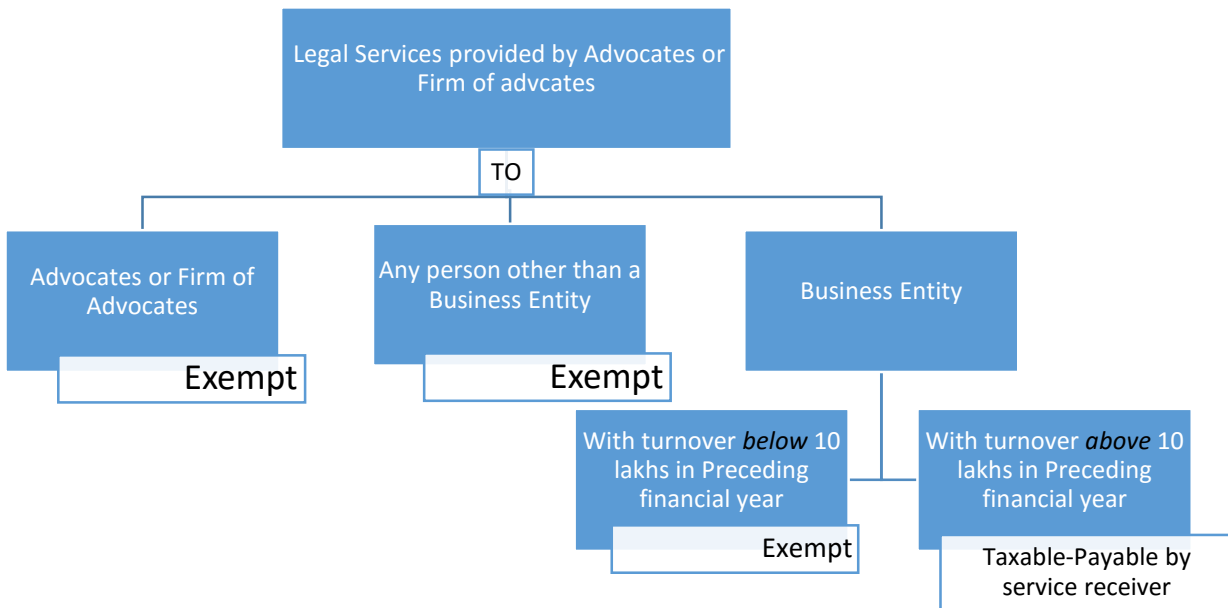


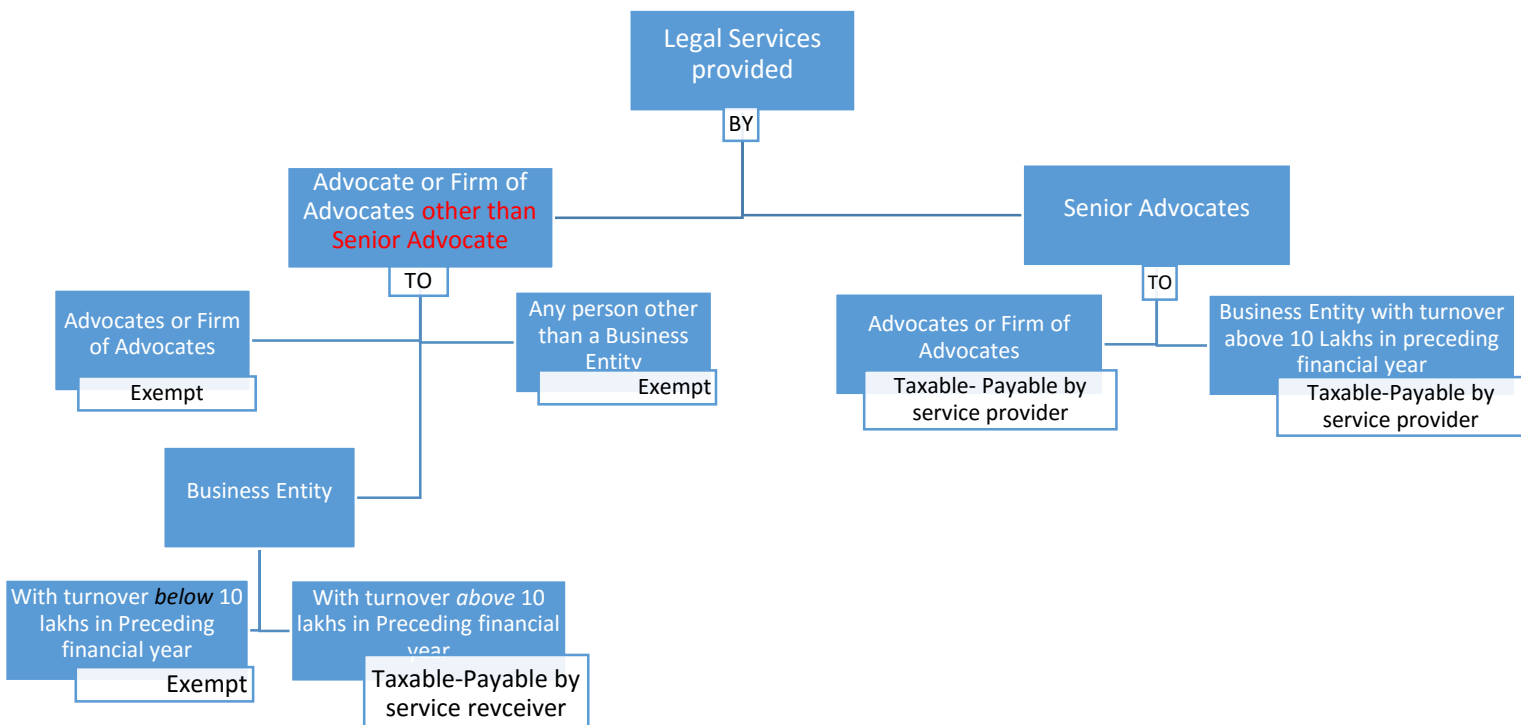
## TAXABILITY OF LEGAL SERVICES RECEIVED FROM AN ADVOCATE

### Analysis of notifications **BEFORE** the BUDGET of 2016



Conclusions: It can be concluded that services provided by Advocates are either exempt under notification 25/2012 or are payable under reverse charge mechanism under notification 30/2012 for all the business entities whose turnover is above 10 lakhs in the preceding financial year.

### Analysis of notifications **AFTER** the BUDGET of 2016



Conclusion: It can be concluded that services provided by **senior advocates** will be chargeable to service tax under forward charge basis. Other services provided by senior advocate will be exempt.

There are various questions which could arise, such as:

1. Who is a Senior Advocate?

➤ For an answer we can look into section 16 of the Advocates Act 1961,

Senior and other advocates –

(a) There shall be two classes of advocates, namely, senior advocates and other advocates.

(b) An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability [standing at the Bar or special knowledge or experience in law] he is deserving of such distinction.

(c) Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.

(d) An advocate of the Supreme Court who was a senior advocate of that Court immediately before the appointed day shall, for the purposes of this section, be deemed to be a senior advocate.

2. What is “Legal Service”?

➤ As per Notification No. 25/2012-Service Tax, “Legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority”.

3. Scenario: XXX Co. a business entity having business income above 10 lakhs in the preceding financial year takes legal service from Mr. YYYY a senior advocate for which a bill was raised. What are the tax implications?

➤ Before notification: The business entity will have to pay tax under reverse charge mechanism at 100% of the invoice amount.

➤ After Notification: The senior advocate will charge service tax on the bill amount and shall pay the tax amount himself under forward charge basis by collecting it from the service receiver.

4. How does one utilize the Cenvat credit?

➤ Before amendment: As the services rendered by an Advocate or Firm of Advocates was chargeable to service tax under reverse charge they were not eligible to take Cenvat credit for the same. Hence here the Cenvat credit remained unutilized and would become a cost for them.

➤ After amendment: Legal services provided by senior advocates would be chargeable to tax on forward basis and hence they would be able to set off this output with the Cenvat credit available with them. For advocates other than senior advocates it will remain the same.

5. What is the rate of service tax which is going to be charged?

➤ The services are to be charged at 14% plus 0.5% as Swachh Bharath Cess, effective rate being 14.5%.

➤ From 1<sup>st</sup> June, 2016: 0.5% as Krishi Kalyan Cess will also be added, effective rate being 15%.

*The indirect consultancy team at B C Shetty & Co, has experts who can help you in training and implementing developments in the Service Tax Law, attain 100% compliance of the law, maintain credibility and save tax and expense at the same time.*

**Disclaimer:** Information contained herein is for informational purposes only and should not be considered for any particular instance or individual or entity. We have obtained information from publicly available sources, there can be no guarantee that such information is accurate as of the date it is received or it will continue to be accurate in future. No one should act on such information without obtaining professional advice after thorough examination of particular situation.

We are happy to help you,

**Contact**

Ankith C Shetty

+91 9980731897

ankit@bcshettyco.com

**b.c.shetty & co.**  
chartered accountants