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Swachh Bharat Cess (SBC)



Q.1 What is Swachh Bharat Cess (SBC)?

Ans. It is a Cess which shall be levied and collected in accordance with the provisions of Chapter VI of the Finance Act, 2015, called Swachh Bharat Cess, as service tax on all the taxable services at the rate of 0.5% of the value of taxable service.

Q.2 What is the date of implementation of SBC?

Ans. The Central Government has appointed 15th day of November, 2015 as the date from which provisions of Swachh Bharat Cess will come into effect (notification No.21/2015-Service Tax, dated 6th November, 2015 refers).

Q.3 Whether SBC would be leviable on exempted services and services in the negative list?

Ans. Swachh Bharat Cess is not leviable on services which are fully exempt from service tax or those covered under the negative list of services.

Q.4 Why has SBC been imposed?

Ans. SBC has been imposed for the purposes of financing and promoting Swachh Bharat initiatives or for any other purpose relating thereto.

Q.5 Where will the money collected under SBC go?

Ans. Proceeds of the SBC will be credited to the Consolidated Fund of India, and the Central

Government may, after due appropriation made by Parliament, utilise such sums of money of the SBC for the purposes of financing and promoting Swachh Bharat initiatives or for any other purpose relating thereto.

Q.6 How will the SBC be calculated?

Ans. SBC would be calculated in the same way as Service tax is calculated. Therefore, SBC

would be levied on the same taxable value as service tax.

except services which are either fully exempt from service tax under any notification issued under section 93(1) of the Finance Act, 1994 or are otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

Q.12 How will the SBC be calculated for services under reverse charge mechanism?

Ans. In case of reverse charge under section 68(2) of the Finance Act, 1994, the liability has been shifted from service provider to the service recipient. As per section 119 (5) of the Finance Act, 2015, the provisions of Chapter V of the Finance Act, 1994, and the rules made thereunder are applicable to SBC also. Thus, the reverse charge under section 68(2) of the Finance Act, 1994, is made applicable to SBC. In this context, to clarify, Government has issued notification No. 24/2015-Service Tax dated 12th November, 2015 to provide that reverse charge under notification No.30/2012-Service Tax dated 20th June, 2012 shall be applicable for the purpose of levy of Swachh Bharat Cess mutatis mutandis.

Q.13 How will SBC be calculated for services where abatement is allowed?

Ans. Taxable services, on which service tax is leviable on a certain percentage of value of taxable service, will attract SBC on the same percentage of value as provided in the notification No. 26/2012-Service Tax, dated 20th June, 2012. So, this notification would apply for SBC also in the same manner as it applies for service tax.

For example, in the case of GTA, [Service Tax + SBC]% would be (14% Service Tax + 0.5% SBC) X 30% = 4.35% (4.20%+0.15%)

Q.14 Whether Cenvat Credit of the SBC is available?

Ans. SBC is **not** integrated in the Cenvat Credit Chain. Therefore, credit of SBC cannot be availed. Further, SBC cannot be paid by utilizing credit of any other duty or tax.

Q.15 What would be the point of taxation for Swachh Bharat Cess?

Ans. As regards Point of Taxation, since this levy has come for the first time, all services (except those services which are in the Negative List or are wholly exempt from service tax) are being subjected to SBC for the first time. SBC, therefore, is a new levy, which was not in existence earlier. Hence, rule 5 of the Point of Taxation Rules would be applicable in this case. Therefore, in cases where payment has been received and invoice is raised before the service becomes taxable, i.e. prior to 15th November, 2015, there is no liability of Swachh Bharat Cess. In case where payment has been received before the service became taxable and invoice is raised within

14 days, i.e. upto 29th November, 2015, even then the service tax liability does not arise. Swachh Bharat Cess will be payable on services which are provided on or after 15th Nov, 2015, invoice in respect of which is issued on or after that date and payment is also received on or after that date. Swachh Bharat Cess will also be payable where service is provided on or after 15th Nov, 2015 but payment is received prior to that date and invoice in respect of such service is not issued by 29th Nov, 2015.



IMPACT OF INTRODUCTION OF SWACHH BHARAT CESS

The impact of introduction of on different situations is summarized below. (Assuming that applicable rate is determined as per Rule 4 of Point of Taxation Rules, 2011)

Impact of imposition of Swachh Bharat Cess			
Service provided	Invoice issued	Payment received	Rate
Before 15-11-15	On or After 15-11-15	On or After 15-11-15	14.50%
Before 15-11-15	Before 15-11-15	On or After 15-11-15	14.00%
Before 15-11-15	On or After 15-11-15	Before 15-11-15	14.00%
On or After 15-11-15	Before 15-11-15	On or After 15-11-15	14.50%
On or After 15-11-15	Before 15-11-15	Before 15-11-15	14.00%
On or After 15-11-15	On or After 15-11-15	Before 15-11-15	14.50%

Ans. In respect of reverse charge mechanism, SBC liability is determined in accordance with Rule 7 of Point of Taxation Rules, as per which, point of taxation is the date on which consideration is paid to the service provider. Thus, SBC liability in such case will be 0.5% X Value of taxable service.

Q.20 Does a person providing both exempted and taxable service and reversing credit @ 7% of value of exempted service under Rule 6 of Cenvat Credit Rules, does he need to reverse the SBC also?

Ans. As SBC is not integrated in the Cenvat Credit chain and reversal under Rule 6 is payment of amount equal to 7% of the value of exempted services, hence, reversal of SBC is not required under Rule 6 of Cenvat Credit Rules, 2004.

Q.21 In case I have charged SBC and later the consideration is re-negotiated due to deficiency in provision of service, whether excess SBC paid to that extent can be adjusted?

Ans. Rule 6(3) of Service Tax Rules provide for taking credit of tax paid in excess where such excess payment is on account of

- ✚ a service to be provided which is not so provided by either wholly or partially for any reason,
- ✚ or where the amount of invoice is renegotiated due to deficient provision of service or
- ✚ any terms contained in a contract provided credit note is issued by service provider or refund made.

SBC would also be levied as if it is service tax. Hence, above provision would equally applicable to SBC also and you will be entitled to adjust the excess amount paid against future liability.

Q.22 Service provider has provided services before 15th November and also raised invoice. Due to financial difficulties, he could not pay service tax before 15.11.2015 and would-be paying after 15.11.2015. Is he liable to pay SB CESS also now?

Ans. No, SBC would not be applicable in such case.

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