

SERVICE TAX REFUND

Types of Refund/ Rebate application

- 1) Refund in case Service Provider has made **Excess Payment**
- 2) Service Tax refund in respect of the services used in **export of Goods**.
- 3) Sanction of refund in respect of service used by **SEZ or developer**.
- 4) Refund of accumulated Cenvat Credit for **export of services**

If Service Provider has made excess Payment of Service tax to the Central Govt. than assessee has two options-:

<p>OPTION – 1 <u>Self Adjustment of excess Payment of service tax</u></p> <p>Self Adjustment is Possible only if these conditions are satisfied-:</p>	<ol style="list-style-type: none">1) The Excess Payment has not been made on account of Interpretation of Law, Taxability, Classification or Valuation of any Exemption Notification.2) In case an assessee having Centralized Registration has Paid excess Service tax because of Delayed receipt of the detail of Payment, Such excess can be adjusted without limit.3) In case Other than Specified above the Maximum Amount of Service tax that can be Adjusted is Rs 100000 for a relevant month or quarter.4) While Claiming Such Adjustment, The Detail shall be Intimated to the superintendent within 15 days from the date of such Adjustment.
<p>OPTION -2 <u>Service Tax Refund in Cash</u></p> <p>In Case Self Adjustment is not Possible</p>	<p>In Case of Excess Payment of Service Tax where Self Adjustment is not Permissible, Service tax refund Claim has to be filed with</p>

	the Department. The Service Tax Refund Claim have to be made in accordance with Section 11B of Central Excise Act 1944 which have also been made Applicable to Service Tax vide sec 83 of the Act
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Procedure to claim refund

Application has to be made in the prescribed form (**Form – R**).

Application has to be filed in **triplicate** with the jurisdictional Assistant/Deputy Commissioner of Central Excise/Service Tax.

Application should be accompanied **by documentary evidence** to the effect that the amount claimed as refund is the amount actually paid by him in excess of the Service Tax due and the incidence of such tax claimed as refund has not been passed on to any other person.

Time Limit

The application should be filed **within 1 year** from the relevant date i.e., from the date of payment of the Service Tax.

Interest for delayed payment of refunds

If amount of service tax is not refunded **within three months** from the date of receipt of refund application, **interest at the 6%** rate shall be paid by the Government, subject to certain conditions.

No Refund without claim

The refund will not be automatic even if order granting refund is passed. Specific application for refund is necessary **within time limit prescribed**.

No time limit in case amount paid is not tax

If assessee has paid service tax which was not payable at all, then time limit does not apply to amount which is not "service tax" at all.

Document Required

Under Section 11B of CEA, 1944 read with Section 83 of the Finance Act, 1994

1. Application in prescribed Form –R
2. Copy of TR-6/ GAR-7/PLA/ copy of return evidencing payment of duty.
3. Copy of invoices (in original)
4. Documents evidencing that duty has not been passed on to the buyer.
5. Any other document in support of the refund claim.
6. Any other document as prescribed by the Central Excise Officer

Service Tax refund in respect of the services used in export of Goods.

Where exporter of Goods received Taxable Service and used for Export of Goods, Than Exporter will be Eligible to Claim Rebate of Service Tax paid on the taxable service Received.

This rebate shall be granted by way of refund of Service Tax paid on the **specified services** subject to extent and manner as prescribed, it is important to note the following points –

1) Specified services would mean -

(i) In the case of excisable goods, taxable services that have been **used beyond the place of removal**, for the export of said goods;

(ii) In the case of goods other than (i) above, taxable services used for the export of said goods; But **shall not include** the following input services, viz, - construction ; works contracts ; renting of motor vehicles ; general insurance; servicing, repair & maintenance ; outdoor catering, health, life insurance etc. meant for employees etc.

2) **Rebate can be claimed** on the basis of rates as mentioned in schedule or as per procedure (Para 2) or based on documents (Para 3).

3) Cenvat Credit of Service(**CCR**) Tax paid on specified services used for export of goods **should not be taken**.

4) **No rebate** can be claimed under this notification by developer of SEZ or unit in SEZ.

5) If **export proceeds are not received within time allowed** or within extended time, such rebate shall be deemed to have never been allowed and shall be recovered back in terms of recovery provisions.

Options for Exporter for Tax benefits

Rule 18/Rule 19	Rule 5
(Central Excise Rule 2002)	(Cenvat Credit Rule)
<p>Rule 18 where any input or input grant rebate of duty paid on service is used in the such excisable goods or duty manufacture of final paid on materials used in the product which is cleared manufacture or processing of for export the Cenvat such goods credit in respect of input</p> <p>Rule 19 or input service so used</p> <p>1) Any excisable goods may shall be allowed to be be exported without payment utilized. of duty. Where such adjustment is</p> <p>2) Any material may be not possible, refund of removed without payment such amount is allowed. of duty , for use in the manufacture or processing of goods which are exported</p>	

Two Procedures have been specified for Claiming of Refund:

Procedure 1- Filing of Claim before officer of customs

Procedure 2- Filing of Claim before officer of Central Excise

Note:- Procedure 2 shall not be Claimed wherever the difference between the amount of rebate under the Procedure 1 and procedure 2 is less than 20% of the rebate available under procedure 1.

1- Filing of Claim before officer of customs

- (a) Register central excise registration number/service tax code number and bank account number with the customs.
- (b) Service tax code number shall be obtained by filing a declaration in Form A-2 to the AC/DC
- (c) Make a declaration in the electronic shipping bill or bill of export, as the case may be, while presenting the same to the proper officer of customs
- (d) Service tax paid on the specified services eligible for rebate shall be calculated by applying the rate prescribed in the Schedule, as a percentage of the FOB value of the said goods.
- (f) Amount so calculated as rebate shall be deposited in the bank account of the exporter.
- (g) Shipping bill or bill of export on which rebate has been claimed shall not be used for rebate claim on the basis of documents
- (h) Where the rebate involved in a shipping bill or bill of export is less than rupees fifty, the same shall not be allowed.

2- Filing of Claim before officer of Central Excise

- (a) Rebate may be claimed on the service tax actually paid on any specified service on the basis of duly certified documents.
- (b) The person liable to pay service tax under section 68 of the said Act shall not be eligible to claim rebate under this notification.
- (c) The manufacturer-exporter, who is registered under the Central Excise Act, 1944 shall file a claim for rebate of service tax in **Form A-1**.
- (d) The exporter who is not so registered shall before filing a claim for rebate of service tax, file a declaration in **Form A-2**, seeking allotment of service tax code, to AC/DC
- (e) AC/DC shall, after due verification, allot a service tax code **within seven days** from the date of receipt of the said Form A-2.

(f) On obtaining the service tax code, exporter shall file the claim for rebate of service tax in Form A-1.

(g) The claim for rebate of service tax paid shall be filed within **one year** from the date of export of the said goods.

The date of export shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under section 51 of the Customs Act, 1962.

(h) Where the total amount of rebate sought under a claim is **up to 0.50%** of the total FOB value and the exporter is **registered with the Export Promotion Council sponsored** by Ministry of Commerce or Ministry of Textiles, **Form A-1**. shall be submitted certified in the manner specified in sub-clauses (A) and (B) below -

(A) If the exporter is a **proprietorship concern or partnership firm**, the documents shall be **self-certified** if the exporter is a **limited company**; the documents shall be certified by the **person authorized** by the Board of Directors.

(B) Also contain a certificate from the exporter or the person authorized by the Board of Directors

(i) Where the total amount of claim is **more than 0.50%** of the total FOB value, the certification shall be made by the Chartered Accountant who audits the annual accounts of the exporter

(j) Where the rebate involved in a claim is **less than rupees five hundred**, the same shall not be allowed.

<i>Refund of Cenvat Credit for export of services</i>
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Meaning of Export of Service(as per rule 6A of service tax rules)

The provision of any service provided or agreed to be provided shall be treated as export of service when

- a. The provider of service is located in the taxable territory,
- b. The recipient of service is located outside India.

- c. The service is not which is specified in the section 66D of the act,
- d. The **place of provision** of the service is outside India.
- e. The payment for such service has been received by the provider of service in convertible foreign exchange and
- f. The provider of service and *recipient of service are not merely establishments of a distinct person in accordance with section 66B of the act. Additionally one branch cannot provide service to another branch.*

Note:- If place of provision of service is outside the taxable territory , service tax will not be payable even if the service is not export in terms of rule 6A or payment is not received by due date. Only implication will be rule 6 will apply and service provider has to reverse cenvat credit proportionally.

Conditions:-

- 1) Service has been exported in term of rule 6A of Service tax rules 1995.
- 2) Duty/Service tax has been paid for which rebate has been claimed.
- 3) Total amount of Rebate is not less than Rs 1000.
- 4) No CENVAT Credit has been availed of on input or input service for which rebate claimed.
- 5) In case of violation of any condition above, rebate paid shall be recoverable with interest.

Procedure:-

- 1) Filling of Declaration of service to be exported to AC/DC.
- 2) AC/DC will verify the declaration.
- 3) Present claim for rebate to AC/DC.
- 4) AD/DC if satisfied, shall sanction the rebate either in whole or in part.

Procurement of input material and receipt of input service

- 1) Input should be received from registered dealer with invoice.
- 2) Input service should be supported from invoice.

Interest liability in case of delayed payment of refund

Interest is paid by government ranging between 5% to 30% after 3 month from the date of application.

Sanction of refund in respect of service used by SEZ or developer

Service tax Paid on taxable service, received by units located in SEZ and developers of SEZ is refunded or such services are exempted.

SEZ units or developers have the option not to pay service tax only for **specified services used for authorized operation.**

Procedure of Exemption

- 1) Get the approval from approval committee for list of services for authorized operation
- 2) Furnish a declaration in **Form A-1**
- 3) AC/DC will issue authorization in **Form A-2** within **15 days**
- 4) SEZ or developers has to give a copy of form A-2 to service provider
- 5) If any delay in authorization, service can be provided on the basis of Form A-1
- 6) If SEZ or developer fails to give copy of Form A-2, has to pay service tax on specified service
- 7) SEZ or developers has to furnish quarterly statement in **Form A-3** to Superintendent

Refund can be claimed-

- 1) That are not exclusively used for authorized operation

2) On which exemption is admissible but not claimed

Procedure of Refund

- 1) File the claim in Form A-4 to AC/DC
- 2) Full invoice amount with service tax must have been paid
- 3) Claim has to be filed with in **1 year** from the end of the month in which payment made
- 4) Only one refund can be filed for each quarter

How to Apply for Service Tax Refund Online

To Apply for Service Tax Refund Online, Follow the following Procedure -:

- * Login to your Service Tax Account on WWW.aces.gov.in
- * After logging Click- Ref>Refund Request>Create
- * A Form for Service tax Refund would open
- * Furnish all the detail in the above Form and Click on the SUBMIT Button
- * On Successful Submission of your Request for Service Tax Refund, a Refund Request No. Would be generated which can be relied upon for Future Reference

Contacts