



ISSUES OF SERVICE TAX IN THE NPO SECTOR

WHAT IS A NON-PROFIT ORGANIZATION?

- Tax & regulatory definition: an organization that
 - Enjoys special tax status
 - Faces a non-distribution constraint (profit=0)
- Functional definition: an organization that forms to
 - Perform “public tasks”
 - environmental protection, social service provision
 - Perform tasks for which there is demand but no supply from for-profits or governments
 - religious activity, art museum
 - Influence the direction of public policy

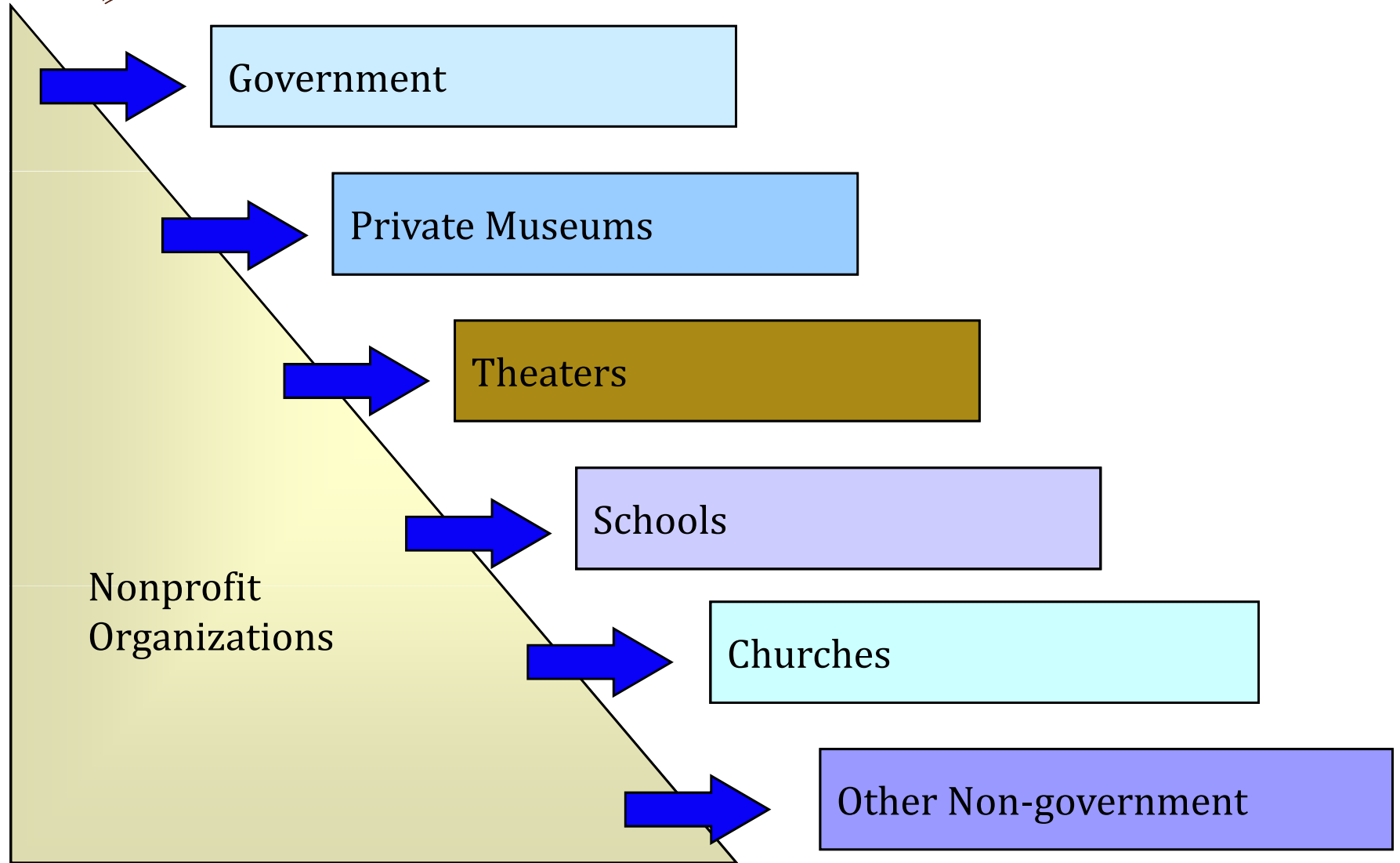


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- Not conducted or maintained for the purpose of making a profit.
- Not commercially motivated
- A nonprofit organization is one that has committed legally not to distribute any net earnings (profits) to individuals with control over it such as members, officers, directors, or trustees. It may pay them for services rendered and goods provided.



NONPROFIT ORGANIZATIONS



Procedure for registration

- Application for registration is to be made by every person liable for paying the service tax in **Form ST-1**:
 - (i) within 30 days from the date on which service tax is levied **or**
 - (ii) within 30 days from the date of commencement of businesswhichever is later,
to the concerned Superintendent of Central Excise having jurisdiction.
- The Superintendent of Central Excise shall after due verification of the application form (Form ST-1), or an intimation of change in any information or details under sub-rule (5A), as the case may be, grant a certificate of registration in **Form ST-2** within 7 days from the date of receipt of the application or intimation.
- If the registration certificate is not granted within the said period, the registration applied for shall be deemed to have been granted.

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- **Certificate of registration in Form ST-2** should indicate the details of all the taxable services provided by the service provider.
- Change in any information or details furnished by an assessee at the time of obtaining registration or any additional information or detail intended to be furnished should be intimated in **Form ST-1** in writing by the assessee to the jurisdictional Assistant/Deputy Commissioner of Central Excise **within a period of 30 days of such change** .
- When a registered assessee transfers his business to another person, the transferee shall obtain a **fresh certificate of registration**.

Chargeability of service tax

- The effective rate of Service tax is 10.3% [i.e. 10% basic rate of service tax +2% ec+1%shhec] calculated on the gross amount charged for the service provided.
- If the aggregate value of taxable services provided does not exceed Rs. 10 lacs in the previous FY, the concerned service provider would not be required to pay service tax upto receipts of Rs. 10 lacs in the current FY.
- **Who should make an application for registration?**
Any provider of taxable service whose aggregate value of taxable service in a financial year exceeds Rs. 9,00,000

Issue of Invoice OR Bill OR Challan

- Every service provider has to issue an invoice or a bill, or a challan signed by such person or a person authorized by him in respect of such taxable service provided or to be provided. The invoice, bill or challan should be serially numbered.
- The invoice, bill or challan should contain the name, address & registration no. of the service provider; name & address of the person receiving the service; description, classification and value of the taxable service provided and the service tax payable thereon.

Time limit for issue of Invoice/Bill/Challan

Such an invoice has to be issued within **fourteen days** from the date of completion of such taxable service **or** receipt of any payment towards the value of such taxable service **whichever is earlier**.

Due date for payment of service tax

- Due date for payment of service tax *on the service which is deemed to be provided* by an individual or a proprietary firm or a partnership firm.

S. No.	Particulars	Due date for payment of service tax
1	If the service tax is paid electronically through internet banking	6 th day of the following quarter
2	In any other case	5 th day of the following quarter
3	<i>In the case service is deemed to be provided in the month of March, or quarter ending in March, as the case may be</i>	<i>31st day of March</i>

Due date for payment of service tax

- Due date for payment of service tax *on the service which is deemed to be provided in any other cases (company and HUF)*
- If the last day of payment of service tax is a public holiday, tax can be paid on next working day.

S. No.	Particulars	Due date for payment of service tax
1	If the service tax is paid electronically through internet banking	6 th day of the following month
2	In any other case	5 th day of the following month
3	<i>In the case service is deemed to be provided in the month of March, or quarter ending in March, as the case may be</i>	<i>31st day of March</i>

Procedure for payment of service tax [E-Payment]

E-payment of the service tax

Where an assessee has paid a total service tax of rupees ten lakh or more including the amount paid by utilisation of CENVAT credit, in the preceding financial year, he shall deposit the service tax liable to be paid by him electronically, through internet banking.

Procedure for payment of service tax [by GAR-7 Challan]

In case, the assessee is not required to make the e-payment of service tax and the assessee opts to make payment by the conventional mode, following procedure would be followed:

- Duty is payable in authorized bank by way of GAR-7 challan where Bank is having 'EASIEST' facility.
- GAR-7 challan is a **single copy challan** with tax payer's counterfoil at the bottom of challan. Both challan and counterfoil are to be filled in by assessee.
- The challans should be serially numbered from 1st April on wards.
- The details to be filled in GAR-7 challan include full name, address, telephone no., PIN code and STC code of the assessee; the commissionerate name, code; the division and range code; accounting code of service tax; amount tendered in Rs. Etc.
- Details filled in the challan and Taxpayer's counter-foil should be identical.
- The counterfoil duly receipted by Bank with stamp of Bank will be given by receiving Bank to assessee. The stamp of receiving bank will contain Challan Identification Number (CIN). This CIN will have to be quoted in the return.

RETURN :

Manner of filing Return

1	Form of return	Return/revised return has to be furnished in Form ST-3 .
2	Periodicity of filing return	Service tax return has to be filed on a half-yearly basis .
3	Details to be furnished	Return must indicate <i>inter alia</i> , monthwise: (i) the value of taxable services charged/billed; (ii) the value of taxable service realised; (iii) the amount of service tax payable/paid etc.
4	Enclosures to return	Half-yearly return in Form ST-3 is required to be accompanied by:- (i) Photocopy of counterfoil of GAR-7 challan. (ii) Memorandum in Form ST-3A (where the assessment is provisional).

Due date for filing return

Returns have to be filed on half yearly basis by the 25th of the month following the particular half year.

For the half year	Return to be filed by
1 st April to 30 th Sept.	25 th October
1 st October to 31 st March	25 th April

- If the 25th of the month is a public holiday, the service tax returns are to be filed on next working day immediately following the holiday.
- With effect from 1.10.2011, electronic filing of returns has been made mandatory for all assessees.

Services that may be provided by the NPOs

- Commercial training and coaching services
- Health check up or preventive care
- Management business consultant's service.
- Scientific or technical consultancy service.
- Public relation service.

Issues on service tax related to the NPO Sector

- NPOs undertake the CSR initiatives taken by corporates.
- Service tax is paid by the NPOs while rendering services pursuant to the fulfillment of these CSR initiatives.
- NPOs also offer their services by executing grant agreements, for which they receive lumpsum fee.
- There is no clarity at present with regard to the taxability of such grant agreements.
- Department may be approached for issuing a clarification in this regard.

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- As per section 65(19) of the Finance Act 1994, the definition of “*Business auxiliary service*” includes provision of service on behalf of the client. Hence, consultancy rendered by a NPO for corporates may be encompassed within the purview of this definition.
- The work areas of NPOs generally pertain to education, health, upliftment of the poor, conservation of natural resources and the public welfare and social causes.
- Various sops and concessions have been provided to NPOs in other laws like income-tax, excise duty and customs duty etc. There is a need for similar exemption for various services rendered by the NPO sector in service tax as well.

THANK

YOU!

