

# Flash on clarification on “Completion of Services”



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Finance Act, 2011 re-introduced section 89 which lists down the offences under the provisions of service tax law which could result in prosecution. One of the offences under the above provision is where the service provider fails to raise an invoice within 14 days of completion of services.

Since the introduction of this provision, there was considerable concern on part of industry, since this provision seemed extremely harsh for a technical lapse.

In response to the representations requesting clarification as to the point of “Completion of Services” under Point of Taxation Rules, 2011 and Service Tax Rules, 1994, Central Board of Excise & Customs (CBEC) has come out with clarification on the matter through Circular No. 144/13/2011-ST-18.07.2011.

CBEC has clarified that to determine the time of completion of services in addition to the physical completion of the services, what also needs to be considered is the “auxiliary activities” which are essential to put the service provider into a position to issue an invoice. These auxiliary activities may include measurement, quality testing and other similar steps.

Accordingly, the period of 14 days will start from the date of completion of not only the services but also these essential auxiliary activities. This same instruction also stands good for determining the time of completion of service in case of “continuous supply of services”.

## **Conclusion**

This clarification does not seem to fully address the primary issue, prosecution for non-issue of an invoice in a timely manner seems to be an extremely harsh provision.

One would have to wait to see whether the Government sees fit to provide further relief on this issue.

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