

Tax Hotline

August 20, 2004

DRAFT RULES FOR DETERMINING 'EXPORT OF SERVICES' ANNOUNCED

The Finance Bill, 2004 enabled the Government to make rules for defining 'export of taxable service' which would be exempt from the 8% service tax levy. In exercise of this power, the Government has released draft rules ("**Rules**") for defining the meaning of export of services for public comments.

Currently, as per the **Notification No 21/2003** dated November 20, 2003, services in respect of which consideration is received in convertible foreign exchange are exempt from service tax. The Rules propose to modify this position by granting such exemption only to export of taxable services, as defined by the Rules. These Rules have bifurcated the taxable services in various categories discussed below in brief:

- Services of architects, interior decorators, real estate agents and construction services will be regarded as having been exported if the immovable property with respect to which the services are rendered is situated outside India.
- A host of other services such as stock broking, underwriting, credit rating, market research, technical testing, commissioning and installation, and commercial training or coaching are regarded as exported if they are performed either wholly or partly outside India.
- The balance taxable services are regarded as exported depending on the location of the recipient, as under:
 - § if they are used in or in relation to commerce or industry, they will be regarded as exported if the recipient of such services is located outside India. However, the proviso to this sub-rule states that where the recipient has a commercial or industrial establishment or any office in India, the recipient shall be deemed not to be located outside India.*
 - § In other cases, i.e. in respect of the residual services not relating to commerce and industry, the services will be regarded as having been exported if the recipient of the service is outside India at the time when such service is received.

Where any taxable services are provided to units undertaking export of goods, irrespective of the above bifurcation, such services will be regarded as exempt from tax. The Rules also state that the Government may release further rules for rebate of service tax paid on input services in respect of exports of taxable services.

Note*: Kindly note that these are draft Rules, open for public comments. These Rules do not provide clarity regarding a situation where the consideration is paid by an entity outside India, who though might have an office in India, is actually consuming the services outside India.

Source: [www.taxindiaonline.com/What's New/ Export of services/ Draft rules](http://www.taxindiaonline.com/What's%20New/Export%20of%20services/Draft%20rules)

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Clinical Trials and Biomedical Research in India

April 22, 2025

Structuring Platform Investments in India For Foreign Investors

March 31, 2025

India's Oil & Gas Sector— at a Glance

March 27, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia |

**Vaibhav Parikh, Partner, Nishith
Desai Associate on Tech, M&A, and
Ease of Doing Business**

March 19, 2025

**SIAC 2025 Rules: Key changes &
Implications**

February 18, 2025