



Digest of CBDT Notifications, Circulars & Instructions

GUIDELINES FOR ENGAGEMENT OF STANDING COUNSELS TO REPRESENT THE INCOME-TAX DEPARTMENT BEFORE HIGH COURTS AND OTHER JUDICIAL FORUMS; REVISION OF THEIR SCHEDULE OF FEES AND RELATED MATTERS

INSTRUCTION NO. 3/2012, [F. NO. 279/MISC./M-75/2011-ITJ], DATED 11-4-2012

To,
All Chief Commissioners of Income Tax,
All Director Generals of Income Tax

Sub : Guidelines for engagement of Standing Counsels to represent the Income-tax Department before High Courts and other judicial forums; revision of their Schedule of fees and related matters- Forwarding of Instructions regarding

Sir/Madam,

I am directed to enclose Board's Instruction No. 3 of 2012 dated 11-04-2012 on the above mentioned subject. This may be brought to the notice of all concerned within the region for compliance. Further, the Instruction may be brought to the notice of all the Standing Counsels engaged by the department as per earlier Instruction No. 8 of 2007 and the Bar Associations of the respective High Courts.

2. As per para 5 of the Instruction, the revised retainer's fee is applicable only in respect of engagement of Standing Counsels to be done on the basis of applications received from the Counsels in accordance with the terms and conditions laid down in this Instruction. Therefore, fresh engagement of Standing Counsels as per this Instruction should immediately be taken up as per the procedure laid down in para 3 of Annexure I of this Instruction and proposals sent to the Board at the earliest. The number of Senior and Junior Standing Counsels to be engaged for the region should be decided after proper assessment of the workload.

3. The Standing Counsels working under the current panel that are not recommended for engagement in the fresh panel drawn from the proposals received on the basis of this Instruction, may continue to represent the department till the fresh panel of names is approved by the Board by way of issue of sanction order. After engagement of fresh panel by the Board, the term of Standing Counsels who were not recommended could be terminated.

4. While calling for the proposals for engagement of Senior Standing Counsels it should be ensured that willingness/unwillingness of the Counsel is taken on. Whether engagement as Junior Standing Counsel would be acceptable, if the department considers it appropriate?

5. In all the proposals for engagement of fresh Senior/Junior Standing Counsels, the following information may be provided alongwith the proposal

- a. Names of the existing Senior Standing Counsels alongwith the number of cases being handled by them.
- b. Names of the existing Junior Standing Counsels alongwith the number of cases being handled by them independently (not as an assistance to Sr. Standing Counsels), if any.

6. In order to ensure that the bills of Standing Counsels do not remain pending due to insufficient fund under the head Professional Services, the CCs/IT/Cs/IT may ensure that sufficient budgetary provisions are made under the head

Professional Services in their budget estimates well in time.

Yours faithfully,

Encl: As above

(Gaurav Kanaujia)
Deputy Secretary to Government of India

Copy to:

1. The Chairman, Members and other officers in CBDT of the rank of Under Secretary and above.
2. DGIT(Vigilance), New Delhi
3. DIT(PR,PP & OL), MayurBhawan, New Delhi for printing in the quarterly Tax Bulletin and for circulation as per usual mailing list.
4. The DGIT(Systems), ARA Centre, Jhandewalan Extension, New Delhi
5. DIT(PR,PP &OL), MayurBhawan, New Delhi for printing in the Tax Bulletin and for circulation.
6. ITCC section, CBDT
7. Official Language section for Hindi translation

(Gaurav Kanaujia)
Deputy Secretary to Government of India

INSTRUCTION NO. 3/2012, [F. NO. 279/MISC./M-75/2011-ITJ], DATED 11-4-2012

With a view to improve the quality of representation and to streamline the process of engagement of Standing Counsels for the Department to represent before various High Courts and other judicial forums and in supersession of the existing Instructions of the Board on the subject in general, and Board's letter in F. No. 20/20/67-ITJ (1) dated 08.01.1968, Board's letter in F. No. 20/20/67-ITJ (4) dated 11.01.1968, Board's letter in F. No. 20/20/67-ITJ (13) dated 07.03.1968, Instruction No. 1/273 dated 03.03.1971, Instruction No. 1828 dated 13.09.1989, Instruction No. 1806 dated 03.02.1989/ Instruction No. 1986 dated 03.07.2000 and Instruction No. 8 of 2007 dated 30.08.2007, in particular, the following Instructions are issued herewith for compliance by all concerned:

2. Procedure for engagement:

The procedure for engagement of Standing Counsels, renewal of their terms and requisite qualifications and terms and conditions of their engagement shall be as per guidelines at **Annexure-I**.

3. Schedule of fees, allowances and terms of payment:

The Standing Counsels will be engaged in accordance with the revised schedule of fees and related terms and conditions applicable to them as given in **Annexure-II**.

4. These guidelines and the revised Schedule of the fee and allowances shall come into effect from 11-04-2012.

5. The Standing Counsels will be paid fee at the old rates in respect of their appearance and other work done by them prior to 11-04-2012 and at the revised rates in respect of the work done by them on or after 11-04-2012. However, the revised retainer fee shall be applicable only in respect of the engagement of Standing Counsels done based upon proposals received from the Counsels in accordance with the terms and conditions laid down in this Instruction.

6. This issues with the concurrence of Ministry of Law and Justice *vide* their FTS No. 870/Jud.Sec/2012 and the Department of Expenditure I.D. No. 9(4)/2012-E-II(B) dated 10-04-2012.

ANNEXURE-I

PROCEDURE FOR ENGAGEMENT OF STANDING COUNSELS

1. Category of Standing Counsels

The Standing Counsels engaged/to be engaged by the department will fall into the following two categories:

- (a) Senior Standing Counsel
- (b) Junior Standing Counsel

In a station where counsels do not have sufficient experience to be engaged as Senior Standing Counsel, the CCIT may designate a Junior Standing Counsel to perform the functions of Senior Standing Counsel for that station. The Standing Counsel so designated shall perform the function of arguing cases before the Hon'ble High Court/ITAT in the absence of a Senior Standing Counsel.

2. Eligibility Conditions for engagement as Standing Counsel

The eligibility conditions for each category of counsels shall be as under:

2.1. Senior Standing Counsel: In order to be eligible for engagement as Senior Standing Counsel, a person should

- (a) be eligible to appear before the High Court as an advocate and
- (b) have a minimum experience of five years of handling direct tax matters before High Courts or ITAT as an advocate.

OR

have been a Junior Standing Counsel of the Department for three years

OR

have been an officer of the Income-tax Department who is eligible to appear before the High Court as an advocate and has retired/resigned from the post of Commissioner/Director of Income-tax or above or who has been a member of ITAT, provided that he has not been removed/dismissed or compulsorily retired from service on account of disciplinary action and no disciplinary proceeding under service rules or pension rules is pending against him.

2.2. Junior Standing Counsel: In order to be eligible for engagement as Junior Standing Counsel a person should

- (a) be eligible to appear before the High Court as an advocate and
- (b) have a minimum experience of three years of handling preferably direct tax matters before High Courts or ITAT.

OR

have been an officer of the Income-tax Department who retired/resigned from the post of Additional/Joint CIT or below and is eligible to appear before the High Court as an advocate, provided that he has not been removed/dismissed or compulsorily retired from service on account of disciplinary action and no disciplinary proceeding under service rules or pension rules is pending against him.

3. Procedure for engagement of Standing Counsels

3.1 For the purpose of engagement, the CCIT will call for applications in **proforma-A1 & A2** (as applicable), either by advertisement in local newspapers, or from Bar Association of High Court or otherwise. It should, however, be ensured that the process of engagement is transparent and broad based.

3.2 A Screening Committee headed by the CCIT shall be formed for the purpose of evaluation of proposals received. While considering the applications for Jr. Standing Counsels the screening committee should invariably co-opt at least one of the Sr. Standing Counsel. Particulars of the applicants' expertise in handling direct tax matters, aptitude for interpretation and their suitability to represent the cases of the department will be examined by the committee and an evaluation report along with recommendation of the CCIT will be sent to the Board in pro forma-B.

3.3 Sr. Standing Counsels should preferably be taken from amongst the panel of Jr. Standing Counsels of at least three years standing, subject to favourable assessment by the screening committee. In assessing suitability, the quality of drafting, assistance to the appearing counsels and co-ordination aptitude with the officers of the department should be taken into account.

3.4. The First engagement of each Counsel shall normally be for a period of three years.

4. Performance review

4.1 The performance of the counsels shall be reviewed by the jurisdictional CsIT whose cases have been represented by the Standing Counsel, on a **quarterly basis** and a report in **Pro forma-C** shall be submitted to CIT(Judicial)/CCIT before 15th of the month following end of each quarter.

4.2 On the basis of the reports received from the CsIT, the CCIT shall review the performance of the counsels for every financial year and send an **annual report to the Board in pro forma-D** before 30th June of the following year.

5. Renewal of the term of engagement

5.1 Proposals for renewal of Counsels should be submitted to the Board **at least 3 months before the expiry of the existing term**. In case the orders of the competent authority for renewal of the term are not received in time, the CCIT may extend the term for a period not exceeding 3 months. The CCIT shall immediately bring to the notice of the Board such a case for appropriate orders.

5.2 The renewal of the term of engagement of a Counsel shall be generally for a period of three years if his performance is found to be satisfactory. Before making recommendation for renewal of the term, the CCIT shall make an evaluation of the performance of the Counsel during the preceding term and forward it to the Board along with the proposal for renewal in **pro forma-E**.

6. Allocation of cases to Standing Counsels

6.1 The CCIT will be the overall in charge of entire litigation work on behalf of the Income-tax Department in his region before the High Court concerned. In respect of cases pertaining to DGIT(Inv.)'s jurisdiction, the DGIT concerned will be the in-charge. Allocation of cases to the Counsels may be made by the CCIT/DGIT (Inv.) or by a Commissioner/Director authorized by them or by the Senior Standing Counsel, if so authorized.

6.2 The Advocate from the panel of Sr. Standing Counsels alone should be authorized to argue cases unless exigency of a particular station requires relaxation of this condition. The CCIT shall be competent to relax this condition and allow Jr. Standing Counsels to argue cases of the department.

7. Termination of engagement/resignation/expiry of term

The engagement of the Counsel would be terminable through written intimation by either side without assigning any reason. The CCIT is authorized to act on behalf of the department for the purpose. On expiry of the term or termination or resignation, the Standing Counsel shall immediately handover the briefs and other related papers to the CIT concerned or the other Standing Counsels nominated by the CCIT for the purpose and the pending bills of the counsel shall be settled within three months of the end of the term.

8. Duties of the Standing Counsel

A. The Counsel shall

8.1 draft Memorandum of Appeals and related petitions/applications within reasonable time, keeping in view the limitation period;

8.2 file the appeals/other petitions/applications as required, within limitation and communicate the particulars (Diary number, ITA number etc.) to the CIT concerned;

8.3 communicate defects/office objections, if any, in the appeals etc. and take prompt steps to rectify the same with the assistance of the CIT;

8.4 appear on behalf of the department in the High Court/ other judicial forums, as required in the cases assigned to him;

8.5 keep the CIT informed of the important developments in the case from time to time particularly with regard to dates of hearing, conclusion of hearing, date of judgment/order etc.;

8.6 when any case attended to by him is decided against the Department, apply for certified copy of the judgment within two working days of pronouncement and give his opinion regarding the advisability of filing an appeal/SLP against such a decision within three days of taking delivery. He shall send an ordinary copy of the same, as soon as available, to the CIT concerned. In other cases also the same time limits shall be applicable, though opinion will not be required;

8.7 if required, render all assistance to the law officers, Advocate General of the State Government, special or Senior Counsel, who may be engaged in a particular case before the Supreme Court, High Courts, ITAT, etc.;

8.8 give legal advice to the Department on such civil, criminal and revenue matters pertaining to direct taxes and such matters arising in the course of administration of the Department as are referred to him by the Department including:

- (a) examination and settling of drafts of legal nature,
- (b) examination of trust deeds and draft rules of provident funds for recognition, and
- (c) drafting of applications, petitions etc. to be filed in Courts of law and other statutory bodies;

8.9 send the case file and related papers to the CIT concerned after the judgment/order in the case is passed but before submission of the final bill for professional services.

8.10 perform such other duties of legal nature, which may be assigned to him by the Department.

B. Specific duties of Jr. Standing Counsel and related matters

8.11 The duties of Jr. Standing Counsel specifically include rendering meaningful assistance to Sr. Standing Counsel in

- (a) Drafting memo of appeal and consulting assessment records etc., if required.
- (b) Removal of defects / office objections in the cases filed by the department.
- (c) Research for preparation of cases for representation.

8.12 The Sr. Standing Counsels should provide infrastructure facilities to Jr. Standing Counsels such as access to judicial decisions data bank and computers etc. to facilitate effective contribution from them in proper conduct of appeals/cases. However, Jr. Standing Counsels should not be asked merely to attend to clerical work such as filing of appeals or making applications for certified copies etc.

9. Assistance to Standing Counsels by the department

The jurisdictional CsIT/DsIT shall provide all assistance to the Standing counsels such as providing briefs, assessment records, etc. in preparation of a case. In particular, copy of appeal scrutiny report in respect of the impugned order of the ITAT and copy of paper book filed by the assessee before ITAT shall be provided to the counsel for assistance in drafting memo of appeal and preparation of case for representation. The CsIT/DsIT shall respond to communication from the standing counsels promptly and have regular interaction with them in order to keep a close watch on progress of the cases in the Court. The CsIT/DsIT shall, while reviewing the quarterly performance of Counsels, look into the issues, if any, raised by the counsels

and ensure their appropriate resolution.

10. Right to private practice

10.1 The Counsel will have the right of private practice, which should not, however, interfere with the efficient discharge of his duties as counsel of the Department but he shall not advise, hold briefs or appear against the Department before any authority, ITAT or Court in matters under the statutes relating to direct taxes.

10.2 If the Counsel happens to be a partner of a firm of lawyers or solicitors, it will be incumbent upon the firm not to take up any case against the Department in the High Court concerned or before any authority/ITAT falling within the jurisdiction of the said High Court or any case against the department in other courts arising out of the matters falling within the jurisdiction of the said High Court.

Note: CCIT referred to in this annexure will mean Chief Commissioner of Income Tax in charge of Judicial work in the CCA region.

Pro forma-'A1' of Annexure I

Particulars to be furnished by an advocate applying for engagement as Jr./Sr. Standing Counsel

1. Name of the person
2. Permanent Account Number
3. Father's Name
4. Date of Birth
5. Address for correspondence including e-mail, Telephone/Mobile No.
6. Permanent address
7. Educational Qualification *
8. Category of counsel for which applied (Jr. Standing Counsel/Sr. Standing Counsel)
10. Date of enrolment as an advocate in the State Bar Council and Registration No. *
11. If a partner in a firm, name(s) of the firm(s) and other partners
12. Number of cases relating to Direct Taxes dealt with during last 3/5(Jr./Sr.)years as an Advocate*
13. Number of cases published in Journals/Newspapers, etc.
14. Income from Professional Practice (copy of the latest I.T. return to be attached)

Verification

I S/o, do hereby declare that whatever has been stated in the above application is true to the best of my knowledge and belief.

Signature

Date:

Place:

***Applicant to submit documentary proof with respect to aforesaid items/information.**

Undertaking

I..... S/o....., do hereby declare that if engaged by the department, I shall fully abide by the terms and conditions of the engagement.

Signature

Date:

Place:

Pro forma 'A2' of Annexure 1

Pro forma for application by an officer who has retired/resigned from the Income-tax Department or has been a member of ITAT

1. Name of the person
2. Permanent Account Number
3. Father's Name
4. Date of Birth
5. Address for correspondence including e-mail, Telephone/Mobile No.
6. Permanent address
7. *Educational Qualification
8. Date of joining Government Service in Income-tax Department
9. Designation and office address of the last post held
10. Date of retirement/resignation from the service
11. * Date of enrolment as an advocate in the State Bar Council and Registration No.
13. If a partner in a firm, name(s) of the firm(s) and other partners
14. Category of counsel for which applied (Jr. Standing Counsel/Sr. Standing Counsel)

Verification

I..... S/o, do hereby declare that whatever has been stated in the above application is true to the best of my knowledge and belief. I further declare that I have not been removed from the service due to any disciplinary proceeding and no disciplinary proceedings under service rules or Pension Rules are pending against me as on date.

Signature

Dated:

Place:

***Applicant to submit documentary proof with respect to aforesaid items/information.**

Undertaking

I..... S/o, do hereby declare that if engaged by the department, I shall fully abide by the terms and conditions of the engagement.

Signature

Date:

Place:

Pro forma-'B' of Annexure I

Particulars/evaluation report of a person applying for engagement as Jr./Sr. Standing Counsel

1. Name :
2. Category (Junior/Senior) :
3. Date of enrolment as an advocate in the State Bar : Council and :
Registration No.
4. Number of cases relating to Direct Taxes dealt with during : last 3/5 :
(Jr./Sr.) years as an Advocate
5. Number of cases published in Journals/Newspapers etc. :

6. Income from Professional practice :
7. CCIT's recommendations on the overall suitability based : on the :
cases dealt by the applicant with regard to the flair for Direct Tax
emanating from the presentation by the Counsel and other factors.

Chief Commissioner of Income-tax

Pro forma- 'C' of Annexure I

**Pro forma report to be sent by jurisdictional CIT to CIT (Judl.)/CCIT for standing counsels in respect of
appeals/writs represented by him and disposed of during the quarter ending**

Sl. No.	Name of the case	ITA No.	Tax effect	Result of the case	Remarks on performance of the counsel*
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Overall Remarks for the quarter (satisfactory/unsatisfactory)

Commissioner of Income-tax

*Remarks on quality of drafting, initiatives taken by the counsel, time devoted in interaction with the assessing officers etc. should be given

Pro forma- 'D' of Annexure I

Annual performance report of the counsel for the Fin. Yr. _____

1. Name of the Region/Charge
2. Name of the Counsel
3. Category (Sr./Jr.)
4. Date of birth
5. Date of 1st engagement
6. Date of expiry of tenure
7. Ref. No. of CBDT's sanction letter *vide* which last renewal was granted.
8. Number of cases handled during the period under report

	Appeals	Writs
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9. Number of cases decided by the High Court

	(a) in favour of the Department	
	(b) against the Department	

10. Number of cases handled before the ITAT/other Courts
11. Number of cases out of those in col. 10 above, decided
 - (a) in favour of the Department
 - (b) against the Department
12. Whether prompt in applying for certified copy and furnishing the same to the department
13. Quality of written opinion
14. Does the counsel take keen interest in his work and is generally alert and responsive to the Department's interest in litigation entrusted to him? Comments should also be made on the quality of drafting/opinion etc. Specific comments should be given about his promptness in,
 - (a) Informing the department from time-to-time regarding hearing of cases, supply of copies of judgments etc.
 - (b) Taking steps for vacation of stay
15. General assessment on overall performance

Chief Commissioner of Income-tax

Pro forma- 'E' of Annexure I

Report on the performance of the Counsel for the period $\hat{\wedge}$ - $\hat{\wedge}$ - $\hat{\wedge}$ - $\hat{\wedge}$ to $\hat{\wedge}$ - $\hat{\wedge}$ - $\hat{\wedge}$ - $\hat{\wedge}$.. for renewal of the term

PART - I

1. Name of the Region
2. Name of the Counsel
3. Category (Sr./Jr.)
4. Date of birth
5. High Court and Bench
6. Date of 1st engagement
7. Date of expiry of tenure
8. Ref. No. of CBDT's sanction letter *vide* which last engagement/renewal was accorded

PART-II

- | | | |
|---|---------|-------|
| 9. Number of cases handled during the period under report | Appeals | Writs |
| 10. Number of cases decided by the High Court <ol style="list-style-type: none"> (a) in favour of the Department (b) against the Department | | |
| 11. Number of cases/appeals handled before the ITAT/other Courts | | |
| 12. Number of cases out of those in col. 10 above, decided | | |

- (a) in favour of the Department
- (b) against the Department

PART-III

Comments of the CCIT on overall performance of the Counsel

13. Does the counsel take keen interest in his work and is generally alert and responsive to the Department's interest in litigation entrusted to him? Comments should also be made on the quality of drafting/opinion etc. Specific comments should be given about his promptness in,
 - (a) Informing the department from time-to-time regarding hearing of cases, supply of copies of judgments etc.
 - (b) Taking steps for vacation of stay
14. Any other remarks regarding performance of the Counsel including the comments on overall performance
15. Specific recommendation (whether term should be renewed or not)

Chief Commissioner of Income-tax

Note: The evaluation should be based on performance report in pro forma D for the period covered.

Annexure-II

Schedule of Fees and Allowances and Terms of Payment

The fees and allowances payable to Senior Standing Counsels are given hereunder:

1. For appearance in the High Court (subject to exceptions in paras 9 & 10 below)

1.1 In respect of appeal under section 260A of the Income-tax Act or Civil or Criminal Writ Petition under Articles 226 and 227 of the Constitution or Civil or Criminal appeals or revision petition, for first substantial and effective hearing*at admission stage	Rs. 2,400
1.2 In respect of each subsequent substantial and effective hearing upto admission stage	Rs. 1,200
1.3 In respect of appeal admitted under section 260A of the Income-tax Act or reference including application under section 256(2) of the Income-tax Act or Civil or Criminal Writ Petition under Articles 226 and 227 of the Constitution, on first substantial and effective hearing following the completion of pleadings.	Rs. 5,100
1.4 In respect of each substantial and effective hearing, following the first hearing	Rs. 2,100
1.5 In respect of obtaining certificate of fitness under section 261 of the Act, including drafting and typing of the petition	Rs. 2,400 (for each application)
1.6. In respect of Civil Miscellaneous application, including drafting and typing (other than those filed with the appeal memo)	Rs. 2,100 (per case)

2. For Drafting

2.1. For drafting of each appeal memo/writ petition/ counter affidavit or any other	Rs. 5,100 per appeal/writ
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condonation petition/ notice of motion etc.)	
2.2. For drafting each rejoinder/ written submission/any other pleading in answer	Rs. 3,000
In case of identical affidavits, written statements, etc., in connected cases, one drafting fee will be payable in the main case and 1/6th of the drafting fee will be payable in each of the connected case	
2.3 Written opinion: (Other than what is referred in Para 8.6 of Annexure I)	Rs. 3,000 (per case)

3. For Conference

Conference fees (with Assessing Officer or above) Rs. 900 per conference not exceeding Rs. 2,700 per case

*A substantial and effective hearing is one in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given or only judgment is delivered by the Court, it would not constitute a substantial and effective hearing.

The Junior Standing Counsel rendering assistance to the Sr. Standing Counsel shall be entitled to 1/3rd of the amount specified against each item of work. The Junior Standing Counsels performing the functions of Senior Standing Counsels as per the orders of CCIT shall be entitled to 1/2 of the amount specified above against each item of work.

4. Retainership

The Standing counsel shall be entitled to a retainer fee at the following rates:

Senior Standing Counsels	Rs. 20,000 p.m. (for Delhi and Mumbai) Rs. 15,000 p.m. (for other stations)
Junior Standing Counsels	Rs. 10,000 p.m. (for Delhi and Mumbai) Rs. 7,500 p.m. (for other stations)

No separate establishment charges including telephone, etc. shall be payable.

5. Clerkage

Clerkage at the rate of 10 per cent of the appearance fee shall be payable to the counsel.

6. Out of pocket expense

The amount required for Court fees at the time of filing a case and other miscellaneous expenses including expenses for obtaining certified copies of judgment/order should be paid to the Counsel in advance by the Chief Commissioner. An account of the expenses incurred shall be rendered by the counsel to the Chief Commissioner while presenting the final bill.

7. For appearance before any other Court, ITAT, other statutory bodies, etc.:

The Standing Counsel shall be entitled for fee etc. as under

- (a) At headquarters (the seat of High Court for which the counsel is engaged): Same as payable for appearance before the High Court.
- (b) *Out of headquarters*: When the Counsel is required to go out of headquarters in connection with any litigation matter, e.g., for conference with a Senior Counsel, Special Counsel or with the Law Officer or for appearance in any Court/ITAT/Statutory Body, etc., outside the headquarters, he will be entitled to a daily fee of Rs. 5,100 per day for the days of his absence from the headquarters including the days of departure from, intervening holidays and arrival back at the headquarters. However, no fee will be paid for the day of departure if he leaves headquarters after Court hours and for the date of arrival if he arrives at the headquarters before the Court hours. The daily fee will be in addition to the normal appearance fee prescribed at para 1 *supra*.
- (c) *Travel/Hotel expenses*: In addition to the daily fee, the Counsel will be entitled to travel expenses for travel by air

(economy class) or first class AC by train. Road mileage for the journey from his headquarters to the airport/railway station and *vice versa* and from the airport/railway station to the place of his stay out of headquarters and *vice versa* will be paid at the rates admissible to Class I officers of the Central Government having grade pay of Rs. 10,000 in case of Sr. Standing Counsels and Grade pay of Rs. 8,700 in case of Jr. Standing Counsels. He will also be paid a lump sum amount of Rs. 900 as conveyance charges for performing local journey while outside the headquarters. He will also be entitled to actual expenses for stay in hotel, subject to a maximum for Rs. 5,000 per day for Sr. Standing Counsels and Rs. 3,000 per day for Jr. Standing Counsels.

8. Appearance fee in special circumstance

The CCIT may entrust specific duties relating to the Departmental work in the High Court for attending to duties which are not specifically covered in this instruction (such duties to be specified) to any Standing Counsel on the panel. The fees for such specified work, however, shall not exceed Rs. 2,000 per day.

9. Appearance fee in connected/covered cases

9.1 When more than one case involving identical questions/issues are heard together and decided by the High Court, the counsel shall be paid full appearance fee in the main case and Rs. 750 in each of the other connected cases.

9.2 Similarly, in covered cases (where the judgment in the relevant case is squarely based upon earlier decision of the same High Court or of the Supreme Court) the counsel shall be paid only Rs. 750 per case as the appearance fee. However, in case the counsel has argued the relevant case to the effect that the case was not a covered one and such arguments duly find a mention in the judgment, the case will not be considered a covered one and the counsel shall be entitled for full appearance fee.

10. Uncontested matters

A case shall be regarded as uncontested, if the same is withdrawn by the plaintiff/appellant or dismissed *in limine* or otherwise decided by the court *ex parte*. In uncontested cases, the fee shall be 1/3rd of the appearance fees as applicable to the stage of the case, otherwise payable, but if such a case is later on restored and decided in contest, the remaining 2/3rd of the fee will be payable.

11. General

11.1 The rates specified above are primarily applicable to income-tax cases but will apply, *mutatis mutandis*, to cases relating to other direct taxes and any other matters assigned by the department. In all cases effective appearance is necessary for the Counsel to claim fee.

11.2 No fee will be payable in cases where no legal work is required to be done. For example, cases in which the interest of the department is to be watched pending instructions, the cases involving transmission of records to the Supreme Court, inspection of the Court record for ascertaining the position of the case or other information needed etc.

11.3 No fees for adjournment - No fee will be payable to the Counsel if an advance notice about the adjournment has been circulated or the case has been adjourned at his request due to the reasons personal to him.

11.4 If the Counsel appears at the instance of the Union of India or for parties other than the Union of India whose scales of fee are not inconsistent with that of the Union of India, he will be entitled to only one set of fees.

11.5 When the Counsel does not argue the case himself but assists the Law Officer or any other special Counsel, he will be entitled to the same fee as is payable to him as if the case has been argued by him.

11.6 When cases argued before a Single Judge are referred to a Division Bench or to a Full Bench, separate fee at the rates prescribed at para 1 of this Annexure will be paid for appearance before each Bench.

11.7 Late submission of certified copies of the judgment.

11.7.1 20% of the appearance fees would be deducted if the application for certified copy is not made within two working days, excluding the date of pronouncement of the judgment.

11.7.2 Further, 20% of the appearance fees shall be deducted if certified copy of the judgment is not handed over to the jurisdictional Commissioner/Director of Income-tax within three working days of the judgment being ready for delivery. In case where the jurisdictional Commissioner/Director of Income-tax is stationed at a different city/town from the one where the High Court bench is located, the time limit for delivery of certified copy of judgment would be, five working days of the judgment being ready for delivery :

Provided clause 11.7.2 shall not be enforced if the counsel intimates the Commissioner/Director concerned or the officer nominated by him, of the conclusion of hearing giving particulars of appeal and makes available to him an ordinary copy of the judgment as soon as the same is available (but before the date of judgment being ready for delivery) alongwith the copy of receipt of making application for certified copy within period stipulated at 11.7.1 above.

12. Procedure for submission and payment of bills to Standing Counsels

12.1 The Counsel should submit professional bills in proforma 'X' of this annexure by the 10th of every month:

12.1.1 Bills for drafting should be submitted in the month succeeding the month in which the appeal etc. was filed.

12.1.2 Bills for appearance for admission and regular hearings as referred in para 1 of annexure II should be submitted in the month succeeding the month in which relevant orders/judgments are received.

12.2 Bill claiming retainer fee as referred in para 4 of annexure II should be submitted in the month succeeding the month of retainership.

12.3 Wherever Jr. Standing Counsel has assisted a Sr. Standing Counsel, a combined bill should be submitted by the Counsels.

12.4 The bills shall be scrutinized within 30 days of receipt and deficiency or excess claim if any shall be communicated to the counsel within a week of such scrutiny. The scrutiny of bills should not be kept pending due to non-availability of funds.

12.5 After passage, the Bill should be arranged in seriatim of receipt, for payment.

12.6 The cheque should be sent to the counsel concerned giving particulars of bills covered by the payment.

12.7 In order to resolve any issues pertaining to bills, the CITs should have periodical, preferably quarterly meetings with the counsels.

Proforma-'X' of Annexure II

Bill for claim of professional fees by Standing Counsels (case-wise) to be submitted to the CIT concerned/CIT(J)

PRE-RECEIPTED

1	Name of the Counsel(s)*	Senior	Junior
2	CIT Charge		
3	Case Title		
4	Asstt. Yr. involved		
5	ITA No./WT No. etc.		

* In case Junior Counsel has assisted the Senior Counsel in a case, both the names should be mentioned and combined bill to be submitted.

PART A (Bill for Drafting), as applicable

(Amount in Rs.)

1	Appeal memo u/s 260A	Senior	Junior
2	Writ petition		
3	Counter affidavit or any other pleading of similar nature involving original work		
4	Rejoinder/written submission or any other pleading in answer		
5	Written opinion		
	Total		

PART B (Bill for appearance etc.), as applicable

(Amount in Rs.)

- 1 Admission stage (Whether Connected or Covered case- Yes / No)
- 2 First substantial and effective hearing after admission
(Whether Connected or Covered case- Yes / No)
- 3 Subsequent substantial and effective hearing
(Whether Connected or Covered case- Yes / No)
- 4 Certificate of fitness (para 1.4 of annexure II)
- 5 Civil Miscellaneous application (para 1.5 of annexure II)
- 6 Date of Judgment
- 7 Date of making application for certified copies
- 8 Deduct 20% of (1)+(2)+(3) if date at (7) is more than 2 days from (6), excluding the date of judgment (-) (-)
- 9 Date of Judgment ready for delivery
- 10 Date of furnishing ordinary copy to the CIT concerned/ CIT Judicial (if applicable)
- 11 Date of furnishing certified copy to the CIT concerned/CIT Judicial
- 12 Deduct 20% of (1)+(2)+(3) if date at (11) is more than 3 (5 for outstation) days from (9), excluding the (-) (-)
date of order ready for delivery.
(Not applicable if the counsel intimates the CIT/DIT concerned of the conclusion of hearing giving particulars of appeal and makes available to him an ordinary copy of the judgment as soon as the same is available (but before the date of certified copy being ready for delivery) alongwith the copy of receipt of making application for certified copy within period stipulated at para 11.7.1 of annexure II.
- 13 Conference fees
- 14 Clerkage
- 15 Out of pocket expenses
- 16 For appearance at any other Court/ITAT/Statutory bodies (as per para 7 of annexure II)
- 17 Appearance fee in special circumstances (as per para 8 of annexure II)

Total

Certified that the above information is correct and in accordance with the terms of engagement. The above claims have not been made earlier.

Received Payment

Received Payment

Signature and Name
of Jr. Standing Counsel
Mobile/Tel. No.

Revenue Stamp

Signature and Name
of Sr. Standing Counsel
Mobile/Tel. No.

For office use only

Deductions applicable*

Senior

Junior

- 1 Connected/Covered cases (as per para 9)
- 2 Uncontested cases (as per para 10)
- 3 Late submission of certified copies
- 3a As per para 11.7.1 of Annexure II
- 3b As per para 11.7.2 of Annexure II
- 4 Others (specify)
- 5 Total deduction

Total Bill

Senior St. Counsel

Junior St. Counsel

Part A

Part B

Total Amount claimed

Deductions, if any (for office use)*

Amount passed for payment (for office use)

*The counsel shall be intimated of the deductions made before payment of the bill.

Signature and Name of the D.D.O.



Horizontal line with arrowheads at both ends, likely a signature line or separator.