***(Government of India Enterprise)***

# *O/o Chief General Manager, Tamilnadu Circle, Chennai 600 202*

No.TAX/2011-12/Budget Impact dt. At Chennai-2 the 24.1.2012

To:

All IFAs,

BSNL, TN Circle.

 Sub: Clarifications received from BSNL CO with regard to service tax on

 Discounts offered in telephone bills, PCO discounts, POT Rules, 2011,

 Replacement of SIM cards/recharge coupons and Telecom services

 Received from ILDOs by BSNL.

 Ref: BSNL CO Lr.

1. No.1002-68/2010-11/Taxation/BSNL Circular /021 dt.17.1.12
2. No. No.1002-68/2010-11/Taxation/BSNL Circular /020 dt.17.1.12
3. No.1002-68/2010-11/Taxation/BSNL Circular /019 dt.17.1.12
4. No.1002-68/2010-11/Taxation/BSNL Circular /0 dt.17.1.12
5. No.1002-62/2010-11/Taxation/BSNL Circular /9 dt.10.1.12

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 Kindly refer to the letters cited above. Clarifications on the service tax on discounts are given by BSNL Corporate Office vide letters cited under reference.

 Gist of the said clarifications are enclosed in the annexure for kind information and necessary action.

 Copies of the said BSNL clarifications may kindly be downloaded from the BSNL Corporate Office intranet site under Director(Finance) in EF & Taxation for strict compliance.

Encl: As above

 Sd/-

DY. GENERAL MANAGER ( P & EF)

**ANNEXURE TO LETTER NO:** TAX/2011-12/Budget Impact/54 DT. 24.01.2012.

1. **SERVICE TAX ON DISCOUNTS:**

 **Ref.No.1002-68/2010-11/Taxation/BSNL Circular/021 dated 17.1.2012**

Cash discounts are being offered for making early payment of telephone bills. Service tax would have to be paid by BSNL on full value of invoice amount. Subsequently discounts are adjusted in the next bill. For such adjustments of discounts, credit note should be issued by the BSNL to the extent of discount allowed.

In this way, BSNL can adjust the excess paid service tax amount under Rule 6(3) of Service tax rules, 1994.

1. **SERVICE TAX IMPLICATION PCO DISCOUNTS:**

**Ref. No.1002-68/2010-11/Taxation/BSNL Circular/090 dated 17.1.2012**

As per the explanation under Rule 5(1) of the Service Tax (Determination of value) Rules, 2006, it has been stated that for the services specified in Sub clause (zzzx) of Section 65 (105) of the Finance Act, 1994, the value of the taxable service shall be the gross amount paid by the person to whom the service is provided by the telegraph authority.

 In our case, PCO Operator is the recipient of service which are provided by the telegraph authority i.e. BSNL. Therefore, service tax shall be leviable on the amount charged by the BSNL from its PCO Operators and not on the amount recovered by the PCO operators from its customers.

1. **IMPORTANT CLARIFICATION ON THE ISSUES RELATING TO POINT OF TAXATION RULES, 2011:**

**Ref. No.1002-68/2010-11/Taxation/BSNL Circular/019 dated 17.1.2012**

1. Service tax on bad debts is also payable to the service tax department and not reversible for any account of future adjustments in the books of accounts.
2. Excess of credit of service tax paid in previous months as per Clause 6(3) of service tax rules, 1994, adjustment of excess ST paid in previous months can be adjusted with the amount received towards service to be provided is refunded to the customer due to non provision of service or partial provision of service or amount of invoice renegotiated due to deficiency in the provision of service. Normally, this comes under the cancellation of bills and this is to be accounted by issuing credit note.
3. There is no provision for adjustment of service tax paid when the invoice in question is written off subsequently.
4. In respect of the excess payment over and above the invoice amount, the payment of service tax shall be on the excess paid amount also.
5. Service tax should be collected on all the demand notes towards provision of service. Further, service tax need not to be collected and paid on initial deposits made by the subscribers.
6. Refundable deposit collected from the subscribers will not attract service tax. Voluntary deposits which are termed as advance in nature towards provision of service, service tax shall be payable
7. Collection of fixed monthly charges in advance for 10 months for annual plan from customers shall attract service tax at the time of collection or issue of invoice whichever date is earlier.
8. On the service to be provided in the month of March, service tax shall be payable to the Government on 31st March. In BSNL, we are accounting accrued income of March in our books and it is also taken into ABF for March. Further, invoice will be raised in the subsequent months. With regard to the service tax, there is no relevance with ABF of BSNL. The liability of service tax shall be determined only according to the following occurrences:

Date of invoice, date of completion of continuous supply of service, date on which payment is received and date of receipt of advance.

1. In the case of service provided by way of recharge coupons or pre-paid cards or the like, the value shall be the gross amount charged from the subscribers or the ultimate user of the service and not the amount paid by the distributor or any such intermediary of the telegraph authority.
2. **REPLACEMENT OF SIM CARDS/RECHARGE COUPONS:**

**Ref.No.1002-68/2010-11/Taxation/BSNL Circular/022 dated 17.1.2012**

For Returned SIM cards, service tax adjustments can be made in the subsequent months, through a credit note issued by BSNL. For New rechargeable coupons, Service Tax is payable.

1. **APPLICABILITY OF SERVICE TAX ON TELECOMMUNICATION SERVICE RECEIVED FROM ILDOs (Foreign Telecom operators ) BY BSNL:**

**Ref. No.1002-62/2007/Taxation/BSNL/9 dated 10.1.2012**

 As per Section 65 {109 a (iv)} of Finance Act, 1994, it has been stated that international private leased circuits (IPLC) charges received from abroad are taxable only when provided by a person who has been granted a license in the first provision of Sub section (1) of section 4 of Indian Telegraph Act, 1985.

 Therefore, service tax is not applicable on telecommunication services received from ILDOs ( Foreign Telecom Operators) by BSNL.