

TAX FLASH NEWS

FAQ on Swachh Bharat Cess issued by the CBEC

Background

After the introduction of a Swachh Bharat Cess (SBC) on all taxable services at the rate of 0.5 per cent on the value of taxable services from 15 November 2015 vide Notification No. 21/2015-ST dated 6 November 2015, the Central Board of Excise and Customs (CBEC) has issued a list of Frequently Asked Questions (FAQ) clarifying various aspects relating to the levy and collection of SBC.

Coverage

The FAQ cover various aspects on the levy and collection of the SBC, including the purpose of levy and the utilisation of funds. We have summarised below the clarifications issued by the CBEC on key aspects like valuation, point of taxation, reverse charge and credit:

- SBC is not leviable on services which are fully exempt from service tax or those which are specified in the negative list of services or those which are otherwise not liable to service tax.
- Taxable value for the payment of SBC:
 - The SBC would be calculated in the same manner as service tax; hence the SBC would be levied on the same taxable value as that of service tax.
 - Taxable services, on which service tax is leviable as a certain per cent of the value of the taxable service, will attract SBC on the same per cent of the value as provided in the service tax abatement notification.
- The SBC on services covered by Rule 2A (works contract), Rule 2B (money changing) or Rule 2C (supply of food or other article in a restaurant or outdoor catering) of Service Tax (Determination of Value) Rules, 2006 would be computed by multiplying the said value with 0.5 per cent.
- Air travel agents, life insurance companies, persons engaged in the purchase and sale of foreign currency and distributors/selling agents of lottery [who are covered under sub-rule (7), (7A), (7B) and (7C) of Rule 6 of the Service Tax Rules, 2004] shall have the option to pay the SBC as per the following formula:

$$\text{Service tax liability [calculated as per sub-rule (7), (7A), (7B) or (7C)]} \times \frac{0.5 \text{ per cent}}{14 \text{ per cent}}$$

It is to be noted that this option upon exercise by an assessee shall apply uniformly for such services and shall not be changed during a financial year under any circumstances.
- Point of Taxation for the SBC:
 - The SBC is a new levy, therefore, Rule 5 of the Point of Taxation Rules, 2011 would be applicable.
 - Accordingly, the SBC will not apply (a) if the payment is received and an invoice is raised before 15 November 2015; and (b) if payment is received before 15 November 2015 and invoice is raised within 14 days i.e. up to 29 November 2015.

- The SBC will be payable on services provided on or after 15 November 2015 and the invoice generated as well as on payment received after that date.
- The Point of Taxation for payment of the SBC under a reverse charge mechanism will be governed by Rule 7 of the Point of Taxation Rules, 2011. Accordingly, the date of payment to the service provider will determine the liability of the SBC for e.g. if payment is made after 15 November 2015 for services received prior to that date, then SBC will be payable.
- CENVAT credit:
 - The SBC paid on receipt of input services cannot be availed as CENVAT credit. Further, it cannot be paid by utilising the credit of any other duty or tax.
 - As the SBC is not integrated into the CENVAT credit chain, a reversal of the SBC is not required under Rule 6 of the CENVAT Credit Rules, 2004.
- Payment and accounting of the SBC:
 - The SBC needs to be separately shown on the invoice and should be accounted for and paid separately. The following accounting codes should be used for payment of the SBC:



Swachh Bharat Cess (minor head)	Tax collection	Other receipts	Penalties deduct	Refunds
0044-00-506	00441493	00441494	00441496	00441495

Our comments

The FAQ on SBC released by the CBEC is a welcome step as it seeks to provide clarity to trade and the industry on various aspects of the levy and collection of SBC and the same are expected to be useful for effective tax compliance by the taxpayers.

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