

**INDIAN INSTITUTE OF TECHNOLOGY KANPUR
FINANCE OFFICER'S OFFICE**

No. IITK/A-36/LC-121

Dated: November 8, 2013

All HoDs

Professors In-charge, Civil / Electrical / Air-Conditioning

Chairman, COW / Chairman, SAEC

Administrative Officer / Sr. DR (F&A) / SE, IWD

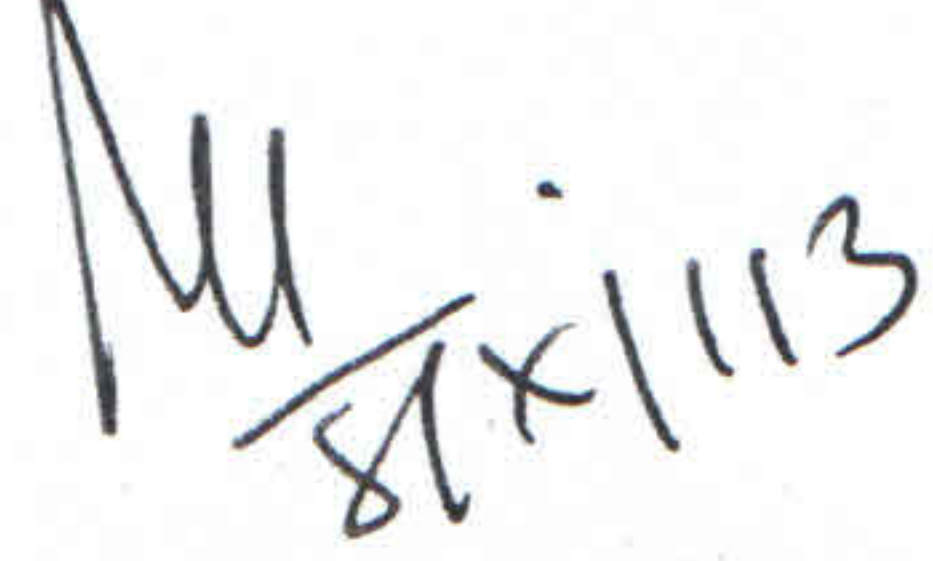

All Deputy Registrars

All Assistant Registrars

Subject: Non-applicability of Service Tax on the Services rendered to the Institute.

This is in supersession of Deputy Registrar (Legal)'s email of October 10, 2013 (copy enclosed for reference) on the above subject.

2. I am directed to convey the approval of Director to the following:
 - a. In view of GOI, MoF, DoR clarification F. No. B1/14/2013-TRU dated 19 September 2013 from Shri J M Kennedy, Director (TRU) (copy enclosed for reference), payment/reimbursement of Service Tax in respect of messing, housekeeping, transportation and security should be stopped with retrospective effect from 01.07.2012.
 - b. Any payment(s) made on these aspects should be recovered from the department concerned or contractors / service providers, as the case may be.


Munish Malik
Finance Officer


Encl.: as above

Copy with enclosures to:

1. Director
2. Deputy Director
3. All Deans
4. Acting Registrar

Circular No.172/7/2013 – ST

F. No.B1/14/2013-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Tax Research Unit

146-F, North Block
New Delhi, 19th September, 2013

To
Chief Commissioners of Central Excise and Service Tax (All),
Director General (Service Tax), Director General (Central Excise Intelligence),
Director General (Audit),
Commissioners of Service Tax (All),
Commissioners of Central Excise and Service Tax (All).

Madam/Sir,

Subject: Education services – clarification -- reg.

The following representations have been received seeking clarifications regarding the levy of service tax on certain services relating to the education sector:

1. Private Schools Correspondents Confederation, Madurai.
 2. Tamil Nadu Nursery, Primary, matriculation and Higher Secondary Schools Association, Chennai.
 3. Punjab Association, Chennai.
 4. Association of Self financing Universities of Rajasthan
 5. Unaided Schools' Forum, Mumbai.
 6. Vedavalli Vidyalaya, Wallajapet.
 7. Independent Schools Associations, Chandigarh.
 8. Mother Teresa Public School, New Delhi.
 9. BVM Global, Chennai.
 10. Sastra University, Tanjavur.
 11. HLC International, Chennai.
 12. Sodexo Food Solutions, Mumbai.
 13. Federation of Associations of Maharashtra, Mumbai.
2. The matter is covered by two provisions of the Finance Act, 1994. Section 66D of the Finance Act contains a negative list of services and clause (l) thereof reads as under:
"services by way of –
- (i) pre-school education and education upto higher secondary school or equivalent;
 - (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;"

Further section 93(1) of the Finance Act, 1994, enables the Government to exempt generally or subject to such conditions taxable service of specified description. By virtue of the said power, Government has issued a notification No.25/2012-ST dated 20th June, 2012, exempting certain services. Sl.no.9 thereof reads as follows:

“Services provided to an educational institution in respect of education exempted from service tax, by way of,-

(a) auxiliary educational services; or

(b) renting of immovable property;”.

As defined in the said notification, *“auxiliary educational services” means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge–enhancement activity, whether for the students or the faculty, or any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to admission to such institution, conduct of examination, catering for the students under any mid-day meals scheme sponsored by Government, or transportation of students, faculty or staff of such institution.*

3. By virtue of the entry in the negative list and by virtue of the portion of the exemption notification, it will be clear that all services relating to education are exempt from service tax. There are many services provided to an educational institution. These have been described as “auxiliary educational services” and they have been defined in the exemption notification. Such services provided to an educational institution are exempt from service tax. For example, if a school hires a bus from a transport operator in order to ferry students to and from school, the transport services provided by the transport operator to the school are exempt by virtue of the exemption notification.

4. In addition to the services mentioned in the definition of “auxiliary educational services”, other examples would be hostels, housekeeping, security services, canteen, etc.

5. Thus the apprehensions conveyed in the representations submitted by certain educational institutions and organizations have no basis whatsoever. These institutions, and organizations are requested not to give credence to rumours or mischievous suggestions. If there is any doubt they are requested to approach the Chief Commissioner concerned.

6. All concerned are requested to acknowledge the receipt of this circular.

(J.M.Kennedy)

Director, TRU

Tel: 011-23092634

E-mail: jm.kennedy@nic.in

From: "CP Singh" <singhpc@iitk.ac.in>
Subject: Non-applicability of Service Tax on the services rendered to the Institute
Date: Thu, October 10, 2013 6:20 pm
To: "akmisra" <akmisra@iitk.ac.in>,mkghorai@iitk.ac.in,"Mohammad Shakeel" <shakeel@iitk.ac.in>,"sharif@iitk.ac.in" <sharif@iitk.ac.in>,"JAGADISH SARANGI" <jsarangi@iitk.ac.in>,"sujay@iitk.ac.in" <sujay@iitk.ac.in>,"rajg@iitk.ac.in" <rajg@iitk.ac.in>,"rkverma@iitk.ac.in" <rkverma@iitk.ac.in>,"pdanand@iitk.ac.in" <pdanand@iitk.ac.in>,"Kdakhale@iitk.ac.in" <Kdakhale@iitk.ac.in>,"rrdohare@iitk.ac.in" <rrdohare@iitk.ac.in>
Cc: "dydir@iitk.ac.in" <dydir@iitk.ac.in>,malikm@iitk.ac.in,"sachan@iitk.ac.in" <sachan@iitk.ac.in>

Dear Sirs,

Reference is invited to the following:

- (a) Notification No. 25/2012-Service Tax dated 20.06.2012, issued by the Ministry Finance (Department of Revenue), Government of India;
- (b) Notification No. 3/2013-Service Tax dated 1.03.2013, issued by the Ministry of Finance (Department of Revenue), Government of India; and
- (c) Letter F. No. B1/14/2013-TRU dated 19.09.2013 from Shri J M Kennedy, Director (TRU), Ministry of Finance (Department of Revenue).

Sr. DR (F&A) has sought further clarification /opinion of the designated Tax Consultant(s) of the Institute, and a firm decision on the subject will be taken appropriate level with the urgency that it deserves, on receipt of consultant's advice (expected early next week).

Meanwhile, you are requested to keep all payments as well as reimbursement of Service Tax to contractors and other service providers in abeyance until further advice.

This issues with the concurrence of Finance Officer.

Yours sincerely,

--

CP Singh
Deputy Registrar (Legal) &
Central Public Information Officer
IIT Kanpur
Kanpur - 208016
Phone : 0512-2597728
Mobile : +919450137898

Attachments:

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