

# 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exemption available to services in respect of which consideration is received in convertible foreign exchange will be withdrawn.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

Services architects, interior decorators, real estate agents and construction services

A

A host of 44 services such as stock broking, underwriting, credit rating, market research, technical inspection and certification, commissioning and installation, etc.

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

Balance services when they are provided and used other than in or in relation to commerce and industry

### When regarded as export of services

Rendered in respect of immovable property situated outside India

A A

If performed either wholly or partly outside India

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:

- 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 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**

## 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

### Evolution of Generative AI

July 11, 2024

### From Capital to Impact: Role of Blended Finance

June 15, 2024

### Opportunities in GIFT City

June 14, 2024

## Research Articles

### Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

### Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

### Emerging Legal Issues with use of Generative AI

October 27, 2023

## Audio

### Pursuing Remedies against Non-signatories in Investment Agreements

July 03, 2024

### Why is the ad industry unhappy with MIB's self-declaration mandate?

June 18, 2024

### Incorporation of arbitral clause by reference: Position in India and other Asian Jurisdictions

June 12, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

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

## Video

### Self Declaration Certificate For Ads: Decoding The Complexities Of Ad Regulations

July 08, 2024

**Future of India-Mauritius tax treaty –  
Impact of new Protocol on M&A  
deals and Private Equity structures**

April 23, 2024

**Q&A 2024 Protocol to the Mauritius  
India Tax Treaty**

April 22, 2024