2015-Service Tax dated 12th November, 2015 to provide that reverse charge under notification No.30/2012-Service Tax dated 20th June, 2012 shall be applicable for the purpose of levy of Swachh Bharat Cess mutatis mutandis.

Q.12 What would be the point of taxation for Swachh Bharat Cess?

Ans. As regards Point of Taxation, since this levy has come for the first time, all services (except those services which are in the Negative List or are wholly exempt from service tax) are being subjected to SBC for the first time. SBC, therefore, is a new levy, which was not in existence earlier. Hence, rule 5 of the Point of Taxation Rules would be applicable in this case. Therefore, in cases where payment has been received and invoice is raised before the service becomes taxable, i.e. prior to 15th November, 2015, there is no liability of Swachh Bharat Cess. In cases 5 where payment has been received before the service became taxable and invoice is raised within 14 days, i.e. upto 29th November, 2015, even then the service tax liability does not arise. **Swachh Bharat Cess will be payable on services which are provided on or after 15th Nov, 2015, invoice in respect of which is issued on or after that date and payment is also received on or after that date. Swachh Bharat Cess will also be payable where service is provided on or after 15th Nov, 2015 but payment is received prior to that date and invoice in respect of such service is not issued by 29th Nov, 2015.**

New Delhi, 30/11/2015
