

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:4834
ANSWERED ON:18.12.2009
INCLUSION OF CUSTOMISED SOFTWARE INTO SERVICE TAX NET
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Will the Minister of FINANCE be pleased to state:

- (a) whether the Government has included the `Right to Use` portion of Packaged Software products under list of taxable services under section 65(zzzze) of finance act 2008 and subsequent amendment in 2009;
- (b) if so, the details thereof and the reasons for the same;
- (c) whether the Government has taken any steps to ensure that the State Government no longer charge Value Added Tax on the same item;
- (d) if so, the details thereof and the steps taken in this irection;
- (e) whether the Customer can deduct Tax at Source from the supplier directly (for packaged software products); and
- (f) if so, the details thereof and section under which they can do the same?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF FINANCE (SHRI S.S.PALANIMANICKAM)

- (a) and (b): yes, Sir. Providing the right to use information technology software, supplied electronically for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products, figure under taxable service under section 65(105)(zzze) of the Finance Act, 2008. The tax has been imposed in view of the fact that internationally right to use information technology software is considered as a service.
- (c) No, Sir. Since Value Added Tax (VAT) falls under the powers of the State Government, no step can be taken by the Government of India to ensure the non-levy of VAT for the same.
- (d) Does not arise in view of (c) above.
- (e) and (f) The supply of packaged software product is a technical service within the meaning of clause (c) of section 194J(1) of the Income Tax Act, 1961 (Act) as it involves rendering of technical services as per the explanation (b) to Section 194J(1). Therefore, the customer is liable to deduct tax at source for the payments made or credited to the supplier for supply of packaged software product.