

Head Office

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Committed to Dental Excellence

June 21, 2010

The Secretary
Department of Revenue
Government of India
North Block
New Delhi

Hon'ble Sir,

**Sub: Representation regarding service tax on cosmetic dental surgery;
orthodontics & aesthetic dentistry**

This is with reference to the letter F. No. 334/13/2009 - TRU dated 6th July, 2009, issued by Ministry of Finance (Dept. of Revenue - CBEC) wherein a new taxable service, namely, 'cosmetic and plastic surgery' service, was proposed to be included in the list of existing taxable services. The taxable service under the nomenclature 'cosmetic and plastic surgery service' was introduced by the Finance Bill, 2009 and made taxable w.e.f. 01-09-2009

We represent the Indian Dental Association and at the very outset, we wish to thank you for taking time out to read our letter.

The abovementioned letter explains and clarifies the service tax implications arising from the newly introduced taxable service and includes, amongst other things, the specific area of Orthodontics as a part of the taxable service. The Association is of the view that cosmetic dental surgery, orthodontics & aesthetic dentistry should not form part of such taxable services and would like to make the following submissions with regard to the same:

1. Branches of Dentistry

Dentistry can be sub-divided into eight speciality branches such as Dental Public Health, Endodontics, Oral and Maxillofacial Surgery,

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Periodontics, Orthodontics and Dentofacial Orthopaedics, Paediatric Dentistry, Prosthetic Dentistry etc.

2. There is a clear line of distinction between Cosmetic & Plastic Surgery and Orthognathic surgery (Cosmetic Dental Surgery as mentioned in your notification is a misnomer) covered under the subject of Oral and Maxillofacial Surgery as explained below
 - (i) Genetic factors influencing jaw growth could cause disproportion between the sizes of jaw bones or sizes of teeth and jaws.
 - (ii) Since Orthognathic surgery treatment is aimed at correction of these and many other developmental & congenital aberrations (like cleft lip & palate) and as per the notification, development problems are already excluded from the scope of service tax, we feel that Cosmetic Dental Surgery as a whole needs to be removed from the ambit of Service Tax.
 - (iii) Orthodontic treatment, cosmetic dental surgery and aesthetic dentistry are NOT SURGICAL TREATMENTS: as explained below.
3. As per American Dental Association dentistry is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his/her education, training and experience, in accordance with the ethics of the profession.
4. The purpose of Orthodontics is to treat malocclusion through braces, corrective procedures and other "appliances" to straighten teeth and correct jaw alignment. An orthodontist is a dentist who specializes in the diagnosis, prevention and treatment of dental and facial development irregularities and malformations.
5. Oral and maxillofacial surgery is the speciality of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and

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defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

6. Dentistry is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his/her education, training and experience, in accordance with the ethics of the profession.
7. Orthodontic treatment is primarily not done for aesthetic correction though improvement in look may be an incidental benefit. The treatment helps in resolving and preventing abnormal wear, pain in jaw joints, facial skeletal imbalances problems in mastication, swallowing, periodontal diseases, tooth decay, bad breath etc. Orthodontic Treatment corrects DEVELOPMENT PROBLEMS.
8. Considering the importance of Cosmetic Dental Surgery, Aesthetic Dentistry, Orthodontic treatment & Orthognathic surgery in the prevention or correction of development problems and the role of treatment in improving mastication, speech etc, the treatment is carried out in all Government hospitals, like AIIMS, Maulana Azad, PGI, Railway Hospitals, Armed Forces Dental Clinics, Corporation Hospitals, HUDA etc.
9. As far as Cosmetic Dental Surgery and Aesthetic Dentistry is concerned, all procedures carried out do not fall in the purview of enhancing the beauty of a person. The procedures that normal people talk about are tooth colour fillings, tooth colour caps given to the patients because of dental disease. The dental disease is the decay of teeth, and the root-canal treatment offered always warrants a cap on tooth to last for longer periods of time.
10. Even procedures like veneers which are used for malocclusion or crooked teeth give rise to food infection which lead to caries or decay hence making the procedures essential. The only procedures, according to our

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Association, which could be included in the tax ambit are bleaching or whitening of the teeth. No other procedures carried out by a dentist are meant for cosmetic restoration but to restore normal form of functioning of the mouth to restore the eating and chewing habits for patients to remain healthy, as the adage goes 'The mouth is the gateway to good health'.

11. IN A NUTSHELL

- i. Dentistry is a cure based profession and dental problems are like the common cold almost each and everyone has them
- ii. Over time techniques and materials have evolved to be less mutilating and more natural as in all medical fields.
- iii. Most dental procedures are done to effect a cure for the patient.
- iv. Filling materials in dentistry today are not only tooth colored but as cost effective as silver amalgam to buy.
- v. An electronic medium like the net has raised the level of information available and made patient awareness and expectations more refined making the common man expect a certain level of treatment.
- vi. The only procedure which is "want based" is bleaching of teeth, everything else is used in curing a condition
- vii. Orthodontics is not a surgical procedure and does not require any kind of anaesthesia.
- viii. Cosmetic dental surgeries, aesthetic dentistry, orthodontics and orthognathic surgeries are not cosmetic procedures.
- ix. Cosmetic dental surgeries, aesthetic dentistry, orthodontics and orthognathic surgeries relate to treatment of inherited, developmental or genetic problems.
- x. It improves masticatory efficiency, better digestion and enhances the life of teeth and jaws.
- xi. Any cosmetic improvement is incidental
- xii. Such a inclusion of dental procedures under service tax ambit prohibit many Indians who, after neglecting their own oral health to their detriment, later seek corrective dental procedures in order to find gainful employment, personal comfort, and social

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acceptance. It seems counterintuitive to penalize people who are taking positive steps in their professional and personal lives, and feel corrective dental procedures are a necessary step in the direction of increased comfort and social confidence. Additionally, some procedures may be cosmetic in one instance but medically necessary in another, requiring a review of each procedure before determination of its taxable nature. Finally, we worry that this provision will place an undue burden on dentists who are required to take on the role of tax-collector, while also holding them liable should the patient fail or refuse to pay the tax.

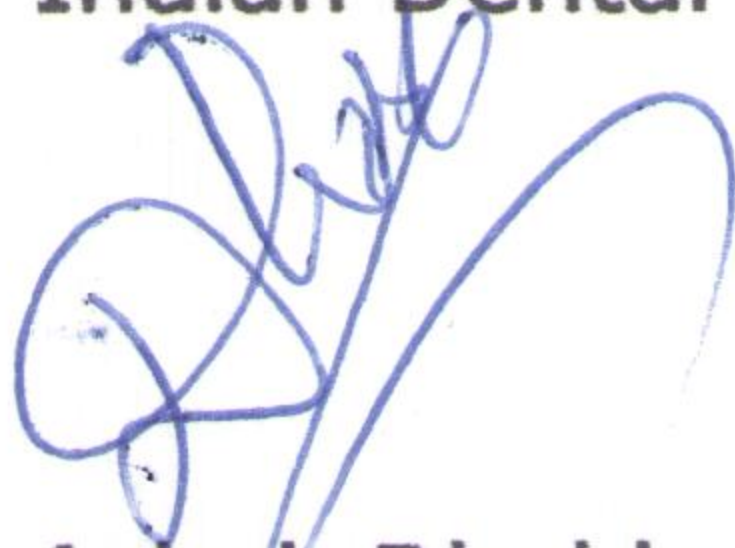
- xiii. Furthermore, this tax law needlessly inserts the government directly into the dentist-patient relationship by allowing the Revenue Service to become an arbiter of what is cosmetic and what is medically necessary.

12. OUR PRAYER

- (i) We pray that a clarification BE ISSUED stating that **cosmetic dental surgery; orthodontics & aesthetic dentistry** will not form a part of cosmetic and plastic surgery service.

We also request for an appointment to meet with you in person in order to discuss and explain our issues and concerns.

Thanking you,
Yours Sincerely,
For Indian Dental Association



Dr. Ashok Dhoble
Hon. Secretary General

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