

Circular 210 /2 /2018-Service Tax

F. No 137/51/2016 Service Tax
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Service Tax Wing

New Delhi, the 30th May, 2018

To,

All Principal Chief /Chief Commissioners of Central Excise and GST
All Principal Directors General/ Directors General / Chief Commissioner AR CESTAT
All Principal Commissioners/Commissioners of Central Excise & GST/AR CESTAT
All Principal Additional Directors General/ Additional Directors General

Madam/Sir,

Subject: Applicability of service tax on ambulance services provided to government by private service providers under the National Health Mission(NHM)

I am directed to draw your attention to a reference of the Ministry of Health & Family Welfare, Government of India on the above subject and analyse the manner in which the taxability has to be determined in such cases.

2. It has been stated that under the National Health Mission(NHM), a flagship programme of the Government of India, the Central Government provides technical and financial support to states to strengthen healthcare systems including for free ambulance services (Dial 102/108 services). Dial 108 is the emergency response system primarily designed to attend to patients of critical care, trauma and accident victims etc., while Dial 102 services essentially are for basic patient transport aimed to cater the needs of pregnant women and children, though other categories are also taking benefit and are not excluded. Many states are operating the ambulance service on an outsourced model and these services are funded under the NHM and provided free of cost to all patients. In this connection the Ministry of Health & Family Welfare, has requested for a clarification whether the private service provider(PSP) is liable for payment of service tax.

3.1 The matter has been examined. It is observed that this entire project involves three legs of activities, one by the Government for the public, second by the PSP for the public and third, by the PSP for the Government. In respect of the first and the second legs of activity i.e. the ambulance services being provided by the Government and PSP to the patients, neither the State government nor the PSP charges any fee from the patients who avail of these ambulance services. The PSP however charges a fee from the State government for carrying out the third activity.

3.2 Any activity carried out by one person for another without any consideration will not be covered by the definition of 'service' in section 65(44) B of the Finance Act, 1994. Even if a consideration was charged, by virtue of entry 2(ii) of notification no 25/2012- Service Tax dated 20th June, 2012, services provided by way of transportation of a patient in an ambulance, other than health care services by a clinical establishment, an authorized medical practitioner or paramedics, are exempted from the whole of the service tax leviable thereon. Thus the activities provided by the State government and the PSP to patients are not leviable to service tax.

3.3 As regards the activity undertaken by the PSP for the State government for which consideration is charged, attention is invited to sl.no 25(a) of the notification no 25/2012 - Service Tax dated 20th June, 2012. The scope of the relevant exemption, in different time periods, was as follows: -

In the period from 01.07.2012 to 10.07.2014

"Services provided to Government, a local authority or a governmental authority by way of (a) carrying out any activity in relation to any function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or

In the period from 11.07.2014 to 30.06.2017

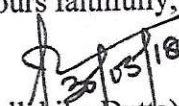
"Services provided to Government, a local authority or a governmental authority by way of (a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation....."

3.4 Thus it follows that, exemption is available, interalia, to services provided to Government, a local authority or a governmental authority, by way of public health.

3.5 The phrase "public health" is a general term and will cover a number of activities which ensure the health of the public. In the Ministry of Health & Family Welfare's reference, it has been stated that this activity of providing free ambulance services by the states is funded under the National Health Mission (NHM). One of the core values of the NHM enlisted by the Framework for implementation of National Health Mission (2012-2017) is to strengthen public health systems as a basis for universal access and social protection against the rising costs of health care. As a part of its goals, outcomes and strategies the framework has categorically stated that NHM will essentially focus on strengthening primary health care across the country. The Framework further states that assured free transport in the form of Emergency Response System (ERS) and Patient Transport Systems (PTS) is an essential requirement of the public hospital and one which would reduce the cost barriers to institutional care.

3.6 Thus the provision of ambulance services to State governments under the NHM is a service provided to government by way of public health and hence exempted under notification no 25/2012-Service Tax dated 20.06.2012.

Yours faithfully,


(Pallabika Dutta)

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