

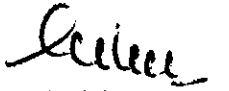
**OFFICE OF THE COMMISSIONER  
CENTRAL EXCISE, CUSTOMS AND SERVICE TAX,  
VADODARA-I COMMISSIONERATE,  
VADODARA**

**TRADE NOTICE NO. 04 / 2009- ST  
VADODARA, DATED 10.08. 2009**

Enclosed is a copy of Circular No. 115/09/2009-ST dated 31-07-2009 issued by the Central Board of Excise and Customs, New Delhi, from F.No. Dy.No. 324/Comm(ST)/2008.

All Trade Associations and Chambers of Commerce and Members of Regional Advisory Committee are requested to publicise the contents including enclosure of this Trade Notice among their members / constituents.

Encl: As above

  
( Dr. Ashir Tyagi )  
Additional Commissioner (Tech),  
Central Excise & Customs,  
Vadodara-I.

F.No. IV/16-21/ST/2009

Vadodara, Dtd. 10-08-2009.

Copy forwarded to :- As per Mailing List.

Circular No. 115/09/2009 – ST

Dy. No. 324/Comm (ST)/2008  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
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New Delhi, 31<sup>st</sup> July 2009

**Subject: Service tax on commission paid to Managing Director / Directors by the company -reg**

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Below mentioned issues have been referred to the Board seeking clarifications,-

- (i) applicability of service tax under 'Business Auxiliary service' on commission paid to Managing Director / Directors (whole time, or Independent) by the company,
- (ii) applicability of service tax on Independent Directors who are part of the Board of Directors under 'Management Consultant service'.

2. Both the matters have been examined by the Board and the clarifications are as under, -

(i) Some Companies make payments to Managing Director/Directors (Whole-time or Independent), terming the same as 'Commissions'. The said amount paid by a company to their Managing Director/Directors (Whole-time or Independent) even if termed as commission, is not the 'commission' that is within the scope of business auxiliary service and hence service tax would not be leviable on such amount.

(ii) The Managing Director / Directors (Whole-time or Independent) being part of Board of Directors perform management function and they do not perform consultancy or advisory function. The definition of management consultant service makes it clear that what is envisaged from a consultant is advisory service and not the actual performance of the management function. The payments made by Companies, to Directors cannot be termed as payments for providing management consultancy service. Therefore, it is clarified that the amount paid to Directors (Whole-time or Independent) is not chargeable to service tax under the category 'Management Consultancy service'. However, in case such directors provide any advice or consultancy to the company, for which they are being compensated separately, such service would become chargeable to service tax.

3. In view of the above, it is clarified that remunerations paid to Managing Director / Directors of companies whether whole-time or independent when being compensated for their performance as Managing Director/Directors would not be liable to service tax.

Pending issues may be resolved in line with the above.

Yours faithfully

(Himanshu Gupta)  
Commissioner (Service Tax)  
CBEC, New Delhi