

**DEPARTMENTAL CLARIFICATIONS ON
INFORMATION TECHNOLOGY SOFTWARE SERVICE**

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4.1-1 Information Technology (IT) software service includes,—

- ◆ Development (study, analysis, design and programming) of software.
- ◆ Adaptation, upgradation, enhancement, implementation and other similar services in relation to IT software.
- ◆ Provision of advice and assistance on matters related to IT software, including:
 - Conducting feasibility studies on the implementation of a system,
 - Providing specifications for a database design,
 - Providing guidance and assistance during the start-up phase of a new system,
 - Providing specifications to secure a database,
 - Providing advice on proprietary IT software.
- ◆ Acquiring the right to use,—
 - IT software for commercial exploitation including right to reproduce, distribute and sell,
 - Software components for the creation of and inclusion in other IT software products,
 - IT software supplied electronically.

4.1-2 Software consists of carrier medium such as CD, Floppy and coded data. Softwares are categorized as 'normal software' and 'specific software'. Normalised software is mass market product generally available in packaged form of the shelf in retail outlets. Specific software is tailored to the specific requirement of the customer and is known as customized software.

4.1-3 Packaged software sold off the shelf, being treated as goods, is leviable to excise duty @ 8%. In this Budget, it has been increased from 8% to 12% *vide* Notification No. 12/2008-CE, dated 1-3-2008. Number of IT services and IT enabled services (ITeS) are already leviable to service tax under various taxable services:

- ◆ Consulting engineer's service - advice, consultancy or technical assistance in the discipline of hardware engineering [section 65(105)(g)].
- ◆ Management or business consultant's service - procurement and management of information technology resources [section 65(65)].
- ◆ Management, maintenance or repair service - maintenance of software, both packaged and customized and hardware [section 65(64)].
- ◆ Banking and other financial services - 'provision and transfer of information and data processing' [section 65(12)].
- ◆ Business support service - various outsourced IT and IT enabled services [section 65(105)(zzzq)].
- ◆ Business auxiliary service - services provided on behalf of the client such as call centres [section 65(19)].

4.1-4 IT software services provided for use in business or commerce are covered under the scope of the proposed service. Said services provided for use, other than in business or commerce, such as services provided to individuals for personal use, continue to be outside the scope of service tax levy. Service tax paid shall be available as input credit under Cenvat Credit Scheme.

4.1-5 Software and upgrades of software are also supplied electronically, known as digital delivery. Taxation is to be neutral and should not depend on forms of delivery. Such supply of IT software electronically shall be covered within the scope of the proposed service.

4.1-6 With the proposed levy on IT software services, information technology related services will get covered comprehensively.

4.1-7 Following consequential amendments in other taxable services are also being made:

- ◆ At present, 'Information technology service' is specifically excluded from the scope of Business auxiliary service [section 65(105)(zzb)]. Consequent on the proposed IT software service, information technology services get covered comprehensively for the purpose of levy of service tax and, therefore, specific exclusion of 'Information technology service' under Business auxiliary service is being deleted.
- ◆ To include 'testing and analysis of IT software' services under technical testing and analysis service [section 65(105)(zzh)].
- ◆ To include 'Certification of IT software' services under technical inspection and certification service [section 65(105)(zzi)].
- ◆ To clarify as removal of doubts that 'Management, maintenance or repair of properties' includes Management, maintenance or repair of IT software [section 65(105)(zzg)]. Maintenance of packaged software (being goods) is also leviable to service tax under the said service.
- ◆ Services provided in relation to advice, consultancy and assistance on matters related to IT software shall be leviable to service tax under the IT software service. Consulting engineer's service [section 65(105)(g)] in the discipline of computer hardware engineering is leviable to service tax whereas consulting engineer's service in the discipline of computer software engineering is not leviable to service tax by way of specific exclusion. Specific exclusion of 'consultancy in the discipline of computer software engineering' from the scope of 'consulting engineer's service' is not necessary and, therefore, being deleted.
- ◆ To clarify that a consultancy service, covering both hardware and software consultancy, shall be classifiable under 'Consulting engineer's service'.