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Levy on free services: Banks to ask government to recall tax demand

BY [JOEL REBELLO](#) & [SACHIN DAVE](#), ET BUREAU | APR 25, 2018, 06.54 AM IST

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MUMBAI: The Indian Banks' Association is planning to lobby the government against an arbitrary [tax notice](#) which seeks to extract as much as Rs 40,000 crore from the country's [banks](#).

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In a notice served earlier this month, all banks were asked to pay service tax, penalties and interest on [free services](#) offered to customers. ET was the first to report the move in its April 24 edition. The demand is retrospective with a 12% service tax claimed since 2012, 18% interest on the amount and a 100% [penalty](#).

“The association has already met once on the issue and has been empowered to take it up with the government,” State Bank of India's chief financial officer Anshula Kant told ET. “The notice imputes a value to every free service rendered by the bank which is not possible. Besides, they also want to do it retrospectively, which is difficult to say the least.”

The notice has come as a bolt from the blue for an industry already reeling under an enormous amount of bad loans. Banks' financials are so shaky that even the regulator eased norms for provisioning for some losses.

'DEMAND PURELY HYPOTHETICAL'

In such a scenario, the industry feels that it would be unable to bear thousands of crores of tax liability on services on which they did not even earn a fee.

Every bank has different slabs of minimum balance which get certain free services depending on the deposits held, like additional ATM

withdrawals or additional credit card among others. The tax department is claiming that these free services also have a transactional value as these are used as a barter to entice customers and service tax is payable on these.



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Bankers say that demand is frivolous and could create chaos in the industry. “Can any service that is promised as free be taxed?” asked a banker with a multinational bank. “This issue has hit us out of the blue and we will have to pass the cost to the customers. If customers have to pay tax then you can imagine the impact.”

Right now, only service tax has been demanded on these transactions. According to a tax expert this issue could also percolate to goods and services tax. Tax experts said the demand by [DGGST](#) is purely deemed and hypothetical.

“The demand as also the evasion charges appear to be incomprehensible and without any justifiable basis. One should not lose sight of the fact that it has almost taken the investigating agency nearly four years to conclude its investigation and issue notices. Since the litigation in such issues may be a long drawn, costly and uncertain affair, finance ministry and CBIC (Board of Indirect Taxes and

Customs) should intervene and issue suitable clarifications after examining the issue threadbare and in consultation with all the stakeholders,” said advocate Shailesh Sheth of SPS Legal.

Bankers point out to the government’s doublespeak on asking banks to provide free services on one side and then taxing it from the other. “There seems to be no logic to this demand. It looks like it will not be pressed on but the IBA and banks are still seeking clarifications. The government will be wary of the public outcry this could generate,” said a banker.

The tax is being calculated after considering charges recovered by banks from customers who do not maintain a minimum account balance. This per account charge, for those who keep a minimum balance, is being considered as the deemed value of the service being provided by the bank to its customers and tax is being levied on this amount. “The issue has serious implications for the banking sector as the demand, if confirmed, can adversely affect banks’ profitability,” Sheth from SPS Legal said.

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