

**Circular No.173/8/2013 – ST**

F.No.334/3/2013-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs  
Tax Research Unit

North Block  
New Delhi, 7<sup>th</sup> October, 2013

To  
Chief Commissioners of Central Excise and Customs (All),  
Director General (Service Tax), Director General (Central Excise  
Intelligence), Director General (Audit),  
Commissioners of Service Tax (All)  
Commissioners of Central Excise (All),  
Commissioners of Central Excise and Customs (All).

Madam/Sir,

**Subject: Restaurant Service- clarification -regarding**

As part of the Budget exercise 2013, the exemption for services provided by specified restaurants extended vide serial number 19 of Notification 25/2012-ST was modified vide para 1 (iii) of Notification 3/2013-ST. This has become operational on the 1<sup>st</sup> of April, 2013.

2. In this context, representations have been received. On the doubts and questions raised therein clarifications are as follows:

	Doubts	Clarifications
1.	In a complex where air conditioned as well as non-air conditioned restaurants are operational but food is sourced from the common kitchen, will service tax arise in the non-air conditioned restaurant?	Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year (hereinafter referred as 'specified restaurant') attracts service tax. In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the specified restaurant is liable to service tax and service provided in a non air-conditioned or non centrally air- heated restaurant will not be liable to service tax. In such cases, service provided in the non air-conditioned / non-centrally air-heated restaurant will be treated as exempted service and credit entitlement will be as per the Cenvat Credit Rules.
2.	In a hotel, if services are provided by a	Yes. Services provided by specified restaurant in

	specified restaurant in other areas e.g. swimming pool or an open area attached to the restaurant, will service tax arise?	other areas of the hotel are liable to service tax.
3.	Whether service tax is leviable on goods sold on MRP basis across the counter as part of the Bill/invoice.	If goods are sold on MRP basis (fixed under the Legal Metrology Act) they have to be excluded from total amount for the determination of value of service portion.

3. Trade Notice/Public Notice may be issued to the field formations and taxpayers. Please acknowledge receipt of this Circular. Hindi version follows.

Yours sincerely,

(S. Jayaprasam)  
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