

POT Transition needs an amendment

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Point of Taxation rules, were effective from 1st April 2011. However an option was given to fall in line with POT with effect from 1st July 2011, instead of 1st April 2011.

In this connection, kind reference is invited to the following transitional provision, under rule 9 of the Said rules.

RULE 9. Transitional Provisions. — *Nothing contained in [these rules] shall be applicable, -*

(i) *where the provision of service is completed; or*

(ii) *where invoices are issued*

prior to the date on which these rules come into force.

Provided *that services for which provision is completed on or before 30th day of June, 2011 or where the invoices are issued upto the 30th day of June, 2011, the point of taxation shall, at the option of the taxpayer, be the date on which the payment is received or made as the case may be.*

As per the above, for those who have opted for POT from 1st April 2011, for those cases where services were provided before 01.04.2011 and invoices were also issued before 01.04.2011, service tax has to be paid only on realization. In other words, for all bills raised and amounts outstanding as on 31.03.2011, service tax has to be paid only on realization basis.

Similarly, for those who have opted for POT from 1st July 2011, same will be the case for the outstanding as on 30th June 2011.

It may be noted that in respect of the following service categories, when service was provided by individuals, proprietorship firms and partnership firms, hitherto, POT was not applicable.

- i) Chartered Accountants.
- ii) Cost Accountants.
- iii) Company Secretaries.
- iv) Architects.
- v) Interior Decorators.
- vi) Legal services.
- vii) Scientific and Technical Consultancy services.
- viii) Consulting Engineers.

But, with effect from 01.04.2012, if the turnover of these categories of service providers during the preceding financial year is more than Rs. 50 lakhs, they would also be subjected to POT. In other words, these service providers, having a turnover of more than Rs. 50 lakhs during 2011-12 would fall into the ambit of POT with effect from 01.04.2012. In the absence of a specific transitional provision for them, they would be required to pay service tax on all their outstanding as on 31.03.2012 immediately on 5th April 2012.

Hence, it is fervently requested that suitable amendments may be made in rule 9 of the POT rules, to provide similar transitional provisions for these categories of service providers also, who would be subjected to POT from 1st April 2012.