

# Service Tax Provisions for NGOs

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# Agenda

- Introduction about service tax
- History
- Concept of service and negative list
- Applicability to NGOs
- Valuation, Abatement and Reverse charge
- Administrative changes
- Retrospective changes in law

# History

- 1990 – Tax Reform committee Prof. Raja J. Cheillah
- 1994- Introduction of service tax.
- Only 3 services were taxed.
  - Telephone
  - Non-life Insurance
  - Stock Brockers

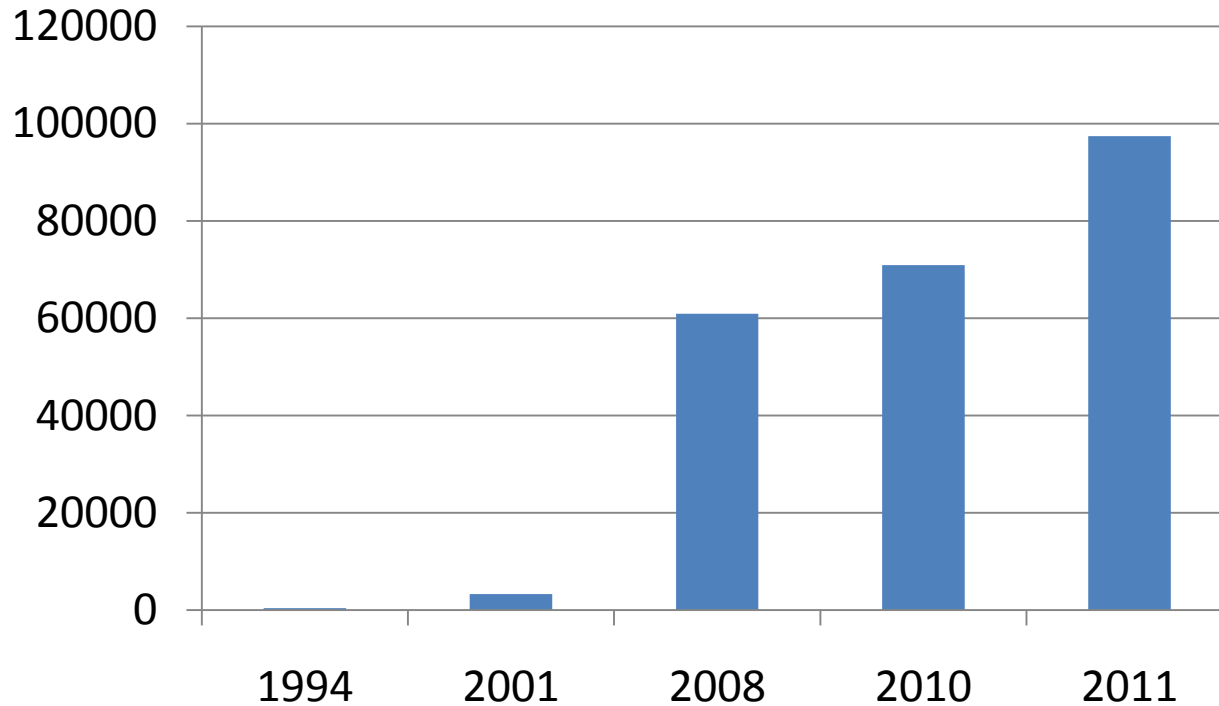


- 1994 to 2012 – Broadening of Service tax by introduction of newer services
- 2012 – Introduction of Negative list
- Rates of Service tax

S.N o.	Period	Service tax Rate	Education cess	SHE Cess
1	01-07-1994 to 13-05-2003	5%	-	-
2	14-05-2003 to 09-04-2004	8%	-	-
3	10-09-2004 to 17-04-2006	10%	2%	-
4	18-04-2006 to 11-05-2007	12%	2%	-
5	12-05-2007 to 23-02-2009	12%	2%	1%
6	24-02-2009 to 31-03-2012	10%	2%	1%
7	01-04-2012 onwards	12%	2%	1%

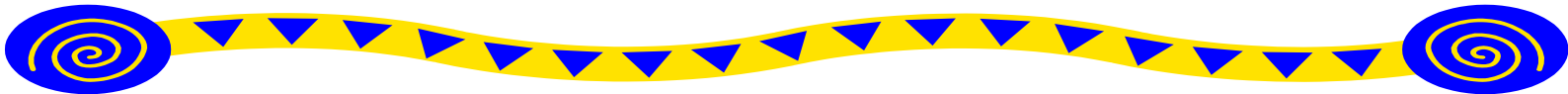
# Service tax Collections

In Crores



# Rationale for Negative list

- Lack of clarity
- Gaps in the definitions of services
- Administrative challenge
- Avoidance of overlapping and confusion
- Need for comprehensive approach



# Negative List

Applicable from  
**1<sup>st</sup> of July 2012**

# Negative List impacts

- Step towards **Comprehensive** Approach from Selective Approach
- Classification issues **simplified**
- Coverage remains **intact**
- Only **few** additions made e.g. Astrology, Rail Travel.
- Scheme of Export and Import taxability shifted to **proposed** Place of Provision of Service Rules



# Comparatives

Positive List

119 Services



Negative List



17 Services  
excluded


+


34 Services  
exempted

+

8 other Services  
exempted

# What is Service

Service  activity + consideration + Service receiver & Service provider

Service  declared service e.g. Works Contract, Construction linked plans, IPR, Renting, Right to use, Hire purchase sales, Information Technology Software,

# Negative List impacts

Service 

1. Sale, Gift and transfer



Goods

or



Immovable property

2. Only money & actionable claim transaction

# Negative List impacts

Service 

3. Employer - Employee



4. Fees to court/tribunal



# Impact of changed Rate on Point of

## Taxation

01.04.2012

✓ New rate

✓ Old rate

Invoice ✓ Service  
complete

Payment

Service  
complete Payment ✓

Invoice

Service  
complete

Invoice ✓ Payment

# Impact of changed Rate on Point of

## Taxation

01.04.2012

✓ New rate

✓ Old rate

Invoice

Service  
complete

Payment ✓

Invoice ✓ Payment

Service  
complete

Payment

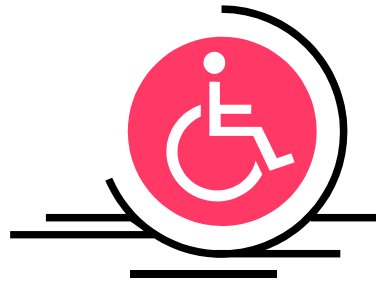
Service  
complete

Invoice ✓

# Exemptions to NGOs

Notification no. 25/2012

Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities.



CHARITABLE ACTIVITIES?

# Public health

Care and counseling

Public awareness

Terminally ill or  
severe  
disability

HIV or AIDS

Addicted  
(drugs/alcohol)

Preventive  
Health

Family Planning

Prevention of  
HIV



# Educational Programs and Skill Development

abandoned, orphaned or homeless children

physically or mentally abused and traumatized persons

persons over the age of 65 years residing in a rural area

prisoners

# OTHER CHARITABLE ACTIVITIES

- Advancement of Religion and Spirituality
- Preservation of environment including watershed, forests and wildlife.
- advancement of any other object of general public utility

f/y 2012-13

< 18.75 Lacs

f/y 2013-14 onwards

< 25 Lacs

Condition: P/Y < 25 Lacs

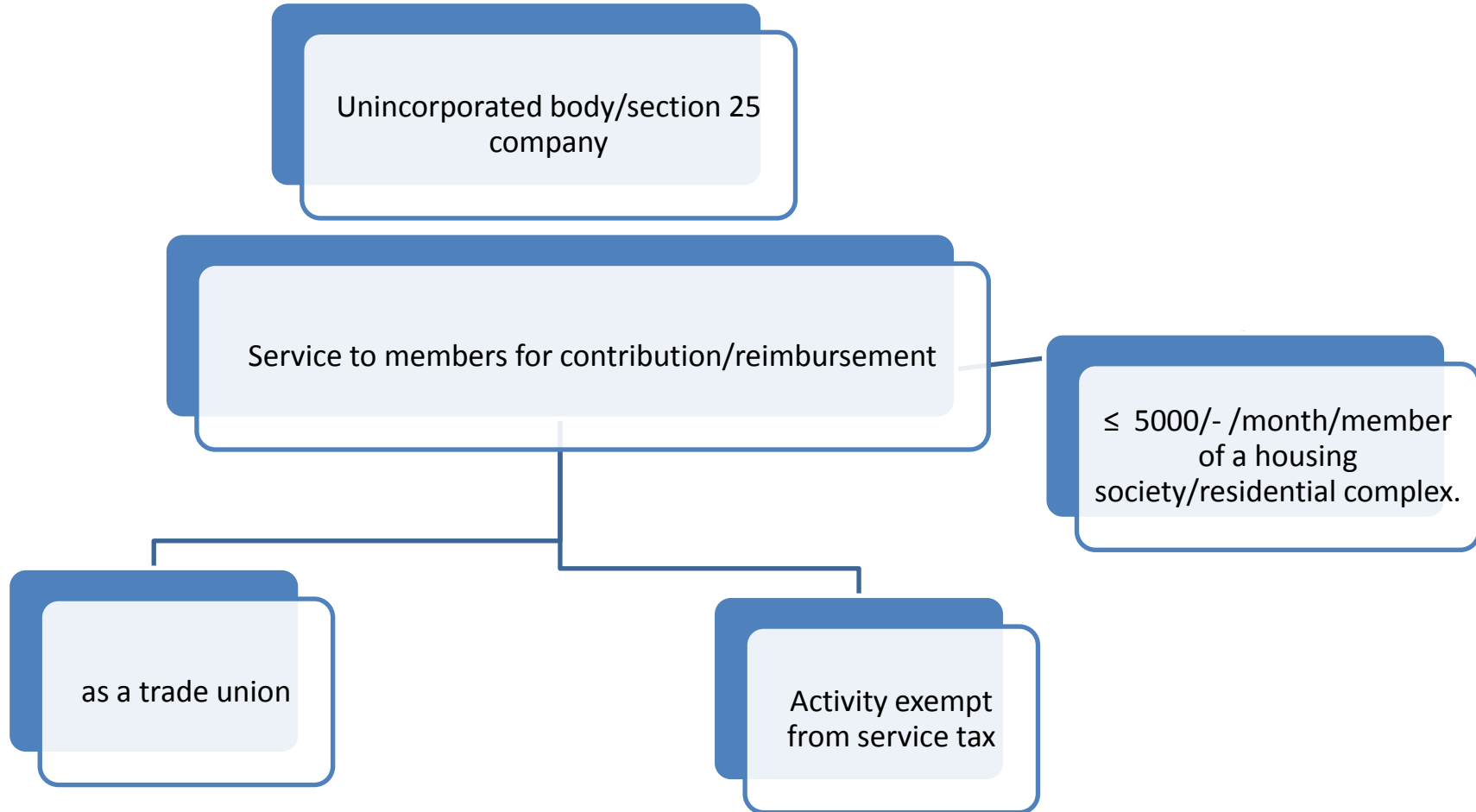


# NGOs Exemptions

- construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration
- a building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use or for the general public



# Trade union/Associations



# Import of Services

Service provider  
situated outside  
India

The diagram consists of two blue arrows pointing towards each other. The left arrow points right and contains the text 'Service provider situated outside India'. The right arrow points left and contains the text 'Section 12AA entity for charitable Activities'. The arrows meet at a central point, forming a diamond shape.

Section 12AA entity  
for charitable  
Activities

# Renting religious place

Renting of  
religious  
place

- Meant for  
general public

Conduct of  
Religious  
Ceremony



# Reverse Charge

Applicable from  
**1<sup>st</sup> July 2012**

# Reverse Charge

	Earlier	Now
■ Telecommunication	✓	✗
■ General Insurance Auxiliary	✓	✗
■ Insurance Auxiliary Service by agent	✓	✓
■ Import of Service	✓	✓
■ Goods Transport Agency Service	✓	✓
■ Mutual Fund Distributors	✓	✗
■ Sponsorship Service	✓	✓
		+



# Service Tax Return & Challans

- **Proposal** to merge Service Tax & Excise Return  
+  
Challans for payment of Tax and Duty
- **Applicable only after discussion at public forum**

# Appeals and Show Cause Notice

# Appeals and Show Cause Notice

Time period

Old

New

**Show Cause Notice**

12 months

18 months

**Appeal to Commissioner**

by Tax Payer

3 months

2 months

by Department

3 months

3 months

# Appeals and Show Cause Notice

Time period

Existing

Proposed



## Appeal to Tribunal

by Tax Payer

3 months

3 months

by Department

3 months

4 months

# Retrospective Changes

Applicable from  
enactment of Finance Bill, 2012

# Retrospective Changes

Repair of Road

**Exempted** from **16.06.2005**

SEZ turnover **part of taxable turnover** for Rule 6 of CENVAT Credit Rules from **10.02.2006**

Amnesty scheme for **Renting Service** for tax upto **February 2012**

# Threshold Limit for Service Tax

Applicable from April 01, 2012

Aggregate taxable ~~receipts~~

~~turnover~~ 10 lacs in preceding year

*Thank  
You*

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