



## Enabling provisions relating to 'Krishi Kalyan Cess' introduced

### Background

The Government of India, during the Union Budget 2016, proposed to introduce 'Krishi Kalyan Cess' (KKC) to be levied with effect from 1 June 2016 on the value of all taxable services at the rate of 0.5 per cent.

With the receipt of the Presidential assent on 14 May 2016, the Chapter VI of the Finance Act 2016 (No. 28 of 2016) which deals with the provisions relating to levy of KKC has become effective. One of the key objectives to introduce KKC is to provide finance and promote initiatives relating to improvement in the agriculture sector.

### Notifications and Circular

Pursuant to the introduction of the KKC, the Government issued several notifications<sup>1</sup> on 26 May 2016 that deal with various aspects relating to the levy and collection of KKC. We have attempted to summarise below these notifications on key aspects like valuation, point of taxation, reverse charge and CENVAT credit:

- KKC cannot be levied on services that 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.

<sup>1</sup> Notification Nos. 27/2016-Service Tax to 31/2016-Service Tax and Notification No. 28/2016-Central Excise (N.T.) dated 26 May 2016

- The services that are liable to service tax in the hands of the service recipient as specified in Notification No. 30/2002-ST dated 20 June 2012 will also be liable to KKC under reverse charge mechanism.
- Rebate of KKC will be allowed on all input services used in providing services exported in terms of Rule 6A of the Service Tax Rules, 1994.
- Exemption from KKC extended to services received by a unit located in a Special Economic Zones (SEZ) or Developer of SEZ and used for the authorised operations.
- Value for levy of KKC
  - KKC will be calculated in the same manner as service tax; hence it will be levied on the same taxable value as that of service tax as determined under Service Tax (Determination of Value) Rules, 2006.
  - In case any abatement is granted to any taxable service, KKC would also be calculated on the abated value.

- 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, 1994] shall have the option to pay KKC as per the following formula:

*Service tax liability [calculated as per sub-rule (7), (7A), (7B) or (7C)] X 0.5 per cent  
14 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

- KKC being a new levy, as per amendment made in the Point of Taxation Rules, 2011 (POT Rules), Rule 5 would be applicable.
- Accordingly, KKC will not apply (a) if the payment is received and an invoice is raised before 1 June 2016; and (b) if payment is received before 1 June 2016 and invoice is raised within 14 days i.e. up to 14 June 2016.
- KKC will be payable on services provided on or after 1 June 2016 and the invoice generated as well as on payment received after that date.
- The Point of Taxation for payment of the KKC under a reverse charge mechanism will be governed by Rule 7 of the POT Rules. Accordingly, the date of payment to the service provider will determine the liability of the KKC for e.g. if payment is made after 1 June 2016 for services received prior to that date, then KKC will be payable.

- CENVAT credit of KKC

- CENVAT credit of KKC paid is available only to a service provider and not to a manufacturer.

- CENVAT credit of KKC paid on input services can be utilised only towards payment of KKC on output services.
- CENVAT credit pertaining to other duties (e.g. excise duty, service tax, etc.) cannot be utilised for payment of KKC.

- Accounting codes for payment of KKC<sup>2</sup>

The KKC 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 KKC.

KKC (minor head)	Tax collection	Other receipts (interest)	Deduct refunds	Penalties
0044-00-507	00441509	00441510	00441511	00441512

## Our comments

Among the various amendments made to give effect to the levy of KKC, the provisions related to determination of point of taxation with respect to services provided before the introduction of levy is a challenging proposition for the industry. The amended Rule 5 of POT Rules results in a situation where assessee will be required to pay KKC on all outstanding payments for services already provided before 1 June 2016.

This could pose a significant challenge for the industry to implement both financially as well as procedurally. The government should provide more clarity and possibly grant exemption from levy of KKC to services rendered before the effective date i.e. 1 June 2016.

<sup>2</sup> Circular No. 194/04/2016-ST dated 26 May 2016 issued by the Central Board of Excise and Customs

[www.kpmg.com/in](http://www.kpmg.com/in)

**Ahmedabad**

Commerce House V, 9th Floor,  
902 & 903, Near Vodafone House,  
Corporate Road,  
Prahlad Nagar,  
Ahmedabad – 380 051  
Tel: +91 79 4040 2200  
Fax: +91 79 4040 2244

**Bengaluru**

Maruthi Info-Tech Centre  
11-12/1, Inner Ring Road  
Koramangala, Bangalore 560 071  
Tel: +91 80 3980 6000  
Fax: +91 80 3980 6999

**Chandigarh**

SCO 22-23 (1st Floor)  
Sector 8C, Madhya Marg  
Chandigarh 160 009  
Tel: +91 172 393 5777/781  
Fax: +91 172 393 5780

**Chennai**

No.10, Mahatma Gandhi Road  
Nungambakkam  
Chennai 600 034  
Tel: +91 44 3914 5000  
Fax: +91 44 3914 5999

**Delhi**

Building No.10, 8th Floor  
DLF Cyber City, Phase II  
Gurgaon, Haryana 122 002  
Tel: +91 124 307 4000  
Fax: +91 124 254 9101

**Hyderabad**

8-2-618/2  
Reliance Humsafar, 4th Floor  
Road No.11, Banjara Hills  
Hyderabad 500 034  
Tel: +91 40 3046 5000  
Fax: +91 40 3046 5299

**Kochi**

Syama Business Center  
3rd Floor, NH By Pass Road,  
Vytilla, Kochi – 682019  
Tel: +91 484 302 7000  
Fax: +91 484 302 7001

**Kolkata**

Unit No. 603 – 604,  
6th Floor, Tower – 1,  
Godrej Waterside,  
Sector – V, Salt Lake,  
Kolkata 700 091  
Tel: +91 33 44034000  
Fax: +91 33 44034199

**Mumbai**

Lodha Excelus, Apollo Mills  
N. M. Joshi Marg  
Mahalaxmi, Mumbai 400 011  
Tel: +91 22 3989 6000  
Fax: +91 22 3983 6000

**Noida**

6th Floor, Tower A  
Advant Navis Business Park  
Plot No. 07, Sector 142  
Noida Express Way  
Noida 201 305  
Tel: +91 0120 386 8000  
Fax: +91 0120 386 8999

**Pune**

703, Godrej Castlemaine  
Bund Garden  
Pune 411 001  
Tel: +91 20 3050 4000  
Fax: +91 20 3050 4010

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2016 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

This document is meant for e-communications only.