

{1} MANDAP KEEPER SERVICE {w.e.f. 1st July 1997}- Export/Import Category 'B'

1. Definitions:-

- a. **Mandap** means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fitting and floor coverings therein let out for consideration for organizing any official, social or business function. {Social function includes marriage}
- b. **Mandap keeper** means a person who allows temporary occupation of a mandap for consideration for organizing any official, social or business function.
- c. **Caterer** means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion.

2. Taxable service means:- {Section 65(105)(m)}

Any service provided or to be provided to any person, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided or to be provided to such person in relation to such use and also services, if any, provided or to be provided as a caterer.

Note:-

- ✓ "Immovable property" does not include standing timber, growing crops or grass.
- ✓ Dance, drama or music programme or competition are social functions and allowing temporary occupation of a hall for a consideration for organizing such function are liable to service tax.

3. Exemptions:-

- a. The taxable services provided to any person by a mandap keeper for the use of the precincts of a religious place as a mandap are exempt from service tax leviable there on. Here, religious place means a place which is meant for conduct of prayers or worship pertaining to a religion [Notification No. 14/2003 ST dated 20.06.2003].
- b. In case of services provided by a hotel as mandap keeper, where services provided include catering services (i.e. supply of food along with any service in relation to use of a mandap), an abatement of 40% of the gross amount charged is granted if the bill issued for this purpose indicates that it is inclusive of charges for catering services. Accordingly, in such cases, service tax is payable on 60% of the gross amount charged for the above services. However, the exemption is not available in cases where:
 - (i) The CENVAT credit of duty paid on inputs or capital goods or the CENVAT credit of service tax on input services, used for providing such taxable service, has been taken under the provisions of Cenvat Credit Rules, 2004; or
 - (ii) The service provider has availed the benefit under the Notification No. 12/2003 ST, dated 20.06.2003.Here, "food". means a substantial and satisfying meal. "Hotel" means a place that provides boarding and lodging facilities to public on commercial basis [Notification No. 1/2006 ST dated 01.03.2006].
- c. An abatement of 40% of the gross amount charged is granted in case of services in relation to use of mandap, including the facilities provided to the client in relation to such use and also for the catering charges. Accordingly, in such cases, service tax is payable on 60% of the gross amount charged for the above services. This exemption shall apply only in such cases where the mandap keeper also provides catering services, that is, supply of food and the invoice, bill or challan issued indicates that it is inclusive of the charges for catering service. However, the exemption is not available in cases where:
 - i. The CENVAT credit of duty paid on inputs or capital goods or the CENVAT credit of service tax on input services, used for providing such taxable service, has been taken under the provisions of Cenvat Credit Rules, 2004; or
 - ii. The service provider has availed the benefit under the Notification No. 12/2003 ST, dated 20.06.2003.Here, "food" means a substantial and satisfying meal [Notification No. 1/2006 ST dated 01.03.2006].

{2} COMMERCIAL TRAINING OR COACHING SERVICES {w.e.f. 1st July 2003} Export/Import Category 'B'

1. Definitions:-

- a. **Commercial training or coaching** means any training or coaching provided by a commercial training or coaching center {Section 65(26)}.
- b. **Commercial Training or Coaching Centre** means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include-
 - i. **Preschool coaching and training centre or**
 - ii. **Any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognized by law for the time being in force.**

2. Taxable Service means:- {Section 65(105)(ztc)}

Any service provided or to be provided to any person by a commercial training or coaching centre in relation to commercial training or coaching.

3. Exemption:-

- a. Taxable services, provided in relation to commercial training or coaching by, -
 - i. a vocational training institute;
 - ii. a recreational training institute;

To any person are exempt from the whole of the service tax leviable thereon. However, this exemption is not available to the taxable services provided in relation to commercial training or coaching by a computer training institute.

Explanation - For the purposes of this notification, -

(i) A vocational training institute. means a commercial training or coaching centre which provides vocational coaching or training that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching;

(ii) "Recreational training institute" means a commercial training or coaching centre which provides coaching or training relating to recreational activities such as dance, singing, martial arts, hobbies.

(iii) "computer training institute" means a commercial training or coaching centre which provides coaching or training relating to computer software or hardware [Notification No. 24/2004 ST dated 10.09.2004].

- b. The taxable services provided by a commercial training or coaching centre, in relation to commercial training or coaching, which form an essential part of a course or curriculum of any other institute or establishment, leading to issuance of any certificate or degree or educational qualification recognized by law for the time being in force, to any person, are also exempt from the whole of the service tax leviable thereon. However, this exemption shall not be applicable if the charges for such services are paid by the person undergoing such course or curriculum directly to the commercial or coaching centre [Notification No. 10/2003 ST dated 20.06.2003]

{3} INFORMATON TECHNOLOGY SOFTWARE SERVICE {w.e.f. 16th May 2008}- Export/Import Category 'C'

1. Definitions:-

Information technology software means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment. {Section 65(53)(a)}.

2. Taxable Service means:-

Any service provided or to be provided to any person, by any other person in relation to information technology software for use in the course, or furtherance, of business or commerce, including,-

- a. Development of information technology software,
- b. Study, analysis, design and programming of information technology software,
- c. Adaptation, upgradation, enhancement, implementation and other similar services related to information technology software,
- d. Providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the start-up phase of a new system, specifications to secure a database, advice on proprietary information technology software.
- e. Acquiring the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,
- f. Acquiring the right to use information technology software supplied electronically.

{4} SERVICES IN RESPECT OF MEMBERSHIP OF CLUBS OR ASSOCIATION {w.e.f. 16th June 2005}- Export/Import Category 'B'

1. Definitions:-

Clubs or association means any person or body of persons providing services, Facilities or advantages, for a subscription or any other amount, to its members, but does not include-

- i. Anybody established or constituted by or under any law for the time being in force; or
- ii. Any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or
- iii. Any person or body of persons associated with press or media {Section 65(25)9a)}.

2. Taxable Service means:- {Section 65(105)(zzze)}

Any service provided or to be provided to its members, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount.

3. Exemption:-

Resident welfare association providing services to their members where monthly contribution of member does not exceed Rs. 3,000 is exempt from service tax.

Note:- Resident welfare association is eligible to avail of exemption even if it is registered as a co-operative society with the Registrar of Co-operative Societies.