

## ***CBEC clarifies many issues on Krishi Kalyan Cess***

May 27, 2016

### ***In brief***

The Central Board of Excise and Customs has issued notification nos. 27-31/2016-Service Tax, notification no. 28/2016-Central Excise (N.T.) and circular no. 194/04/2016-ST, all dated 26<sup>th</sup> May, 2016, making amendments in the service tax law for bringing clarity on provisions governing levy of Krishi Kalyan Cess (KKC) and prescribing accounting code for payment of KKC.

### ***In detail***

#### ***Effect of the amendments***

Central Board of Excise and Customs has issued notification nos. 27-31/2016-Service Tax, notification no. 28/2016-Central Excise (N.T.) and circular no. 194/04/2016-ST, all dated 26<sup>th</sup> May, 2016 making amendments in the service tax law, for bringing clarity on provisions governing levy of Krishi Kalyan Cess (KKC) and prescribing accounting code for payment of KKC. Key provisions of the amendments are as under:

- Notification no. 27/2016 provides for levy of KKC under the reverse charge mechanism for services, where the service recipient is liable to pay service tax (on full or part of the value) under the reverse charge mechanism.
- Notification no. 28/2016 provides exemption from levy of KKC where the services are exempted from service tax, or are not subject to service tax. The notification further

provides for grant of abatement from levy of KKC equal to abatement available for service tax, i.e., where service tax is payable only on 30% of the value of taxable services, KKC will also be computed on 30% of the value of taxable services. The notification also clarifies that the value of the taxable services for calculation of KKC would be the value computed in terms of the Valuation Rules.

- Notification no. 29/2016 provides for rebate of KKC paid on input services used for output services which are exported.
- Notification no. 30/2016 provides for refund of KKC paid on input services received and used by SEZ units and developers.
- Notification no. 31/2016 provides that in case of services provided by an air travel agent, life insurer, person purchasing or selling foreign exchange, or a distributor or selling

agent of lottery, where the service tax rules provide for an alternate mechanism to compute service tax liability, such persons can compute and pay KKC as under:

**Amount payable as service tax × effective rate of KKC**  
**Rate of service tax as specified in section 66B**

The rule giving the option for payment of Swachh Bharat Cess on similar lines has been amended to bring the language of both rules at par.

- Notification no. 28/2016-Central Excise (N.T.) allows CENVAT credit of KKC paid on input services to a service provider. The notification further provides that CENVAT credit of any other duty will not be allowed to be utilized for payment of KKC and only CENVAT credit of KKC paid on input services can be utilized only for payment of KKC on output services. A manufacturer is not eligible to claim CENVAT credit of

KKC. It is not completely clear how CENVAT credit of KKC on input services will be available

for a taxpayer who is manufacturer as well as service provider.

- Circular no. 194/04/2016-ST provides accounting code for payment of Krishi Kalyan Cess as under:

S. No.	KKC (Minor Head)	Tax Collection	Other Receipts (Interest)	Deduct Refunds	Penalties
1	0044-00-507	00441509	00441510	00441511	00441512

All these notifications will come into effect from 1<sup>st</sup> June, 2016.

### **The takeaways**

These amendments will bring in clarity on the levy of KKC. However, one major issue that remains to be addressed is the applicability of KKC in cases where the services are provided, and invoice is issued, before 1<sup>st</sup> June, 2016 but the consideration for such services is received after 1<sup>st</sup> June, 2016. Rule 5 of the Point of Taxation Rules, 2011 ('POT Rules') is specifically made applicable in case of new levy and provides for two exceptions only, in which cases, such new levy is

not applicable. The exceptions do not cover the aforementioned situation, and there is an apprehension in industry circles about applicability of KKC in such cases. It is hoped that a suitable clarification is issued on this aspect.

Another issue that warrants clarification is the determination of suitable rule under POT Rules for reverse charge transactions, where invoice is issued but payment is not made before 1<sup>st</sup> June, 2016. While rule 5 of POT Rules covers situation of imposition of new levy, rule 7 of POT Rules covers situation where service tax is applicable under

reverse charge. It would be helpful if this aspect is clarified as well.

### **Let's talk**

For a deeper discussion of how this issue might affect your business, please contact:

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