F. No. 354/220/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit
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Room No. 146, North Block,
New Delhi, 31st July, 2018

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Applicability of GST on ambulance services provided to Government by private service providers under the National Health Mission (NHM) – Reg.

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I am directed to invite your attention to the Circular No. 210/2/2018- Service Tax, dated 30th May, 2018. The said Circular has been issued in the context of service tax exemption contained in notification No. 25/2012- Service Tax dated 20.06.2012 at Sl. No. 2 and 25(a). The Circular states, inter alia, that the service of transportation in ambulance provided by State Governments and private service providers (PSPs) to patients are exempt under notification No. 25/2012- Service Tax dated 20.06.2012 and that ambulance service provided by PSPs to State Governments under National Health Mission 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.

2. The service tax exemption at Sl. No.2 of notification No. 25/2012 dated 20.06.2012 has been carried forward under GST in the identical form vide Sl. No. 74 of notification No. 12/2017- CT (R) dated 28.06.2017. The service tax exemption at serial No. 25(a) of notification No. 25/2012 dated 20.06.2012 has also been substantially, although not in the same form, continued under GST vide Sl. No. 3 and 3A of the notification No. 12/2017- CT (R) dated 28.06.2017. The said exemption entries under Service Tax and GST notification read as under.

Service Tax	GST
Sl. No. 2: (i) Health care services by a clinical establishment, an authorized medical practitioner or para-medics; (ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above.	Sl. No. 74: Services by way of- (a) health care services by a clinical establishment, an authorized medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

Sl. No. 25(a): Services provided to Government, a local authority or a governmental authority by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation	Sl. No. 3: Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
	Sl. No. 3A: Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

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3. Functions of 'Health and sanitation' is entrusted to Panchayats under Article 243G of the Constitution of India read with Eleventh Schedule. Function of 'Public health' is entrusted to Municipalities under Article 243W of the Constitution read with Twelfth schedule to the Constitution. Thus ambulance services are an activity in relation to the functions entrusted to Panchayats and Municipalities under Articles 243G and 243 W of the Constitution.

4. In view of the above, it is clarified that the clarification contained in the Circular No. 210/2/2018- Service Tax dated 30th May, 2018 with regard to the services provided by Government and PSPs by way of transportation of patients in an ambulance is applicable for the purpose of GST also, as the said services are specifically exempt under notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 vide Sl. No. 74.

5. As regards the service provided by PSPs to the State Governments by way of transportation of patients on behalf of the State Governments against consideration in the form of fee or otherwise charged from the State Government, it is clarified that the same would be exempt under-

a. Sl. No. 3 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 if it is a pure service and not a composite supply involving supply of any goods, and

b. Sl. No. 3A of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply.

6. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

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Yours Faithfully,

31 July 2018

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Enclosure:
Circular No. 210/2/2018- Service Tax (F. No. 137/51/2016- Service Tax, dated 30th May, 2018)

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
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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 para-medics, 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……."

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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,

30/05/18

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