

FSIA E-circular dt. April 19, 2011 :
Point of Taxation Rules 2011

Faridabad Small Industries Association

The face of Modern Indian MSMEs

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Dear Members,

Point of Taxation Rules, 2011

Who is affected ?

Many of us are “Service Tax payers”, whether we will as “Installation Charges”, Maintenance Charges, Repair Charges, Consultancy, Design Charges, Chartered Accountants, other fellow Consultants and so on. So, we must know this very important change that has come in.

The change ?

For the first time ever since 1994, the **law for Accrual** has now come in.

Source = Notification No. 18/2011 – Service Tax dated 1st March, 2011,
Later amended by notification no 25/2011 dt 31.3.2011

Rule 3. Determination of point of taxation.-

The Law now says :

For the purposes of these rules, unless otherwise provided, ‘point of taxation’ shall be,-

(a) *the time when the invoice for the service provided or to be provided is issued: (Provided that where the invoice is not issued within fourteen days of the completion of the provision of the service, the point of taxation shall be date of such completion.)*

(b) *in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.*

Explanation .- For the purpose of this rule, wherever any advance by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.”.

>>> The Core idea of this para is

Law has now, taken 3 Events, whichever is earlier

- **Invoice Date**
- **Payment received Date**
- **14 days from the Act of provision of service**
(earlier it was date of service, now it is 14 days from date of service, rest same)

In practical sense, it will usually be invoice based accrual

- however for its own security, the govt has made a internal provision
- that if you don't bill / bill very late , OR get pymt, or xxxxxx, Govt can ask you for the tax

Good points is

Language is very simple,

Now, it will be at par with the law for Excise, law for Central Sales tax, VAT and so on

This was a compulsory requirement , before we embrace the “GST”.

GST is based on uniform concept of Accrual for all.

Next

What is the Due date, if I have a “continuous contract”

Example : Monthly chargesQuarterly chargesAnnual Charges

Amendment dt 31 3 2011 (notification no 25) – full replacement of prev rule 6

Law says

“6. Determination of point of taxation in case of continuous supply of service.-

Notwithstanding anything contained in rules 3,4 or 8, in case of continuous supply of service, the `point of taxation' shall be,-

(a) the time when the invoice for the service provided or to be provided is issued:

Provided that where the invoice is not issued within fourteen days of the completion of the provision of the service, the point of taxation shall be date of such completion.

(b) in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

>>> This is for contracts like monthly AMC / retainership charges / monthly design charges / monthly professional contracts. >>> Means for such AMC's

Whichever is earlier

- Invoice Date**
- payment**
- due date of invoice + 14 days (grace period for delay in invoicing)**
- due date as per contract**

Next

I heard that **some services will continue on “Cash basis”**.
Is that true ? Example : Chartered Accountant etc

Amended Law says

“7. Determination of point of taxation in case of specified services or persons.-

Notwithstanding anything contained in these rules, the point of taxation in respect of,-

(a) the services covered by sub-rule (1) of rule 3 of Export of Services Rules, 2005;

(b) the persons required to pay tax as recipients under the rules made in this regard in respect of services notified under sub-section (2) of section 68 of the Finance Act, 1994;

(c) individuals or proprietary firms or partnership firms providing taxable services referred to in sub-clauses (p), (q), (s), (t), (u), (za), (zzzzm) of clause (105) of section 65 of the Finance Act, 1994,

shall be the date on which payment is received or made, as the case may be:

Provided that in case of services referred to in clause (a), where payment is not received within the period specified by the Reserve Bank of India, the point of taxation shall be determined, as if this rule does not exist.

Provided further that in case of services referred to in clause (b) where the payment is not made within a period of six months of the date of invoice, the point of taxation shall be determined as if this rule does not exist.

Provided also that in case of “associated enterprises”, where the person providing the service is located outside India, the point of taxation shall be the date of credit in the books of account of the person receiving the service or date of making the payment whichever is earlier.

Answer is “Govt has now given this relief to three variety of cases.

For these, “Service Tax is payable on Receipt of money only” . they are

First= Export of services → It will be cash basis, but time allowed is max 6 months, from date of service/invoice, (or extended period as per RBI, for foreign payments) *conditions apply

2nd = “Representative assessee” / import of services → time allowed is 6 months, from date of service/invoice, (or extended period as per RBI, for foreign payments) *conditions apply

3rd = “CA / ICWA ” type → continue on receipt basis *conditions apply

These 6 categories of people are covered in clause no (p), (q), (s), (t), (u), (za), (zzzzm). This stands for

P= architect

Q = interior decorator

S = CA

T = ICWA

U = CS

ZA=scientist

So, most of the “businesses” don’t come in this exception.

So, Most of the businesses are “not exempted”

Thus, the system of Accrual and new rules are applicable for them regarding service tax on services income on invoice basis.

Next

But

I heard that **Date has been Extended by 3 months ?**
Is that true ?

New Law after amendment dt 31.3.2011 (no 25/2011) says

*“9. Transitional Provisions.- Nothing contained in this sub-rule 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.”.

Simple Meaning Part 1

>> means, if service was done before 31.3.2011, don't worry – no change for old invoices
>> means, if invoice was made before 31.3.2011, don't worry – no change for old invoices

So, for old invoices (income side)

Pay to govt, when you get the payment

Simple Meaning Part 2

>> **important**

All companies that have to go in for the “Accrual basis”, have an option to choose from receipt basis vs accrual basis for the first April-June quarter 2011.

What You should do ?

= either go for immediate accrual

Or go for accrual from 1.7.2011

For queries, suggestions and feedback , you can e-mail us at :

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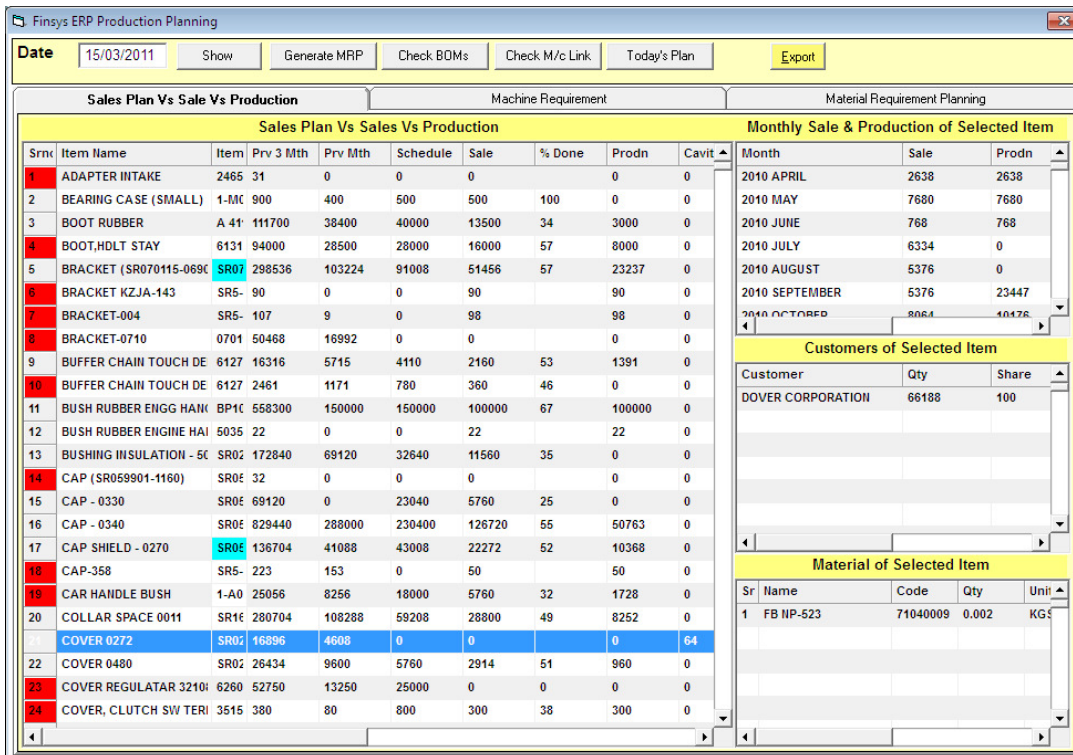
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Advt

One screen from the Finsys ERP

How does the PPC Dept Control the in your company,

..... **HOW ?**



Finsys ERP Production Planning

Date: 15/03/2011 | Show | Generate MRP | Check BOMs | Check M/c Link | Today's Plan | Export

Sales Plan Vs Sale Vs Production										Machine Requirement			Material Requirement Planning		
Sales Plan Vs Sales Vs Production										Monthly Sale & Production of Selected Item					
Srno	Item Name	Item	Prv 3 Mth	Prv Mth	Schedule	Sale	% Done	Prodn	Cavit	Month	Sale	Prodn			
1	ADAPTER INTAKE	2465 31	0	0	0	0	0	0	0	2010 APRIL	2638	2638			
2	BEARING CASE (SMALL)	1-MC 900	400	500	500	500	100	0	0	2010 MAY	7680	7680			
3	BOOT RUBBER	A 4+ 111700	38400	40000	13500	34	3000	0	0	2010 JUNE	768	768			
4	BOOT,HDLT STAY	6131 94000	28500	28000	16000	57	8000	0	0	2010 JULY	6334	0			
5	BRACKET (SR070115-069)	SR07 298536	103224	91008	51456	57	23237	0	0	2010 AUGUST	5376	0			
6	BRACKET KZJA-143	SR5- 90	0	0	90	90	90	0	0	2010 SEPTEMBER	5376	23447			
7	BRACKET-004	SR5- 107	9	0	98	98	98	0	0	2010 OCTOBER	8064	40476			
8	BRACKET-0710	0701 50468	16992	0	0	0	0	0	0	Customers of Selected Item					
9	BUFFER CHAIN TOUCH DE	6127 16316	5715	4110	2160	53	1391	0	0	Customer	Qty	Share			
10	BUFFER CHAIN TOUCH DE	6127 2461	1171	780	360	46	0	0	0	DOVER CORPORATION	66188	100			
11	BUSH RUBBER ENGG HAIK	BP1C 558300	150000	150000	100000	67	100000	0	0	Material of Selected Item					
12	BUSH RUBBER ENGINE HAI	5035 22	0	0	22	22	22	0	0	Sr	Name	Code	Qty	Unit	
13	BUSHING INSULATION - 5C	SR02 172840	69120	32640	11560	35	0	0	0	1	FB NP-523	71040009	0.002	KG	
14	CAP (SR059901-1160)	SR0E 32	0	0	0	0	0	0	0						
15	CAP - 0330	SR0E 69120	0	23040	5760	25	0	0	0						
16	CAP - 0340	SR0E 829440	288000	230400	126720	55	50763	0	0						
17	CAP SHIELD - 0270	SR0E 136704	41088	43008	22272	52	10368	0	0						
18	CAP-358	SR5- 223	153	0	50	50	50	0	0						
19	CAR HANDLE BUSH	1-A0 25056	8256	18000	5760	32	1728	0	0						
20	COLLAR SPACE 0011	SR1E 280704	108288	59208	28800	49	8252	0	0						
21	COVER 0272	SR02 16896	4608	0	0	0	0	64	0						
22	COVER 0480	SR02 26434	9600	5760	2914	51	960	0	0						
23	COVER REGULATAR 3210	6260 52750	13250	25000	0	0	0	0	0						
24	COVER, CLUTCH SW TERI	3515 380	80	800	300	38	300	0	0						



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