

POINT OF TAXATION

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Point of Taxation Rules

- ✓ **Background–**

Effective from 01-04-2011

**Earlier– POT was on receipt basis and
Book Entry (associated party)**

- ✓ **Meaning–Rule 2(e)**

Is it determining the **taxable event for levy
of Service Tax (point in time service deemed
to be provided)**

Events–

- ▶ Completion of Service
 - ▶ Invoice
 - ▶ Payment Received
- 

COMPLETION OF SERVICE

- ▶ Stand alone Service
- ▶ Continuous supply of Service
 - Stand alone Service–No such definition in law,
General provision will apply
 - Continuous supply of Service.....

Continuously supply of Service–

Rule 2(c)

“Continuous supply of service” means:

- Service provided on continuously or on recurrent basis
- Under a Contract
- Exceeding three months
- With obligation of payment time to time

Or

- Telecommunication Service
 - Works Contract Service
- 

Completion of Service

- ▶ Stand alone Service—when the work has been completed.
- ▶ Continuous supply of service— Proviso (i) of Rule 3
 - “time” when the receiver of service are required to make payment in part or whole as defined in contract

.....completion of service

- ▶ Clarification by Board :

Circular No. 144/13/2011-TRU dated 18-07-2011

-task of providing the service may be physically accomplished, but certain other formalities are required to be completed from the client end before an invoice can be issued..... like quality or measurement.....

.....but does not include irrelevant delay to issue invoice

Invoice

- ▶ Rule 2(d)

“Invoice” means the invoice referred to rule 4A of the STR, 1994 and shall include any document as referred to in the said rule

- ▶ Clarification by Board:

- Circular no. 166/1/2013-ST, dated 01-01-2013

..... no tax point arises on account of reminder letters/notices for insurance policies not being invoices would not levy of service tax...

Rule 4A of STR, 1994

- ▶ Taxable service to be provided or credit to be distributed on invoice, bill or challan –
 - (1) Every person providing taxable service shall, not later than [thirty days] from the date of [completion of] such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier] issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorized by him [in respect of taxable service] [provided or agreed to be provided] and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely :–
 - (i) the name, address and the registration number of such person;
 - (ii) the name and address of the person receiving taxable service;
 - 14[(iii) description and value of taxable service provided or agreed to be provided; and]
 - (iv) the service tax payable thereon:
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Date of Payment – Rule 2A

▶ General Provision–

◦ Earlier of–

- Date on which payment entered in Books
- Credited in Bank Account

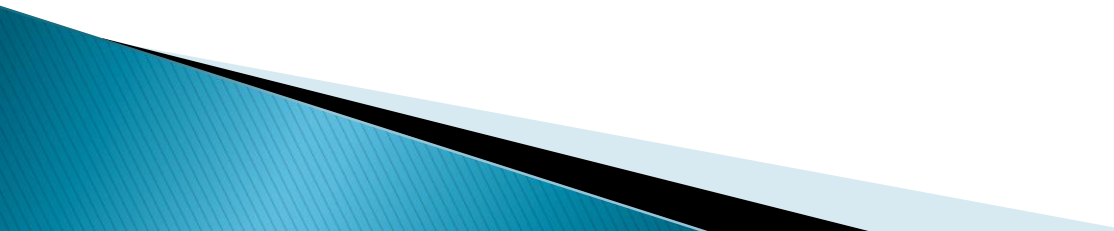
▶ Change in Rate or New Taxable Service

◦ Date on which payment **credited in Bank only**, when–

- Different period (old/new rate period) in Book Entry and Credit in Bank AND
- Credit in Bank after 4 days from New Rate AND
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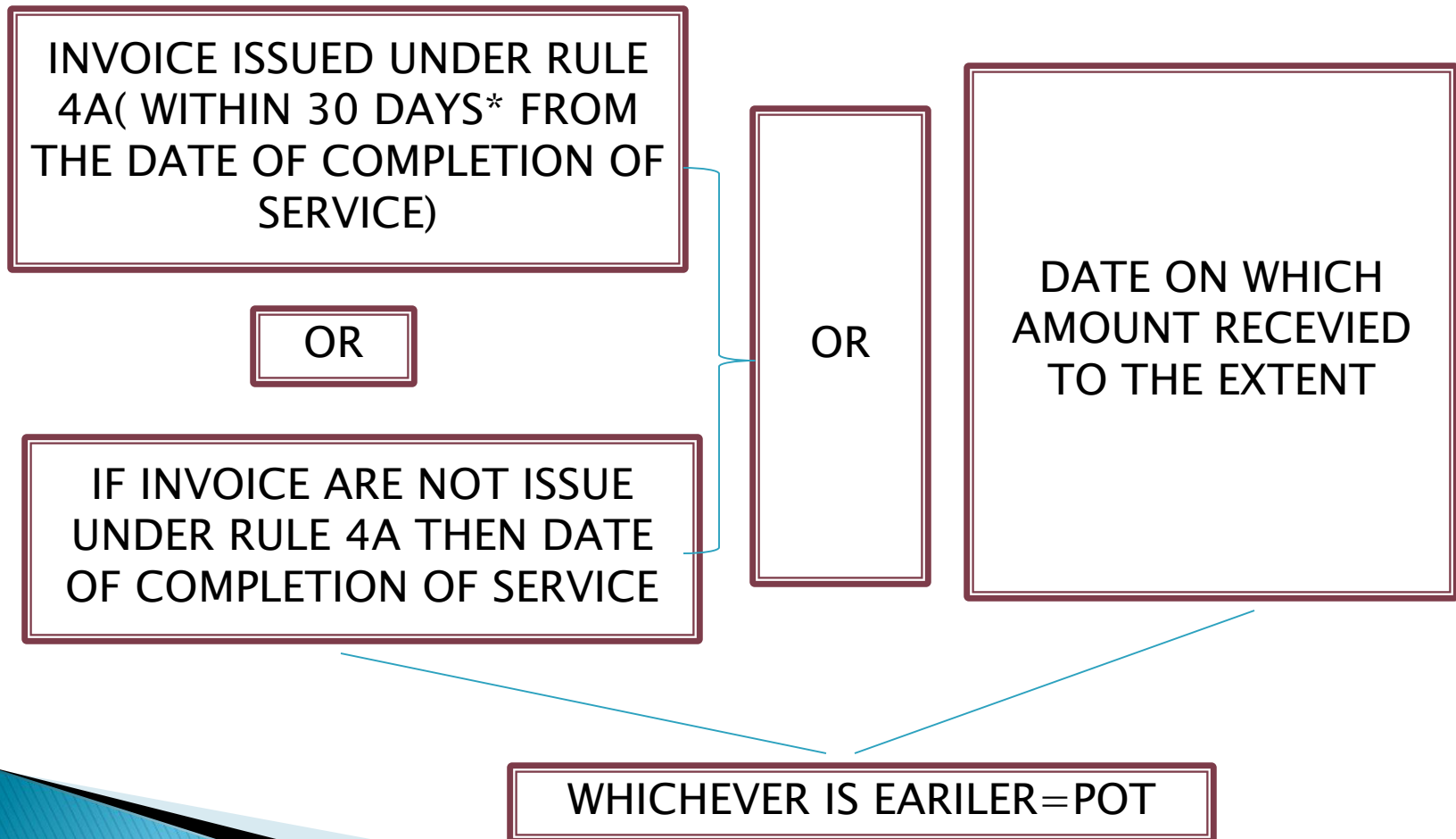
Otherwise General Provision

POT–General Provision (Rule 3)

- ▶ Date of Invoice or Advance Payment whichever is earlier
 - ▶ Date of Completion of Service
(if invoice is not raised within 30 days/45 days of completion of service)
 - ▶ Relaxation for advance upto 1000
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.....RULE 3

Determination of point of taxation



POT–Change in Rate (Rule 4)

- ▶ Change in Rate means change in **effective rate of tax**
- ▶ The term “change in effective rate of tax” is defined under Rule 2(ba) to include a change in the **portion of value** on which tax is payable in terms of a notification issue under the provisions of Finance Act, 1994 or rules made there under.

From change in effective rate

Sr. No.	Service Provided	Invoice	Payment	POT Rule	Rate
1	Before	After	After	4(a)(i)	New
2	Before	Before	After	4(a)(ii)	Old
3	Before	After	Before	4(a)(iii)	Old
4	After	Before	After	4(b)(i)	New
5	After	Before	Before	4(b)(ii)	Old
6	After	After	Before	4(b)(iii)	New

respect of above table if two conditions satisfies 'Before then rate will be Old, and if two conditions satisfies 'After' then rate

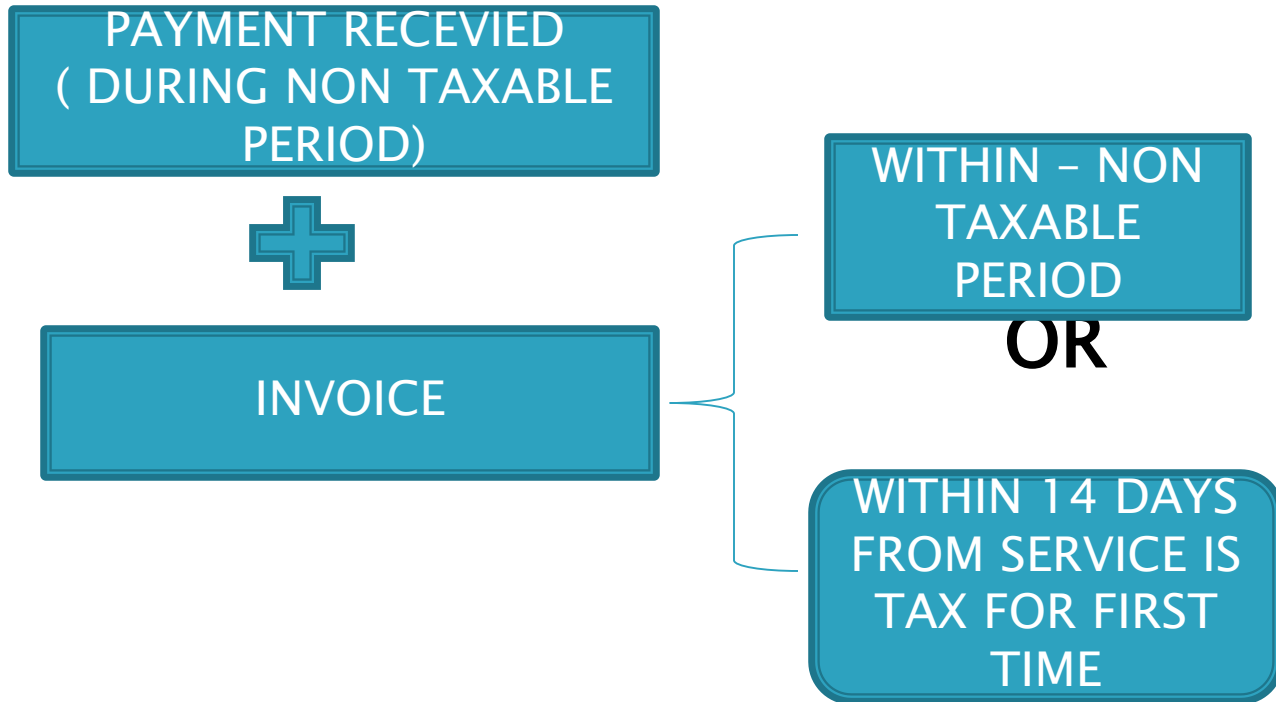
will be New

POT–New Taxable Service (Rule–5)

- ▶ This rule not covered service which was earlier exempt. It covers services now taxable due to Negative list of change in definition of service.
- ▶ To Tax first time– Completion of Service doesn't matter.
- ▶ It would not be Taxed if
 - Payment received before Tax New Service **and**
 - Invoice raised before or within 14 days of Taxed New Service.

.....RULE 5

NO TAX



POT-Reverse Charge (Rule-7)

▶ General Rule

- If payment made within 3 months of invoice:
 - Date of Payment made
- If payment not made within 3 month of invoice:
 - Next day after 3 month of Invoice

▶ Associated Party-

- Date of Debit in books or payment made, whichever is earlier

.....RULE 7

IN CASE OF ASSOCIATES ENTERPRISES



THEN

Whichever is earlier

POT

the date of debit in the books of account BY S.R.

date of making the payment

POT–Copyright, TM (Rule–8)

- ▶ Date of Invoice or Payment Received whichever is Earlier

THANK YOU

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