

Tax Hotline

March 04, 2005

EXPORT OF SERVICE' RULES NOTIFIED

In August 2004, the Government released the draft Export of Services Rules ("Rules") which discussed situations when services would be regarded as exported outside India, and be exempt from service tax ([read our Hotline summarizing the draft rules](#)). The Government has now notified these rules, by way of **Notification No 9/2005 dated March 3, 2005**. These Rules shall be effective March 15, 2005. From that date, the existing exemption available to services in respect of which consideration is received in convertible foreign exchange will be withdrawn.

As per the Rules, services taxable under the Finance Act, 1994 will be exempt from service tax where the same are exported outside India. In order to determine what constitutes export of services, all the notified services have been bifurcated into 4 categories, as under:

Type of services	When regarded as export of services
Services architects, interior decorators, real estate agents and construction services	Rendered in respect of immovable property situated outside India
A A host of 44 services such as stock broking, underwriting, credit rating, market research, technical inspection and certification, commissioning and installation, etc.	A A If performed either wholly or partly outside India
A Balance services which are used in or in relation to commerce or industry such as intellectual property, scientific or technical consultancy, business auxiliary services, etc.	A A If the recipient of such services is located outside India. However, if the recipient has a presence in India, services will be regarded as exported only if: <ul style="list-style-type: none"> ■ Order for provision of such service is made by the recipient from outside India; ■ Services are delivered outside India and used in business outside India; and ■ Payment in respect of such services is received in convertible foreign exchange
A Balance services when they are provided and used other than in or in relation to commerce and industry	A A If the recipient of the service is located outside India at the time when such service is received.

For this purpose, India is defined to include the designated areas in the Continental Shelf and Exclusive Economic Zone of India. The Rules further provide that any service tax or duty paid on any input services or inputs used in providing the services exported would be available as a rebate subject to such conditions and limitations and as per the procedure laid down in this respect.

Source: **Notification No 9/2005 dated March 3, 2005**

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