



THE CHARTERED ACCOUNTANT JOURNAL

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
SET UP BY AN ACT OF PARLIAMENT



ICAI International Conference

*"Accountancy Profession: Leveraging
Emerging Challenges For Inclusive Growth"*

6 - 8 January, 2012 at Chennai Trade Centre, Chennai

“...it is the duty of every member of the Institute to ensure that he fulfils the high ideals set before him amidst all the pressures and temptations of the day. I am glad to know...that you are fully alive to your responsibilities. It is only the watchful eyes of the members of your profession which can make any measure that Government may take to curb malpractices in trade and business, really effective.”

Shri C. D. Deshmukh

First Indian RBI Governor (1943-49); Union Finance Minister of India (1950-56)
(at ICAI Council Annual Meeting, August 11, 1951)



Advertisement

Decline of Indian Rupee Hits Economy

This past month has been one of turmoil and volatility in the world economy and the financial markets. In Italy, its longest serving Prime Minister (post-war), Silvio Berlusconi, abdicated his throne, even as the European Union crisis continued. At the same time, the US has been grappling with fears of an impending financial crisis, while its economic recovery still remains slow. In this interconnected world, these trends have also affected the Indian economy, mostly the value of the rupee. Among the currencies across Asia, the Indian rupee has suffered the most, a drop of 15% since the beginning of 2011. At the end of July, the rupee stood at 43.86 relative to the US dollar, versus its current standing 52.15. This is the rupee's lowest ebb since March 2009, when it was at 51.97. Pessimistic projections abound about the currency's future health. Thus, it is not surprising that sentiments are depressed and capital expenditure plans have been put on hold.

Concomitantly, most analysts have predicted that the widening trade deficit will be a major concern for the Indian economy. Monthly trade deficit has alarmingly risen to \$20 billion in October 2011 from \$ 4.5 billion in October 2010. Exports have dropped while imports have increased sharply for most commodities. Simultaneously, capital inflows have dropped from the last quarter, from \$13.4 billion to \$5.7 billion.

Being a net importer, a declining rupee increases the burden for a nation that is striving to assert itself as one of the world's leading economies. The sharp rupee decline has added to the government's challenges *vis-à-vis* fiscal consolidation. This at a time when economic activity lacks acceleration and industrial growth momentum has lost its vigour. The sectors that have taken a major hit include Oil, Aviation and Energy while the ultimate losers are people of India, particularly with consumer manufacturers too raising the prices by up to 10%.

The depreciating rupee has worried the finance ministry. Finance Minister Pranab Mukherjee has rightly said that *"RBI intervention (in the forex market) will not help"* and that the rupee was

weakened due to the withdrawal of foreign institutional investors (FIIs) from the domestic equity market. At the same time Reserve Bank of India's Deputy Governor Subir Vitthal Gokarn at a recent conference said: *"We don't really have a target or a rate in mind. It's moving as per market dynamics. It is disruptive, there is no question. There (will be) impact on our import bill, particularly for energy. It's having an impact on companies and it is a problem."* Meanwhile, Planning Commission Deputy Chairman Montek Singh Ahluwalia was quoted in an interview to a popular television news channel stating, *"It has been a period of enormous currency volatility and you are going to look at what has happened in the Indian currency market in the light of what is happening globally. I think it will settle down."*

For the ordinary India, with inflation still high, matters look gloomy. Inflation remains very close to the double-digit mark, and a declining rupee is only adding to the economy's woes. However, the Reserve Bank of India and the finance ministry are putting in a concerted effort to fortify the economy from further shocks and boost investor morale by increasing the cap in various sectors. As reported across business media, the government has decided to raise the cap for foreign institutional investment (FII) in government securities to \$15 billion from \$10 billion. Also the cap on FII investment in corporate debt has been raised to \$20 billion from \$15 billion. Overall, it is hoped that the current rupee situation is only the result of the contagion caused by global volatility, and that the strong fundamentals of the domestic economy will in time help India survive the crisis. India's financial regulators have a time-tested reputation for their tight monitoring and prudent interventions, and the industry is banking on this track record at this extraordinary hour. With all hands on board, breaking out from these difficult times may not be an implausible goal.

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

ICAI Bhawan, Post Box No.7100, Indraprastha Marg,

New Delhi-110002, Tel: +91 (11) 39893989.

E-mail: icaio@icai.org, Website: www.icaio.org

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DELHI: No.7, 1st Floor, Nizamuddin (West) Market.

New Delhi-110013. Tel: +91 (11) 4669 9999.

BENGALURU: Old No. 583, New No. 9, Sri Manjunatha Krupa,

80 Feet Road, 3rd Cross, Opp. Koramangala Police Station,

Bengaluru-560095. Tel: +91(80) 4161 8966/77.

KOLKATA: 206-Jodhpur Park, Kolkata - 700068. Tel: +91(33) 2473

5896. Telefax: +91(33) 2413 7973.

CHENNAI: AKS Pooja Complex, 2nd Floor, Old No: 203 New No:

154, R. K. Mutt Road, Mandaveli (Next to Jagan Mohan Clinic),

Chennai-600028.

HYDERABAD: H.No: 8-2-684/3/R/1&2, Flat No: 304, Alankrith Apts,

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6TH - 8TH JANUARY, 2012 AT CHENNAI TRADE CENTRE

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Smile Please





CA. G. Ramaswamy, President, ICAI

Dear Friends,

While presenting the Annual Budget for 1956-1957, the then Union Finance Minister Shri C. D. Deshmukh had said: *It is enough to state broadly my view that by means of the First Five Year Plan we have laid sound foundations for a more massive superstructure in building up the country's economy.* He went on to present the vision of his mission which is relevant even today: *The problem is not merely one of raising the statistical average of per capita incomes which could easily be a will of the wisp; it is one of raising the lowest incomes and of opening out to the younger generation avenues of growth and advancement that will bring out the best in them. For this, the present generation has to make sacrifices. It has to work harder and it has to abstain from asking for immediate returns.* He always considered our profession a Public Service. He had advised us to follow high ideals amidst an abundance of pressures and temptations, besides carrying out our statutory responsibilities to report on accounts to the shareholders. I keep his advice in high regard: *it is essential to be ceaselessly vigilant...because of the greatly enlarged sphere of our activities.*

In fact, when the great philosopher Shri Aurobindo

says: *The truth sits veiled behind the appearance, self-absorbed; there is in all things, without exception, "That which is conscious in these conscious & unconscious existences, that which is awake in those who sleep",* we are instantly reminded of our conviction about the consciousness that we must possess while carrying out our professional responsibilities. He informs us about the weaknesses of human beings that we may be a reasoning animal, but our conclusions spring from our preferences, prejudices and passions. It is, therefore, necessary for us to rise above these preferences, prejudices and passions and come up to the expectations of our time.

We need to be quite watchful about the way we conduct ourselves in profession so that we could augment the public trust in the profession and its performance. Moreover, the profession now needs to be more and more communicative to the public about its roles, duties and responsibilities in the national economy, and members of the profession need to be in strict compliance with the existing *Code of Ethics*, so that the gap between our image and identity gets reduced. Our motto that *we have to be awake in those who sleep* becomes quite functional in this context, as it demands us to update our technical skills and develop the scope of auditing processes. We must continue our professional journey on this note with a vigilant attitude.

Let me update our stakeholders now with some recent and important developments in the profession that have taken place in the past one month:

International Initiatives

IFAC Council and Edinburgh Group Meetings and ICAI Nominees in IFAC: I attended the IFAC events in Berlin, Germany, recently along with the Vice-President CA. Jaydeep N. Shah, and Additional Secretary of the ICAI. I take pride to inform our stakeholders that our Institute has been able to retain its Board position at the IFAC. My candidature as Board member of IFAC was approved by the Nominating Committee after a detailed interview and was ratified by the IFAC Board as well. The matter, however, came up for election at the recently concluded IFAC Council meeting, wherein out of seven candidates I secured the highest number of affirmative preferences. The Board position to ICAI is a testimony to our growing stature amongst the global accounting fraternity and the international forums and the role played by ICAI in the India's economic momentum. I also feel satisfied to acknowledge that

another ICAI nominee, my colleague and ICAI Vice-President CA. Jaydeep N. Shah has been nominated to the International Accounting Education Standards Board (IAESB) of IFAC. Coinciding with the IFAC events, the Edinburgh Group meeting was also held, focusing on SMP issues. IFAC events provided an apt forum to the ICAI functionaries to discuss our various initiatives with the global accounting bodies.

Visit of IAASB Chairman and IAASB Executive Director: Recently, Prof. Arnold Schilder, Chairman, International Auditing & Assurance Standards Board (IAASB) and Mr. Jim Sylph, Executive Director, Professional Standards, IAASB visited India. During the visit, the IAASB delegation interacted with regulatory bodies like RBI, SEBI, C&AG, MCA and the ICAI on various issues, including recent global financial crisis and the auditing profession, quality of audits, convergence with international auditing standards, issues relating to auditing standards in India, perspective of the various regulators on the expectations of the stakeholders from auditors, how the regulators and the auditing profession can work together towards a more resilient world economy and protection of the investors. In particular, the delegation met the Minister of Corporate Affairs Dr. M. Veerappa Moily, MCA Secretary Shri Naved Masood and Deputy C&AG Shri A. K. Awasthi to discuss the issues of mutual interests. The IAASB delegation also interacted with the members of the Auditing and Assurance Standards Board of ICAI at the meeting of the Board held on 22nd November, 2011 at New Delhi.

As a part of the Institute's initiatives to create more awareness among the members about Standards on Audit, to encourage their compliance and implementation, the first phase of e-learning on Standards on Audit was launched by the IAASB delegation, comprising ten standards. Work on developing e-learning on the remaining standards is in full swing. We also released three publications, "Handbook of Auditing Pronouncements 2011 Edition", "Guidance Note on Certification of XBRL Financial Statements" and "Guide to Audit of Complex Financial Instruments", during the visit of the IAASB delegation.

ICAI Representation in XBRL International: I am pleased to inform you that ICAI Vice-President CA. Jaydeep N. Shah has been appointed a member of the Nominations Committee of XBRL International, while my Central Council colleagues, CA. Abhijit Bandyopadhyay and CA. K. Raghu have been appointed members of the Finance and

Human Resource Committee, and the Membership Development Committee of XBRL International respectively. The aforementioned positions have been decided by the Member Assembly of XBRL International at its International Conference held in October 2011. Decision regarding the other two nominations of the ICAI is likely to be taken hopefully in December 2011. Here I also wish to inform you that XBRL initiatives of the ICAI will be showcased in a big way at our forthcoming International Conference.

SAFA-EFAA Joint Initiative: I am happy to inform that the South Asian Federation of Accountants (SAFA) representing accountancy in the SAARC region and European Federation of Accountants and Auditors (EFAA) representing SMPs of the Europe have decided to come together to share their expertise for the benefit of SMPs of both the regions. A two-day joint Seminar on SAFA-EFAA Alliance was organised recently in New Delhi, where the MoU between SAFA and EFAA was signed in the august presence of Hon'ble Secretary, Ministry of Corporate Affairs, Shri Naved Masood, with an objective to create a common platform for sharing knowledge resources for the benefit of SMPs and help the members of both the regions for establishing a professional network.

Capacity-Building in Maldives: I take pride in informing you that the Research and Information System (RIS) for Developing Countries, an autonomous research institution established and funded by the Ministry of External Affairs, has approached us and requested us to provide capacity-building programmes for accounting technicians in Maldives. It is important to mention that the Government of India is extending a full-stage services and technology cooperation facility arrangement to the Government of Maldives. In this regard, I called on the Chairman of RIS, Mr. Shyam Saran, former Foreign Secretary, recently and had discussions on our proposed arrangement which could be offered to the relevant stakeholders in Maldives. It was also discussed that these programmes would have an interface and, for this, option of running a part of these courses in India through our Centre of Excellence, etc., would also be explored. We have asked the RIS to indicate the nodal point for recipients of these services, so that focused discussions could be held.

Submission of Report on Admitting Membership of Overseas Citizens of India: A group had been constituted under the convenorship of my Central Council colleague CA. Sanjay K. Agarwal to consider appropriate steps for identifying a qualification-bridging

mechanism in line with the arrangements in place for MoU/MRAs with various international accounting bodies and feasibility of considering provision to be prescribed for admitting membership of overseas citizens of India and to work out the modalities. I would like to inform that the said group has completed its task and its report has been submitted.

Application of the definition of 'financial liability' in IAS 32 to FCCBs: In a meeting of our Accounting Standards Board held recently in Mumbai, IASB member CA. Prabhakar Kalavacherla was invited for a discussion on the carve-outs made in Indian Accounting Standards (Ind AS). He suggested that India would meet greater success in getting its point of view accepted by the IASB if it prioritises the issues to be taken up at a time with the IASB rather than taking all issues at the same time. It was, accordingly, suggested to first send the issue regarding application of the definition of 'financial liability' to Foreign Currency Convertible Bonds (FCCBs), to the IFRS Interpretation Committee so that the amendment made by India in the definition as presently done in Ind AS 32, *Financial Instruments: Presentation*, could be avoided. Further, for greater effectiveness, other carve outs such as that related to giving an option to defer foreign currency gains and losses in respect of long term foreign currency items as provided in Ind AS 21, *The Effects of Changes in Foreign Exchange Rates*, can be taken up along with other countries such as South Korea. The Accounting Standards Board is examining the suggestions made at the meeting.

Towards Constitution of Working Groups of AOSSG: A teleconference of the Working Group of AOSSG on the proposed limited revisions to IAS 41, on *Agriculture*, regarding scoping out Bearer Biological Assets (BBAs) out of IAS 41 and scoping the same in IAS 16, *Property, Plant and Equipment*, was held recently leading to another teleconference between India, Malaysia, and Japan, during which it was suggested that, in the Issues Paper on *Agriculture* to be sent to the IASB, two paragraphs on alternative Indian approach should be included, and that a covering letter should be written by the AOSSG to the IASB Chairman in this regard. Accordingly, a letter has been sent to the IASB. Another teleconference was held to discuss India's suggestion to constitute Working Groups of AOSSG on Rate Regulated Activities and Extractive Activities, where India, Japan and Australia participated and decided to initially constitute taskforces instead of the working groups to carry out research by the interested countries in the AOSSG

region. Thereafter, the taskforces can be upgraded to working groups on requirement basis. For this purpose, India would take a lead in the taskforces and few other countries are being identified to join in this endeavour.

Strengthening Ties

Meeting with Minister of State: Recently I, along with ICAI Vice-President, met Shri V. Narayanaswamy, Minister of State in the Ministry of Personnel, Public Grievances & Pension, and Prime Minister's Office. We apprised him of the activities of the Institute and its role in development of accountancy profession in India and globally, and also invited him for our International Conference to be held shortly.

Meeting with President ITAT: I met the recently-elected President of Income Tax Appellate Tribunal (ITAT), Shri G. E. Veerabhadrapa, and congratulated him on assuming new office. On this platform, I would like to acknowledge before our accounting fraternity and congratulate Shri Veerbhadrapa, also our member, for bringing yet another glory to our profession in public service of our nation.

Meeting with CBEC Chairman: I also had an opportunity to meet the Central Board of Excise & Customs Chairman, Shri S. K. Goel, recently along with the ICAI Vice-President CA. Jaydeep N. Shah and my Central Council colleague CA. Bhavna Doshi.

Initiatives towards Nation-Building

BANCON 2011 in Chennai: I am pleased to inform that I recently attended the annual bankers' conference BANCON 2011 – Gateway to a Defining Decade on the theme *Catalysing economic growth by unlocking financial savings*, successfully and jointly organised by Indian Overseas Bank and Indian Banks' Association in Chennai. I addressed the august audience on the topic *Capturing Opportunities in India's Gen Next*. On the sidelines of the conference, I also interacted with many bankers and the officials of the RBI highlighting the active role that we chartered accountants can play in banking sector in particular and national economy in general.

Awareness Programmes on Challenges in Public Finance & Government Accounting: I am happy to acknowledge that we are organising awareness programmes on *Rising to the Challenges in Public Finance & Government Accounting* to identify opportunities for our members in public finance and Government accounting, to assist in developing public finance structure and to ensure appropriate

sectoral allocation for inclusive growth and economic development. We have organised such programmes in Dehradun, Ghaziabad and Noida, where eminent faculties exchanged their views on amendments of service tax, problems of indirect taxation, wealth tax policy, taxation of real estate transaction, XBRL, among others, with the participants.

MSHRC Request for Training in Accounts & Finance: It is satisfying to inform that Shri Mafiu Hussain, Secretary, Maharashtra State Human Rights Commission (MSHRC), recently met my Central Council colleague CA. Anuj Goyal in Mumbai with regard to a proposal from MSHRC requesting to avail our services for capacity building of his officials in maintenance of accounts and improving the financial discipline of the Commission.

Professional Developments

Meeting with Secretary, Financial Services, Ministry of Finance: I had an opportunity to meet Shri D.K. Mittal, Secretary, Department of Financial Services, Ministry of Finance, recently along with the ICAI past-President and Chairman of Professional Development Committee CA. Amarjit Chopra wherein we discussed various issues of mutual professional interest. In respect of the issue of managerial autonomy given to Boards of the public-sector banks for appointment of auditors, I would like to inform that the Reserve Bank of India has gone ahead with the Roadmap and as suggested therein, the complete list of eligible Central Statutory Auditors has been sent to banks for the purpose. We are in the process of making suitable representations in this regard.

Towards a Crusade for Spreading Ethics in Profession: We have been constantly engaged in spreading awareness about the *Code of Ethics* and preparing ways to familiarise our members with it across the nation. We have been holding programmes, seminars and workshops on various ethical subjects for the members, and we ensure that all Branches/Regional Councils hold at least one such programme in a quarter, i.e. four in a year. So far, 28 programmes have been conducted in the current year. Further, we have also introduced a regular column on Ethics, *Know Your Ethics*, in our journal.

Guidelines on Conversion to LLPs: As per the recent Council decisions, guidelines for conversion of CA firms into LLPs and constitution of separate LLPs by the practicing chartered accountants

have been finalised which are applicable for conversion of CA firms into LLPs or formation of new LLPs by the members-in-practice of the Institute subject to the provisions of the Limited Liability Partnership (LLP) Act, 2008 and Rules & Regulations framed there under. These guidelines came into effect from 4th November, 2011, and will certainly help the members and CA firms for conversion/formation of LLPs and rendering professional services through LLP Model. The said guidelines are available on the website of the Institute and have been published in this issue of the Journal. The name of the LLP shall be approved by the Registrar for LLP and after issuance of certificate of incorporation of LLP by the Registrar for LLP, the LLP name will be required to be registered with the ICAI like registration of firms with ICAI.

Filings of Financial Statements in XBRL: As you are kindly aware that the Ministry of Corporate Affairs has switched from normal e-filings to XBRL-filings of financial statements for a certain class of companies from this year. The filings in XBRL mode have started and the due date is 30th November, or, 60 days from the due date whichever is later. I urge the members of profession to complete the certification of their corporate clients at the earliest, so that the filings can be made by the due date.

ICAI Awards for Excellence in Financial Reporting: For the annual competition *ICAI Awards for Excellence in Financial Reporting*, this year, a record number of about 225 entities have participated in various categories. As per the procedure, these entities pass through a robust three-tier evaluation process, i.e. evaluation of annual reports on the basis of compliance with accounting standards and relevant applicable laws, etc., evaluation by the Shield Panel and, eventually, that by an independent jury.

Christ University Offers MPhil/PhD: I am quite happy to inform you that the Christ University, Bangalore, has approved the eligibility of our members to pursue the MPhil/PhD programme in its disciplines of Commerce and Management that include interdisciplinary areas, subject to MPhil/ PhD regulations of the University.

Support CABF Initiative: This is my appeal to all my stakeholders to come actively forward to support and contribute to the CABF (Chartered Accountants Benevolent Fund) initiative of the Institute towards the cause of the profession and

its members. It provides financial assistance to our members in distress for fundamental needs including sustenance. You should know that contributions to CABF are exempted under Section 80(G) of the Income-tax Act, 1961.

Infrastructure Initiatives

Auditorium Inaugurated in Bhilai: I recently inaugurated an auditorium at our Bhilai Branch with a capacity for 225 persons and complete sound- and echo-proof interior with WiFi. It is a matter of pride for us that this auditorium is currently one of the biggest auditoriums in the state of Chattisgarh.

Initiatives for Students

Best Wishes to All 2.5 Lakh Students: About 2.5 lakh students (83000, 131000 and 36000 students for Final Examinations, IPC Examinations and PC Examinations respectively) have appeared in the Institute's November 2011 Chartered Accountants Examinations at 345 centres including three centres abroad. All the examinations were conducted without any inconvenience or issue. The Examination Department is fully geared up to evaluate the answer books and declare the results in time. I wish all students would pass the examination with flying colours.

Recommendations for Amendment of Regulation 28E(1)(b): It has also been decided to recommend for amendment of Regulation 28E(1)(b), whereby the study for IPCC would be reduced from existing nine months to eight months to make candidates eligible to appear in the Integrated Professional Competence Examination (IPCE) from the date of Registration for IPCC.

Review of CA Syllabus: We have taken a much-desired initiative and formed a Committee as per direction of the Council to review comprehensively our syllabus for CA course curriculum that has not been undertaken since 2006.

Orientation Content for GMCS I & II: We recently deliberated on the proposed contents of Orientation Programme for GMCS-I and GMCS-II and finalised the same. All the necessary initiatives have been taken to prepare the course material for these courses along with a trainer's manual as soon as possible.

Winter is a time for making new promises and finding ways of keeping up the old ones. We get

more time for ourselves in this season. American author Ruth Stout had said: *...only in the winter...can you have longer, quiet stretches when you can savor belonging to yourself.* I realise, all of us feel that it also is time for creating comfort and warmth for our friends, family and loved ones.

However, I do realise that concerns of the impoverished of our nation, who are in dire need of resources during winters for survival, must be first on our agenda. We come across numerous incidents how the crises strike these citizens across the nation during winters. According to a Japanese proverb, *one kind word can warm three winter months.* Think, then, what one kind act can do. For example, in the beginning of winters, we normally discard our old winter clothes. This time, we can hand over those clothes in person to the people on pavements. This gesture of ours will generate warmth literally as well as metaphorically for those fellow citizens. We must do something for our fellow citizens being on the stronger side of our society. This will be our return against our social debt to society. Such acts make our society capable, happy and warm.

When it is summer, we want rainy season to arrive. When we get bored of the rainy days, we want them to be over. In the peak winter, we yearn for spring. Actually we start missing whatever we lose; we love to have whatever is not with us. This is a basic human instinct. Weather in itself is a lesson, i.e. we should learn from our past, face our present and prepare ourselves for future. I would like to recall the beautiful inspiring lines written by the English poet P. B. Shelley, which exude hope and trust: *...O, wind, If Winter comes, can Spring be far behind?*

While we leave our fate to the time to be positive and bright, we can be tough on ourselves to turn our fate positive and bright for the society we live in.

May we all stakeholders of the profession join hands in this mission!

Best wishes



CA. G. Ramaswamy
President, ICAI
November 23, 2011

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International Conference

Accountancy Profession: Leveraging Emerging Challenges For Inclusive Growth

6 – 8 January, 2012 at Chennai Trade Centre, Chennai

As financial markets integrate and business operations diversify; the seamless integration has occasioned ripples never seen before. While at one end one sees the expanding horizons for professionals and professional services; one still grapples with sporadic issues of service quality, need for a uniform lexicon of globalised standards to name a few. Accountancy profession like any other professional services is today at threshold. The responsibility is cast more on the accountancy profession as unlike others it touches upon vast segment of society. The challenges of trust, utility, technology, relevance and in process adherence to laid ethical norms are all the more important and should form the part of "must do" for each one of us so that the profession is projected as a responsible constituent and collaborative partner in whatever sphere of economic activities it is.

The ICAI believes that in such complex and emerging times; it is knowledge sharing of emerging paradigm and its application in a practical context which would provide the requisite information, skill application and empathisation to broader context so that these learning outcomes are dovetailed by membership and other stakeholders in their professional pursuits. Recognising its responsibility to the stakeholders in general and ICAI members in particular; the ICAI is organising the International Conference. The International Conference is a forum of establishing interface for region's most influential thought leaders in the field of accounting, finance & business and participants from academics, researchers, practitioners and policy makers to share and gain fresh insights in cutting-edge information on global trends, issues and challenges. Participants would not only have the occasion to professionally upgrade but also have enough networking opportunities with vast segment of accounting fraternity which is likely to participate not only from across pan India also likely to see significant delegations from SAARC Region and galaxy of International speakers and those from industry, government and other regulatory constituents.

It is an event which extends to full two days on 7th & 8th January, 2012 with inauguration on 6th January. The Conference would be an assimilation of learned resources in areas of financial reengineering, governance, harmonisation of standards; financial cauldron & learning lessons, SMP context, accountants and millennium developmental goal and related issues out of current and emerging context.

CPE Hours	12 hours	
Delegate Fees	Members (ACA)	₹ 2000
	Members (FCA)	₹ 2500
	Non Members	₹ 3000
	Foreign Delegates	US\$ 125
	On the spot Registration	Members ₹ 3000
How to make payment	Pay online at www.icaai.org or by Demand Draft in favour of 'Secretary ICAI, Chennai International Conference 2012 A/c', Payable at Chennai	
Program Details	Significant Thematic Issues	
	■ Towards Globalised Accounting Framework – A Reality Check ■ Value Creation through Innovation & Entrepreneurial Vision ■ Professional & Social Panorama ■ Accountancy Profession: Serving a Wider Landscape	■ Financial Sector – Fulcrum of Inclusive Economic Growth ■ Harmonisation of International Auditing Standards – International & Indian Perspective ■ Encouraging Good Governance through Market Mechanisms ■ Emerging Paradigm of Accounting Profession
Conference Programme		
	DAY ONE JANUARY 6, 2012	
	INAUGURAL SESSION	5:30 pm – 7:00 pm
	ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING	7:00 pm
	DINNER	8:00 pm
	DAY TWO JANUARY 7, 2012	
	Session – I: Towards Globalised Accounting Framework – A Reality Check	
	Session – II: Value Creation through Innovation & Entrepreneurial Vision	
	Session – III: Professional & Social Panorama	
	■ Knowledge Innovations for Inclusive Growth ■ International Taxation & Transfer Pricing ■ Working towards an Enterprise Governance Framework- Indian Perspective	
	Special Session: Professional Opportunities Abroad	
	Session – IV : Accountancy Profession: Serving a Wider Landscape	
	■ Banking Sector- Maintaining Resilience to Risk and Shock ■ Framework for fighting menace of Corruption, Blackmoney and Money Laundering ■ Integrated Reporting: New Paradigm of Sustainability Reporting	

Pavilion on Emerging Technologies (XBRL)

Pavilion on Networking Session for Professional Accountancy Firms Globally.

		DAY THREE		JANUARY 8, 2012	
		Session – I: Financial Sector – Fulcrum of Inclusive Economic Growth			
		- Financial Sector – Fulcrum of Inclusive Economic Growth - Insurance Sector- Building Strength through Professional Excellence			
		Session – II : Harmonization of International Auditing Standards – International & Indian Perspective			
		Session –III : Encouraging Good Governance through Market Mechanisms			
		- Essence of Audit Quality: Governance Tool - Encouraging Good Governance through Market Mechanisms			
		Session – IV: Emerging Paradigm of Accounting Profession			
		- GST & DTC: Catalyst for Economic Growth - XBRL : Corporate Reporting to Business Reporting - Emerging Corporate Law Regime - Limited Liability Partnership: International Experience			
		Special Session: Managing Through Turbulent Times : Balancing Growth & Stability			
		Session – V: Panel Discussion: Competency Building of SMEs in the Emerging Trade Order			
 Organisers 	Conference Chairman CA. G. Ramaswamy President, ICAI		Conference Co-Chairman CA. Jaydeep N. Shah Vice-President, ICAI		
	Conveners				
	CA. S. Santhankrishnan Central Council Member		CA. V. Murali Central Council Member		CA. Rajendra Kumar P. Central Council Member
	Co-Convenor				
	CA. K. Shanmukha Sundaram Chairman, SIRC				
	Co-ordinators				
	CA. S. Murali Secretary, SIRC		CA. P. R. Aruloli Regional Council Member, SIRC		CA. Gopal Krishna Raju Regional Council Member, SIRC
For registration and other details please contact		Shri T. V. Srinivasan, Deputy Secretary Ph. 044 -30210320, M: 09884402497, email: tvsrinivasan@icai.org Shri D. Vijayaragavan, Deputy Secretary Ph. 044-30210325, M: 09380497920, email: vijayaragavan@icai.in ICAI Bhawan, 122, Mahatma Gandhi Road, Post Box No. 3314, Nungambakkam, CHENNAI-600 034 Website: http://www.icai.org			
For sponsorship related details please contact		Dr. Surinder Pal, Sr. Dy. Director (011-3011 0430) Email: spal@icai.in			
Sponsorship Avenues		SPONSORSHIP AVENUES			
		PLATINUM SPONSOR (₹25 lakh) ✓ Providing a fully furnished exclusive stall(15 sqm) outside the conference premises, allowing your to showcase your products to the participants ✓ Acknowledgement on International Conference website as “Platinum Sponsor” ✓ Acknowledgement on the Invitation Card of the Conference ✓ Acknowledgement as the Conference sponsor on the banners & signages ✓ Display of 10 Standees on the event sites ✓ Logo on the cover page of the writing pad to be used in Conferences/Seminars/ Workshops ✓ Advertisement in the Conference Souvenir ✓ Logo on the Conference bag ✓ Complementary passes(15) for delegates ✓ Full Coloured Page Advertisement in ICAI’s Journal (January/February Edition)		GOLD SPONSOR (₹20 lakh) ✓ Providing a fully furnished exclusive stall(10 sqm) outside the conference premises, allowing your to showcase your products to the participants ✓ Acknowledgement on International Conference website as “Gold Sponsor” ✓ Acknowledgement on the Invitation Card of the Conference ✓ Display of 6 Standees on the event sites ✓ Advertisement in the Conference Souvenir ✓ Complementary passes(10) for delegates ✓ Full Coloured Page Advertisement in ICAI’s Journal (January/February Edition)	
		EMERALD SPONSOR (₹ 10 lakh) ✓ Providing a fully furnished exclusive stall (6 sqm) outside the conference premises, allowing your to showcase your products to the participants ✓ Acknowledgement on International Conference website as “Emerald Sponsor” ✓ Acknowledgement on the Invitation Card of the Conference ✓ Advertisement in the Conference Souvenir ✓ Complementary passes(5) for delegates ✓ Full Coloured Page Advertisement in ICAI’s Journal (January/February Edition)		SILVER SPONSOR (₹7.5 lakh) ✓ Providing a fully furnished exclusive stall (6 sqm) outside the conference premises, allowing your to showcase your products to the participants ✓ Acknowledgement on International Conference website as “Silver Sponsor” ✓ Acknowledgement on the Invitation Card of the Conference ✓ Advertisement in the Conference Souvenir ✓ Complementary passes(2) for delegates ✓ Half Coloured Page Advertisement in ICAI’s Journal (January/February Edition)	



Cultural Extravaganza
th January,
2012



Cultural Extravaganza
7th January, 2012





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Souvenir-Advertisement

- Back Cover Page- ₹2,50,000
- Inside Front Cover Page - ₹2,00,000
- Inside Back Cover Page - ₹2,00,000
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- Half Page Colour Advertisement - ₹75,000
- Full Page B/W Advertisement - ₹50,000
- Half Page B/W Advertisement - ₹25,000
- Display Stalls - ₹75,000/Day

OTHER SPONSORSHIP AVENUES

- Dinner + Cultural Evening (7 January, 2012) – ₹15,00,000 (1 event)
- Conference Lunch (3) (7-8 January, 2012) - ₹7,50,000 each
- Tea-Coffee Plaza (3) (7-8 January, 2012) - ₹1,50,000 each
- Delegate Kit - ₹15,00,000



For more details, please visit <http://www.icai.org>

ICAI International Conference on "Accountancy Profession: Leveraging Emerging Challenges For Inclusive Growth"

6 – 8 January, 2012 at Chennai Trade Centre, Chennai

Registration Form

Yes, I am interested in participating in the International Conference on "Accountancy Profession: Leveraging Emerging Challenges For Inclusive Growth"

Name of the Delegate:

Organisation/Firm:

Address:

Tel (with STD/ ISD Code):

Fax (with STD/ ISD Code):

E-mail:

Member of the Institute: Yes: ☐ No: ☐

Membership No:

CATEGORY	FEES
MEMBER (ACA)	₹2000
MEMBER (FCA)	₹2500
ICAI NON-MEMBERS	₹3000
FOREIGN DELEGATES	\$ 125
ON THE SPOT REGISTRATION MEMBERS	₹3000

Mode of payment: DD/Cheque No. dated drawn on for ₹ in the name of "Secretary ICAI, Chennai International Conference 2012 A/c" payable at Chennai.

Kindly send in duly filled in Registration Form alongwith requisite payment to:

International Conference 2012
ICAI Bhawan, 122, Mahatma Gandhi Road,
Post Box No. 3314, Nungambakkam,
CHENNAI-600 034

For Online Payment Please visit: www.icai.org

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November 2011 Issue Valuable

➤ The November 2011 issue of the journal was yet another good addition to the monthly series of well-packed valuable and member-specific information. While the President's message updated us on the latest in the professional world, the articles on international taxation by CA. Thakur Repudaman and Committee on International Taxation were particularly worth reading and knowledge-enhancing. Keep up the good show.

-CA. S Jain

➤ The cover page of the November 2011 issue carrying the photograph and profession-oriented words of wisdom of first Comptroller and Auditor General of India Shri V. Narhari Rao were really informative and in sync with the present times. The editorial titled '*Global Economic Turbulence and India*' helped me see the global economic slowdown from Indian perspective. The articles under Corporate and Allied Laws titled '*FCRA 2010—A Changing Perspective*' and '*Justice is Important, Rules of Procedure are Handmaids: Discussions in View of SC Verdict*' really added to my knowledge. The article on Taxation titled '*LLP to be Subject to Alternate Minimum Tax*' was also nicely packed with latest knowledge.

Many congratulations to the team behind the show.

- CA. K.K. Agrawal

➤ The feature titled 'Tech For You', introduced in the journal this year, has added more value to the journal and is in line with the need of the times. It is requested to include more articles under this feature for the benefit of a large number of readers.

- CA. Ashish Suneja

➤ The November 2011 issue of the journal reached my desk with a great piece of news that it is being considered to introduce a new feature in the journal for the small and medium practitioners. The moment I read the news, a ripple effect of recalling an esteemed association, missed until now, started engulfing me. Great, indeed, the idea is. These days, the journal is getting better with every passing month, be it in terms of contemporary contents, the artistry in the design or classification of presentations. Kudos to the diligent Editorial Board.

-CA. Prasenjit Roy, Dibrugarh

Quote of Lal Bahadur Shastri Inspiring

➤ I was delighted to read the quote of second Prime Minister of India Shri Lal Bahadur Shastri on the

cover of the October 2011 issue of the journal. It well reminded us about our role in present and forthcoming years. Further, the story of CA. Bhushan Toshniwal with the title '*Where There is a Will, There is a Way*' was really inspiring for CA students. Thanks for providing 'treasure of knowledge' every month.

-CA. V.T Murashillin, Hubli

Search Engine Required For e-Journal

➤ It is good to see that our journal has been digitised so that we can retain the important articles for future reference. This has been our long time requirement as we were either copying the important portions and the same was retained in book or file format. I congratulate the Institute for this. However, one more request is that we need a search engine attached to the journal based on the topics because it is difficult to search the journal when we need relevant information on a topic. Kindly provide a search engine on the lines of Google, listing out all the relevant published material on a topic over the years so that required information can be easily downloaded and studied in no time.

-CA. Ambika K.N, Roorkee

Editor

For the Attention of Readers

Readers' attention is specifically invited to the fact that the views and opinions expressed or implied in *The Chartered Accountant* journal are those of the respective authors only, and not of the ICAI. The ICAI bears no responsibility of any sort whatsoever in case of any action taken by any reader based on any article published in the Journal.

Write to Editor

'Information is Power' and our ever-evolving profession needs more and more of that today than ever before. Do you have any relevant points to make, experiences to share, and views to spread among the CA fraternity? If yes, e-mail us at board@icai.org or write to: nadeem@icai.org

The Editor, The Journal Section, ICAI, A-29, Sector 62, Noida (UP) - 201309

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Strengthening Ties

ICAI President CA. G. Ramaswamy and Vice-President CA. Jaydeep N. Shah greet Shri V. Narayanasamy, Minister of State in the Ministry of Personnel, Public Grievances & Pensions, and Prime Minister's Office during a meeting in New Delhi (03.11.2011)



Meeting with CBEC Chairman

ICAI President, CA. G. Ramaswamy meets CBEC Chairman Shri S. K. Goel, along with ICAI Vice-President, CA. Jaydeep N. Shah, and Central Council Member CA. Bhavna Doshi in New Delhi. (01.11.2011)



Meeting with ITAT President

ICAI President, CA. G. Ramaswamy and Vice-President CA. Jaydeep N. Shah during a meeting with ITAT President Shri G. E. Veerabhadrapa in New Delhi. (02.11.2011)



Auditorium Inauguration

ICAI President CA. G. Ramaswamy inaugurates the Auditorium of Bhilai Branch of CIRC of ICAI in the presence of CA. Vivek Khanna, Chairman, CIRC; Mr. Pankaj Gautam, CEO, Bhilai Steel Plant; CA. S. K. Gulati, ED, Bhilai Steel Plant, CA. Harsh Jain, Chairman, Bhilai Branch and other dignitaries. (11.11.2011)



Publication Release

The *Handbook on Professional Opportunities in Internal Audit* was released by Shri Manoj Kumar, Joint Secretary, Ministry of Corporate Affairs, Government of India (second from the right) at the 31st ICAI Council Meeting in New Delhi. Also seen are ICAI President CA. G. Ramaswamy, Vice-President CA. Jaydeep Shah, Council Members CA. Rajkumar S. Adukia and CA. Rajendra Kumar P. and Secretary Shri T. Karthikeyan (08.11.2011)



Study Circle Meeting

ICAI President CA. G. Ramaswamy addresses the members at the J B Nagar CPE Study Circle of the ICAI in Mumbai. Also seen in the photograph are: CA. B. L. Maheshwari, Convenor, CA. Sanjeev Maheswari, Central Council member and CA. Shambhunath Kataruka, Deputy Convenor. (13.11.2011)

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Meetings at Ministry of Corporate Affairs

Photographs taken during IAASB delegation comprising of IAASB Chairman Prof. Arnold Schilder and IAASB Executive Director Mr. Jim Sylph meetings with Hon'ble Minister of Corporate Affairs Dr. M. Veerappa Moily (Left) and MCA Secretary Shri Naved Masood (Right). Also present in the photographs ICAI President CA. G. Ramaswamy, Vice-President CA. Jaydeep N. Shah, ICAI Council member CA. Abhijit Bandyopadhyay and Secretary Shri T. Karthikeyan. (22.11.2011)



Meeting at C&AG

IAASB Chairman Prof. Arnold Schilder and IAASB Executive Director Mr. Jim Sylph seen with Deputy C&AG Shri A. K. Awasthi (4th from left), Director General (Commercial) and Govt. Nominee on ICAI Council Smt. Usha Sankar (2nd from left), ICAI President CA. G. Ramaswamy and Vice-President CA. Jaydeep N. Shah. (22.11.2011)



Seminar at Muscat

ICAI President CA. G. Ramaswamy gives memento to the Chief Guest H.E. Nasser Hamood Al Rawahy, Deputy Chairman, State Financial and Administrative Audit Institution at the seminar held in Muscat in the presence of Vice-President CA. Jaydeep Shah and Chairman, Muscat Chapter of ICAI CA. Kishor Rabi. (14.10.2011)



IFAC Council Meeting, Berlin

ICAI President CA. G. Ramaswamy and Vice-President CA. Jaydeep N. Shah at IFAC Board meeting held in Berlin, Germany. Others seen from left to right are: IFAC Deputy President, Mr. Warren Allen; IFAC CEO, Mr. Ian Ball; and IFAC President, Mr. Goran Tidstrom. (16-18.11.2011)



ICAI President CA. G. Ramaswamy and Vice-President CA. Jaydeep N. Shah seen with ICASL Vice-President, Mr. Sajeewa Rajapakse and Chair of the International Ethics Standards Board for Accountants, Mr. Ken Dakdduk during the IFAC Council meeting at Berlin, Germany.

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Know Your Ethics*

Ethical Issues in Question-Answer Form

Q. Whether the audits conducted under section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall be taken into account for the purpose of reckoning the specified number of tax audit assignments?

A. In exercise of the powers conferred by Clause (1) of Part-II of the Second Schedule to the CA Act, the Council of the Institute of Chartered Accountants of India has issued General Guidelines, 2008. As per Chapter-VI of these Guidelines (appearing at p. 316 of Code of Ethics, 2009), the audits conducted under Section 44AD, 44AE and 44AF of the Income-tax Act, 1961 shall not be taken into account for the purpose of reckoning the specified number of tax audit assignments.

Q. Whether a Chartered Accountant is permitted to accept appointment as an auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern?

A. Chapter-X of the Council General Guidelines, 2008 specifies that a member of the Institute shall be deemed to be guilty of professional misconduct if he accepts appointment as auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding ₹10,000 (it may, however, be noted that in terms of the provisions of Section 226 of the Companies Act, 1956, a person who is indebted to a company for an amount exceeding one thousand rupees or who has given any guarantee or provided any security in connection with the indebtedness of any third person to the company for an amount exceeding ₹1000 shall not be qualified for appointment as auditor of that company).

Q. Whether the statutory auditors consisting of ten or more members can conduct the branch audits of the same company?

A. The Council has prescribed certain self-regulatory

measures in order to ensure a healthy growth of the profession and an equitable flow of professional work among the members. One of the recommendations of this nature is that the branch audits of a company should not be conducted by its statutory auditors consisting of ten or more members, but should be conducted by the local firms of auditors consisting of less than ten members. This should not be understood to mean any restriction on the right of the statutory auditors to have access over branch accounts conferred under the Companies Act, 1956. This restriction may not apply in the following cases:

- (i) Where the accounting records of the branches are maintained at the head office of the respective companies; and
- (ii) Where significant operations of an undertaking or a company are carried out at its branch office.

Q. Whether a member of the Institute in practice is liable for professional misconduct, if he does not follow the direction given by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors?

A. Yes, the Chapter-XI of the Council General Guidelines, 2008 specifies that a member of the Institute in practice shall follow the direction given by the Council or an appropriate Committee or on behalf of any of them, to him being the incoming auditor(s) not to accept the appointment as auditor(s), in the case of unjustified removal of the earlier auditor(s).

Q. Can the auditor revise his Audit Report?

A. Yes, the Council has issued a "Guidance Note on Revision of the Audit Report" in booklet form. The auditor can revise his audit report only in the situations and circumstances mentioned therein.

Q. Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council or any of its committees,

* Contributed by the Ethical Standards Board of the ICAI

Advertisement

Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing to be false?

A. Yes, as per Clause (3) of part II of the second schedule to the CA Act, 1949, a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he includes in any statement, return or form to be submitted to the above authorities any particulars knowing them to be false.

Q. What is the status of a Chartered Accountant who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants?

A. An associate or a fellow of the Institute who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled assistants. **He may hold Certificate of practice, but he is not entitled to perform attest functions.**

Q. Can a member in practice be Promoter/Promoter Director of a Company?

A. Yes, there is no bar to a member in practice becoming a promoter/signatory to the memorandum and Articles of Association of any company. For becoming such promoter/signatory, members are not required to obtain specific permission of the Council.

Q. Can such a Promoter/Promoter Director of a Company may be Director Simplicitor of that Company?

A. Yes, there is also no bar for such a promoter/signatory becoming Director simplicitor of that Company irrespective of whether the objects of the Company include areas which fall within the scope of the profession of Chartered Accountants. In this case also, specific permission of the Council is not required.

Q. Can a member in practice be a sleeping partner in family business concern?

A. Yes, a member in practice can be a sleeping partner

in a family business concern provided he takes specific permission from the Council in terms of Regulation 190A of CA Regulations.

Q. What should be the size of signboard for the office?

A. With regard to the size of the signboard for his office that a member can put up, it is a matter in which the members should exercise their own discretion and good taste. The size of the signboard should be reasonable. Use of glow signs or lights on large-sized boards as is used by traders or shopkeepers would not be proper. A member can have a name board at the place of his residence with the designation of a Chartered Accountant, provided it is a name plate or name board of an individual member and not of the firm.

Q. Can a member share profits with the widow of his deceased partner?

A. Yes, when there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner, would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing of fees or otherwise for the specified period.

Q. Can there be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the sole proprietor of the firm?

A. No, there could not be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the sole proprietor of the firm. Payment of goodwill to the widow is permissible in such cases only for the goodwill of the firm and to enable such payments to be made in installments provided the agreement of the sale of goodwill contains such a provision. These payments even, if they are spread over the specified period, should not be linked up with participation in the earnings of the firm ■

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Legal Decisions¹

DIRECT TAXES



Income-tax Act

LD/60/59

*Millennium IT Software Ltd., In re
September 28, 2011 (AAR)*

**Section 9 read with Section 195
of the Income-tax Act, 1961 read
with Section 52 of the Copyright**

Act, 1957 – Income – Deemed to accrue or arise in India

Without software License and Maintenance Agreement being in place, any usage of computer programme by customers would have amounted to copyright infringement; payment made under said agreement is for obtaining right to use copyright in software and, hence, taxable as royalty under clause (v) of Explanation 2 to section 9(1)(vi)

Under software License and Maintenance Agreement (SLMA) the applicant Sri Lankan company has allowed Indian company ICEL to use the software product owned by it. The Licensed Programme shall be developed and installed into the computer machines designated by ICEL. The applicant is to deploy its personnel to the designated site to train the employees of ICEL. After the installation is over and the software is given a line cutover, the applicant is required to provide at its own cost, maintenance and support services, through telephone, e-mail and facsimile number to fix or bypass programme errors. The license to use the Licensed Programme is for 4 years subject to further renewal.

The Agreement provides for payment of "License Maintenance Fee" which is a fixed amount of Rs. 50 lacs per quarter plus an additional fee based on the utilization of the Licensed Programme by ICEL, so much so that the total amount payable would not exceed Rs. 150 lacs per quarter.

The applicant submits that the 'Implementation fee' and 'Licence and Maintenance fee' are not chargeable to tax as per Income-tax Act, 1961 (Act) or under DTAA with Sri Lanka. The providing of maintenance service to ICEL would not create a Permanent Establishment (PE) in India. As the payments are not liable to tax in India, ICEL is not required to withhold any tax under section 195 of the Act and would not be obliged to file a tax return in India.

The Authority for Advance Rulings held that the computer programme is "a set of instructions expressed in words, codes, schemes or in any other form". The use of this language signifies the legislative intent to

award copyright protection to both the source code and the object code of the computer programme.

As is well understood, the term 'software' is used to describe all of the different types of computer programmes. Computer programmes are basically divided into 'application programme' and 'operating system programme'. Application programmes are designed to do specific tasks to be executed through the computer and the operating system programmes are used to manage the internal functions of the computer to facilitate use of application programme. These two types of programmes can be written in three levels of computer language—high level, low level and lowest level. High-level language consists of English words and symbols and are easy to learn. Lower-level language is assembly language which consists of alphanumeric labels. This language is also easily understandable by the programmer. Statements of these two languages are referred to as written in *source code*. The third, lowest-level language, is the machine language. This is a binary language using two symbols '0' and '1' called 'bits'. This is the only language which can be followed by the machine but very difficult for the programmer to utilise. Statements in machine language are referred to as written in 'object code'. It is well established that authorship of both the source code and the object code are protected by the Copyright Act as literary work.

The Courts in the USA have been awarding protection to not only the source code and the object code, but in some instances, the same has been extended to even "the overall structure" of a programme. The Trade Related Intellectual Property Rights Agreement (TRIPs) expressly provides that computer programs, whether in source code or object code, shall be protected as literary works under the Berne Convention, 1971, to which India is a party.

It has also come to our notice that during the process of registration of a copyright in a computer programme, the author also files the object code of the software with the Registrar of Copyrights. Hence, there is not an iota of doubt in our mind that both the source code and the object code of a computer programme are awarded copyright protection under the Copyright Act.

Under the SLMA, the program being licensed contains the object code which consists of 'set of instructions' in 'machine-readable medium'. Thus what has been licensed, squarely falls within the

¹ Readers are invited to send their comments on the selection of cases and their utility at ebboard@icai.org.



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definition of computer programme under section 2(ffc) and is a copyrightable subject matter. It is clear that the license to use computer Program means right to use the intellectual property that is the copyright in the computer program in a particular way. When intellectual property is licensed, essentially the use of the intellectual property (copyright in the present case) is passed on to another firm.

The phrase 'including the granting of a license' in the definition under section 9 of the Act is only explanatory in nature. It explains the term 'all or any rights in respect of copyright'. It is deemed that all or any rights in respect of a copyright whether under DTAA or the Act should be held to include the grant of a license.

A careful reading of section 52(aa) of the Copyright Act will reveal that the clause uses the term "lawful possessor". It thus, carves out an exception for lawful possessors of a computer programme as far as copies or adaptation for personal use is concerned.

The copyright in a software programme may remain with the originator of the programme, but the moment copies are made and marketed, they become 'goods', which are susceptible to sales tax. It is so stated by the Court, because Copyright Act, 1957 and Sales Tax Act are not Statutes in *Pari Materia*. In the case of *Airport Authority of India* [AAR 757-56 of 2007], this Authority has opined that Tata Consultancy decision is not applicable in such cases. The mere fact that customs law or sales tax law deems it to be goods for the purpose of those Act, does not change the inherent character of software. The World Trade Organization has itself recognised goods (GATT), Services (GATS) and intellectual property rights (TRIPS) as distinct and different classes. The purchase of software from reseller is payment for use of intellectual property and not for the purchase of goods, unless the payment falls under the exception provided by the second proviso to section 9(1)(vi) of the Act.

The scope of SLMA extends beyond installation and implementation of the Licensed Program. The maintenance service in respect of the Licensed Program is an integral part of SLMA. As per Schedule-F of SLMA, trading transactions are to be processed using the Licensed Program. After paying the implementation and customization fee, the actual use of the Licensed Program is to begin from 1-1-2010 and will last till 31-12-2014. The payment for each quarter for this period is to be determined on the basis of average trades per day in a quarter. In bifurcating the payments before and after installation and implementation, the nature of the payments remain royalty for the use of the Licensed Program and would not change its

character from royalty to business income. If it was to be in the nature of business income then the SLMA would have been sale and service of Licensed Program and the fee paid would have been taxable as business income under Article 7 of the DTAA, depending on whether the applicant has a PE in India or not under Article 5 of the DTAA.

Since without the SLMA being in place, any usage of the computer programme by the customers would have amounted to copyright infringement, the payment made under the SLMA was for obtaining the right to use the copyright in the software and taxable as royalty under the DTAA and the IT Act.

Therefore, Fees paid by ICEL to the applicant is taxable as royalty under clause (v) of *Explanation 2* to section 9(1)(vi) of the Act. As the fees payable by ICEL to the applicant arise in India, it is taxable under Article 12.2 of the DTAA in India. The applicant does not have a PE in terms of Article 5 of the DTAA. The applicant is taxable on the fees paid by ICEL. The provision of withholding tax under section 195 would apply. As the applicant is liable to tax in India, it is required to file a return of income under the provision of the Act.

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LD/60/60

*Director of Income-tax, International Taxation,
Bangalore*
Vs.

Mrs. Jennifer Bhide

September 26, 2011 (KAR)

[Assessment Year 2007-08]

Section 54 read with section 54EC of the Income-tax Act, 1961 – Capital Gains – Profit on sale of residential property

To attract section 54 and section 54EC, what is material is the investment of sale consideration in acquiring residential premises or constructing a residential premises or investing amounts in bonds set out in section 54EC; once the sale consideration is invested in any of these manner the assessee would be entitled to benefit of these provisions; there is no express provision contained in these sections that investment should be in name of assessee only, and not in name of any other person

The assessee has derived income from house property, income from long term capital gains on sale of property for ₹2,21,00,000 and had invested an amount of ₹49,09,804 on purchase of residential property in her name and her husband's name and claimed exemption u/s 54. Similar investment was made for ₹50 lakhs in Rural Electrification Corporation Ltd. bonds in the names of both and exemption for the

entire amount of ₹50 lakhs u/s 54EC was claimed. As part of investment was in the name of the husband, the Assessing Officer disallowed 50% of the investment.

The High Court of Karnataka held that provisions of section 54 as well as section 54EC makes it clear that when capital gains arise from the transfer of long term capital asset to an assessee and the assessee has within the period of one year before or two years after the date on which the transfer took place purchase or has within the period of three years after the date of construction of residential house then instead of capital gain being charged to Income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the provision made under the section which grants exemption from payment of capital gains as set out thereunder. Therefore, in the entire section 54, the purchase to be made or the construction to be put up by the assessee, should be there in the name of the assessee, in not expressly stated. Similarly even in respect of section 54EC, the assessee has at any time within a period of six months after the date of such transfer invested the whole or any part of the capital gains in the long term specified asset then she would be entitled to the benefit mentioned in the said section. There also it is not expressly stated that the investment should be in the name of the assessee. Therefore, to attract section 54 and section 54EC, what is material is the investment of the sale consideration in acquiring the residential premises or constructing a residential premises or investing the amounts in bonds set out in section 54EC. Once the sale consideration is invested in any of these manners the assessee would be entitled to the benefit conferred under this provisions. In the absence of an express provision contained in these sections that the investment should be in the name of the assessee only any such interpretation were to be placed, it amounts to Court introducing the said word in the provision which is not there. It amounts Court legislating when the Parliament has deliberately not used those words in the said Section.

In the instant case the assessee has purchased the property jointly with her husband. She has invested the money in rural bonds jointly with her husband. It is nobody's case that her husband contributed any portion of the consideration for acquisition of the property as well as bonds. The source for acquisition of the property and the bonds is the sale consideration. It is not in dispute. Once the sale consideration is utilized for the purpose mentioned under sections 54 and 54EC, the assessee is entitled to the benefit of those provisions. As the entire consideration has flown from the assessee and no consideration has flown from her husband, merely because either in the sale deed or in the bond her husband's name is also mentioned,

in law he would not have any right. In that view of the matter, the assessee cannot be denied the benefit of deduction of the aforesaid amount.

LD/60/61

CIT

Vs.

Kinetic Capital Finance Ltd.

September 2, 2011 (DEL)

[Assessment Year 1998-99]

Section 68 of the Income-tax Act, 1961 – Cash Credits

When an unexplained credit is found in books of account of an assessee initial onus is placed on assessee to disclose identify of creditors; assessee is not required to prove genuineness of transactions as between its creditors and creditors' source of income, viz., sub-creditors

During the course of scrutiny the Assessing Officer discovered that the assessee had received deposits from eighty six persons. The assessee was asked to explain the credits found qua these deposits in its books of accounts. The Assessing Officer during the course of scrutiny also issued summons to these persons. Out of these eighty six persons, sixteen persons acknowledged the receipt of summons and admitted to the fact that they had deposited money with the assessee. The Assessing Officer, however, was not satisfied qua the remaining seventy depositors and concluded that the assessee had not been able to discharge its onus that the amounts in issue did not belong to the assessee.

The Delhi High Court held that it has to be borne in mind that while making an addition under section 68, the Assessing Officer has to advert to each and every entry and not pick up a couple of entries, as in the present case, and label the entire set of deposits made during the assessment year as undisclosed income of the assessee.

The Tribunal has correctly appreciated the position in law which is that when an unexplained credit is found in the books of account of an assessee the initial onus is placed on the assessee. The assessee is required to discharge this initial onus. Once that onus is discharged, it is for the revenue to prove that the credit found in the books of accounts of the assessee is the undisclosed income of the assessee. In the circumstances obtaining in the present case, the assessee had discharged that initial onus. The assessee was not required thereafter to prove the genuineness of the transactions as between its creditors and that of the creditors' source of income, i.e., the sub-creditors.

The Tribunal is the final fact finding authority. The Tribunal appeared to have been satisfied with the quality of the evidence placed before it. There was no perversity in the findings, notwithstanding the stray sentence in its order pertaining to service of depositors. In these circumstances, the findings returned by the Tribunal could not be upset.

LD/60/62

Tiong Woon Project & Contracting Pte. Ltd., In re
September 19, 2011 (AAR)

Section 90 of the Income-tax Act, 1961 – Double taxation agreement – Existence of

Where Applicant Singapore company secured four work orders and all four projects are independent projects and there is no interconnection and interdependence amongst them, none of them appears to be an extension of another, aggregation of periods of contracts cannot be made for these four contracts and consequently, applicant cannot be said to have a PE in terms Indo-Singapore DTAA

Applicant is a company formed in Singapore. It has secured four work orders. According to the applicant these four projects are independent of each other and secured through independent work orders. Applicant is of the view that as these are installation projects, these can be considered to have a Permanent Establishment only if each of these four installation projects continues for a period of more than 183 days individually in any previous year in terms of Article 5.3 of the Double Taxation Avoidance Agreement with Singapore (DTAA). As the income from the execution of these projects is in the nature of business profits, it would be taxable in India as per Article 7.1 of the DTAA only if it has a Permanent Establishment in India.

The Authority for Advance Rulings held that all these are independent projects and there is no interconnection and interdependence amongst them. None of them appears to be an extension of another. Therefore the duration test for installation and assembly projects provided under article 5.3 of the DTAA cannot be construed to be read for all the projects that do not pass the test of cohesiveness, interconnection and interdependence. Therefore, in the given facts of the case, aggregation of the periods of the contracts cannot be made for these four contracts and consequently the applicant cannot be said to have a PE in terms of article 5.3 of the DTAA. In view of the above, the income earned by the applicant from its activities of execution of four installation projects referred above is not liable to tax in India.

LD/60/63

Dinesh B. Parikh

Vs.

CIT

August 2, 2011 (CAL)

[Assessment Years 1987-88 to 1997-98]

Section 158B of the Income-tax Act, 1961 – Tax on profits and gains of life insurance business

Where sufficient evidence had not been produced by appellant to rebut statement made at time of search that 'he had invested money in different names but shares actually belonged to him', addition made in block assessment would be justified

A search was conducted by the Income-tax Department at the place of the business and residential premises of the appellant. The appellant's case was that initially he had disclosed shares in the company called JCL of ₹11 lac. The shares amounting to ₹8 lac in JCL were purchased in different names which the appellant admitted as belonging to him. Subsequently, he wrote letter and submitted that from record, he found that the shares of amount of ₹8 lac were actually held by group companies. The Assessing Officer took note of the letter subsequently written by the assessee by which he sought to retract from his statement earlier made. By the said letter, he explained that the investment was made out of the fund in form of capital/loan/advance amount with the firm JMS where he was a partner, FAL and JML which he was a director and apart from the above sources, the investments in shares were made through the accumulated savings lying in the Savings Bank A/C in a span of over four decades. The assessee further explained that his group companies were also holding shares in JCL. The assessee gave xerox copies of the balance sheets of group companies FAL and UKL to show that those two companies held shares worth ₹9,35,000. The Assessing Officer discarded the said reply on the ground that his two earlier replies did not match such statement. In his statement, the assessee clearly stated that apart from ₹11 lakh disclosed share investment, he had invested ₹8 lakh in different names but the shares actually belonged to him and he never mentioned the names of FAL and UKL at that time. Before the CIT (Appeals), without filing any application for admission of additional documents, he relied upon affidavits of the broker confirming that the list did not represent the shares purchased on behalf of the assessee but represents the list of quotation made by him with various brokers. It appeared that the CIT (Appeals) did not take into consideration such affidavit but deleted the amount of ₹7,82,000 in view of balance sheets of the two companies wherein the investment in shares of JCL had been shown.

The Calcutta High Court held that the Tribunal was quite justified in setting aside such a perverse finding made by CIT (Appeals) in deleting the said sum of money. It was rightly pointed out by the Assessing Officer that the explanation offered subsequently was not sufficient to rebut the earlier statement and the subsequent explanation was not matching with the earlier statements. There was no substance in the contention of the assessee that the Tribunal committed substantial error of law in not considering the affidavit of the broker.

An additional evidence can be adduced before the CIT (Appeals) on compliance of the statutory provisions for acceptance of the same and formal application must be filed and at the same time, specific order must be recorded by the CIT (Appeals) allowing such prayer and specifying the point on which such additional evidence should be taken. If such application is allowed, the other side must be given opportunity to adduce evidence of rebuttal. The CIT (Appeals) did neither accept the affidavit by passing any order nor did it rely upon such affidavit annexed to the written note of argument but allowed the appeal on a different ground which was not tenable in the eye of law. The assessee did not even pray before the Tribunal for allowing the acceptance of the affidavit of the broker and even before the High Court; no application had been filed for acceptance of such affidavit as additional evidence.

Thus, no duty was cast upon the Tribunal to look into such affidavit annexed to the written note of argument filed before the CIT (Appeals). From the materials on record it was clear that no sufficient evidence had been produced by the appellant to rebut the statement made at the time search that he had invested ₹8 lakh in different names but the shares actually belonged to him and the Tribunal below had rightly set aside the order of the CIT (Appeals) which was not based on any cogent reason.

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LD/60/64

General Electric Company

Vs.

Dy. DIT

August 12, 2011 (DEL)

Section 163 read with Section 9 of the Income-tax Act, 1961 – Non-resident – Agent of

In respect of transfer of shares held by a foreign company in Indian subsidiary company to another non-resident outside India, Indian subsidiary could not be taxed as representative assessee, when it had no role in said transfer; merely because shares related to Indian subsidiary, that would not make Indian subsidiary an

agent qua deemed capital gain purportedly earned by foreign company

The first petitioner is a US company. It had been assessed to tax in India over the last several years in respect of its income taxable in India, as a non-resident. The second petitioner was a Mauritius group company. It had a wholly owned subsidiary in India viz., respondent no. 4 which was engaged in BPO business. The petitioner transferred its shares in the respondent no. 4 company to another non-resident. Notice was issued under section 163 to respondent no. 4 by which respondent No.4 was sought to be taxed as representative assessee holding respondent No.4 as agent qua deemed capital gain purportedly earned by the petitioner.

The Delhi High Court held that a conjoint reading of sections 160 to 163 would show that under the given circumstances, certain persons can be treated as representative assessee on behalf of non-resident specified in sub-section(1) of Section 9. This would include an agent of non-resident and also who is treated as an agent under Section 163. Section 163 deals with special cases where a person can be regarded as an agent. These are:

- (i) who is employed by or on behalf of the non-resident; or
- (ii) who has any business connection with the non-resident; or
- (iii) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or
- (iv) who is the trustee of the non-resident; or
- (v) any other person, a resident or even a non-resident, who has acquired a capital asset in India by means of transfer.

Once a person comes within the net of any of the aforesaid Clauses, such a person would be the 'agent' of the non-resident for the purposes of the Act. However, merely because a person is an agent or is to be treated as an agent, it would lead to an automatic conclusion that he becomes liable to pay taxes on behalf of the non-resident. That would only mean that he would be treated as representative assessee. However, liability of such a representative assessee only if the eventualities stipulated in section 161 are satisfied. Section 161 makes a representative assessee liable only "as regards the income in respect of which he is a representative assessee".

Of course, once a representative assessee is held liable, then he will be liable in the same manner as a non-resident and tax shall be levied and recovered from him in the same manner it could be recovered from the person represented by him. Since tax is recovered from such a representative assessee treating him as

agent of other person, Section 162 gives representative assessee right to recover the sum paid by him from the person on whose behalf it is paid. This Section even makes a provision allowing representative assessee to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid. In the event, the principal question is right to retain such an amount, the representative assessee or person may secure from the (Assessing) Officer a certificate stating the amount to be so retained pending final settlement or the liability, and the certificate so obtained shall be his warrant for retaining that amount. Issuance of such certificate even secures the representative assessee as at the time of final settlement, the amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate. The only exception is that when such representative assessee or person may at such time may have in his hands additional assets of the principal, as in that even, even if excess amount stipulated in certificate is recoverable from the representative assessee, he is secured by having additional assets of the principal in his hands from where the representative assessee can always recompense.

A harmonious reading of Sections 160, 161, 162 and 163 would show that:

- (i) In order to become liable as a representative assessee, a person must be situated such as to fall within the definition of a representative assessee;
- (ii) The income must be such as is taxable under section 9;
- (iii) The income must be such in respect of which such a person can be treated as a representative assessee;
- (iv) The representative assessee has a statutory right to withhold sums towards a potential tax liability;
- (v) Since the liability of a representative assessee is limited to the profit representative assessee, there can be multiple representative assessees in respect of a single non-resident entity – each being taxed on the profits or gain relateable to such representative assessee.

There was a business connection between the petitioner and the respondent No.4. But that by itself would not be sufficient for the Revenue to sail through. Even if business connection is proved, it would at the most make the respondent No.4 an agent of the petitioners and in that eventuality, the Income Tax Department can treat the respondent No.4 as representative assessee of the first petitioner. However, in order to assess a particular income, it

has to be further established by the Department that the respondent No.4 had some connection with the income earned by the first petitioner which is sought to be taxed at the hands of the respondent No.4. There was no live link of income earned by the first petitioner and the respondent No.4 in respect of the transaction which is sought to be taxed. Section 163 has to be read in conjunction with section 161 which provides that the specified person can be treated as assessed ".....as regards the income in respect of which he is a representative-assessee....." Therefore, an agent can only be a representative-assessee as regards the income in respect of which the alleged agent has business connection and/or from or through directly and/or indirectly the income was received.

The ingredients of Section 161 are not satisfied as the petitioner as assessee could be taxed only as regards the income and in respect of which he is a representative assessee. No case was made out by the Department that in respect of transaction in question, viz., transfer of share to third party, that too, outside India. Respondent No.4 was sought to be taxed as representative assessee when he had no role in the said transfer. Merely because those shares relate to the respondent No.4-company, that would not make respondent No.4 as agent qua deemed capital gain purportedly earned by the petitioner.

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LD/60/65

Raju Bhojwani

v.

CCIT

September 9, 2011 (DEL)

[Assessment Year 2002-03]

Section 234B and 234C read with Section 80HHC of the Income-tax Act, 1961 – Interest on Advance tax

Where after initiation of reassessment, due to retrospective amendment to section 80HHC (5th proviso), assessee rather stood benefited as assessee became entitled for deduction of ₹1,27,292 instead of Nil deduction before said amendment, interest would be accordingly calculated

The petitioner-assessee filed a return of income declaring total income to ₹6,76,660. The Assessing Officer held that the assessee had suffered loss in export business and, therefore, not entitled to deduction under section 80HHC. Deduction under section 80HHC was also denied on the ground of interest received and rental income had been included for computing the said deduction. The total income was assessed at ₹13,72,974. Interest under section 234B was directed to be levied as per law.

The Commissioner (Appeals) noticed that Section 80HHC had been retrospectively amended by the Taxation Laws (Amendment) Act, 2005 and the assessee was entitled to benefit of the proviso added with retrospective effect from 1st April 1998 on account of profits from sale of export incentives. The Commissioner (Appeals) also directed to treat 90 per cent of interest income as income qualifying for deduction under section 80HHC. Direction of the Assessing Officer to charge interest under section 234B was not interfered with.

The Revenue and the assessee both approached the Tribunal but without success.

The petitioner thereafter filed an application under section 234B and 234C for waiver of interest before the Commissioner of Income-Tax, which has been rejected. The Commissioner of Income-Tax has held that the request for waiver of interest is not covered either under CBDT Circulars dated 23rd May, 1996, 30th January, 1997 or under the Circular No. 2/2006 dated 17th January 2006.

The High Court of Delhi held that the assessee had income from sale of export incentives. 90 per cent of the said amount was computed at ₹9,06,433 and deduction under section 80HHC was calculated at 70 per cent of the said amount, i.e., ₹6,34,503 and was claimed as a deduction in the original return. This claim was reiterated in the return filed on 5th July, 2004 pursuant to the notice under Section 147. This second return was after the decision of the Supreme Court in *IPCA Laboratory Limited vs. Deputy Commissioner of Income Tax*, [2004] 266 ITR 521 (SC), wherein it has been held that deduction under Section 80HHC is to be arrived at and claimed on profits earned from both export of self-manufactured goods and trading goods and profit and loss of both trades have to be taken into consideration. If after the adjustment there is positive profit, then only deduction under Section 80HHC can be claimed. If there is loss, there cannot be any entitlement. As per the computation made in Form No. 10CCAC, the petitioner had business loss of ₹7,16,188, after excluding the income from the export incentives. In these circumstances, it is not possible to accept the contention of the petitioner that the retrospective amendment by Taxation Law (Amendment) Act, 2005 was detrimental and had reduced the claim for deduction made by him under Section 80HHC as originally claimed. In fact, this aspect has been dealt with and explained vide response given by the Revenue to the application for waiver of interest filed by the petitioner. In the said response, it had been stated that with retrospective amendment to section 80HHC (5th proviso) the assessee rather stood benefited as the

assessee became entitled for deduction of ₹1,27,292 instead of Nil deduction before the said amendment.

Hence, the assessee's contention that interest under section 234B and 234C became chargeable due to unforeseen retrospective amendments to section 80HHC was not acceptable. Further, there was no issue of profits on sale of Duty Entitlement Pass Book credits or Duty Free Replenishment Certificate in the instant case to which the Circular No. 2/2006 refers.

The aforesaid factual position was not disputed. It was clear that as a result of the insertion of the proviso, the petitioner became entitled to deduction under Section 80HHC of ₹1,27,292. The proviso did not act as a detriment or negate or reduce the claim of deduction. In view of the aforesaid, there was no merit in the writ petition and the same was accordingly dismissed.

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Delhi Value Added Tax Act

LD/60/66

Dharam Pal Satya Pal Ltd.
Vs.

The Commissioner, Value Added Tax
September 2, 2011 (DEL-FB)
[Assessment Year 2004-05]

Section 74A read with Section 106 of the Delhi Value Added Tax Act, 2004 read with Section 46 of the Delhi Sales Tax Act, 1975 - Revision

Commissioner under Delhi Value Added Tax Act, 2004 (DVAT Act) can exercise suo motu power of revision under Section 74A of DVAT Act in respect of assessments that have been completed under Delhi Sales Tax Act, 1975

The petitioner-company has called in question the legality and validity of the initiation of the revisional proceedings against the petitioner by issuance of notice dated 08.04.2010 under Section 74A read with Section 106 of the DVAT Act by the Commissioner, Trade Taxes, purporting to revise the orders of the Additional Commissioner dated 14.01.2008 and 25.11.2008 and to restore the order passed by the assessing authority on 30.03.2006. It is pleaded that the orders of the assessing authority as well as that of the first appellate authority relate to the assessment year 2004-05 to which the DST Act is applicable and not the provisions of the DVAT Act which came into force with effect from 01.04.2005. It is contended that the initiation of the revisional proceedings against the petitioner is wholly without jurisdiction and without proper authority of law inasmuch as the power of revision engrafted in Section 74A of the DVAT

Act cannot be pressed into service in respect of orders passed under the provisions of the DST Act. That apart, the provision of Section 74A of the DVAT Act has no application at all to the year 2004-05 during which the said provision had not come into force. It is urged that the proceedings being fundamentally unsustainable are *ab initio* void and, hence, deserve to be lanced in exercise of the inherent and equitable jurisdiction of this Court.

The High Court of Delhi held that the following principles can safely be culled out:

(i) The concept of liability "accrued" or "incurred therein" and "obligation" have different connotations. (ii) The meaning of "right accrued" and "vested right" will depend upon the language of the statute and the intention expressed by the Legislature. (iii) The intention of the Legislature must be absolutely clear whether it intends to destroy the old liabilities and it would depend upon the entire scheme of the Act. (iv) An order of assessment is final subject to the provisions relating to appeal, revision, reassessment and rectification. (v) A statute is not to be interpreted to be retrospective or retroactive to touch the existing final orders. (vi) Even if no action is taken under the repealed Act, the civil as well as the criminal liability that had incurred under the repealed statute are not obliterated and are kept alive if there is a saving provision. (vii) A legal proceeding which could have been initiated under the repealed Act continues to subsist if the savings and repeal provision so stipulates subject to the law of limitation. To elaborate, the right to initiate a legal proceeding can only be obliterated or effaced or meet its legal death if the period of limitation thereon has expired.

The basic facet of Section 106 of the DVAT Act has to be interpreted on the touchstone of the above culled out principles. Sub-section (1) of Section 106 of the DVAT Act, as it clearly reveals, is a simple repeal of the DST Act. Sub-section (2) saves the right, title, entitlement, obligation or liability already acquired, accrued or incurred under the repealed Act. Sub-section (3) postulates that anything done under the DST Act shall be deemed to be done or taken in exercise of the power conferred by or under the DVAT Act. Thus, three situations, namely, (i) assessment completed and already revised; (ii) assessment completed and revisional power invoked but the process not completed; and (iii) assessment completed, but no revisional power invoked, do contextually emanate.

Thus, it is quite clear that Section 106(2) of the DVAT Act not only saves the right, title and entitlement but also saves the obligations and the liability. The term "obligation" includes every duty enforceable by law. It is an expression which includes not only duty

but something more. The expression “liability incurred thereunder” has a larger canvas and makes one remain liable under law subject to statutory boundaries. The term “finality” has to be understood in its truest denotation and an order of assessment by itself does not earn the status of being final unless it is totally barred by law to be touched. Section 106(3) of the DVAT Act clearly lays a postulate that an order passed under Section 46 of the DST Act and the process of assessment leading to it is deemed to have been done in exercise of the power conferred under the DVAT Act. What is provided under Section 106(2) is that the repeal shall not affect the previous operation of the DST Act or any right, title, entitlement, obligation or liability already acquired, accrued or incurred thereunder. On a seemingly scanning of the provision engrafted under Section 46 of the DST Act, a suo motu revision could be initiated and concluded within five years of the order of assessment. In sub-section (2) (b) of Section 74A of the DVAT Act, a rigor has been attached that no order under this section shall be passed after the expiry of four years from the end of the year in which the order passed by the subordinate officer has been served on the dealer. Section 74A (2)(c) carves out a period of five years under certain

other circumstances. The right to a dealer would have attained finality and become a vested or ripened right after the expiry of the period of limitation under the DST Act and if the proceedings are initiated within the period of limitation, the exercise of the suo motu power of revision cannot be treated as illegal. In other words, if the time to exercise the revisionary power had not expired before coming into force of the DVAT Act, the said power could be exercised in respect of an order under the DST Act in terms of Section 74A of the DVAT Act read with Section 106 of that Act.

Turning to three categories of cases, in the first category of cases, wherein assessment has been completed and already revised, by virtue of the language employed in Section 106(3) of the DVAT Act, the order passed has to be considered as an order passed under the DVAT Act. In the second category of cases, wherein assessment has been completed and revisional power has been invoked though the process is not completed, the assessee has incurred the liability of the order of the Assessing Officer being scrutinized by the Commissioner which includes the revisional power and sub-section (3) gets attracted. In the third category of cases, where the assessments are completed but no revisional power is invoked, here again sub-section

(3) of Section 106 would be attracted as if the same is deemed to be an order passed under the DVAT Act. If the order of assessment could not have been revised under the DST Act as on 1.4.2005, the power of revision conferred under the DVAT Act cannot be exercised if the time span has expired. To elaborate, if an order of assessment has attained finality in toto and a right has vested in the assessee, no suo motu power can be exercised as the right fully accrues in favour of the assessee without having any obligation and further having no liability.

Further it may be noted that the legislature made Section 74A retrospective from the date the DVAT Act came into existence to reaffirm its intendment that it never intended not to confer the power of revision on the revisionary authority. The interpretation placed by us on the language employed under Section 106(2) and 106(3), analysis made hereinbefore on the impact of insertion of Section 74A initially from 16.11.2005 and thereafter to make the provision retrospective from 1.4.2005, clearly conveys that the legislature at all point of time intended to protect the interest of the revenue.

In view of the aforesaid premised reasons, the conclusions may be recorded in seriatim:

- (a) On incorporation of Section 74A in the DVAT Act on 16.11.2005, the suo motu revisional proceeding could be initiated at the commencement of the DVAT Act, i.e., 1.4.2005. It could not be said that on the date the Act came into force the provision pertaining to exercise of suo motu revisionary power did not exist in respect of the proceedings under the DST Act as the assessment had attained finality and were closed.
- (b) The order of assessment framed under the DST Act is deemed to be an order framed under the DVAT Act and on reading of Sections 106(2) and 106(3) in a conjoint manner, it is not correct to state that once the order of assessment has been passed, the transaction is closed and, therefore, the assessment/order is not revisable under Section 74A of the DVAT Act.
- (c) The liability incurred or accrued under the DST Act has a larger expanse and a broader canvas and it would in view of Section 106(2) of DVAT Act include initiation of any legal proceeding which is permissible within the period of limitation and till then no final or vested right accrues in favour of the assessee.
- (d) The amendment brought by the legislature retrospectively incorporating Section 74A with effect from 1.4.2005 has been done to further elucidate the legislative intention and has to be given full effect to. The said amendment has

been brought in the statute book by *ex abundanti cautela* and in essence, removes the anomaly and is only curative in nature.

- (e) The proceeding initiated under the DST Act is saved by the DVAT Act and further the proceedings could be initiated under Section 74A during the period of limitation as stipulated under Section 74A subject to the conditions precedent stipulated therein.



Arbitration Act

LD/60/67

Cauvery Coffee Traders

Vs.

Hornor Resources (Intern.) Co. Ltd.

September 13, 2011 (SC)

Section 11 of the Arbitration and Conciliation Act, 1996 – Appointment of Arbitrator

In case, final settlement has been reached amicably between parties even by making certain adjustments and without any misrepresentation or fraud or coercion, then, acceptance of money as full and final settlement/issuance of receipt or vouchers etc. would conclude the controversy and it will not be open to either of the parties to lay any claim/demand against the other party

A Purchase Contract was entered between the applicants and the respondents to purchase Iron Ore. The agreement provided that the iron content should not be less than 63 per cent; otherwise the buyer would have a right to reject the cargo.

The Purchase Agreement also contains a clause providing for price adjustment in case the supplied ore did not meet the requirement of specification provided for iron ore. In case of any dispute between the parties, the agreement provided for arbitration in any third country.

The applicants shipped a total consignment from Port, India to the port of discharge, China. The delivery of the same was taken by the respondents and on chemical analysis, according to them, the iron content was found to be 62.74 per cent. The respondents vide email dated 7.10.2008 informed the applicants that US\$ 1.5 million could be the amount for the final settlement in respect of the shipment in question, in spite of the fact that the agreed amount had been US\$ 18,91,204.00. By the said email, applicants were asked by the respondents to inform through their banker in case of their acceptance to the said proposal.

Under these peculiar facts and circumstances, as the goods had already reached China and applicants

were in dire need of money, they informed through their banker that they agreed to receive payment under the Letter of Credit in a sum of total claim of US\$ 18,91,204.00. By email dated 7.10.2008 the respondents stated that the applicants should accept US\$ 1.5 million in full and final settlement. Accordingly, an amount of US\$ 1.5 million had been received by them.

The arbitration applications under Section 11(5) & (9) of the Arbitration and Conciliation Act, 1996, had been filed for appointment of Arbitrator in an international arbitration dispute to adjudicate the disputes/differences which had arisen between the parties.

The Supreme Court held that the Purchase Agreement contained a clause providing for price adjustment in case the supplied ore did not meet the requirement of specification provided for iron ore. In case of any dispute between the parties, the agreement provided for arbitration in any third country.

Stand of the respondents throughout had been that the Price Adjustment under the Purchase Contract in respect of the iron ore, the buyers had a right to reject the whole consignment. Negotiations started as is evident from the email messages and it was in pursuance of these negotiations that the applicants had instructed their banker to accept the proposal made by the respondents and it was in pursuance of their instructions, the banker vide email dated 8.10.2009 accepted the proposal and agreed to receive a sum of US \$500,000.00 as full and final settlement for the consignment in issue. The payment made was accepted by the applicants and it was after 3 months thereafter that they served a legal notice dated 14.11.2008 for making a reference to the Arbitrator. The applicants in the present application do not dispute the negotiations or giving instructions to their banker or in respect of the email by their banker to the respondents or receiving the money in lieu thereof.

In case, final settlement had been reached amicably between the parties even by making certain adjustments and without any misrepresentation or fraud or coercion, then, acceptance of money as full and final settlement/issuance of receipt or vouchers etc. would conclude the controversy and it is not open to either of the parties to lay any claim/demand against the other party.

The applicants had not pleaded that there had been any kind of misrepresentation or fraud or coercion on the part of the respondents. Nor it was their case that payment was sent by the respondents without any settlement/agreement with the applicants, and was a unilateral act on their part. The applicants reached the final settlement with their eyes open

and instructed their banker to accept the money as proposed by the respondents. Proposal itself was on the basis of the Purchase Contract which provided for Price Adjustment. For a period of three months after acceptance of the money under the full and final settlement, applicants did not raise any dispute in respect of the agreement of price adjustment. In such a fact-situation, the plea that instructions were given by the applicants to the banker erroneously, being, afterthought is not worth acceptance.

The transaction stood concluded between the parties, not on account of any unintentional error, but after extensive and exhaustive bilateral deliberations with a clear intention to bring about a quietus to the dispute. These negotiations, therefore, are self explanatory steps of the intent and conduct of the parties to end the dispute and not to carry it further. Thus, the applicants could not take a complete somersault and agitate the issue that the offer made by the respondents had erroneously been accepted.

Therefore, the arbitration applications under Section 11(5) & (9) for appointment of Arbitrator in an international arbitration dispute to adjudicate the disputes/differences which had arisen between the parties, were to be dismissed.

Competition Act

LD/60/68

Arun Kumar Tyagi
Vs.

Software Engineering Institute
September 30, 2011 (CCI)

Section 3, read with sections 4 and 19, of the Competition Act, 2002 – Anti-Competitive Agreements

Where High Court is floater of tender for digitizing old records, Indian computer technologies company is a bidder for the tender and foreign company is agency which accredited 'CMM1 Level 5' to Indian company and it is amply clear that these three opposite parties are not engaged in similar trade or business, mere agreement between foreign company and Indian company in this case would not amount to cartelization

The information in this matter has been filed against the OP1 Software Engineering Institute, USA, the OP2 High Court of Uttarakhand and the OP3 HCL Technologies Ltd. with the allegation that the opposite parties have acted in concert in the tendering process for procurement of computer software by OP2 for digitizing its old records with a view to kill free and fair competition and to eliminate other competitors from the bidding process.

It is stated in the information that in order to monopolize the aforesaid bidding process for procurement of computer software, the OP1 and OP3 have formed a cartel and persuaded OP2 to stipulate certain minimum eligibility technical pre-conditions in the tender notice which are exclusively met by OP3.

The Competition Commission of India held that in order to attract the provisions of section 3(3) of the Act, the enterprises must be engaged in similar trade or business. In the present case, OP2 is the floater of the tender, OP3 is a bidder for the tender and OP1 is the agency which accredited 'CMM1 Level 5' to OP3. Thus, from the facts and allegations set out in the information it is amply clear that OP1, OP2 and OP3 are not engaged in similar trade or business. The agreement between OP1 and OP3 in this case does not amount to cartelization in terms of section 3(3) of the Act as OP 1 is not engaged in similar trade or business as OP3, rather it has merely accredited 'CMM1 Level 5' to OP3. Therefore, there is no *prima facie* violation of section 3 of the Act in the present matter.

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RBI

LD/60/69

Gupta & Gupta Chartered Accountants

Vs.

Reserve Bank of India

October 10, 2011 (DEL)

Section 30 of the Banking Regulation Act, 1949 - Audit

Where RBI failed to afford Chartered Accountants an opportunity of defending itself against Nationalised Bank's allegations and also, neither RBI nor Bank had communicated to Chartered Accountants decision to discontinue it as an Statutory Central Auditor for extended review period, it was violative of principles of natural justice and was, therefore, illegal

The procedure for the appointment of a firm of auditors as Statutory Central Auditor (SCA) for a public sector bank envisages a primary role for the RBI, which acts as such in exercise of its powers under Section 30 (1A) of Banking Regulation Act, 1949 [the BR Act]. In terms of Section 10 (1) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 [1970 Act] and the corresponding provision in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [1980 Act], the RBI has to mandatorily grant prior approval to the appointment of SCAs of twenty-six public sector banks. The RBI has issued circulars specifying the norms for appointment of SCAs in public sector banks. Where the total liabilities and assets of the public sector bank is up to ₹50,000 crore the prescribed number of SCAs

is four; where it is between ₹50,000 crore and up to ₹1 lakh crore, the number of SCAs is five and above ₹1 lakh crore, the number of SCAs is six. The SCAs appointed during 2006-07 and thereafter would have a tenure of four years after which they were to be rested for two years. Further, the Office of Comptroller & Auditor General of India ('CAG') is entrusted with the responsibility of calling for applications from auditors/audit firms desirous of being appointed as SCAs in public sector banks every year. After subjecting the applications to scrutiny in terms of the prescribed norms, the CAG prepares a list of eligible auditors/audit firms. That list is then forwarded by the CAG to the RBI. Finally, the selection of auditors/audit firms by the RBI is made from amongst the auditors/audit firms found eligible by CAG.

The discontinuance of an SCA, selected through such a rigorous process, is likely to have adverse consequences for its reputation and goodwill if such discontinuance is as a result of a complaint about its competence or integrity. For a firm of auditors the appointment as SCA of a public sector bank is bound to be seen to be a prestigious one. As a corollary the discontinuance of a firm of auditors as SCA, unless for circumstances unconnected with integrity or competence, is bound to be viewed negatively. Further, since the number of SCAs of a public sector bank is unlikely to be more than six, the appointment and discontinuance of an SCA is likely to be known immediately to all chartered accountants.

An SCA of a public sector bank discharges statutory responsibilities traceable to Section 224 (2) of the Companies Act, 1956, the BR Act, the 1970 Act and the 1980 Act. In the context of the circulars issued by the RBI on the charging of interest by public sector banks, the Supreme Court in *Central Bank of India v. Ravindra* [2001] 107 Comp. Cas. 416 explained that the power conferred on the RBI under Sections 21 and 35A of the BR Act is coupled with the duty to act fairly and reasonably. The RBI's circulars were held to be binding on "those who fall within the net of such directives." By analogy the RBI's circulars as regards the appointment and continuance of SCAs must be viewed as binding on public sector banks including the PNB. RBI discharges a statutory duty when it selects a firm of auditors to act as an SCA of a public sector bank. It is a reflection of both the competence as well as integrity of the firm of auditors. It acknowledges that the answerability of the public sector bank is as much as to the law as to the public in general whose monies it is the custodian of. On their part the SCAs are expected to discharge their professional duties in the context of the above statutory obligations and their answerability to both the RBI and the public in

general. The relationship of an SCA with the public sector bank whose audit they are engaged to undertake transcends the usual client-auditor relationship. The involvement of the RBI in the appointment and discontinuance of an SCA is meant to ensure a degree of protection to the SCA which is expected to discharge its professional duty fearlessly and independently. The discontinuance of an SCA cannot be brought about by the public sector bank acting by itself. Just as there can be no appointment of an SCA without the intervention of the RBI, there can be no discontinuance of an SCA without the RBI taking a decision in that regard. The greater the power to appoint and remove an SCA, the higher the responsibility on the RBI as the holder of such power to exercise it in a fair and reasonable manner after following a just procedure which comports with the principles of natural justice.

Where a complaint is made against an SCA by a public sector bank, it would be the duty of the RBI to examine such complaint carefully. In the audit of large public sector banks, there are bound to be queries raised by the SCAs about the accounts of the large account holders of the bank. If there are complaints by the bank, like in the present case, that the audit is getting delayed on account of the bank having to answer such queries, the RBI will have to examine the tenability of such claim after seeking an explanation from the SCA.

The Petitioner, a firm of chartered accountants, is aggrieved by a decision of Reserve Bank of India ('RBI'), communicated to Punjab National Bank ('PNB'), advising that the PNB may carry out the quarterly review for the quarter ending 30th June 2009 with the five existing statutory central auditors ('SCAs'), excluding the Petitioner firm in view of the circumstances mentioned in the PNB's letter dated 27th May 2009 addressed to the RBI.

The High Court of Delhi held that the PNB first wrote to the RBI on 24th April 2009 blaming the Petitioner for the delay in the finalization of the accounts. The Petitioner's comments on the said letter were sought by the RBI. The Petitioner then submitted a reply dated 7th May 2009 explaining that there was no delay on its part. This reply was furnished to the PNB by the RBI for its response. In response thereto, on 27th May 2009 the PNB made several allegations questioning the Petitioner's professional competence and integrity. In other words, the tenor of the allegations by PNB against the Petitioner in the letter dated 27th May 2009 was not confined to the issue of delay. Specifically, PNB alleged that the intention of the Petitioner was "to malign the reputation and image of the bank"; that the Petitioner was "abrasive ab initio and uncooperative in

their approach right from the first audit and are lacking in professionalism."; that they have been "putting the entire system to undue stress and holding the bank to ransom"; "their objective has been to embarrass the bank and harass its officers. The behaviour and attitude is indicative of cynicism and sadism." Then came the impugned decision of the RBI communicated in its letter dated 24th June 2009 permitting PNB to discontinue the Petitioner as SCA for the limited extended review for the quarter ending 30th June 2009.

It is not as if the letter dated 24th June 2009 simply states that the Petitioner will be discontinued. It refers to the PNB's letter dated 27th May 2009 and states that the Petitioner could be discontinued as SCA "in view of the circumstances cited in the above letter." It is therefore not possible to view the said discontinuance as being innocuous and routine and not casting a stigma on the Petitioner. The RBI could not have arrived at the decision without some kind of an inquiry. The RBI was performing an important and sensitive task. Allegations concerning the competence and integrity of an SCA, selected by the RBI through a fairly rigorous process, cannot be permitted to be made lightly and equally accepted on face value without some probe by the RBI. Otherwise it might be easy for a bank to have an inconvenient SCA discontinued. Considering that the accounts of public sector banks are to be audited by employing the best possible standards, the RBI was under a statutory obligation to ensure that the discontinuance of the Petitioner, on a complaint about its professional competence, was preceded by a proper procedure comporting with the principles of natural justice. Admittedly, even a copy of PNB's letter dated 27th May 2009 was not sent to the Petitioner for its comments although it contained serious allegations about the Petitioner's conduct and professional competence. Thereby RBI failed to afford the Petitioner an opportunity of defending itself against PNB's allegations. Also, neither the RBI nor PNB communicated to the Petitioner the decision to discontinue it as an SCA for the extended review period.

Therefore, the impugned decision of the RBI, as communicated in its letter dated 24th June 2009 to the PNB, to discontinue the Petitioner as an SCA, even for the limited extended period ending 30th June 2009, was violative of the principles of natural justice and was, therefore, illegal. However, since the period in question is over no consequential relief can be granted except to clarify that the said decision of the RBI, will not come in the way of the Petitioner being hereafter appointed as an SCA in accordance with the norms devised by the RBI. ■

Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, MCA, RBI and SEBI during the last month for information and use of members. Readers are requested to use the Citation/website or weblink to access the full text of desired circular/notification. You are requested to please submit your feedback and suggestions on the column at eboard@icai.org.

DIRECT TAXES



(Matter on Direct Taxes has been contributed by the Direct Taxes Committee of the ICAI)

I. Notifications

1. Notification No. 56, dated October 17, 2011 and Notification No. 58, dated October 29, 2011

The Central Board of Direct Taxes has through this notification, notified Income-tax (7th Amendment) Rules 2011, which shall come into force on 1st November, 2011. The said amendment Rules have amended Rule 114 which deals with application for allotment of a Permanent account number to provide for the following:

- New Form 49AA has been introduced in respect of application for PAN by Individuals not being a citizen of India, LLP registered outside India, Company registered outside India etc.
- Sub-rule (3) has been modified to provide that the application shall be made in case of a person who is entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVII-B in any financial year, before the end of such financial year.
- The words "accounting year" has been substituted with "financial year"
- Form 49A and 49AA have been substituted with the new Forms 49A & Form 49AA.

2. Notification No. 57, dated October 24, 2011

The Central Board of Direct Taxes has through this notification, notified Income-tax (Eighth Amendment) Rules, 2011 which shall come into force on 1st November, 2011. The said amendment Rules have given effect to following amendments:

- Rule 31A –Statement of deduction of tax under sub-section (3) of section 200**
 - As per the amendment made in Rule 31A(2), the time limit for submission of quarterly statements in case of Government deductors have been extended as follows:

Date of ending of the quarter of the financial year	Due date for government deductors
30 th June	31 st July of the financial year
30 th September	31 st October of the financial year

31 st December	31 st January of the financial year
31 st March	15 th May of the financial year immediately following the financial year in which deduction is made

For other deductors, the due dates as prescribed earlier have not been changed.

- In Rule 31A(4), clause (vii) has been inserted which requires the deductor to furnish particulars of amount paid or credited on which tax was not deducted in view of the furnishing of declaration under section 197A(1) or 197A(1A) or section 197A(IC) by the payee.

b) Rule 37BA –Credit for tax deducted at source for the purposes of section 199

For the purpose of enlarging the scope for grant of TDS credit to person other than the deductee, Rule 37BA(i) has been substituted by new Rule 37BA(i) to provide :

"where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee;

Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1)"

It may be noted that the earlier Rule 37BA(i) specifically mentioned the situations where the credit of tax deducted at source was given to the person other than the deductee.

The complete details of the text of the above-mentioned notifications can be downloaded from the link <http://law.incometaxindia.gov.in/DIT/Notifications.aspx>

II. Press Release

1. Press Release No.402/92/2006-MC (26 of 2011), dated the October 20, 2011.

The Central Board of Direct Taxes has released the discussion paper on Tax Accounting Standards (TAS), for feedback from all the stakeholders.

2. Press Release No.402/92/2006-MC (28 of 2011), dated the November 4, 2011.

As per the said press release the Gross direct tax collections during April-October of the current fiscal have gone up by 20.28% at ₹284,081 crore as against ₹236,176 crore in the same period last fiscal. However, net collections stood at ₹218,850 crore up from ₹204,347 crore in the last fiscal, registering a growth of 7.10%. Further, growth in wealth tax has been reported as 10.6%, while growth on Securities transaction tax was -17.9%.

The complete details of the text of the above-mentioned press releases can be downloaded from the link http://www.incometaxindia.gov.in/press_release.asp

INDIRECT TAXES



(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

A.SERVICE TAX

I.Notifications:

1. **Notification No. 48/2011 - ST dated October 21, 2011 & Order No. 1 /2011 - ST F. No. 137/99/2011 - ST dated October 20, 2011:** Central Board of Excise and Customs vide *Order No. 1 /2011 - ST F. No. 137/99/2011 - ST dated October 20, 2011* has extended the last date of submission of half yearly return for the period April 2011 to September 2011 from 25th October, 2011 to 26th December, 2011.

The time limit has been relaxed to give time to the assesseees to adjust to the requirement of e-filing made mandatory for the first time vide *Notification No. 43/2011- ST dated August 25, 2011*.

CBEC has been empowered vide *Notification No. 48/2011 - ST dated October 21, 2011* to issue order for extension of due date for filing of returns by such period as deemed necessary under circumstances of special nature to be specified in such order. Sub-rule (4) has been inserted after sub-rule (3) in rule 7 of Service Tax Rules, 1994 for this purpose. The above order has been issued in exercise of this new power. A new instruction has been inserted in the heading General Instructions in Form ST-3 to provide that the words "received /paid" used in the return should be construed as "received or receivable /paid or payable", as the case may be, in terms of the Point of Taxation Rules, 2011".

Further, rule 4 of the said rules has been amended to empower the Board to specify, by an order, the documents which are to be submitted by the assessee alongwith the application of registration within such period, as may be specified in the said order.

II. Circular:

1. **Circular No. 147/16/2011 ST dated October 21, 2011:** The services provided by Work Contract Service Providers in respect of projects involving construction of roads, airports, railways, transport terminals, bridges, tunnels, dams etc. are specifically excluded from the definition of taxable works contract service and are thus, not liable to service tax under section 65(zzzza) of the Finance Act, 1994.

Circular No. 138/07/2011 - ST dated May 06, 2011 had clarified that while the main contractor providing works contract services in respect of such infrastructure projects is exempt from service tax, the services provided by its subcontractors would be distinctly classifiable under the respective sub-clauses of section 65(105) of the Finance Act, as per their description and taxed accordingly. It was explained that the sub-contractors providing services to the main contractor would not be automatically exempt from service tax by virtue of providing services to the main contractor who is providing WCS service in respect of projects involving construction of roads, airports, railways, transport terminals, bridges, tunnels, dams etc.

CBEC has now further clarified that though the services provided by the sub-contractors to the main contractor are independently classifiable under WCS, they too will get the benefit of exemption if they are in relation to the infrastructure projects mentioned above.

B. CENTRAL EXCISE

I. Circular:

1. **Circular No. 957/18/2011-CX-3 dated October 25, 2011:** CBEC has revised the monetary limit for adjudication for Additional Commissioners under section 11A and section 33 of the Central Excise Act, 1944. They can now adjudicate the cases with a monetary limit from above ₹5 Lac and upto ₹50 Lac. Earlier the limit was above ₹20 Lac and upto ₹50 Lac. As a result of this amendment a uniform monetary limit i.e., above ₹5 Lac & upto ₹50 Lac has been fixed for both Additional Commissioners and the Joint Commissioners.

C.CUSTOMS

I. Notification:

1. **Notification No. 77/2011 Cus.(N.T) dated November 14, 2011** has amended the Baggage Rules, 1998 to revise the provision of clearance of free of duty articles by tourist in his bonafide baggage under rule 7.

II. Circulars:

1. **Circular No. 47/2011 Cus. dated October 21, 2011:** CBEC has introduced the scheme of 'On Site Post

Clearance Audit' or OSPCA at premises of importers and exporters' vide *Notification No. 72/2011-Cus. (NT) dated October 4, 2011*. This scheme complements the legislative change resulting in self-assessment of import / export duties by importers / exporters vide the Finance Act, 2011.

OSPCA is a trade facilitation measure aimed at expediting clearances while safeguarding the interest of revenue.

2. **Circular No. 48/11 Cus. dated October 31, 2011:** All Industry Rates (AIR) of Duty Drawback 2011-12 were notified vide *Notification No. 68/2011-Cus. (N.T.) dated September 22, 2011*. These rates have come into effect on October 01, 2011. Subsequently, on receiving representations on the Drawback Schedule 2011-12 from Export Promotion Councils, Trade associations and individual segments of industry with respect to classification of items (mainly erstwhile DEPB items) in the Schedule, duty drawback rates, value caps and other miscellaneous matters, amendments/ changes, wherever required, were made vide *Notification No. 75/ 2011-Cus. (N.T.) dated October 28, 2011*. *Circular No.48/11 dated October 31, 2011* has now been issued by CBEC to explain the amendments/ changes made by the said notification. The complete text of the above-mentioned notifications and circulars can be downloaded from the website: www.cbec.gov.in



FEMA



(Matter on FEMA has been contributed by CA. Manoj Shah and CA. Hinesh Doshi)

1. Liberalised Remittance Scheme (LRS) for Resident Individuals – Revised Application cum Declaration Form

A.P. (DIR Series) Circular No.32 dated October 10, 2011

In terms of the A. P. (DIR Series) Circular Nos. 17 and 18 dated September 16, 2011, a resident individual has been permitted to make a gift / loan in rupees to a Non-Resident Indian /Person of Indian Origin close relative(s), subject to certain terms and conditions. One of the conditions is that the gift / loan amount should be within the overall limit of USD 200,000 per financial year as permitted under the LRS for a resident individual. Accordingly, the Application cum Declaration form for purchase of foreign exchange under the LRS is revised.

The revised form is annexed to the aforesaid circular available on RBI website at:

<http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=6751&Mode=0>

2. Processing and Settlement of Export related receipts facilitated by Online Payment Gateways - Enhancement of the value of transaction

A.P. (DIR Series) Circular No.35 dated October 14, 2011

The RBI has decided to enhance the value per transaction from USD 500 to USD 3000 for export related remittances received through Online Payment Gateway Service Providers (OPGSPs). The revised directions will come into force with immediate effect.

3. Opening Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR(B)] account in any freely convertible currency

A.P. (DIR Series) Circular No.36 dated October 19, 2011

Presently, deposit of funds in the FCNR(B) accounts is permitted only in designated permissible currencies viz. Pound Sterling, US Dollar, Japanese Yen, Euro, Canadian Dollar and Australian Dollar.

Pursuant to the recommendations of the Committee constituted under the Chairmanship of Smt. K. J. Udeshi for review of procedures relating to foreign exchange facilities to individuals – Residents/ NRIs and PIOs, it has been decided to allow deposits in FCNR(B) account in any permitted currency. For this purpose, 'Permitted currency' would mean a foreign currency which is freely convertible as defined in terms of Regulation 2(v) of FEMA 14/2000-RB dated May 3, 2000, as amended from time to time.

4. Clarification on (i) Repatriation of income and sale proceeds of assets held abroad by NRIs who have returned to India for permanent settlement (ii) repatriation of income and sale proceeds of assets acquired abroad through remittances under LRS

A.P. (DIR Series) Circular No.37 dated October 19, 2011

The RBI has clarified that (a) in terms of sub-section 4 of Section (6) of Foreign Exchange Management Act, 1999, a person resident in India is free to hold, own, transfer or **invest** in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India; (b) an investor can retain and reinvest the income earned on investments made under the LRS.

5. Export of Goods and Software – Liberalisation in realisation and repatriation of export proceeds

A.P. (DIR Series) Circular No.40 dated November 01, 2011

The RBI had vide A.P. (DIR Series) Circular No. 47 dated March 31, 2011, enhanced the period of realisation and repatriation to India of the amount representing the full export value of goods or software exported, from six months to twelve months from the date of export and extended this relaxation upto September 30, 2011.

The issue has since been reviewed and the RBI has, in consultation with the Government of India, further extended the above relaxation w.e.f. October 01, 2011 till September 30, 2012. However, the provisions with regard to period of realisation and repatriation to India of the full export value of goods or software exported by a unit situated in a Special Economic Zone (SEZ) as well as exports made to warehouses established outside India remain unchanged.

6. Foreign investment in India by SEBI registered FIIs in other securities

A.P. (DIR Series) Circular No.42 dated November 03, 2011

The RBI has allowed FIIs to invest in non-convertible debentures / bonds issued by Non-Banking Financial Companies categorised as 'Infrastructure Finance Companies' (IFCs) by the RBI within the overall limit of USD 25 billion. The stipulated residual maturity of 5 years and above would now onwards refer to the original maturity of the instrument at the time of first purchase by an FII. The above changes would also apply for investment by Qualified Foreign Investors in units of Mutual Fund debt schemes within the limit of USD 3 billion.

Further the lock-in-period of 3 years for FII investment stands reduced to 1 year up to an amount of USD 5 billion within the overall limit of USD 25 billion. This lock-in-period shall be computed from the time of first purchase by FIIs.

7. Foreign Direct Investment – Transfer of Shares

A.P. (DIR Series) Circular No.43 dated November 04, 2011

With a view to liberalise and rationalise the procedures and policies governing Foreign Direct Investment in India, it has been decided to allow the transfer of shares in following cases without the prior approval of the RBI, subject to certain conditions:

1. Transfer of shares from a Non Resident to Resident under the FDI scheme where the pricing guidelines under the Foreign Exchange Management Act, 1999 (FEMA) are not met, subject to the following:
 - (i) The original and resultant investment are in line with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalisation, etc.), reporting requirements, documentation, etc.;
 - (ii) The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations / guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/ substantial acquisition / SEBI (Substantial Acquisition of Shares and Takeovers), buy back); and
 - (iii) Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations / guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank.
2. Transfer of shares from Resident to Non Resident where –
 - (i) the transfer of shares requires the prior approval of the FIPB as per the extant FDI policy provided that:
 - a. the requisite approval of the FIPB has been obtained; and
 - b. the transfer of share adheres with the pricing guidelines and documentation requirements as specified by the RBI from time to time.
 - (ii) the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations (SEBI (SAST) Regulations) are attracted subject to the adherence with the pricing guidelines and documentation requirements as specified by the RBI from time to time.
 - (iii) the pricing guidelines under the FEMA are not met provided that:
 - a. The resultant FDI is in compliance with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalisation, etc.), reporting requirements, documentation etc.;
 - b. The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations / guidelines (such as IPO, Book building, block deals, delisting, exit,

open offer/ substantial acquisition / SEBI SAST); and

- c. Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations / guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank.

(iv) the investee company is in the financial sector provided that:

- a. NOCs are obtained from the respective financial sector regulators/ regulators of the investee company as well as transferor and transferee entities and such NOCs are filed along with the form FC-TRS with the AD bank; and
- b. The FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalisation, etc.), reporting requirements, documentation etc., are complied with.

8. Consolidated FDI Policy - Corrigendum to Circular 2 of 2011

Press Release dated October 31, 2011

The Government of India has, on October 31, 2011, issued a corrigendum deleting para 3.3.2.1 of the Consolidated FDI Policy – Circular 2 of 2011 issued on September 30, 2011. Accordingly, the following para of the Consolidated FDI Policy stands deleted.

“3.3.2.1 Only equity shares, fully, compulsorily and mandatorily convertible debentures and fully, compulsorily and mandatorily convertible preference shares, with no in-built options of any type, would qualify as eligible instruments for FDI. Equity instruments issued/transferred to non-residents having in-built options or supported by options sold by third parties would lose their equity character and such instruments would have to comply with the extant ECB guidelines.”

9. Review of the policy on FDI in pharmaceuticals sector

Press Note No. 3 (2011 Series) dated November 8, 2011

Presently, FDI in pharmaceuticals sector is permitted upto 100%, under the automatic route. The Government of India has reviewed the extant policy and amended the Consolidated FDI Policy - Circular 2 of 2011 dated September 30, 2011 by inserting para 6.2.25 to give effect to the following:

1. FDI, upto 100%, would continue to be permitted for greenfield investments in the pharmaceuticals sector under the automatic route;
2. FDI, upto 100%, would be permitted for brownfield investments (i.e. investments in existing companies),

in the pharmaceuticals sector, under the Government approval route.

CORPORATE LAWS



(Matter on Corporate Laws has been contributed by CA. Jayesh Thakur)

MCA

1. Companies (Dematerialisation of Certificates) Rules, 2011

www.mca.gov.in

The MCA has issued Notification No. 17/143/2011-CL.V dated October 28, 2011 whereby it has stated that it was considering the proposal to issue Companies (Dematerialisation of Certificates) Rules, 2011 and comments/recommendations were invited by the Ministry latest by June 30, 2011. The MCA examined the matter and in consultation with the Law Ministry, it has decided to withdraw draft of the Dematerialisation of Certificates Rules, 2011 issued earlier. One may refer to the above citation and website for further details.

2. Amendment to LLP Rules, 2009

www.mca.gov.in

The MCA has issued Notification No. F.No. 2-17-2011-CLV dated November 04, 2011 inserting proviso to Rule 24(4) providing that if an LLP has closed the financial year on March 31, 2011, it shall file the Statement of Account and Solvency in Form 8 with the Registrar of LLP within a period of sixty days from the end of six months of the financial year to which the Statement of Account and Solvency relates. One may refer to the above citation and website for further details.

3. Indian Institute of Corporate Affairs

www.mca.gov.in

The MCA has issued Notification No. F. No. 271/2009-11 CA (Vol. I) dated November 09, 2011 and consequent upon acceptance of recommendations of the search-cum-selection committee for the post of Director General and Chief Executive Officer (DG&CEO) in the Indian Institute of Corporate Affairs (IICA) by the Appointments Committee of the Cabinet (ACC) for appointment of Shri Bhaskar Chatterjee, IAS (Retd.) to the said post, and upon acceptance of the offer of appointment by the officer, on the terms & conditions mentioned in the letter of even number dated November 03, 2011, in exercise of powers conferred by sub rule (ii) of Rule 6 of the IICA Society Rules, the Central Government hereby appoints Shri Bhaskar Chatterjee as DG&CEO in the IICA for a period of five years or till the date he attains the age of 65 years, whichever is earlier, from the date of assumption of charge of the said post by the officer, on the terms and conditions referred to above. One may refer to the above citation and website for further details and the form.

SEBI**4. Amendment to Takeover Regulations, 2011**

www.sebi.gov.in

The SEBI has issued Circular No. SEBI/CFD/DCR/SAST/2/2011/10/20 dated October 20, 2011 referring to the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 wherein various formats for the reports/disclosures to be filed were specified. The formats for disclosures for acquisition and disposal of shares under Regulation 29(1) and 29(2) of the Regulations, which have since been finalised are placed as Annexure-A and Annexure-B respectively and enclosed to above mentioned Circular. One may refer to the above citation and website for further details and formats for disclosures.

5. Reporting format for manner of increasing and maintaining public shareholding in recognised stock exchanges

www.sebi.gov.in

The SEBI has issued Circular No. CIR/MRD/DSA/12/2011 dated October 24, 2011 on the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006 ("MIMPS Regulations"). Regulation 11 of the MIMPS Regulations *inter alia* prescribes certain obligations on the recognised stock exchanges pertaining to their shareholding including submission of a report to SEBI within 15 days from the end of each quarter. It has been observed that stock exchanges have been submitting the said report in different formats. Accordingly, it has been decided to standardise the format of reporting of shareholding pattern of the recognised stock exchange under MIMPS Regulations.

The stock exchanges are therefore advised to ensure the submission of the report under MIMPS Regulations on a quarterly basis within the aforesaid prescribed time period, as per the format given at Annexure-A and enclosed to this Circular. The stock exchanges are directed to communicate to SEBI, the status of the implementation of the provisions of this circular in their monthly/quarterly development report. One may refer to the above citation and website for further details.

6. 'In-person' verification (IPV) of clients by subsidiaries of stock exchanges

www.sebi.gov.in

The SEBI has issued Circular No. CIR/MIRSD/22/2011 dated October 25, 2011 and referred to its earlier mandate to the stock brokers to carry out 'in-person' verification of their clients by their staff while registering them and also ensure that this function is not outsourced. Subsequently, SEBI had also clarified that the 'in-person' verification done for opening beneficial owner's account by a Depository Participant (DP) will hold good for

opening trading account by a stock broker and *vice versa*, if the stock broker and DP is the same entity or if one of them is the holding or subsidiary company of the other. The subsidiaries of stock exchanges have now requested SEBI to consider the 'in-person' verification carried out by their sub-brokers as due compliance with the aforesaid requirement since the said sub-brokers are also the stock brokers of the parent stock exchange and the subsidiaries are not permitted to register direct clients. SEBI has examined the matter and considering their distinctive structure, it is clarified that the subsidiaries of stock exchanges, acting as stock brokers, may rely upon the 'in-person' verification done by their sub-brokers (who are also registered with SEBI as stock brokers of the parent stock exchange) for their respective clients. However, the ultimate responsibility for 'in-person' verification would remain with the subsidiaries and they shall obtain the necessary IPV documents for their records. One may refer to the above citation and website for further details.

7. Participation of mutual funds in repo in corporate debt securities

www.sebi.gov.in

The SEBI has issued Circular No CIR/IMD/DF/19/2011 dated November 11, 2011 referring to the Repo in Corporate Debt Securities (Reserve Bank) Directions, 2010 issued by the RBI which enabled mutual funds to participate in repos in corporate debt securities subject to the approval of SEBI. SEBI has now advised that mutual funds can participate in repos in corporate debt securities as per the guidelines issued by RBI from time to time, subject to, (a) gross exposure of any mutual fund scheme to repo transactions in corporate debt securities shall not be more than 10% of the net assets of the concerned scheme, (b) cumulative gross exposure through repo transactions in corporate debt securities along with equity, debt and derivatives shall not exceed 100% of the net assets of the concerned scheme, (c) mutual funds shall participate in repo transactions only in AAA rated corporate debt securities, (d) mutual funds shall borrow through repo transactions only if the tenor of the transaction does not exceed a period of six months, (e) the trustees and the asset management companies shall frame guidelines about, *inter alia*, the category of counterparty, credit rating of counterparty, tenor of collateral and of applicable haircuts, in the context of these transactions, keeping in mind the interest of investors in their schemes, (f) mutual funds shall ensure compliance with the Seventh Schedule of the Mutual Funds Regulations about restrictions on investments, wherever applicable, with respect to repo transactions in corporate debt securities, (g) details of repo transactions of the schemes in corporate debt securities, including details of counterparties, amount involved and percentage of NAV shall be disclosed to investors in the half yearly portfolio statements and to SEBI in the half

yearly trustee report, and, (h) to enable the investors in the mutual fund schemes to take an informed decision, the concerned scheme information document shall disclose the intention to participate in repo transactions in corporate debt securities in accordance with directions issued by RBI and SEBI from time to time, the exposure limit for the scheme, and the risk factors associated with repo transactions in corporate bonds. One may refer to the above citation and website for further details.

RBI

8. Introduction of credit default swaps (CDS) for corporate bonds: change in effective date for operationalisation

www.rbi.gov.in

The RBI has issued Circular No. IDMD.PCD.No. 12/14.03.04/2011-12 dated October 20, 2011 referring to its earlier Circular whereby it was indicated that the guidelines on CDS would be effective from October 24, 2011 for which the necessary infrastructure which includes trade repository, documentation, publication of CDS curve for valuation, standardisation of contracts, etc. required for the launch of the product is being put in place. Further, the market participants have also asked for certain clarifications regarding documentation, operational aspects, and the arrangement for the necessary institutional framework. Hence, it has been decided to operationalise CDS guidelines by the end of November 2011 and for this purpose the exact date will be notified separately. One may refer to the above citation and website for further details.

9. Banks' exposure to capital market-issue of irrevocable payment commitments (IPCs)

www.rbi.gov.in

The RBI has issued Circular No. DBOD.Dir.BC. 43/13.03.00/2011-12 dated October 31, 2011 referring to its earlier Circular of September 30, 2010 in terms of which certain risk mitigation measures were prescribed in the context of banks issuing IPCs to various stock exchanges on behalf of mutual funds and FIs, as a transitional arrangement till October 31, 2011. It is now advised that these guidelines will continue to be in force for a further period of two months i.e. till December 31, 2011. One may refer to the above citation and website for further details.

10. Guidelines on Commercial Real Estate

www.rbi.gov.in

The RBI has issued Circular No. DBOD.BPBC.No. 45 /08.12.015/2011-12 dated November 03, 2011 referring to its earlier Circular of August 27, 2009 on 'Finance for Housing Projects'. At that time, banks were advised, *inter alia*, to stipulate a clause, in the terms and conditions of granting finance to specific housing/development projects,

regarding disclosure of mortgage of property to the bank in the pamphlets/brochures/advertisements etc., which may be published by developer/owner inviting public at large to purchase flats and properties. The RBI has reviewed the matter and has advised that the provisions contained in the earlier Circular will be, *mutatis mutandis*, applicable to commercial real estate also. One may refer to the above citation and website for further details.

11. Collection of Account Payee Cheques - Prohibition on Crediting Proceeds to Third Party Account

www.rbi.org.in

The RBI has issued Circular No. DBOD.BPBC.No. 50 / 21.01.001/2011-12 dated November 4, 2011 reiterating that banks are prohibited from –

- Crediting 'account payee' cheques to the account of any person other than the payee named therein; and
- Not collect account payee cheques for any other than the payee named therein.

In addition to the aforementioned instructions, the RBI also reiterated that banks have the option to consider collecting account payee cheques drawn for an amount not exceeding ₹50,000/- to the account of their customers who are co-operative credit societies, if the payees of such cheques are the constituents of such co-operative credit societies. Further, the prohibition and relaxation have been extended to drafts, pay orders and bankers' cheques. One may refer to the above citation for further details.

12. Modifications to Comprehensive Guidelines on Derivatives

www.rbi.gov.in

The RBI has issued Circular No. DBOD.No.BPBC.44 /21.04.157/2011-12 dated November 02, 2011 referring to its earlier Circular of April 20, 2007 which introduced the 'comprehensive guidelines on derivatives'. The guidelines with regard to suitability and appropriateness policy for offering of derivative products to users, as outlined in paragraph 8.3 of that circular, were reviewed in the light of the experience gained in implementation of the guidelines over last four years, and the revised version of the paragraph 8.3 was issued by Circular of August 2, 2011. The RBI has received suggestions from the FEDAI and other market participants, and hence, the paragraph 6 of the circular of April 20, 2007 and the revised paragraph 8.3 of the Circular of August 2, 2011 have been modified. The revised paragraphs are furnished in the Annexure to this Circular and these revised guidelines will be effective from January 1, 2012. The revisions relate to, (a) Broad Principles for Undertaking Derivative Transactions by Market-makers, and, (b) Suitability and Appropriateness Policy. One may refer to the above citation and website for further details. ■

Depreciation on freehold land having mineral reserves and the internal roads constructed in the premises of the company.

The following is the opinion given by the Expert Advisory Committee of the Institute in response to a query sent by a member. This is being published for the information of readers.

A. Facts of the Case

1. A State Government enterprise is engaged in mining and marketing of four major minerals, namely, Rock Phosphate, Gypsum, Lignite and Limestone. The company is also engaged in the business of generating and selling of wind energy.
2. The querist has stated that the company was granted a mining lease for excavation of lignite for a period of 20 years and accordingly, the company has purchased/acquired a 1063.35 hectare of freehold land having estimated mineable lignite reserves to the tune of 172.90 lakh MT for a sum of ₹18,98,59,223 in Nagaur district of Rajasthan. As per the approved mining plan, the reserve of lignite is to be mined in 20 years. The ownership of the land would, however, remain with the company after excavation of the entire lignite reserves. According to the querist, the mining (freehold land) area is a hilly area and after mining of lignite, there could be deep pits partly filled with overburden. Such land, as per the querist, after complete excavation of the mining of lignite, would not be useful for the purpose of agriculture and also cannot be used for any other purposes. Besides, the water in the area is highly saline which is not useful for drinking and agriculture purposes. Accordingly, the company considers that the land will not be of any use and will not fetch any value after excavation, and accordingly, net realisable value of the land after complete excavation has been assumed at nil.
3. The querist has mentioned that though the lease agreement was signed on 29/06/2002 but the lease period was started from 25/08/2001 and is valid upto 24.08.2021. Further, there is a provision in the mining lease agreement that the period of mining lease can further be extended as per the relevant provisions of the Mineral Concession Rules, 1960.
4. According to the querist, as the mining lease was for a period of 20 years, the company has adopted the accounting policy to write-off the freehold land on the basis of future benefit likely to be accrued and started writing-off the value of land equally @ 1/20th per annum in view of the fact that as the lease is only for 20 years, the benefit shall be accrued only for the lease period of 20 years. This policy has been reflected in the books of account by way of note reproduced below:

Accounting Policies & Notes on Accounts (Schedule 'G')

“Cost of freehold mining land is amortised on the basis of future benefit likely to be accrued.”
5. The querist has also mentioned that as per approved mining plan, the entire quantity of lignite was to be mined out within the period of 20 years by excavating the quantity as mentioned in the mining plan but due to some natural hazards beyond the control of the company, the company could not excavate the requisite quantity of lignite as per approved mine plan. The mining was started in the financial year 2003-04 and till 31st March, 2009, the company could excavate 4.42 lakh MT of lignite as against envisaged production of 31.15 lakh MT. The company however, continued to amortise the land @1/20th each year in view of the fact that the mining lease would expire on 24.08.2021 and it is not certain whether the company would be able to get renewal of lease for a further period or not.
6. The Accountant General (AG) auditors while conducting supplementary audit under section 619(4) have commented that the method of writing off freehold land was not commensurate with the declared accounting policy and the matching principle. According to the auditors, as per matching principle, cost and revenue should match in the period in which they occur and as such, the company should have amortised the freehold land on the proportion of lignite mined during the year and total recoverable reserves available at the beginning of the year. The accounting done by the company was not as per matching principle and the accounting policy because the cost of amortising is not in accordance with the benefits accrued. As such, till 31st March, 2009, the freehold mining land should have been amortised to the extent of ₹44,03,809 (18,98,59,223 (cost of land)/172.9 (total recoverable reserves in lakh MT)*4.42(total reserves excavated till March 2009 in lakh MT)) as against ₹5,34,07,056. Thus, the company has over amortised the land by ₹4,90,03,247.

7. The querist has further stated that the company is also having internal roads in the mine area costing ₹3,88,21,682 and the same are depreciated as per Schedule XIV to the Companies Act, 1956, i.e., @ 5 % p.a. on the written down value (WDV). AG Auditor was of the view that internal roads in the mine area should have been depreciated on the line of amortisation of land and accordingly, depreciation on internal roads should have been charged at ₹9,92,434 on above lines as against total charge of depreciation of ₹65,62,544. Thus, the company has overcharged the depreciation by ₹55,70,110. According to the auditors, both these items have resulted in understatement of profit by ₹1,03,11,183 for the current year and ₹4,42,62,174 for earlier years.

8. While replying to the observations of the auditor, the company was of the view that amortising value of land on the basis of lignite actually mined would result in extending the life of the assets beyond the prescribed period of 20 years for which mining lease is available to the company. Further, as the power to extend the lease period vests with the statutory authorities which may or may not accept the request of the company to grant further extension of the mining lease, amortising the value of the land on the basis of mineral actually mined and the mineral reserves is not justifiable. Further, as per the querist, actual mineable reserve of 172.9 lakh MTs of lignite is an estimated quantity and actual quantity may be different than the estimated quantity when actual mining would be done.

9. The querist has also stated that paragraph 22 of Accounting Standard (AS) 6, 'Depreciation Accounting', states that the useful life of a depreciable asset should be estimated after considering the following factors:

- (i) expected physical wear and tear
- (ii) obsolescence
- (iii) legal or other limits on the use of the asset

Accordingly, as per the querist, when the company is having mining lease legally only for 20 years, the value of the asset can be amortised only over the period of 20 years. Thus, amortising land on the basis of the actual quantity of lignite mined may not be correct because of the following reasons:

- (i) The company is having mining lease of 20 years only.
- (ii) It is not necessary that the company may be able to get extension of mining lease period.
- (iii) The actual reserve of lignite may not be equal to the estimated reserves.

10. The querist has stated that the actual quantity of lignite mined remained lower due to heavy inrush of

water in the mines but the contractor has excavated/ removed overburden more than the originally estimated stripping ratio. In case the accounting is to be done on the basis of the matching principle, the expenditure incurred on excavation and removal of higher quantity of overburden as well as expenses incurred for dewatering of mines and other expenses should have also not been charged in the accounts. Accordingly, in the opinion of the company, the policy of amortising 1/20th part of the value of the land every year is correct and is in line with the accounting policy of the company.

11. In reference to audit observation of charging of depreciation on the internal roads on the mining area on the basis of lignite actually mined, the company has replied that the depreciation on the roads cannot be charged on the basis of lignite actually mined, as the roads shall have their own life which is not much affected by actual quantity of mineral excavated and transported through these roads. The roads would also get damaged due to weathering change/effect, even if, not a single tonne of lignite is mined and transported through these roads. The statutory auditors have also concurred with the reply of the company.

12. In response to the reply of the company, the AG auditors have stated that paragraph 22 of AS 6 does not hold good as the said AS 6 is not applicable on wasting assets including expenditure on exploration for and extraction of minerals. Further, paragraph 7 of AS 6 states that the useful life of depreciable asset is directly governed by extraction or consumption. The company has referred the mining lease period whereas paragraph 7 of AS 6 states about lease period of related assets. In the extant case, the related asset is a land which is a freehold property. Hence, the management's contention is not correct.

B. Query

13. Since the views of AG auditors are different from the accounting treatment given by the company, the querist has sought the opinion of the Expert Advisory Committee on the following issues:

- (i) whether accounting treatment given by the company for amortisation of the land is in order or not. If not, whether the company should charge depreciation on the basis of mineral actually excavated with respect to the estimated reserves of lignite. Further, in case amortisation of the land is to be done on the basis of quantity of lignite excavated, whether the same is to be done retrospectively.
- (ii) whether depreciation on the road constructed on such land should be charged on the same basis

as that of the land or as per Schedule XIV to the Companies Act, 1956.

C. Points considered by the Committee

14. The Committee notes that the basic issues raised in the query relate to depreciation policy of freehold land having mineral reserves for which a mining right has been granted to the company for a period of 20 years and of the internal roads constructed on such freehold land. The Committee has, therefore, considered only these issues and has not examined any other issue that may arise from the Facts of the Case, such as accounting for the right granted to the company for extraction of minerals; accounting for payments made, if any in respect of extraction; accounting for costs to be incurred on restoration of land, if any, after the extraction of minerals; accounting for expenditure incurred on extraction, accounting treatment of stripping costs and expenses incurred on dewatering of mines; impairment related issues; compliance with requirements of law, such as, Companies Act, 1956, in respect of the appropriateness of the method of depreciation; etc.
15. The Committee notes the introduction paragraph and the definition of the term 'depreciable assets' as contained in Accounting Standard (AS) 6, 'Depreciation Accounting', notified under the Companies (Accounting Standards) Rules, 2006, as below:

"Introduction

1. This Standard deals with depreciation accounting and applies to all depreciable assets, except the following items to which special considerations apply:-

...

This standard also does not apply to land unless it has a limited useful life for the enterprise."
(Emphasis supplied by the Committee.)

"3.2 Depreciable assets are assets which

- (i) are expected to be used during more than one accounting period; and
- (ii) have a limited useful life; and
- (iii) are held by an enterprise for use in the production or supply of goods and services, for rental to others, or for administrative purposes and not for the purpose of sale in the ordinary course of business."

16. From the above, the Committee notes that a depreciable asset should essentially have a limited useful life. As per the GAAPs prevalent in India, freehold land is considered to have an unlimited life and, therefore, cost thereof is not depreciated. In the extant case, the Committee notes that the querist has

stated that after complete extraction of minerals, the land does not have any economic use to the company due to the reasons stated in paragraph 2 above. The Committee is of the view that keeping in view all the existing circumstances of the case, if it is clearly evident that such land can never be put to any other use, such land should be considered to have limited useful life. In that case, the principles of AS 6 would be applicable. In this context, the Committee notes paragraphs 3.3, 7, 8, 20 and 23 of AS 6 which provide as follows:

"3.3 Useful life is either (i) the period over which a depreciable asset is expected to be used by the enterprise; or (ii) the number of production or similar units expected to be obtained from the use of the asset by the enterprise."

"7. The useful life of a depreciable asset is shorter than its physical life and is:

- (i) pre-determined by legal or contractual limits, such as the expiry dates of related leases;
- (ii) directly governed by extraction or consumption;
- (iii) dependent on the extent of use and physical deterioration on account of wear and tear which again depends on operational factors, such as, the number of shifts for which the asset is to be used, repair and maintenance policy of the enterprise etc.; and
- (iv) reduced by obsolescence arising from such factors as:
 - (a) technological changes;
 - (b) improvement in production methods;
 - (c) change in market demand for the product or service output of the asset; or
 - (d) legal or other restrictions.

8. Determination of the useful life of a depreciable asset is a matter of estimation and is normally based on various factors including experience with similar types of assets. Such estimation is more difficult for an asset using new technology or used in the production of a new product or in the provision of a new service but is nevertheless required on some reasonable basis."

"20. The depreciable amount of a depreciable asset should be allocated on a systematic basis to each accounting period during the useful life of the asset."

"23. The useful lives of major depreciable assets or classes of depreciable assets may be reviewed periodically. Where there is a revision

of the estimated useful life of an asset, the unamortised depreciable amount should be charged over the revised remaining useful life.”

17. From the above, the Committee is of the view that the rate of depreciation to be applied to a fixed asset would depend on the depreciable amount of the asset and its useful life. With respect to the ‘useful life’, the Committee notes that paragraph 8 of AS 6 states that determination of the useful life of a depreciable asset is a matter of estimation and is normally based on various factors, including experience with similar types of assets. The Committee also notes from paragraph 3.3 of AS 6 that useful life can be either the expected period over which asset would be used or expected production/no. of units to be obtained from use of the asset. Further, from the above-reproduced paragraph 23 of AS 6, the Committee notes that useful life of a depreciable asset may be reviewed periodically. The Committee is of the view that in this case, since the sole purpose of acquisition of land is to exploit it for extraction of mineral resources and extraction of such minerals is the only economic use of the land for the company, the useful life of the freehold land would be more appropriately governed by the extractable minerals available on the land and extraction thereof. In other words, it would be more appropriate to depreciate the freehold land on the basis of units of minerals extracted, viz., Units of Production method. Accordingly, keeping in view the aforesaid discussion, the Committee is of the view that the cost of acquisition of freehold land, in the extant case, should be depreciated on the basis of the actual quantity of lignite extracted during a period as against the estimated quantity of extractable mineral reserves. The Committee is of the view that at times, the estimated quantity of mineral reserves also undergoes changes due to subsequent developments, such as, information about the probability of finding additional reserves or information confirming the existence of estimated quantity of reserves, etc. Accordingly, the Committee is of the view that the company should periodically review the estimated unextracted quantity of reserves and it should be used prospectively as the basis of calculating the depreciation of the freehold land. The Committee notes that in the extant case since the right to extract mineral reserves is also subject to the term of the mining lease, while calculating/reviewing the depreciation for a period, the remaining lease period and the reasonable certainty for its extension in the future should also be taken into account.

18. As regards the retrospective application of the depreciation rates determined in accordance with the above, the Committee notes that the change in the method of depreciation from straight-line method to

Unit of Production would result into more appropriate presentation of financial statements of the company and accordingly, it should be classified and disclosed as ‘change in accounting policy’ in accordance with paragraph 21 of AS 6, which provides as follows:

“21. The depreciation method selected should be applied consistently from period to period. A change from one method of providing depreciation to another should be made only if the adoption of the new method is required by statute or for compliance with an accounting standard or if it is considered that the change would result in a more appropriate preparation or presentation of the financial statements of the enterprise. When such a change in the method of depreciation is made, depreciation should be recalculated in accordance with the new method from the date of the asset coming into use. The deficiency or surplus arising from retrospective recomputation of depreciation in accordance with the new method should be adjusted in the accounts in the year in which the method of depreciation is changed. In case the change in the method results in deficiency in depreciation in respect of past years, the deficiency should be charged in the statement of profit and loss. In case the change in the method results in surplus, the surplus should be credited to the statement of profit and loss. Such a change should be treated as a change in accounting policy and its effect should be quantified and disclosed.”

Accordingly, the Committee is of the view that the impact of change in the method of depreciation should be calculated retrospectively from the date of the concerned asset coming into use considering the above-reproduced requirements of paragraph 21 of AS 6 and should be discussed in the period in which such change is made.

19. With respect to charging of depreciation on internal roads in the mine area, the Committee notes that in the extant case, the internal roads may include two types of roads – roads that might exist when the freehold land is acquired and those developed, thereafter, by the company to gain access to mineral reserves. The Committee is of the view that the said roads in the mine area have an independent useful life which would not only depend upon the lignite mined but also on other factors, such as, wear and tear due to weathering effect, etc. Accordingly, the application of unit of production method for depreciation of roads does not appear to be appropriate and the same should be depreciated separately based on their useful life.

20. With respect to the 'useful life', the Committee also notes paragraph 13 of AS 6 and paragraph 9 of the Guidance Note on Accounting for Depreciation in Companies, issued by the Institute of Chartered Accountants of India, which provide as below:

AS 6

"13. The statute governing an enterprise may provide the basis for computation of the depreciation. For example, the Companies Act, 1956 lays down the rates of depreciation in respect of various assets. Where the management's estimate of the useful life of an asset of the enterprise is shorter than that envisaged under the provisions of the relevant statute, the depreciation provision is appropriately computed by applying a higher rate. If the management's estimate of the useful life of the asset is longer than that envisaged under the statute, depreciation rate lower than that envisaged by the statute can be applied only in accordance with requirements of the statute."

Guidance Note on Accounting for Depreciation in Companies

"9. The Committee is of the view that in arriving at the rates at which depreciation should be provided the company must consider the true commercial depreciation, i.e., the rate which is adequate to write off the asset over its normal working life. If the rate so arrived at is higher than the rates prescribed under Schedule XIV, then the company should provide depreciation at such higher rate but if the rate so arrived at is lower than the rate prescribed in Schedule XIV, then the company should provide depreciation at the rates prescribed in Schedule XIV, since these represent the minimum rates of depreciation to be provided. Since the determination of commercial life of an asset is a technical matter, the decision of the Board of Directors based on technological evaluation should be accepted by the auditor unless he has reason to believe that such decision results in a charge which does not represent true commercial depreciation. In case a company adopts the higher rates of depreciation as recommended above, the higher depreciation rates/lower lives of the assets must be disclosed as required in Note No. 5 of Schedule XIV to the Companies Act, 1956."

From the above, the Committee is of the view that while determining the rate of depreciation to be provided on roads, true commercial depreciation which is adequate to write off the asset (viz., roads) over its normal working life based on bonafide technological evaluation, should be considered. However, since Schedule XIV to the Companies Act, 1956 specifies the

rates in respect of roads, the rate so determined should not be lower than the rates prescribed in Schedule XIV to the Companies Act, 1956, which represent the minimum rates of depreciation. Depreciation rates higher than the rates prescribed under Schedule XIV can be adopted only if such higher rates are justified on the basis of bona fide technological evaluation.

D. Opinion

21. On the basis of the above, the Committee is of the following opinion on the issues raised in paragraph 13 above:
- Considering the facts and circumstances of the case, the accounting treatment given by the company for amortisation of land is not in order. The depreciation on the freehold land should be determined on the basis of minerals actually extracted during a period with respect to the estimated quantity of extractable mineral reserves, as explained in paragraphs 16 and 17 above. The depreciation as per the correct method of depreciation should be provided retrospectively and the effect of the same should be treated and disclosed as a change in accounting policy as discussed in paragraph 18 above.
 - No, depreciation on the internal road in the mine area should be calculated and charged on the basis of their own useful lives, which should be based on a bona fide technological evaluations, as explained in paragraphs 19 and 20 above.

1	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on 03.05.2011. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in twenty eight volumes. A CD of Compendium of Opinions containing twenty eight volumes has also been released by the Committee. These are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4	Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.org .

Accounting for Customer Loyalty Programmes – IFRS Perspective



Customer loyalty points have become a very popular practice adopted by various businesses to attract customers and increase their turnover. However, there have been widespread accounting practices prevalent across different companies and industries. IASB sought to bring about uniformity among the practices and developed a guidance in the form of IFRIC 13 mandating certain guidelines to be followed. An attempt has been made in this article to explain the accounting treatment for different types of these programmes and the factors that go into the quantification of the amounts.

The advent of capitalistic ideology in the West has put an end to monopolies and oligopolies in which one or few players controlled the industry. Barring a very few, all the industries and sectors of the economy have become fiercely competitive with the lack of entry barriers. However, the product or service offers have been more or less homogenous and this has resulted in a paradigm shift in marketing strategies from product differentiation to customer service and retention. Companies started looking for newer ways of acquiring and retaining the customers. The concept was that it is cheaper to retain an existing customer than acquiring a new one. This has led to the practice of incentivising the customers to return for a repeat business.

Customer loyalty points originated in 1950s but has been started in the modern form by American Airlines in 1981 and now has become a very popular practice adopted by various businesses like airlines, credit cards, telecom operators, retailers, hotels, fuel outlets, etc to attract customers and increase their turnover. The arrangements range from simply offering discounts or free goods on further purchases to very complex arrangements that offer goods and services of third parties and participating in programmes sponsored by a third party for the entity's customers. This naturally calls for change in accounting practices to be in line with the nature of the agreement. The estimation of the value attributable to the points, probability of redemption, expiry of the points all have to be given due consideration in quantification of the charge for the period and the future liability to be recognised in the entity's financial statements.

Industry accounting practices varied widely in the quantification of charge and disclosure of liabilities in respect of the loyalty points. Some companies have recognised as liability the cost of providing the free goods or services in the future, some others identified a part of the revenue and deferred it to a later point of time



-CA. Vivek Raju P

(The author is a member of the Institute. He can be reached at eboard@icai.org)

to be recognised when the points are redeemed by the customers, yet some others have recognised full value of the sale consideration and treated the cost of loyalty points as a marketing expense. Even to this date differences exist between USGAAP and IFRS on this issue.

To address the divergent accounting practices and bring about convergence and uniformity in the accounting and reporting practices about loyalty points across, the IFRS has in 2007 for the first time issued guidance on this aspect, which was later amendment as a part of the IFRS Annual Improvement Plan in 2010. This is applicable for accounting periods beginning on or after 1st July 2008. Objections have been raised from the industry on the exposure draft that the process is complicated, the information is not so relevant and the costs of compliance exceed the benefits that arise on implementation. The committee opined that the certain initial costs will have to be incurred to put the system in place but the ongoing costs will not be significant to exceed the benefits.

It covers any kind of a customer reward programme wherein rewards are offered to the customers with a link to the sales transaction. Any vouchers issued to the general public or in a newspaper coupon entitling discounts are not covered as there is no nexus to any sales transaction.

IFRIC 13 in essence splits the agreement into multiple elements/transactions. It mandates for the sale consideration to be allocated between the goods or services delivered and the points that will be redeemed in future. The interpretation has also given a new dimension to the quantification of liability by prescribing that the measurement has to be done on fair value basis. Fair value is the value that can be realised if the points were sold separately. The entity has to arrive at the fair value of each point and defer the revenue to the extent of the fair value of the points from the sale consideration to a future period when the points will be redeemed. The amount so carried forward in the balance sheet has to be presented as deferred revenues.

The split into multiple deliverables is based on the premise that from the customers standpoint his purchase will entitle him to two things – firstly the goods in the current transaction and also that he has bought a right to get free or concessional goods at a future point in time. Hence, a portion of the consideration should be taken only when second sale takes place i.e. when the rights are exercised by redeeming the points. This point was specified by IASB in its basis for conclusion while issuing the IFRIC that a marketing cost is one which is made independent of a sales transaction and any other incentive that is offered to a customer as a part of the sales transaction has to be deducted from revenues.

The test as to whether to defer the revenue or not can be taken as whether the incentive is given as a part of the sales transaction or separately. If there is a nexus between the sale transaction and the reward, deferral has to be done.

The entity can recognise the revenues thus deferred only after any one of the following conditions is met.

1. The credit points are redeemed by the customer.
2. The points issued by the entity lapse (normally points have time limit for redemption).
3. The obligation is passed on to another entity and an amount is paid for the outstanding points.
4. The entity expects that there is a very remote possibility of the redemption by customers.

Fair value of the points granted must be estimated in most cases and are not readily available as most companies don't sell points separately, and this calculation sometimes can get difficult based on the complexity and flexibility that the programmes offer. For example in case of airlines, passengers flying a particular route may get certain number of miles but the fair value calculation can get complicated for the reason that the number of miles accrued by passengers varies based on the relationship of the passenger (ex frequent flyer, gold, silver member, etc), the class of travel (business, first class, economy), the fare scheme (flexi fare, promotional offers, etc), hence there are a lot of factors that go into the calculation of the fair value. So in case of airlines the fair value is calculated based on the yield that the company gets on a class and sector of travel.

Fair value has to take into account whether the any discounts are offered to new customers who don't have any reward points. If discounts are offered in normal course then the fair value will be the amount net of the discount offered. Also the fair value will depend on the popularity of the goods/services. IFRIC 13 does not specify the mode of calculation or estimation of fair value of the reward credits, however it mandates that the fair value has to be from the perspective of the customer and not the cost that the company will incur to provide the free/concessional goods and services. However as a part of its 2010 Improvements programme, it has given guidance that the fair value of the award credits should take into account the expected forfeitures and discounts that would offered even to customers who have not earned award credits.

Reward points fall into different categories and some of the most popular forms are:

1. Award of points to the customer for free/discounted goods/services from the same entity. (Air miles issued by airlines/fuel stations)
2. Award points to the customer which can be redeemed at other entities. (Ex Credit card points)
3. Award of points in a programme administered by a third party.

The accounting treatment for each of the above will be different having regard to the nature of the arrangement.

Example: A supermarket provides 1 reward point for every ₹100 of purchases made, and on accumulation of 1000 points the customer can redeem these

points for discount at ₹1 per point. Assume that customers buy goods worth ₹22 lakh during the Year 1, ₹30 lakh in Year 2 and ₹40 lakh in Year 3. The reward points are valid only till the end of next year following the year of purchase. Also the company expects that only 65% of the customers will attain eligibility of 100 points and 90% of those who attain eligibility will redeem the points before the validity date. In Year 2 ₹18 thousand and in Year 3, 20 thousand reward points have been redeemed. Based on the higher redemptions, the company in Year 3 changed the assumption to make that 80% of the subscribers reach the eligibility and 100% of those eligible will redeem the points.

Year 1

Value of the sales consideration	:	₹22.00
Fair Value of reward liability @₹1	:	₹0.13
Revenue to be recognised	:	₹21.87

Accounting Entry

Cash	Dr	22.00
Sales	Cr	21.87
Deferred Rev	Cr	0.13

Liability ₹ = (₹ (22,00,000)/100) = ₹22,000x0.65 (Customers reaching 100 points)x0.9 (percentage of eligible customers opting for redemption) = 0.13 lakh. The quantification of the revenue to be deferred is always a best estimate at the end of the accounting period and IAS 37 allows the application of probabilities for measurement, however these have to be realistic.

Year 2

Particulars	₹Lakh
Sale Consideration (A)	30.00
Fair value of reward points to be deferred (B)	0.18
Revenue to be recognised (C) = (A-B)	29.82
Redemptions of Year 1 Points (D)	0.18
Reclass of revenue from deferred to sales (E)	0.13
Shortfall in deferred revenue (F) = (D-E)	0.05
Sales revenue for Year 2 net of adjustment C-F	29.77

Accounting Entry

Cash	Dr	29.82
Deferred Revenue	Dr	0.13
(For points redeemed)		
Sales	Cr	29.77
Deferred Revenue	Cr	0.18
(Liability for sales in year 2)		

Note: Cash received will be ₹29.82 lakh as the balance 0.18 lakh is due to redemption of loyalty points

The estimates of the company were off as in Year 2 the redemptions exceeded the deferral of revenue in Year 1 and has impacted the revenue of Year 2 to the extent of ₹0.05 lakh. Hence, the company in Year 3 changed its assumptions on probability and worked out as under. The change in estimates of redemption have to be accounted as change in estimate in accordance with Para 36 of IAS 8 – Accounting Policies, Changes in Accounting Estimates and Errors

Year 3

Particulars	₹Lakh
Sale consideration	40.00
Fair value of reward points	0.32
Revenue to be recognised	39.68
Redemptions	0.15
Value of liability from Year 2	0.18
Value of points from year 2 lapsing	0.03

Accounting Entry

Cash	Dr	39.85
Deferred Revenue	Dr	0.15
(For points redeemed)		
Sales	Cr	39.68
Deferred Revenue	Cr	0.32
(Liability for sales in year 3)		

Entry (For lapsed points in Y3)

Deferred Rev	Dr	0.03
Sales	Cr	0.03

Value of reward points = ₹40 lakh x 0.8 (percentage of customers reaching eligibility of 1000 points for encashment)

Out of ₹18 lakh points issued in Year 2 only 15 lakh were redeemed and the remaining 3 lakh expire and can be taken to revenues.

Entities adopting IFRIC 13 need to consciously take into consideration the facts of the loyalty program and assess the fair values, redemption rates, customer behaviours, etc. Information is to be tracked at any given point of time for the number of points outstanding and those lapsing, when any changes are made in the plans, the entire liability needs to be reworked.

Redemptions Involving Another Company

There are another type of reward points programmes which most companies in service sectors offer and these include airline, hospitality, etc. The agreements are in such a way like if a passenger flies an airline or a customer spends certain amount on credit card air miles are earned, which can be redeemed with any of the partner airlines, or can be used for car rentals, staying at a particular hotel free of cost or concessional rate for a particular number of nights, etc. Essentially the entity entitles the customer to

goods or services from other providers and thus increasing the utility of the points for the customer.

In most of the agreements of the above nature, the point redeeming company provides the services free of cost or reduced rate and then recovers from the company that gives the points to its customers. In this case at the time of transaction the card point issuing company will recognise the revenue in full as the company does not have an obligation to provide the services any further, and then provide for the amount payable to the points redeeming company for the liability. The companies generally agree in advance on the amount to be paid per point hence quantification of deferral is relatively easier. Consideration has to be given as to whether the issuer of points is acting as a principal or as an agent of the redeeming company and to this extent the IAS 18 consideration of gross vs. net revenue reporting apply.

Example: An airline issues points which can be redeemed with a car rental company; car can be taken free of rent 1 day for every 1000 points. The airline gives 1 point for every ₹100 spent. Airline pays the car rental company ₹0.8 for each point. In a given year the airline issues 10 lakh points. In this case the airline recognises the total consideration as it has no further liability and provides ₹8 lakh as liability to the car rental company. However, if in the case the points can be redeemed both at the airline and the car rental company then the airline cannot recognise the complete revenue as the airline still has the liability to provide services. Revenue to the extent of fair value of the points has to be deferred.

Third Party Programmes

Another type of rewards programme can be a case where the third party provider known as programme sponsor operates an independent programme and different companies take part in the programme. The individual companies purchase points from the point issuing company and give the credit to their customers.

The value of the points will be agreed in advance and this will make it simpler for companies in accounting. Once the company pays the programme sponsoring company for the points issued there is no further liability. The company redeeming the points will claim the amount from the programme sponsor. In effect the programme sponsor acts as an intermediary for settlement of the points and charges commission for the activity.

Example: Company XYZ administers a reward point programme in which airlines, hotels, credit card companies and car rental companies take part. 1 point earned in any of these companies can be redeemed at the other companies. The company A sells 1 point for ₹1 each to the participating companies and pays ₹0.8 to the redeeming companies earning a margin of ₹0.2 for each point redeemed.

A hotel issues 1 point for every Rs 100 spent and

on acquiring 1000 points the customer can redeem them with any of the participating companies. During the year the company issues 5 lakh points for a spend of ₹5 crore to its customers. Assuming that the hotel is acting as an intermediary and the just bills and passes this revenue to XYZ and in effect increases its market, the entries will be as follows. The revenue is taken as per IAS 18.

At the time of issuing the points.

		(₹ Lakh)
Bank	Dr	500.00
Sales Revenue	Cr	495.00
Liability to XYZ	Cr	5.00

Settlement of Liability

		(₹ Lakh)
Liability to XYZ	Dr	5.00
Bank	Cr	5.00
(Payment by hotel to XYZ for the points)		

Assume that out of the 5 lakh points above, the customers redeem 2 lakhs points with an airline company for free tickets. The airline company will make the following entries in its books:

		(₹ Lakh)
Receivable from XYZ	Dr	1.60
Revenue	Cr	1.60

Note: The revenue for airline will be ₹1.6 lakh as the company XYZ which settles the points will pay only ₹0.8 to the redeeming company per point. 2 lakh points will give revenue of ₹1.6 lakh

Factors Influencing the Quantification of Deferred Revenues

1. **Fair value:** This is perhaps the most important component and forms the basis for quantification of the amount. Changes in the fair value and the assumptions used in arriving at it significantly impact the deferral. The company needs to lay down the methodology to be adopted in calculation and has to be consistent in its usage to avoid fluctuations across different reporting periods; It will be a better practice to disclose in brief the basis for calculation. For example the German airline Lufthansa which reports in IFRS, in its annual report for 2010 for bonus miles programme notes that "Fair value is determined as the value for which miles could be sold separately, i.e. the average yield, taking booking class and traffic region into account".
2. **Requirements for redemption:** This is important for the fact that it influences the redemption rate. Normally there is always a certain percentage of points which will never get redeemed as the customers don't meet the mandated requirement. This factor, say 80% or 90%

redemption, is factored in calculation of the revenue to be deferred and is reviewed annually to be adjusted based on experience. A low requirement threshold will increase the level of redemptions and the company will have to increase the deferral amount, the converse is true in case of a higher requirement threshold.

3. **Other factors:** Popularity of the programme or the goods or service, past experience of the company on redemption rates. (If the company lacks historical data on redemption rates then 100% of the points have to be considered). Changes in the features of the plan, validity term of the reward points, etc.

Other Considerations

1. IFRIC 13 does not consider the time value of money in the quantification of the revenue to be deferred as it will not be material in majority of the cases.
2. Reward programmes may sometimes build brand image or customer relationship, no intangible asset comes into existence as a result of this unless the recognition criteria of IAS 38 – *Intangible Assets* is met.

Indian Perspective under the Ind AS 18

In the wake of convergence of the Indian Accounting standards with the IFRS, a clear guidance for the recognition of the revenue on the customer loyalty programmes has been given for the first time by incorporating the requirements of IFRIC 13 as an annexure to the new standard Ind AS 18–Revenue. The Ind AS 18 is a comprehensive standard that brings all the guidance prescribed under IFRS concerning revenue into one standard. The guidance given in Annexure B to the new standard is exactly in line with requirements specified in IFRIC 13 and can be considered a replica of the latter pronouncement.

Paragraph 13, of the standard lays down the first step of the accounting practice to be followed, specifying that an entity shall apply the recognition criteria to separately identifiable components of a single transaction in order to reflect the substance of the transaction. Hence the any transaction in which loyalty points are a part, giving the customer a future right is viewed as two transactions (a sale & a right for future). Post the split of the transaction as required under para 13, detailed guidance has been specified in Annexure B to the standard. The fair value of the award credits attributable to the reward points has to be calculated and deferred to be recognised at a later date when the points are redeemed or extinguished.

Although extremely rare, there may be times where the expected cost of the obligation under the loyalty points is higher than the revenue deferred at the time of the initial sale and the additional consideration if any receivable on redemption. This creates an onerous contract, in which case a provision for the costs as they are excess of the revenues has to be provided for in

accordance with the Ind AS 37-*Provisions, Contingent Liabilities and Contingent Assets*.

Treatment under USGAAP

The Financial Accounting Standards Board (FASB) Emerging Issues Task Force (EITF) considered the issue of loyalty points in the year 2000. As a part of the issue 00-22 “Accounting for “Points” and Certain Other Time-Based or Volume-Based Sales Incentive Offers, and Offers for Free Products or Services to Be Delivered in the Future” five issues have come up for consideration by the task force. An agreement was reached by the members on only one issue on how a vendor should account for an offer to a customer to rebate or refund a specified amount of cash and which is redeemable only when the customer a specified cumulative level of transactions yielding revenue or has been a customer for a specified period of time. This was later codified in the EITF 01-09 (ASC 605-50-45-2).

As a result of failing to arrive at a consensus on the issue of loyalty points there exist divergent practices in USGAAP for accounting for the loyalty programmes. Companies may use EITF 00-21 (the pronouncement dealing with multiple deliverables), its successor EITF 08-1 (ASC 605-25) or the incremental cost model or even IFRIC 13. For example Delta Airlines having \$4.5 billion deferred revenue for air miles, in its 2010 Annual financial filing, mentions that residual method is used in revenue recognition of mileage credits, wherein a portion of the mileage credits equal to the fair value based on the prices at which credits are sold to other airlines, is deferred and recognised when the related services are provided. This has been calculated at \$0.0054 per mile, the portion of revenue received in excess of mileage credits sold is recognised as other revenues when the marketing services are provided for the sale. Also in case of the miles that are not expected to be redeemed the value associated is recognised proportionately during the period in which the remaining miles are expected to be redeemed.

Conclusion

The underlying concept of IFRIC 13 is that loyalty points are not costs that relate to the goods sold or services already provided, but they are separate goods or services to be delivered at a later point of time. Hence it is inappropriate to recognise the revenue upfront and deferral has to be done. IASB has thus brought about standardisation in the accounting practice in yet another area where different accounting treatments have been prevalent. As economies grow and services sector becomes more competitive and play a major part in the GDP, companies will come out with newer ways of incentivising customers to stay with them and a major tool in this will be the loyalty points. This step taken by IASB goes a long way in standardising the accounting practice and perhaps in future even USGAAP may adopt this pronouncement. ■

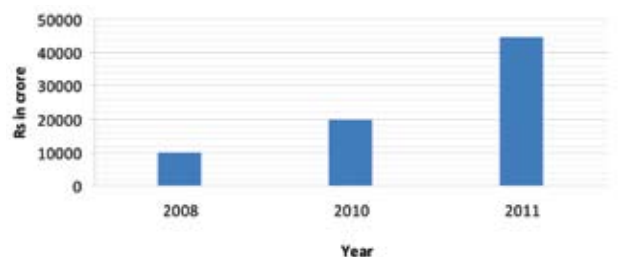
Transfer Pricing – Tribunal Explains the Law



Transfer Pricing has evolved as one of the most debated issue of the decade in international taxation community. As scrutiny of the international transactions is still in the nascent stage, not only taxpayers but also the tax authorities are grappling with challenges while implementing the law. As globalisation of Indian economy continues to accelerate, transfer pricing persists to be on the high priority of the tax authorities in the near future. Over the years, the TP challenges faced by multinational enterprises operating in India have undergone a significant change. Controversies arose in the initial years of audit over fundamental issues such as time period (single vs. multiple year data) for comparability analysis, comparable companies, applicability of +/- 5% range, etc. Trend is changing and Indian revenue officials are widening their focus of transfer pricing scrutiny to the softer issues like corporate guarantee, marketing intangibles, etc.

The importance of transfer pricing has grown manifold over the last few years for multi-national companies ('MNC') and revenue authorities alike. MNCs have been implementing innovative transfer pricing policies to optimise revenues and minimise tax costs. Now revenue authorities across the world are also increasingly adopting aggressive positions in an effort to tax the maximum possible income arising in course of international transaction in their respective jurisdiction. This has caused more than a fair share of headaches for the MNCs who are facing increased transfer pricing litigation and in many cases, revisited their transfer pricing strategies.

India, too, has not lagged behind in jumping on the transfer pricing bandwagon. Since, the introduction of transfer pricing regulations in 2001, focus on scrutiny of transfer prices in course of international transactions between two associated enterprises has increased. Consequently, one has witnessed adjustments made on account of transfer pricing doubling on a year on year basis.



Given the innovative transfer pricing structuring by taxpayers, approach of revenue authorities in course of the transfer pricing proceedings and the lack of

(Contributed by the Committee on International Taxation of the ICAI. Comments can be sent to citax@icai.org)

adequate clarity on the various aspects of the transfer pricing legislations, a high portion of cases of transfer pricing adjustments are landing up before the Income-tax Appellate Tribunals ('ITAT') for dispute resolution. In this scenario, the ITAT has played a stellar role more often than not in resolving the transfer pricing disputes by reasoned orders.

In this article, we focus on few important recent decisions rendered by the ITAT in respect of complex transfer pricing issues.

1. The Asst. Commissioner of Income-tax, Mumbai Vs. M/s Maersk Global Service Center (India) P. Ltd. – ITA No. 3774/Mum/2011

Facts of the case:

- Taxpayer is a captive service provider rendering back office IT enabled services such as data entry, transcription and data of shipping documents such as bill of lading etc to its Associated Enterprises ('AEs').
- Taxpayer earned net margin of 7.90%

Taxpayer's approach	View adopted by TPO
• Transactions Net Margin Method ('TNMM') has been selected as most appropriate method • The weighted average arithmetical mean of operating margin of nine comparable companies was determined to be 7.62%.	• TPO has summarily rejected the comparable companies identified by the Taxpayer. • TPO has performed new search and identified 12 companies as comparable • Arithmetic mean of operating margins of comparable companies worked out at 27.80% • Adjustment made for ₹10.49 crore

In course of the appellate proceedings before the Commissioner of Income-tax (Appeals) ['CIT(A)'], the CIT(A) retained the comparable companies identified by the taxpayer and of the 12 companies identified by the TPO, six were found to be comparable (with one common company). Thus, 14 companies were identified as comparable; the arithmetic mean of margins of such companies was determined to be 12.71%. As the margins of the taxpayer (7.9%) were within the 5% range of the arithmetical mean of margins determined by the CIT(A), the addition made by the TPO was deleted. Aggrieved the revenue filed appeal with the ITAT.

Arguments of Revenue before the ITAT:

- The CIT(A) while passing the order should not have considered the nine companies identified by the

Taxpayer which were rejected by the TPO in course of the TP assessment proceedings.

- Under Section 251 of the Act, the CIT(A) has the powers to confirm, reduce, enhance or annul the assessment. Accordingly, it is the duty of the CIT(A) to examine the assessment order of the prejudice of the assessee.
- Departmental Representative ('DR') can examine and reject companies identified by the Taxpayer which were not rejected by a speaking order by the TPO.

ITAT's ruling:

- The ITAT observed that the said 9 companies were identified by the Taxpayer and formed part of the transfer pricing study prepared by the Taxpayer and submitted with the TPO. The TPO has rejected the said companies summarily without providing any reasons for the same. Following the decision of the Special Bench of Bangalore Tribunal in the case of *Aztec Software & Technology Services Ltd. vs. ACIT (2007) 107 ITD 141* ITAT held that when the primary onus is discharged by the Taxpayer by appropriately conducting the transfer pricing study, onus shifts to revenue and the tax authorities are required to show that the said comparables are not in fact comparables. It is not open to the tax authorities to exclude the comparable cases given by the assessee at his whims and fancies.

In the present case, the ITAT observed that the TPO has failed to show as to how all or any of such cases are not comparable. Accordingly, one can draw a presumption that the cases are comparable.

- The ITAT further observed that the office of CIT(A) is forum for addressing grievances of the taxpayer. Disposing the grounds of appeal of the taxpayer is the duty of the CIT(A) whereas to enhance the income determined in an assessment is a power given to the CIT(A) which may or may not be exercised. As the power of the CIT(A) to modify the assessment order to the prejudice of the taxpayer cannot be equated with his duty to dispose the appeal, the ITAT held that the CIT(A) was not duty bound to pass the order adversely affecting the taxpayer's interest.
- Further, the ITAT observed that it is the duty of the DR to defend the order of the Assessing Officer ('AO'). However, the DR cannot find flaws in the order of the AO/TPO and rectify the defects in the AO's order. The ITAT held that if the DR were to be allowed to fill in the gaps left by the AO/TPO it would amount to conferring the jurisdiction of the CIT under Section 263 to the DR which is not permitted.

The ITAT further relied on the decision of the Special Bench of the Mumbai Tribunal in the case of *Mahindra & Mahindra Limited vs. DCIT (2009) 122 TTJ 577* which has laid down that the DR has no jurisdiction to go beyond the order passed by the AO.

- Additionally, with regard to certain specific companies identified as comparable by the TPO, the ITAT held as under:
 - o Tulsyan Technologies Limited and Vishal Information Technologies Limited – the said companies outsourced a considerable portion of their business whereas the Taxpayer carried out entire operations by itself. Accordingly, the same cannot be considered to be comparable to the Taxpayer.
 - o Wipro BPO Solutions Limited – Turnover of the company was more than 11 times the turnover of the Taxpayer. Further, Wipro being a company having high brand value along with a much higher turnover, the same cannot be considered as taxable to the Taxpayer.

2. Li & Fung (India) Private Limited – ITA No. 5156/Del/2010

Facts of the case:

- Group is engaged in trading activities
- The taxpayer providing buying/sourcing services to its overseas group companies for supply of goods.
- Overseas AE remunerated AE on cost + 5% mark-up.
- AE is earning 5% commission on the sales made to third parties
- Goods are directly delivered from third party suppliers to the customers and hence the Taxpayer and the AE are having minimal role in logistics/actual delivery of goods.

Taxpayer's approach	View adopted by TPO
• Taxpayer has applied TNMM as most appropriate method • Selected 26 comparable companies and benchmarked its margins against average operating margins of 4.07%	• TPO held that 5% mark-up is not at arm's length for the following reasons: - o Taxpayer has performed all the critical functions and assumed significant risks - o AE does not have technical capacity or manpower to assist the appellant - o Taxpayer has developed several unique intangibles - o Taxpayer has developed the supply chain management to achieve strategic and pricing advantage • TPO applied 5% mark-up on the total value of exports and proposed an adjustment of ₹57.65 crores

The Dispute Resolution Panel, however, deemed the mark-up of 5% as excessive and restricted the mark-up to 3% of the FOB value of exports. Aggrieved, the taxpayer filed the appeal with the ITAT.

Taxpayer's arguments before the ITAT:

- The TPO's contention of enhancing the cost base of the appellant artificially by considering the cost of manufacture and export of finished goods by third party vendors, clearly amounts to imputing notional adjustment/income in the hands of the Taxpayer on the basis of fixed percentage of FOB value of exports made by unrelated vendors.
- Further, for determining the compensation to be allocated to the Taxpayer, consideration needs to be given to the functions performed by it and costs incurred by it. The Taxpayer was performing functions of a limited-risk offshore service provider and was not engaged in the manufacturing of goods nor had the necessary expertise to manufacture the same.
- Taxpayer has merely rendered buying/sourcing support services in relation to such exports and hence remuneration received by the Taxpayer on cost plus mark-up of 5% adequately represents the functions performed, assets utilised and risks assumed.
- Basis for determination of arm's length price adopted by the Taxpayer along with Function, Assets and Risk ('FAR') analysis had been consistently followed by the Taxpayer even in the past years and had been accepted by the TPO in earlier years and no dispute was raised.
- With regard to the TPO's contention that sourcing goods from India resulted in location savings for the Li & Fung group, it was argued that neither the Taxpayer nor the AE was a party to the transaction for export of goods directly by third party vendors to third party customers. The AE has only been providing the sourcing support services in relation to export of goods of which a part of the service has been delegated to the Taxpayer in India. Given the same, any advantage on account of location saving can at best be attributed to the vendors (exporter) and third party customer. Accordingly, no adjustment can be made on account of location savings.
- Additionally, it was also pointed out that the amount of adjustment made by the TPO was far more than the amount which was retained by the AE. The Taxpayer has received nearly 80% of the entire consideration received by the AE for rendering sourcing services and the AE has retained only 20%

of the total consideration on account of functions performed and risks assumed.

Arguments of Revenue before the ITAT:

The DR reiterated the order of the TPO and defended the adjustment of allocation of 5% of the FOB value to the Taxpayer for the following reasons:

- The Taxpayer was performing all the critical functions and had the technical capacity and manpower to execute the work.
- The Taxpayer in course of rendering the services had developed tangible and unique intangible assets which are crucial for executing the critical functions. The Taxpayer had also developed a supply chain management to manage the link between the ultimate third party customer and the vendor to achieve pricing advantage, strategic advantage etc.
- Low operation cost in India i.e. lower salaries, low cost of material and manufacturing etc has offered both cost and operational advantage to the AE.

ITAT's ruling:

- ITAT held that the principle of res judicata is not applicable in the Income-tax proceedings. Each assessment year is a separate unit and what is decided in one year shall not ipso facto apply in the subsequent years, particularly when such facts have not been considered/discussed at all in the earlier year.
- The ITAT upheld the conclusion reached by the TPO that all critical functions and majority of the work related to the exports is undertaken by the Taxpayer. Further, the ITAT also concluded that the Taxpayer had developed the technical capacity as well as had the manpower which created an intangible for the Taxpayer to perform the critical functions.

Further, it also observed that the AE did not have the capacity or manpower to assist the Taxpayer in the said functions.

In view of the above, as the AE was compensated on a mark-up of 5% on FOB whereas the Taxpayer which was undertaking all critical functions and owned tangible and intangible assets, the compensation based on cost plus mark-up of 5% was not adequate.

- The ITAT also held that as the Taxpayer has developed many unique intangibles as well as human capital intangibles and developed supply chains of management, it gives a locational advantage to procure low cost goods which ultimately benefits the end customers as well as helps the AE to obtain/retain the business.

- In view of the above conclusions, the ITAT held that the Taxpayer should be remunerated on a percentage of FOB basis instead of a cost-plus arrangement. Given that majority of the critical functions are performed by the Taxpayer, the compensation of 5% on FOB basis needs to be allocated between the Taxpayer and its AE in the ratio of 80:20.

3. Tally Solutions Private Limited Vs. the Deputy Commissioner of Income-tax – ITA No. 1235/Bang/2010

Facts of the case:

- Tally Solutions Private Limited ('Taxpayer') is engaged in the business of software development, marketing and sales of 'Tally' brand of financial accounting and management software.
- It is having AEs in UK, Dubai as well as other countries.
- During the financial year relevant to AY 2006-2007, the Taxpayer sold the intellectual property ('IP') held by it including patent, copyrights and trademarks to Tally Solutions FZLLC, Dubai (Tally Dubai) for a consideration of ₹38.50 crore which was equivalent to the Written Down Value ('WDV') of the said IP reflecting in the books of the Taxpayer.

Taxpayer's approach	View adopted by TPO
• Taxpayer has considered written down value ('WDV') of the asset as an arm's length price while preparing transfer pricing documentation as there was no comparable uncontrolled transaction of similar nature available in public domain.	• TPO has recomputed the ALP by applying Excess Earning Method ('EEM') and valued the IP at ₹501.46 crore as against ₹38.50 crore and made an adjustment to the tune of ₹462.96 crore.

At the time of DRP proceedings TPO has furnished a revised valuation of IPR at ₹260.63 crore and accordingly, DRP directed AO to make the adjustment on the basis of revised workings of TPO. Pursuant to DRP directions, transfer pricing adjustment reduced to ₹222.13 crore. Aggrieved Taxpayer has challenged the order of DRP before ITAT.

Application of EEM:

While applying EEM, TPO has computed the value of IPR as the present value of cash flows attributable to the IPR.

- o TPO has computed future cash flows up to 2012 based on the past performance and after considering CAGR of 20.39%

- o Cash flows attributable to other tangible and financial assets has been reduced
- o Cash flows attributable to IP was brought to capital value by applying Discounted Cash Flow method ('DCF')

Thus, TPO has computed value of IP as Net Discounted cash flow after considering the cost of improvement less return on fixed assets less return on working capital less return on human capital.

Taxpayer's arguments before the ITAT:

- The TPO has followed the EEM which is not a prescribed method under the Act or the Rules. The TPO is required to determine the arm's length price of any international transaction only by following one or more of the most appropriate method referred to in Section 92C(1) of the Act read with Rule 10B and in the manner prescribed under Rule 10C of the Rules. The five methods prescribed are Comparable Uncontrolled Price ('CUP') method, Profit Split Method ('PSM'), Resale Price Method ('RPM'), Cost Plus Method ('CPM') and the Transactional Net Margin Method ('TNMM'). EEM followed by the TPO is not one of the methods prescribed under the Act read with the Rules.
- As there is no CUP and no other method can be taken to be most appropriate method in the given case, value of the IP declared by the Taxpayer should be accepted as the arm's length price.
- The Taxpayer argued that CUP presupposes existence of a comparable transaction and in absence of any such comparable, CUP method cannot be applied for determination of arm's length price. Further, where no other method can also be applied, the provision relating to determination of arm's length price cannot be applied to the international transactions of the Taxpayer. In support of the same, the Taxpayer relied on the decisions of the Supreme Court in the case of *B.C. Srinivasa Shetty (128 ITR 294)* and *CIT vs. Official Liquidator, Palia Central Bank Ltd. (150 ITR 544)*.
- On merits of application of EEM, the taxpayer has pointed out certain flaws in the TPO's order.

ITAT's ruling:

- Selection of the method for determining the arm's length price

In the present case, sale of IP is not a routine transaction involving regular purchase and sale. The Taxpayer has itself stated that there is no comparable transaction. Given the same, the TPO has used the EEM. The said method is an established method and valuation by the same is upheld even by the US Courts.

Further, this method supplements the valuation which in effect is done by the CUP method. The Bangalore ITAT in the case of *Intel Asia Electronics Inc vs. ADIT (2011-TII-14-ITAT-BANG-TP)* has also held that the valuation method can be adopted to arrive at a CUP.

Accordingly, the ITAT concluded that the TPO has in effect applied the CUP method only. EEM is used to arrive at the CUP i.e. the price at which the Taxpayer would have sold the IP in an uncontrolled transaction.

Given the same, applying EEM is valid.

- Merits of application EEM
 - a) The Taxpayer's argument that the actual figures available at the time of the assessment instead of projected future cash flows cannot be accepted as the risk of future income lies with the buyer of the IP and the arm's length price is also to be determined at the time of sale.

At the time of the sale of IP, there was no forecast of a global economic recession and therefore, a subsequent dip in the sales due to the global economic slowdown would not have relevance at the time of the sale.

Further, the very essence of EEM is to project the future revenues based on previous years' data.

- b) However, the Tribunal accepted the Taxpayer's contention that the sales data up to the date of sale of the IP was vital to arrive at the correct projection which would reflect the true earning potential of the IP.

Further, since the revenues are from software licenses given to third parties, it would be a correct approach to include the sales value until the date of sale of IP which is also in accordance with the provision of rules as it mandates use of current year data.

The ITAT also held that while computing the cash flows, sales returns of the Taxpayer have to be deducted from the operating revenues of the Taxpayer in the previous year.

- c) Further, the ITAT accepted the Taxpayer's contention that the CAGR adopted by the TPO was flawed and the actual CAGR has to be computed using the past revenues to make the future projections.
- d) The ITAT however, upheld the TPO's approach in applying the EEM including the implied estimate of useful life of six years.

4.M/s Four Soft Ltd. Vs. The Dy. Commissioner of Income-tax – ITA No. 1945/HYD/2010

Facts of the case:

- Taxpayer has provided software development services to its AEs. Besides the above, it had other international transactions pertaining to payment of allocated management charges,

recovery of expenses incurred on behalf of its AEs, reimbursement of expenses incurred on its behalf and payment of interest on loan.

- In addition to the issue relating to arm's length price of its international transaction, the TPO proposed adjustment on account of interest on loans provided to its AEs and providing corporate guarantee to banks on behalf of its subsidiary.

Taxpayer's approach	View adopted by TPO
• For benchmarking transaction of loan given to subsidiary it is pertinent to consider prevalent interest rate in the country in which loan is given and not the rate prevalent in India. • Transaction of providing corporate guarantee is not covered as international transaction as per Indian transfer pricing regulations and hence not required to be benchmarked.	• The TPO has considered the interest rate of 14% (i.e. interest on corporate bonds in India) as the arm's length interest rate and made the adjustment while finalising the transfer pricing assessment. • The TPO is of the view that a provision of corporate guarantee is a service and hence arm's length service charges should have been recovered from the subsidiary company. The TPO proceeded to determine the arm's guarantee fee by applying the CUP method and considered the commission charged by an independent bank i.e. 3.75% as benchmark.

- Aggrieved, the Taxpayer approached DRP which confirmed the adjustment proposed by the TPO with regard to charging of corporate guarantee commission. With regard to charging of interest on loan to subsidiary, the DRP accepted the Taxpayer's argument that adjustment should be limited to the LIBOR rate prevailing at that time. However, the DRP erroneously considered the LIBOR as 5.78% instead of 4.42%.

Taxpayer's arguments before the ITAT:

- Taxpayer has provided the loan to its Netherlands subsidiary company. In Netherlands, the bank lending rates are based on European Inter-bank offer rates i.e. EURIBOR. Accordingly, EURIBOR should be considered as the benchmark for determination of arm's length interest rate. As the EURIBOR for the year under consideration was

3.44%, the same should be considered as an arm's length interest rate.

- With regard to providing of corporate guarantee, the Taxpayer argued that the said transaction does not fall within the definition of international transaction. Further, the TP regulations do not prescribe any guidelines to benchmark such transactions. Accordingly, in absence of any charging provisions, the TPO erred in benchmarking the said transaction and making an adjustment for the same.

Additionally, it was also submitted that provision of such corporate guarantee did not result in any benefit for the subsidiary but resulted in significant commercial gains for the Taxpayer.

Revenue's arguments before the ITAT:

- The DR stated that the interest on corporate bonds in India was 14%. It was argued that had the Taxpayer invested the money in India rather than advancing the same to the subsidiary, the taxpayer would have definitely earned a higher interest rate. Accordingly, considering the opportunity cost of investing funds in India, the interest rate of 14% on Indian corporate bonds ought to be considered as the arm's length interest rate.
- With regard to provision of corporate guarantee, it was argued that guarantee is an obligation and if the principal debtor (in this case the subsidiary of Taxpayer) fails to honour the obligation, the guarantor is liable for the same. Accordingly, the same would constitute an international transaction. Given the same, the rate of 3.75% applied by the TPO based on the commission charged by banks meets the arm's length price.

ITAT's ruling:

- The ITAT noted that in case of interest on loan to subsidiary, the arm's length interest rate needs to be determined for an international loan and not a domestic loan. Accordingly, for a foreign currency loan, the interest rate has to be LIBOR based which is internationally recognised and adopted. With regard to the same, the ITAT relied on the decision of the Madras Bench of ITAT in the case *Siva Industries and Holdings Limited – ITA No.2148/MAD/2010*.

However, the ITAT did not accept the argument of the Taxpayer that EURIBOR should be used as the arm's length interest rate instead of LIBOR, as LIBOR is most used and internationally recognised benchmark rate for international loan.

- Further, in connection with providing corporate guarantee, the ITAT noted that corporate guarantee does not fall within the definition of international



transaction under Section 92B of the Act. The TP legislation also does not stipulate any guidelines in respect of guarantee transactions. In absence of charging provision, the TPO erred in making an adjustment on account of providing corporate guarantee.

Additionally, with regard to comparison drawn with guarantee given by banks, the ITAT held that providing corporate guarantee is very much incidental to business and cannot be compared with guarantee transaction of a bank or financial institution.

Given the above, the ITAT held that no adjustment is warranted in respect of corporate guarantee provided by the Taxpayer.

5. Key Takeaways

Maersk Global	Li & Fung
• If TPO doesn't show how the comparables selected by the Taxpayer is not comparable, it should be presumed that the companies selected by the Taxpayer are comparable. • Duty of DR to defend the order passed by the TPO and he cannot fill in the gaps left by TPO. • Difference between operations carried out by self <i>vis-à-vis</i> outsourced should be appreciated. • Companies having high turnover and high brand value cannot be taken as comparable, if the Taxpayer doesn't satisfy the said criteria.	• Rules of consistency cannot be applied forever when such facts have not been considered/discussed at all in the earlier years – it is pertinent to note that generally there are no discussions in the assessment orders in the cases where transfer pricing policies of the Taxpayers are accepted by TPOs. • When Taxpayer is carrying out significant critical and developing and intangibles in India, remuneration to the Taxpayers should be based on percentage of income received and not on cost plus mark-up basis. • Locational advantage needs to be considered while remunerating the Taxpayer

Tally Solutions

- ITAT held that EEM supplements the valuation, which, in effect, is done by a CUP method, with the final valuation being the comparable though an "income method" has not been formally included in the prescribed methods under Indian Transfer Pricing Regulations.
- Revenue Authorities may apply the said decision in the similar transactions and hence it is pertinent to evaluate the impact of this ruling in their facts.

Foursoft

- Foreign currency loans provided to AEs needs to be benchmarked on recognised benchmark for international loan like LIBOR etc and not on the basis of interest rate prevalent in India.
- Provision of corporate guarantee is not covered under the definition of international transaction provided under the Act. Further, corporate guarantee is incidental to the taxpayer's business. Accordingly, no adjustment is required to be made on account of corporate guarantee.

Conclusion

The figure of TP adjustment of the year i.e. ₹44,500 crore (as per some estimates it may be as high as ₹80,000 crore) is mind boggling and with the amount ranging from several hundred crore to even a few thousand crore in the case of some MNCs. Is India earning the dubious reputation of having the most aggressive tax regime? Or are these adjustments proof that transfer pricing regulations were much needed? How will these adjustments be perceived internationally and will it affect the foreign investment climate?

Uncertainties and inconsistent interpretations by judiciary do not give right signals to the companies having cross border transactions. The introduction of safe harbor regulations, MAP and proposed APA, can be viewed as concrete step towards lifting the clouds of uncertainty and improving the investment climate in the country. However, the success or otherwise of new provisions would largely depend on how quick they are implemented and approach of revenue authorities towards minimising the tax litigation. ■

An Insight into Advance Pricing Agreements



Amid raging debates on the proposed Direct Tax Code, our Finance Minister has recently promised that the Code would be brought into effect by 1st April, 2012. As the promised deadline closes, apprehensions are being expressed about some new concepts that the Code proposes to implement. A new tax scheme has been proposed in India in the form of the Direct Tax Code. Vide section 118 of this code, a new scheme of Advance Pricing Agreement/Arrangements (APA) has been brought about to be implemented. The objective of an APA is to deliver certainty, for both the taxpayer and the tax authorities, of the tax outcomes of the taxpayer's international transactions by agreeing in advance the arm's length pricing methodologies to apply to the taxpayer's international transactions covered by the APA. For a taxpayer, an APA can be an effective tool for better managing the tax risks arising from international transactions. For tax authorities, an APA can similarly be an effective tool for better and more efficient administration of the transfer pricing laws. With a new challenge, always comes a new opportunity. Let us now try understanding and taming this new concept of APAs.

Finance Minister Mr. Pranab Mukherjee recently promised that the Direct Tax Code would be brought into effect in India by 1st April, 2012. With this promise, comes an apprehension, more so, in the new concepts that the DTC proposes to implement such as Controlled Foreign Companies (CFCs), Advance Pricing Agreements/ arrangements (APAs), etc. Let us hereby try and tame one such concept of APAs.

What is an APA

Cross border transactions have increased enormously over the years. With this increase in transactions, there have been increasing instances of international tax avoidance, leading and culminating to a sharp rise

in litigation. It has always been the agenda of the Finance Ministry to reduce the increased litigation in India. And to address the same, several measures have been taken by the Ministry like, increasing the monetary limits for filing the appeal, new legislations like GST/ DTC, etc.

The Income-tax Act, 1961 has a provision for Safe Harbour Rules in respect of Transfer Pricing (TP) tax issues, inserted effective April, 2009 which indicate that the Board may make rules for notifying circumstances to accept the Transfer Price declared by the assessee. In 2010, CBDT has constituted a Committee to formulate rules for Safe Harbour provisions which is being chaired by the Director General of International



CA. Hemali Deepak Thakkar

(The author is a member of the Institute. She can be reached at eboard@icai.org)

Tax and comprising senior tax officers and members of Trade and Industry and also the members of the Institute of Chartered Accountants of India.

As of now, TP tax provisions are rather rigid. Without any threshold limits on quantum, Form 3CEB is to be filed by an assessee who has had even one international transaction with an Associated Enterprise. If the quantum goes beyond INR 10 million, mandatory requirement of having a detailed documentation is prescribed. If the transactions aggregate to ₹150 million, compulsory scrutiny is mandated. In this backdrop, safe harbour rules would perhaps provide some respite to some smaller assessee's coming under TP net.

Also, we may have to see about the much talked APA provision (Advance Pricing Agreements), a system that has been universally present in various evolved tax regimes in the world and the one that has now been contemplated in the Direct Tax Code is implemented and accepted in India.

An Advance Pricing Agreement/ arrangement (APA) offers a way to secure tax authority approval of your transfer pricing policies and methodologies for up to five years in advance. It is a framework for the tax administration and a taxpayer to agree that, provided the taxpayer files its tax return in accordance with the agreed APA conditions for the APA covered years, the tax administration accepts the tax outcomes as being consistent with arm's length outcomes, and thereby refrains from auditing the taxpayer's international transaction(s) covered by the APA.

The objective of an APA is to deliver certainty, for both the taxpayer and the tax authorities, of the tax outcomes of the taxpayer's international transactions by agreeing in advance the arm's length pricing methodologies to

apply to the taxpayer's international transactions covered by the APA. An APA may thus, remove an audit threat (eliminate the need for an audit), deliver a particular tax outcome based on the terms of the agreement, and often substantially reduces compliance costs over the term of the APA. This enables a more efficient and effective management of transfer pricing compliance requirements by bringing fairness, simplicity and efficiency, which may otherwise lead to protracted and disputed dealings between a taxpayer and the tax authorities, including difficulties involved in resolving economic double taxation.

Thus, for a taxpayer, an APA can be an effective tool for better managing the tax risks arising from international transactions. For tax authorities, an APA can similarly be an effective tool for better and more efficient administration of the transfer pricing laws.

Consequently, APAs provide a win-win situation for all the parties involved.

APAs are in fact a measure designed to facilitate compliance with the transfer pricing rules and do not impose any further tax liability on a taxpayer.

History of APAs

The concept of APAs started with Japan introducing a system called Pre Confirmation System (PCS), in 1987, which happens to be a unilateral APA process. Further, in 1988, the US Treasury Department issued a white paper titled "A Study of Intercompany Pricing" which set the stage for an APA Program in the US. The US finally began its own APA programme in 1991. It used APA as an effective tool to reduce administrative burden and also, to provide a predictability of transfer pricing methodology. Several countries followed suit. In the 1990s,

An Advance Pricing Agreement/ arrangement (APA) offers a way to secure tax authority approval of your transfer pricing policies and methodologies for up to five years in advance. It is a framework for the tax administration and a taxpayer to agree that, provided the taxpayer files its tax return in accordance with the agreed APA conditions for the APA covered years, the tax administration accepts the tax outcomes as being consistent with arm's length outcomes, and thereby refrains from auditing the taxpayer's international transaction(s) covered by the APA. ”

countries such as Canada, Australia and the UK adopted the concept of APA. The OECD issued a set of APA Guidelines in 1999. Late, but nevertheless, India too chooses now to wake up and introduce APAs.

Types of APAs

1. **Unilateral** – APA between taxpayer & tax authority of domestic country. This agreement is likely to be entered into when a party is in a jurisdiction where no treaty is available.
2. **Bilateral** – APA between two tax authorities in respect of transactions involving taxpayers in both jurisdictions. This agreement provides full protection from double taxation. When such agreements are possible, revenue authorities generally avoid entering into multiple unilateral agreements.
3. **Multilateral** - APA between taxpayer and multiple tax



authorities. Here, three or more governments are involved. Such agreements are uncommon since it is generally very complicated and intricate to get multiple tax authorities to agree upon it. Thus, such agreements are generally struck only when such transactions are so linked that they cannot be separately tested.

4. **Synthetic Bilateral** – This agreement is used when no bilateral APA is possible because no tax treaty exists, or where a tax treaty exists, but one of the tax authorities do not have an APA experience or ability.

Some countries allow for unilateral arrangements where the tax administration and the taxpayer meet and finalise an arrangement. A unilateral APA, however, may affect the tax liability of associated enterprises in other tax jurisdictions.

Where unilateral APAs are permitted, the competent authorities of other interested jurisdictions should be given an option to determine whether they are willing and able to consider a bilateral arrangement under the mutual agreement procedure. In any event, countries should not include in any unilateral APA, concluded with a taxpayer, a requirement that the taxpayer waives access to the mutual agreement procedure if a transfer pricing dispute arises. Also, if another country raises a

transfer pricing adjustment with respect to a transaction or issue covered by the unilateral APA, the first country is encouraged to consider the appropriateness of a corresponding adjustment and not to view the unilateral APA as an irreversible settlement. When appropriate, the competent authorities may enter into a Bilateral APA or Multilateral APA with its foreign counterparts under the Mutual Agreement Procedure (MAP) article of the relevant income tax treaty.

Benefits of APA

The Advance Pricing Agreement (APA) binds the taxpayer to a transfer pricing methodology that the revenue agrees not to

challenge. This is provided that all terms of the agreement are followed. Upon audit, the revenue will not challenge that transactions between the taxpayer and the related party have not been conducted at arm's length. The agreement may be made with only the taxpayer, or with a related party and/or with foreign tax authorities.

The primary advantage of an APA is the approval of the transfer pricing methodology (TPM), which can be not only a traditional methodology, such as comparable profits method or resale price method, but also any other method described in the regulations, a combination of methods or a concoction of mutually agreed formulae.

The advance acceptance affords the taxpayer the knowledge that no adjustment will result if the agreement is followed. It spares the taxpayer the ordeal of a detailed audit to verify the appropriateness of the TPM used in transactions.

Besides, other advantages would be an efficient resolution of otherwise recurring complex appellate issues, minimisation of global risk, freedom from preparing annual transfer pricing documentation, etc.

Coverage of APA

An APA would ideally cover following areas:

- Name and preliminary details of the entities involved.
- Functions and risk profiles of the

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applicant, including eligibility criterion.

- Nature of international transactions entered into.
- Confidentiality.
- Transfer Pricing methodology to be applied.
- Duration for which the arrangement would hold true and valid.
- Compliances to be adhered to
- Criterion involving reviews, submissions, etc.
- Fees.
- Consequences of an APA.
- Public reporting.
- Any other matter with regards to the facts of the case.

Stages in APA Process

- i. **Feasibility Study:** An APA is not suitable for everyone and for every situation. Thus, a feasibility study needs to be undertaken, with a precise and detailed thought to the acceptable risk tolerance benchmarks, and the clearly comprehended risks and benefits involved.
- ii. **Pre-filing conferences:** This would allow taxpayers to discuss the suitability of an APA before deciding to pursue it. Pre-filing conferences can be held on a named or anonymous basis also. Particularly in the beginning of the programme, it would be useful if taxpayers are given an opportunity to meet the Board personnel, who will process their case. This will help build trust in the process. In particular, offering anonymous pre-filing conferences provides taxpayers the opportunity to determine the receptivity of the Board to the issues in its particular case without fear of inviting an audit or identifying possible areas of audit, should the taxpayer decide not to proceed with an APA.
- iii. **APA Application:** An APA application should contain

Under some circumstances, it may be necessary to terminate an agreement.

Many governments distinctly spell out some of those circumstances. In the case of fraud or failure to disclose material information, the revenue could take the position that the APA was void *ab initio* and, therefore, a taxpayer would be subject to audit for the years in question. ”

enough information to properly evaluate the arm's length nature of the proposed transactions. This would comprise in depth detail of history of business operations, worldwide organisational structure, ownership, capitalisation, financial arrangements, principal businesses, locations of the business and major transaction flows, covered transactions, their value and how they relate to any company transactions not covered under the APA, detailed analysis of the functions of each party involved, and economic activities performed, the assets employed, the economic costs incurred, the risks assumed, relevant contractual terms, relevant economic conditions.

- iv. **APA Due Diligence:** Tax authority due diligence generally comprises reviewing the taxpayer's submissions, and thereon conducting meeting with the latter over concerns raised. Further, a case management plan may also be strategised with specified mile-stones during the review process.
- v. **Case Processing:** The revenue will need to determine who

will process APAs, evaluate the taxpayers' position and negotiate on behalf of the former. The Board may choose to disclose this information to the public or not. Thus, the revenue will hereby determine who will primarily be responsible for this compliance verification. It may be useful to offer this role to the officer having jurisdiction in auditing the taxpayer. This due diligence phase is followed by negotiation of the APA. For unilateral APAs, the tax authority will arrange negotiations and discussions with the enterprise after the tax authority reaches a position following its examination and evaluation process. For bi-lateral or multilateral APAs, negotiations and discussions with the relevant competent authorities will be arranged on the basis of the relevant information provided.

- vi. **Compliance Reporting:** The Board needs to frame guidelines to establish procedures to administer the APA and to verify a taxpayer's compliance with its terms. Most governments use a report, if led annually and evidencing compliance in each year of the APA to assure compliance. The revenue should determine who will be primarily responsible for this compliance verification. It may be useful to offer this role to the field office that would have had jurisdiction in auditing the taxpayer.
- vii. **Termination of an APA:** Under some circumstances, it may be necessary to terminate an agreement. Many governments distinctly spell out some of those circumstances. In the case of fraud or failure to disclose material information, the revenue could take the position that the APA was void *ab initio*

and, therefore, a taxpayer would be subject to audit for the years in question.

viii. **Rollbacks:** The Board will need to consider whether providing a rollback mechanism at the start of the Indian APA Programme is in the best interest of the Government and taxpayers. While a rollback mechanism can resolve pre-APA years and, therefore, improve efficacy of the process, the rules and objectives related to conducting tax audits would need to be reconciled with the rules and objectives of an APA programme, which essentially are to be flexible in setting standards for prospective evaluation of a taxpayer's transfer pricing treatment of covered transactions.

ix. **APA Renewals:** It may be appreciated that taxpayers may wish to roll forward, or renew, existing APAs particularly when the facts and circumstances surrounding the covered transactions have not changed materially. In such case, it may

India is taking its first baby step on APAs via its proposed Direct Tax Code (DTC)

vide Section 118. The DTC pronounces that the advance pricing agreement is to have an advance arrangement of determination of controlled transactions based on certain appropriate criteria having regard to future critical assumptions for determining the transfer pricing over a fixed period of time.

be possible to use streamlined procedures to expedite processing.

India's Story

India is taking its first baby step on APAs via its proposed Direct Tax Code (DTC), vide Section 118, the DTC pronounces the following:

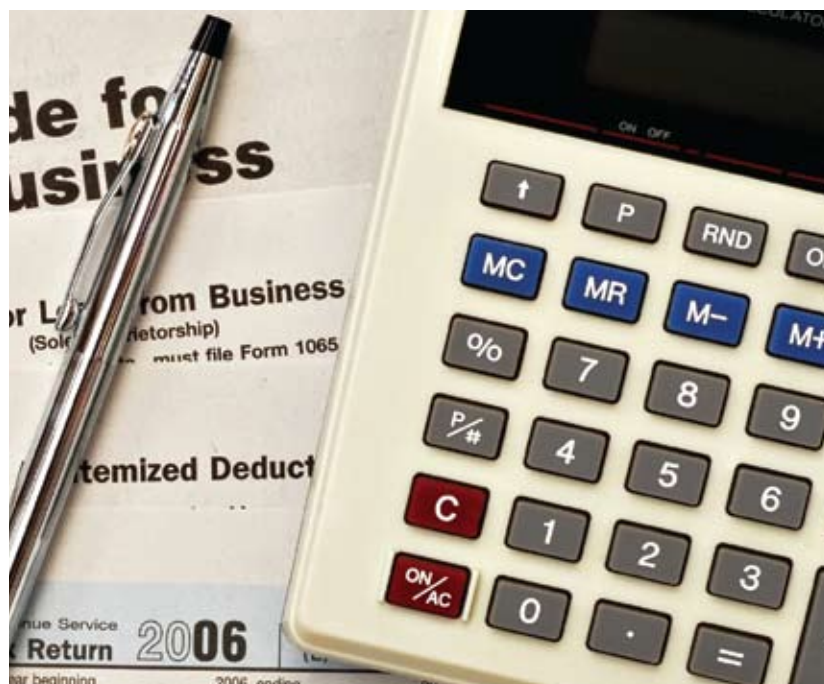
- The advance pricing agreement is to have an advance arrangement of determination of controlled transactions based on certain appropriate criteria hav-

ing regard to future critical assumptions for determining the transfer pricing over a fixed period of time.

- The DTC proposes to provide a mechanism and empowers the Central Board of Direct Taxes to formulate a scheme for introducing the advance pricing agreement.
- Taxpayer could approach the Central Board of Direct Taxes (CBDT) for determining the arm's length price fixation for international transactions to be entered into.
- The Central Board of Direct Taxes could determine the arm's length price under the advance pricing agreement having regard to transfer pricing regulations – the CBDT is also empowered to make necessary adjustments having regard to the international transactions.
- The determined advance price agreement is binding between the taxpayer and the regulator in respect of the advance price agreement entered into.
- The advance price agreement would be valid for the specified period agreed to subject to maximum of five consecutive financial years. The same also could remain in force till such time that there are no changes in the law on the basis of which the advance pricing agreement is entered into.
- The APA would stand voidable in a case involving fraud or misrepresentation.

Conclusion

With the benefits APAs have to offer, India would do well with the certainty and clarity of opinion that it brings along. Countries globally have accepted APAs to smoothly meet compliance requirements, and now it's time that India takes a stride into this arena. ■



Areas that Need To Be Focused To Increase the Value of Business



Why Valuing the Business? There are two possibilities—one is when an organisation needs the money for future growth which stands beyond available resources of finance. In such scenario the owners will choose either diluting their stake or for fresh issue of stake to a buyer at par or at premium on the existing value of the business. The second possibility of valuing a business is when the owner needs money for his personal finance in which case he may sell off his business. In these two circumstances Valuation of Business will come into the picture. To value the business, we have various methods of calculations. This article discusses more than these methods, which will add a good flavour to the business valuation while the owner choose to sell the business. These flavours will bring good returns to the owner after spending his valuable time and continuous dedication. Read on to know more...

What actually the buyer will look into the owner when he sits opposite side of the discussion table? Normally a buyer will look at the business from a perspective of past performance, current structure and future business plan of the company down the line of five (minimum) years.

Then what are the dynamics which require you to look at the business differently in up-coming years before you choose for sale of the business?

- Cash Flows
- Growth of Business
- Executive Team
- Accounting
- Revenue Flow
- Performance History
- Customer Base
- Internal Controls
- Regulatory Compliances

Let us discuss these one by one.

Cash Flows:

In any kind of business, cash is the life blood. The running business should always have a Free Cash Flow (FCF). This FCF will give strength to the owner in various dimensions like going for expansion of existing business, investment in new ventures and making debt free business, etc.

How we will measure this FCF? The common measure of the FCF is EBITDA. EBITDA means Earnings before Interest, Tax, Depreciation and Amortisation. This EBITDA will give quick measure of the performance of the company subject to some items which are not included in EBITDA. Interest and Taxes will be taken out from this calculation because the buyer



CA. Naga Raju Peeta

(The author is a member of the Institute. He can be reached at nagaraju.peeta@icai.org)

will have different tax and interest options than the existing owner. At the same time Depreciation and Amortisation will be pulled out from the calculation because these two are non cash items.

As an owner of the business you should always look at your EBITDA in an increasing trend Y-o-Y for a period of minimum three years prior to putting up the business for sale. If you are able to maintain the EBITDA Y-o-Y continuously it will help you extensively to realise the highest value to the business.

Most of the owners in private company will always manage their business to minimise the tax burden. To achieve this they will expense many investments made in the business in the current year itself. This saving of one rupee will cost thousands and lakh of rupees in coming future of the business when we put it up for sale.

So in an environment of maximising the valuation the owner needs to review all business expenses and work with your accountant closely to properly account those investments that can be depreciated over a period of time. This will increase your asset base as well as provides further investment in the company at a higher valuation.

In this EBITDA we have one drawback. We always need to check all the current assets are in good health. Normally some of the account heads will have more ageing. These will disturb FCF frequently. With an introduction of IFRS convergence and Schedule VI new format, issued by the Ministry of Corporate Affairs, Government of India, the problem was resolved. (In Schedule VI it is clearly bifurcated into the current and non current assets)

Growth of Business

Growth of Business is one of the key areas which needs high focus



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always have a Free Cash Flow (FCF). This FCF will give strength to the owner in various dimensions like going for expansion of existing business, investment in new ventures and making debt free business, etc. How we will measure this FCF? The common measure of the FCF is EBITDA. EBITDA means Earnings Before Interest, Tax, Depreciation and Amortisation. This EBITDA will give quick measure of the performance of the company subject to some items which are not included in EBITDA. ”

to increase the value of Business. It also directly influences the EBITDA Year-on-Year (Y-o-Y). The growth story becomes a basis for the prospective buyer to plan some or all of the growth going forward, which provides a higher valuation for your company.

The owner should be cautious on his market share in the industry in which his business is operating. At the same time he should also have awareness as to what are the impacts of the political and geographical conditions on the industry in which he is operating down the line about another five to ten years. These three areas will have direct impact on buyer decision.

To diversify the risk and increase the growth in terms of revenue, the owner should explore the new developments either in the products or services or moving into adjacent market segments with current product/service offerings or increase sales channel capability with his existing current market. Realisation of value from these

efforts is directly related to the amount of time prior to putting the business on sale.

Here the key factor is “Time”. The owner should keep in mind the above points and plan accordingly to increase the value of the business.

Executive Team

Normally we are seeing two kinds of business i.e., Family-based business and Professional-based business.

In case of Family-based business all decisions will be taken by the owner himself and he is the key person in the business. Without his presence, the day-to-day business affairs are difficult to be conducted. When he is selling his business, obviously he will not continue in that business. So the buyer needs to look at the new management for running the business. This will be one of the causes to take the business valuation into down trend. So the owner should develop a team who can run the business effectively even in his absence.

When it comes to Professional-based business, the owner should always be cautious on the movements of the key people. Because, when a key person moves out of the organisation his associates also will move out. At that time, the business operations will severely be hampered. It has been proven in many cases. So the owner should always be vigilant and develop the second layer in each and every management level in the organisation.

The owner should also confirm that the executive team should not be having personal relations with the owner. They should always be professional and trustworthy to the organisation.

At the same time, when the owner takes necessary steps during the process of selling the

business, the management team should be involved in meetings with prospective buyers, and it is these interfaces that can help improve the value of business and this kind of step will clear most of the qualm in the mind of the buyer also.

Accounting

Accounts Departments of the businesses are known to raise red flags on many objectionable transactions performed by various people in the organisation. But such precautionary processes followed by Accounts persons, in fact, help the owner to increase the value of business. The job of the accounts guys is proper accounting. Let's take an example. When the top management of the company comes up with certain bills and hands over to the accounts guy and orders him to account it in the company, he may reply back saying that, sir these bills are pertaining to personal nature. I can't process. As such, functions of accounts department are important for the business. However, the owner of the business knows the ultimate importance of the accounts guys only at the time of selling his business. How?

The valuation teams take out certain expenses to "normalise" the profit of the business. At that time expenses identified as personal nature and unnecessary expenditure which are beyond the industry norms lead to uncertainty in the profits, and leave a ground for suspicion about the management activities into the mind of prospective buyer. If buyer does not pay heed to these areas at the time of valuation, in later days he will end up with higher taxes than he estimated.

On another end, some of the expenses which are supposed to be expensed are capitalised to increase the valuation of the business with high numbers on EBITDA side.

All these points will be highlighted at the time of the sale of the company and the buyers will give low preference on purchase of your business on the grounds of lack of true and fair view in the financial statements and mismanagement of the funds.

The Accounts play an important role in the organisation by facilitating good valuation of your business. So the owner should engage a qualified accountant with sound knowledge and allow him to act independently on accounting principles and policies. The owner also takes necessary steps to bring more true and fair view in the financial statements. This way of proper accounting will benefit you at the time of sale and support the buyer in procuring finance.

Revenue Flow

Recurring Revenue Flow (RRF) will be really a challenging task to the owners who are looking to have a valuable and sellable business. A customer base with a subset of recurring revenue that is contractual and repeating in nature increases the probability that the business will have stable, predictable revenues and cash flow in the future.

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From a buyer's perspective, this reduces future risk and, therefore, enhances perceived value. The value associated with acquiring the available cash flow is directly related to risk. The lower the risk of losing that cash flow in a transfer of ownership, the higher the price will be to acquire it. Any factor that reduces risk is rewarded with transaction value. Here the marketing ability and production/project execution ability will play a key role on booking the revenue month on month. In case of product-based business, the sales channels take key role and need to spread geographically and book the revenue.

In case of project execution, the project manager should plan accordingly to book the revenue in every month without any failure until the completion of the project. Here the marketing will be in a position to grab more projects to maintain the RRF month-on-month (m-o-m) by the projects division.

In either case, continuous order booking and timely completion by production and projects division will lead to RRF m-o-m and this will lead to more value to the business.

Performance History

The base of business and historical revenue and EBITDA is an important consideration when evaluating a business for purchase. The performance history needs to be a 12 to 36 month history of increasing sales and EBITDA to help increase the valuation of your business. Suppose if the business is continuing with stagnated and flat revenue and EBITDA during the last few years, it will not bode well at the time of valuation. While this is better than declining sales and EBITDA, it does not achieve the valuation for your company that you would hope for. In cases where the sales and/or EBITDA have been flat or declining, it is important to put in place actions

that quickly increase both of these key areas as outlined above in the Growth of Business section of this article. The sooner you increase one or both areas, the better you will fare during the sales process.

Customer Base

The buyers of business are interested in where the revenues for the business are based. This is as indication of the risk on business that may or may not arise in future dates. Let us apply 80:20 principles. Where 80% out of total business of the company is coming from only one customer and 20% is from various other customers then the business definitely is at high risk. Suppose if 20% of total business is from only one customer and 80% from various customers the risk factor is low.

Another problem is related to 'market segment'. If the present turnover of the company is purely from only one market segment the risk factor is high because the political or geographical conditions may vary at any point of time on this particular segment. So the market segment also needs diversification to reduce the risk factor.

In both of these scenarios, there are sales and marketing programmes that can be implemented to diversify a customer base and reduce the perceived risk by an outside buyer interested in your company. These actions take time and there should be at least 12 to 18 months where the results can be documented in your revenue stream and customer base data.

Internal Controls

Profitability is not only achieved through high sales, but also from controlling costs and limiting excessive spending, which can be achieved by implementing strong internal controls that will strengthen the company and increase profitability.

The prospective buyer will look at the companies internal controls to understand the security precautions laid in the business to protect from various harms. If business is running with high margins but there are no proper internal control systems in the business, this will show how vulnerable the business is.

These circumstances will have an impact on the valuation. So the owner of the business need to focus on strong internal controls to be placed in the system and that should be reviewed periodically.

Regulatory Compliances

This is most important area which increases the value of your business. The prospective buyer will always look at whether there any non-compliance towards the Government dues and regulators. The owner of the business should be prompt on payment of Government dues and meet the statutory compliances without any failure.

Non compliance of the statutory requirements indirectly will hit you at the time of valuation. For Example, many companies are managed to minimise their taxes, which reduces the amount invested in the business and limits annual net profits along with EBITDA. This will have adverse impact on business at the time of valuation.

At least 12 to 36 months before putting up your business up for sale, you should restructure your activities to proactively normalise your books for the sale process, which will in turn come back to you and payoff in the end.

Instead of taking out the cash in wrong route like high salaries and bonus, cross billing with other owned business takes out the cash from business through dividends. The main concern here is double taxation that arises with dividend, but this provides more benefit to you at the time of sale and supports the buyer in procuring the finance.

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In case of investments in overseas companies, choose proper authorised route as prescribed by the RBI.

In case any export sale proceeds are routed to your invested company abroad, immediately regularise this transaction. Non regularisation of these transactions will provide a room to the prospective buyer for doubts. Take necessary actions to file the returns in time with various statutory departments and pay the dues in time.

Most of the buyers are interested in the business where the company is prompt in meeting the Regulatory Compliances in time, as this will show to the buyer that the operations of the business are in healthy condition and risk free.

Conclusion

The areas discussed above need more attention of the owner of the business who wants to put his business for sale. Apart from this attention, the last but not the least is documentation. Right from quotations of the products/projects to the closure of the order at all levels need to be documented properly and reviewed periodically. This documentation part will add additional value to the deal. ■

Relative Valuation – Based on Multiples



Bharti Airtel and Zain Africa recently announced signing of the definitive merger agreement, wherein Bharti will acquire African operations of Zain Group. The deal was valued at an enterprise value of USD 10.7 billion or on an 8.2x EBITDA Multiple. Goldman Sachs has invested USD 450 million in online social networking portal Facebook, which is valued as the number one social networking network at USD 50 billion. At an enterprise value of USD 50 billion, Facebook is trading at a multiple of about 100 times of its earnings. Newspapers and television channels make it their headlines whenever a major deal (private equity, acquisition, etc.) happens. And we normally wonder how these valuations or multiples were calculated. “What is the worth of my company?” “How much funds can I raise *via* private placements, and how much stake I have to dilute?” “How much can I raise from the market if I decide to take my company public?” So, whatever the purpose is (acquisitions, private equity, joint ventures, IPOs, etc.), valuation remains the centre of the talks. The two most common valuation methodologies include (1) Discounted Cash Flows, and (2) Relative Valuation (Valuation Based on Multiples). Read on to know more...

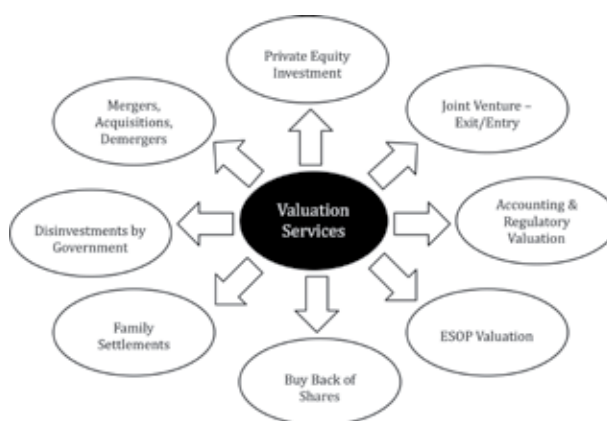


Illustration: Purpose of Valuation

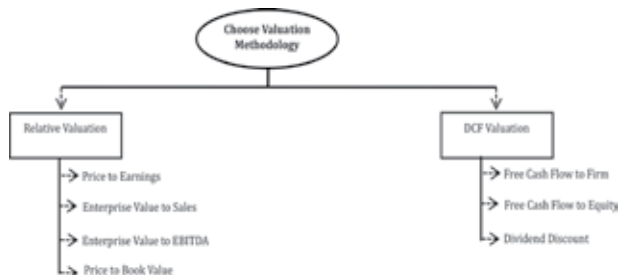
There is no one way to establish what a business is worth. That's because business value means different things to different people. There are numerous ways to value a company. In determining value, there are several basic analytical tools that are commonly used by financial analysts. The methods, to value a company, have been developed over several years of research and refinement and are based on financial theory and market reality. However, these tools/methods are just the tools/methods and should not



CA. Tapan Jindal

(The author is a member of the Institute. He can be reached at eboard@icai.org)

be viewed as final judgement, but rather, as a starting point to determination of value. The two most common valuation methodologies include (1) Discounted Cash Flows, and (2) Relative Valuation (Valuation Based on Multiples).



Relative Valuation

Relative Valuation or Comparable Company Analysis or Valuation based on multiples is the most common valuation tool used by analysts, fund managers, investment bankers and consultants while making a deal happen. The end objective is to drive equity based and enterprise based multiples so that two companies can be compared to each other, as it's very difficult to tell which company is a good investment and which is not, just on basis of absolute numbers. For example consider the two companies A and B having net sales of ₹10,000 and ₹15,000 respectively. Just looking at these numbers we cannot pass a judgement as to which company is a better investment. However, with multiples like EV/Sales, it becomes easy to make analysis and passing a judgment. If company A has EV/Sales multiple of 3x and Company B has multiple of 4x, it tells that Company A is a cheaper buy compared to company B as for every rupee of sales of A, one has to pay ₹3 while for B one has to pay ₹4.

When someone talks of valuation, we tend to focus most on DCF valuation. However, the reality is that most valuations are relative valuations. The value of most assets, from the house you buy to the stocks that you invest in, are based upon how similar assets are priced in the market place.

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Relative valuation or the analysis of selected publicly traded companies is basically the multiples comparisons with other similar or comparable companies in the same sector. This valuation methodology values a target company based on the operating multiples and financial ratios of its industry peer group. Simply, it gives us a means to compare a company's current valuation to that of its peer group and determine if it is over or under valued in the market. The simple fact why relative valuation is appealing is because the idea makes some intuitive sense – why should we pay more for every dollar earned by company A, compared with company B?

Relative valuation, estimates the value of a company by looking at the pricing of 'comparable' companies relative to a common variable such as earnings, cash flows, book value or sales.

Compared to the Discounted Cash Flow (DCF) Method, Comparable Analysis is elegantly simplistic because it does not require analysts to make wild assumptions such as those regarding the company's future growth rate. To perform a Comparable Analysis, the first step is to identify companies similar to the one being analysed and to obtain their values. Since the absolute prices cannot be compared directly, they must be converted into standardised values (commonly known as valuation multiples – such as earnings to operating profits before depreciation and amortisation – EV/EBITDA and price to earnings – P/E), which will be used to value the target company. As the last step, valuation derived from the analysis is compared to judge whether it is undervalued or overvalued.

Trading comps methodology is mostly used for:

- Comparison purposes (where company A standing compared to company B or C or the industry).
- For IPO (Initial Public Offering) valuation
- For Valuation of private companies

Step-by-Step Approach for Relative Valuation

- 1) Selection of Right Set of Peer Group Companies.
- 2) Calculation of Enterprise Value.
- 3) Calculate Multiples.

I. Selection of Right Set of Peer Group Companies

The starting point for performing a relative valuation is the selection of a universe of comparable companies for the target company. One has to gain a sound understanding of the target company to identify the companies with similar and financial characteristics. The catch here is that companies have to be in same sector. One cannot compare a telecom company with a technology company e.g. Bharti Airtel cannot be compared with Infosys. Further if possible, the

companies should be in same sub-industry/sector. For example, though both Idea Cellular and BSNL are operating in telecom sector, we cannot compare these two companies as Idea is deriving its revenues only from wireless (mobile) services while BSNL generates maximum revenues from fixed line (land line) mobile services.

Another important factor is the comparable companies should be in the same region/geography because different geographies/countries have different economic environment. Comparison of Bharti Airtel (India) with AT&T (USA) will give the wrong picture if selected in the universe of sample. However, if we are not able to find any comparable company in the same region, only in that case, we choose companies out of that particular region, so as to make some comparison. One has to study the target company in depth for making decisions regarding the selection of appropriate comparable companies. The study starts with browsing the company website. Annual reports, quarterly reports, investors presentations and research reports provide the necessary information (business and financial) to understand the company. In case of a private company, one has to understand the business of the company and then identify the peers as annual/quarterly reports, research reports, investors presentations will not be available for private companies.

Key Characteristics of the target company looked upon while comparing the companies for right set of peers

- (a) The Sector/Industry in which the target company operates.
- (b) Products and Services offered by the company — Dell and Microsoft, though are in same industry (Technology), and cannot be compared as they offer different set of products and services. Dell is more into hardware while Microsoft is more into software.
- (c) Geographical Concentration — Different countries have different macroeconomic environment, demographics, rules and regulations, and consumers buying behaviour, etc. So, the companies in the same geography/country are first taken into consideration before moving the international peers. An analyst seeking peers for a UK retailer would focus primarily on UK companies with relevant foreign companies providing peripheral guidance. Tesco, the retail giant of UK, will be first compared with Sainsbury, Morrison's of UK, as these are the domestic peers. Comparison with Wal-Mart of USA or Carrefour of France will be done later on.
- (d) Size of the company (Revenues and Market Cap)

— The companies of the approximate of same size are considered fit for comparison purposes. Comparison of a USD 15 million revenues company may not give much sense when compared with USD 10 billion company. Such a comparison like comparing a startup firm with established firm. Say comparing ARC Financial Services, a startup investment bank, with Goldman Sachs, one of the oldest investment banks. Difference in the size may lead to totally different valuation. Analysts can categorise the peers on the basis of size. Say companies with sales of up to USD1 billion in Group C, USD1 billion to USD5 billion in Group B and those with above USD 5 billion in Group A.

II. Calculation of Enterprise Value

Enterprise Value (EV) is a measure of actual economic value of the company at a given point of time i.e. it reflects the actual cost of a company if someone were to acquire it. Enterprise value is simply the market value of a company from the point of view of the aggregate of all the financing sources: debt holders, preference shareholders and equity shareholders. Simply, it measures how much you need to fork out to buy an entire company Enterprise value is one of the fundamental metrics used in business valuation, financial modeling, accounting, portfolio analysis, etc.

Enterprise value is what it would cost you to buy every single share of a company's common stock, preferred stock, and outstanding debt. The reason the cash is subtracted is simple: once you have acquired complete ownership of the company, the cash becomes yours. Debt and cash are economic realities and must be factored into the purchase price an acquirer pays for a company. Enterprise value is not a valuation, meaning the theoretical price at which a company should trade, but a value, meaning the current, real price as definite as if stuck on with a pricing gun.

Enterprise value can be calculated as below

	Components of EV*	Amount
	Market Capitalisation	xxx
Add	Total Debt	xxx
Add	Non Controlling Interest	xxx
Add	Preferred Stock	xxx
Less	Cash & Cash Equivalents	xxx
	Enterprise Value	xxx

**All components of EV are taken at market, not book values, reflecting an opportunistic nature of the EV metric*

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EV is a capital structure-neutral metric; it is useful when comparing companies with diverse capital structures. Using EV instead of market capitalisation to calculate valuation statistics provides significant value, because it penalises companies with a lot of debt and low cash balances, while rewarding companies with low debt and lots of cash. These low-debt, high-cash companies are of higher quality as they can more easily survive an economic downturn or business problem, and have more flexibility in how to reward shareholders. With lots of cash and little debt, the company can pursue growth through new business lines or acquisitions, and can afford to buy back more shares or pay a higher dividend. On the other hand, those with high debt and low cash suffer the loss of profits through interest payments, and are also at risk of bankruptcy if business goes south and they can no longer afford to cover interest obligations.

Market Capitalisation

Market capitalisation is nothing but market value of the equity capital of the company. It is calculated by taking the number of outstanding shares of common stock multiplied by the current market price-per-share e.g. The IB Company has 10 million shares of stock outstanding and the current stock price is ₹50 per share, the company's market capitalisation would be ₹500 million.

This number tells you what you would have to pay to buy every share of the company. Therefore, rather than telling you the company's value, market cap simply represents the company's price tag.

Market Capitalisation	=	No. of shares outstanding	×	Current Market Price per share
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Number of basic outstanding shares is taken from latest 10K (Annual Report) or 10Q (Quarterly Report) as the case may be. US companies provide outstanding shares figure on the first page of 10K and 10Q, while for Indian companies no. of issued shares (after deducting treasury shares) is taken as number of outstanding shares. This number is cross checked with the number available on data bases like Bloomberg and Thomson

or with the number given on finance websites like Google Finance, Bloomberg, Reuters, Yahoo Finance, etc. to find if there has been stock split/bonus issue/stock dividend/fresh issue, etc.

Total Debt

Total debt includes interest bearing liabilities, primarily the liabilities relating to the debt capital providers. It will include all types of debt irrespective of their tenure i.e. both short-term and long-term debt.

	Amount
Add Secured Loans	xxx
Add Un-Secured Loans	xxx
Add Notes Payable	xxx
Add Working Capital Loans	xxx
Add Long Term Borrowings	xxx
Add Debentures/Bonds	xxx
Add Senior Notes	xxx
Add Capital Lease Obligations	xxx
Total Debt	xxx

Debt does not include the liabilities like creditors for the simple reason that creditors have not provided any capital. In fact the liability towards them is from the operations of the business i.e. for the goods supplied by them.

When you acquire The IB Company buying the equity of the company, debt will come as a baggage in the deal.

If you purchased all of the outstanding shares of The IB Company for ₹500 million (the market capitalisation), yet the business had ₹50 million in debt, you would actually have expended ₹550 million; ₹500 million may have come out of your pocket today, but you are now responsible for repaying the ₹50 million debt out of the cash flow of the business, cash flow that otherwise could have gone to other things.

Non Controlling Interest

Non Controlling interest represents that portion of the capital of a subsidiary company, which is invested by outsiders in subsidiary's company's equity capital. For example if company A has 80% stake in Company B, then the non controlling interest of 20% held by others represent 20% of the share capital and reserves and surplus of company B. Non controlling interest is added in calculation of enterprise value as it represents the capital held by minority stakeholders. And we have already discussed that enterprise value is the value of all capital providers.

Cash and Cash Equivalents (CCE)

Once you've purchased The IB Company, you own the cash that is sitting in the bank. After acquiring complete ownership, you can simply take this cash

and put it in your pocket, replacing some of the money you expended to buy the business. In effect, it serves to reduce your acquisition price; for that reason, it is subtracted from the other components when calculating enterprise value.

	Amount
Cash in Hand	xxx
Add: Cash at Bank	xxx
Add: Marketable Securities	xxx
Add: Short-term Investments	xxx
Cash & Cash Equivalents	xxx

Why Debt and Cash to be taken into consideration

Think of two companies that have equal market caps. One has zero debt on its statement of financial position while the other one is debt heavy. The debt-laden company will be making interest payments on debt over the years. So, even though the two companies have equal market caps, the company with debt is worth more.

By the same token, imagine two companies with equal market caps of ₹250 and no debt. One has negligible cash and cash equivalents on hand, and the other has ₹250 in cash. If you bought the first company for ₹250, you will have a company worth, presumably, ₹250. But if you bought the second company for ₹500, it would have cost you just ₹250, since you instantly get ₹250 in cash.

If a company with a market cap of ₹250 carries ₹150 as long-term debt, an acquirer would ultimately pay a lot more than ₹250 if he or she were to buy the company's entire stock. The buyer has to assume ₹150 in debt, which brings the total acquisition price to ₹400. Long-term debt serves effectively to increase the value of a company, making any assessments that take only the stock into account preliminary at best.

Cash and short-term investments, by contrast, have the opposite effect. They decrease the effective price an acquirer has to pay. Let's say a company with a market cap of ₹25 has ₹5 of cash in the bank. Although an acquirer would still need to fork out ₹25 to get the equity, it would immediately recoup ₹5 from the cash reserve, making the effective price only ₹20.

III. Calculation of Key Multiples

Once peer group is selected and enterprise value is calculated, it's the final step – Drive Multiples. A valuation multiple is simply an expression of market value relative to a key statistic that is assumed to relate to that value. Valuation multiples are the quickest way to value a company. There are two basic types of multiples – EV Multiples and Equity Multiples.

Enterprise value multiples are better than equity value multiples because EV allows for direct comparison of

different firms, regardless of capital structure. Equity value multiples, on the other hand, are influenced by leverage. For example, highly levered firms generally have higher P/E multiples because their expected returns on equity are higher. Additionally, EV multiples are typically less affected by accounting differences, since the denominator is computed higher up on the income statement.

One very important point to note about multiples is the connection between the numerator and denominator. Since EV equals equity value plus net debt, EV multiples are calculated using denominators relevant to all stakeholders (both stock and debt holders). Therefore, the relevant denominator must be computed before interest expense, preferred dividends, and non controlling interest expense. On the other hand, equity value multiples are calculated using denominators relevant to equity holders, only. Therefore, the relevant denominator must be computed after interest, preferred dividends and non controlling interest expense.

For example, an EV/Net Income multiple is meaningless because the numerator applies to shareholders and creditors, but the denominator accrues only to shareholders. Similarly, an Equity Value/EBITDA multiple is meaningless because the numerator applies only to shareholders, while the denominator accrues to all holders of capital.

The choice of multiple(s) in valuing and comparing companies depends on the nature of the business or the industry in which the business operates. For example, EV/(EBITDA–CapEx) multiples are often used to value capital-intensive businesses like cable companies, but would be inappropriate for consulting firms.

The important multiples an analyst looks at includes:

Equity Multiples	Enterprise Multiples
Price to Earnings	Enterprise Value to EBITDA
Price Earnings to Growth	Enterprise Value to Sales
Price to Book Value	Enterprise Value to Key Operating Metrics*

* Operating metrics vary from industry to industry. E.g. for telecom sector operating metric will be no. of subscribers, and for retail sector it is number of the retail stores.

Enterprise Value to Sales (EV/Sales)

EV/Sales is a valuation metric that compares the enterprise value of a company to its sales. It gives investors an idea as to how many times of the sales they have to pay to buy that company. Generally the lower the EV/sales the more attractive or undervalued

the company is believed to be. However, a lower EV/sales can signal that the future sales prospects are not very attractive. On the other side, a high EV/Sales is not always a bad thing as it can be a sign that investors believe the future sales will greatly increase.

EV/Sales play a vital role in valuation in case of the companies having operating and net losses (negative EBITDA and negative net income). E.g. EV/sales may be used to value an early stage company that is aggressively growing sales, but has yet to achieve profitability.

EV/Sales is an expansion of the price-to-sales valuation, which uses market capitalisation instead of enterprise value. EV/sales is more accurate because market capitalisation does not take into account as well as enterprise value the amount of debt a company has, which needs to be paid back at some point.

EV/Sales is comparatively less relevant to other multiples as sales though provide an indication of the size of the business, but does not reflect the profitability, which is the key value driver. It will be difficult to make valuation decision based only on EV/Sales. Two companies might have identical sales, but one with 15% EBIT Margin and the other with 30% EBIT Margin.

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Sales: Also known as revenues/top line, sales represent the total amount realised by the company via sale of its products and services in that given period of time.

Enterprise Value to EBIT (EV/EBITDA)

Many an analyst prefer using EV/EBITDA or enterprise multiple compared to other multiples. As EBITDA is treated as operating cash flows, EV/EBITDA states how much the buyer has to pay to acquire the proxy cash flows of the company. The main advantage of EV/EBITDA over the PE ratio is that it is unaffected by a company's capital structure.

EV/EBITDA is affected by a firm's level of capital intensity (measured as depreciation as a percentage of EBITDA). All things being equal, higher capital intensity results in a lower EV/EBITDA multiple.

EBITDA: EBITDA (Earnings Before Interest Taxes, Depreciation & Amortisation) is the most important profitability factor for analysts as it is not impacted by the change in the capital structure (no impact of interest expenses). EBITDA is treated as proxy of operating cash flows. It strips out any distortions that may arise from differences in D&A among different companies. For example, one company may have spent heavily on new machinery and equipment in recent years, resulting in increased D&A for the current and future years, while another company may have deferred its

capital spending until a future period.

However, EBITDA multiple has its own drawbacks. To see this, consider two companies, who differ only in outsourcing policies.

	Comp A	Comp B
Revenues	100	100
Raw materials	(10)	(35)
Operating costs	(40)	(40)
EBITDA	50	25
Depreciation	(30)	(5)
EBIT	20	20

Company A manufactures product with their own equipment
Incurs depreciation cost directly

Company B outsources manufacturing to another company
Incurs depreciation cost indirectly through an increase in the cost of raw material

Because they produce identical products at the same costs, their valuations are identical (₹150). Yet, the EV/EBITDA ratios differ. Company A trades at 3x EBITDA (150/50), while Company B trades at 6x EBITDA (150/25).

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Multiples

	150.0	150.0
Enterprise value (₹ Million)		
Enterprise value/EBITDA	3.0	6.0
Enterprise value/EBIT	7.5	7.5

When computing the enterprise-value-to-EBITDA multiple, we failed to recognise that Company A (the company that owns its equipment) will have to expend cash to replace aging equipment.

Since capital expenditures are recorded as an investing cash flow they do not appear on the income statement, causing the discrepancy.

Determine Valuation of the Target

After the multiples and other ratios are benchmarked, one moves to the valuation of the company. An analyst typically starts with the taking the median multiple for valuation purposes. In case, the relevant multiple for the sector is EV/EBITDA, analyst will use the median EV/EBITDA multiple of the sector and will apply it to the EBITDA of the target company. Generally, one year

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The multiples calculated are useful while comparing companies in the same sector i.e. it tells if company A is expensive to company B. But multiples based valuation tool

fails to take in to the consideration the situation where the entire industry is overvalued. ”

forward multiple is used for valuation purposes. The highest and lowest of the multiples is used as reference to find out the lowest to highest range of valuation.

Valuation using EV/EBITDA multiple

Let's get the valuation with EV/EBITDA with the help of an example. Let's assume that 2012e EBITDA of the target company is ₹50,000 and 2012e median EV/EBITDA for the sector is 10x. It implies that valuation of the target company is ₹500,000 (₹50,000 multiplied by 10x). In case the target company is publically listed company, we can get the implied share price by deriving equity value from enterprise value. Dividing equity value with the number of shares outstanding, analyst gets the implied share price.

Period	EBITDA	Multiple	Implied EV	Net Debt*	Implied Equity Value	No. of Shares	Implied share price
2012e	₹50,000	10x	₹500,000	₹200,000	₹300,000	10,000	₹300

* Net Debt means Total of debt, non controlling interest, and preferred stock less cash and cash equivalents.

Understanding the Multiples

There has been an ongoing debate as to which multiple is used in which situation. There is no fixed answer to it. However, we can make a note of the following:

- EV/Sales multiple is a preferred multiple in case of the young companies, which do not have an established history of profits. For example while comparing the start-up companies, multiples based on EBIT or EBITDA might be meaningless if the companies are reporting losses. In such cases, one is left with two multiples – EV/Sales and EV/Operating Metric.
- Amongst profit multiples (EV/EBIT and EV/EBITDA), the multiple of EBITDA has preference in case of capital intensive industries like manufacturing, oil & gas, industrial goods, telecom, etc., as the amount of depreciation and amortisation figure will have an huge impact on EBIT. And in case of service industry companies, one can use EBIT based multiples.

Limitations of Multiples:

- The multiples calculated are useful while comparing companies in the same sector i.e. it tells if company

A is expensive to company B. But multiples based valuation tool fails to take in to consideration the situation where the entire industry is overvalued. Let's say, if the entire industry is overvalued, the derived multiples from trading companies will also be overvalued. This situation happens in case a new industry comes into existence. If an industry is overvalued, the extent to which it is overvalued cannot be determined with the help of trading multiples. In such a case, this tool might not represent the true value of the company. In such cases, one can derive the value (intrinsic) value with the help of discounted cash flows valuation tool, where the market value of the equity will be least impacted and so will be the enterprise value.

Conclusion

Using different multiples, analysts get the different valuation numbers. These different valuations help analysts to make a range of implied valuation that the target company can achieve. As we have seen the valuation figures differ with use of different multiples.

In case, analyst is using only comparable company analysis, he should use the valuation derived by using the most suitable multiple for that sector. However, analysts normally compare the valuation achieved using comparable company analysis with valuations derived from other valuation methodologies like DCF Valuation and Precedent Transaction Analysis. Significant differences in the valuation under different methods may signal the errors in assumptions, wrong selection of peers, mathematical errors, etc.

Analysts normally use the median of the different valuation techniques to give the suggested valuation for any target company. ■

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Dividend Policy: Effect on Valuation



There has been significant debate over how dividend policy of the company would affect valuations. Miller and Modigliani argued under perfect capital market assumptions a company's dividend policy should have no impact on its cost of capital or on shareholder's wealth. Gordon and Lintner believe, even under perfect capital markets assumptions, investors prefer a dollar of dividend than a dollar of potential capital gains from investing earning because they view dividends as less risky. Some companies follow constant dividend policy while others may resort to residual dividend payout. Irrespective of the message conveyed by management, investors across the globe may view dividend policy of a company differently.

Does Dividend Policy of the Company Affect Valuations?

Over the last 40 years financial theorists have debated the extent to which dividend policies should and does matter to a company's shareholders. One group of theorist believes that dividend policy is irrelevant to shareholders. The group typically holds that only the decisions of the company that are directly related to investment in working and fixed capital affect shareholder's wealth. A second group holds that dividend policy does matter to investors, for one or more reasons, and that a company can affect shareholder's wealth through its dividend policy. Typically, dividend relevance is attributed to either a presumption that investors value a unit of dividend more highly than an equal amount of uncertain capital gain,

or to one or more market imperfections. Such imperfections include taxes (in which a given amount of dividend is taxed differently than an equal amount of capital gains), asymmetric information (specifically, that corporate insiders are better informed about their company's prospects than outside investors), and agency costs (in particular, that management has a tendency to squander extra cash).

Dividend policy does not matter – Miller and Modigliani theory

Miller and Modigliani (MM) argued that in a world without taxes, transaction costs and equal ('symmetric') information among all investors – that is, under perfect capital market assumptions – a company's dividend policy should have no impact on its cost of capital or on shareholder's wealth.



CA. Nikhil Bagrodia

(The author is a member of the Institute. He can be reached at eboard@icai.org)

Their argument begins by assuming a company has a given capital budget (e.g. it accepts all projects with positive net present values [NPVs]), and that its current capital structure and debt ratio are optimal. Another way of stating this argument is that the dividend decision is independent of a company's investment and financing decisions. For example, suppose that a company decides to pay all its earnings as dividends. To finance capital projects, it could issue additional common shares in the amount of its capital budget (such financing would keep its capital structure unchanged). The value of the newly issued shares would exactly offset the value of the dividend. Thus, if a company paid out a dividend that represented 5% of equity, its share price would be expected to drop by 5%. If a common stock in United States is priced at \$20 before a \$1 per share dividend, the implied new price would be \$19. The shareholder has assets worth \$20 if the dividend is not paid or assets worth \$20 if the stock drops to \$19 and a \$1 dividend is paid.

Under the MM assumptions, there is no meaningful distinction between dividend and share repurchases – they both are ways for a company to return cash to its shareholders. If a company had few investment opportunities such that its current cash flows was more than needed for positive NPV projects, it could distribute the excess cash flow via a dividend or share repurchase.

An intuitive understanding of MM dividend irrelevance also follows from the concept of a 'homemade dividend'. In a world with no taxes or transaction costs, if shareholders wanted or needed income, they could construct their own dividend policy by selling sufficient shares to create their desired cash flow stream. In

the real world there are market imperfections that create some problems for MM's dividend irrelevance propositions. First, both companies and individuals incur transaction costs. A company issuing new shares incurs flotation costs (i.e. costs in selling shares to the public that include underwriter's fees, legal costs, registration expenses, and possible negative price effects) often estimated to be as much as 4% to 10% of the capital raised, depending on the size of the company and size of the issue. Shareholders selling shares to create a homemade dividend would incur transaction costs and, in some countries capital gain taxes (of course, cash dividend incurs taxes in most countries). Furthermore, selling shares on a periodic basis to create an income stream of dividends can be problematic over time if share prices are volatile. If share prices decline, shareholders have to sell more shares to create the same dividend stream.

Dividend policy does matter – bird in the hand argument

Gordon and Lintner have argued that even under perfect capital markets assumptions, investors prefer a dollar of dividend than a dollar of potential capital gains from investing earnings because they view dividends as less risky. The arguments are also referred as 'bird in the hand' argument, a reference to the proverb "a bird in the hand is worth two in the bushes". By assuming that a given amount of dividends is less risky than the same amount of capital gains, the argument is that a company that pays a dividend will have a lower cost of equity capital than an otherwise similar company that does not pay dividends; the lower cost of equity should result in a higher share price.

Dividend policy matters – tax implications

In some countries, dividend income is traditionally taxed at higher rates than capital gains. For instance in the 1970s, tax rates on dividend income in United States were as high as 70%, whereas long term capital gains was 35%. Even as recently as 2002, United States tax rate was as high as 39.1% on dividends and 20% on long-term capital gains. (From 2003 to 2010, dividends and long-term capital gains were taxed at 15% in the United States.)

An argument could be made that in a country that taxes dividend at higher rates than capital gains, taxable investors should prefer companies that pay low dividends and reinvest dividends in profitable growth opportunities. Presumably, any growth in earnings in excess of opportunity costs of funds would translate into a higher share price. If, for any reason, a company lacked growth opportunities sufficient to consume its annual retained earnings, it could distribute such funds through share repurchases (again the assumption is that capital

Miller and Modigliani argued that in a world without taxes, transaction costs and equal ('symmetric') information among all investors – that is, under perfect capital market assumptions – a company's dividend policy should have no impact on its cost of capital or on shareholder's wealth. Their argument begins by assuming a company has a given capital budget (e.g. it accepts all projects with positive net present values [NPVs]), and that its current capital structure and debt ratio are optimal. ”

gains are taxed more lightly than dividends). Taken to its extreme, this argument would advocate a zero payout ratio.

Other theoretical issues – factors that affect dividend payout policies

The following section presents other important issues that arise in theory of dividend policy —

Signaling effect: Unexpected changes in a company's dividend policy are often viewed by investors as a signal from management about projects of a firm's future performance. In other words, stockholders perceive changes in dividend policy as conveying important information about the firm.

Clientele effect: This refers to varying preferences for dividend for different groups of investors, such as individuals, institutions and corporations. The dividend clientele effect states that different groups desire different levels of dividends. Rationales for the existence of the clientele effect include

- **Tax considerations:** High-tax bracket investors (like some individuals) prefer low dividend payouts, and low-tax bracket investors (like corporations and pension funds) prefer high dividend payouts, when dividends are taxed in the hands of investors.
- **Requirement of institutional investors:** Some institutional investors will invest only in companies that pay a dividend yield above some target threshold. Examples are dividend-focused mutual funds and some trusts that are required to hold dividend-paying stocks.
- **Individual investor preference:** Some individuals prefer buying stocks so that they can spend the dividends while preserving the principal.

Restrictions on dividend payments:

Companies may be restricted from paying dividend either by legal requirements or by implicit restrictions caused by cash needs of the business. Common restrictions on dividend payments include:

- **The impairment of capital rule:** A legal requirement in some countries mandates that dividends paid cannot be in excess of retained earnings.
- **Debt covenants:** These are designed to protect bondholders and dictate things a company must or must not do. Many covenants require a firm to meet or exceed a certain target for liquidity ratios (e.g. current ratio) and coverage ratios (e.g. interest coverage ratio) before they can pay a dividend.
- **Cash flow:** A company may pay a dividend in excess of earnings for a short period of time, but most companies will not pay a dividend in excess of their cash from operations (CFO) unless a company is going out of business.
- **Industry life cycle:** A firm early in its life will not typically pay a dividend because the firm would prefer to reinvest profits back into the company to facilitate growth.

Floataion costs of new issues versus cost of retained earnings:

When a company issues new shares of common stock, floatation cost of 3% to 7% is taken from the amount of capital raised to pay for investment bankers and other costs associated with issuing new stock. Since retained earnings have no such fees, the cost of new equity capital is always higher than the cost of retained earnings. A company that has a sufficient amount of positive net present value (NPV) projects would prefer to fund those projects using retained

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earnings rather than paying a dividend and issuing new shares. Also that floatation costs make it unprofitable for a company to fund its dividend payments by issuing new shares of stock.

Financial flexibility: Companies may not initiate, or may reduce or omit, dividends to obtain the financial flexibility associated with having substantial cash on hand. A company with substantial cash holding is in a relatively strong position to meet unforeseen operating needs and to exploit investment opportunities with minimum delays. Having a strong cash position can be particularly valuable during economic contraction when the availability of credit may be reduced. Financial flexibility may be viewed as a tactical consideration that is of greater importance when access to liquidity is critical and when company's dividend payout is relatively large.

Shareholder's preference for current income versus capital gains: A lower tax rate for dividends compared to capital gains does not necessarily mean companies

will raise their dividend payouts. Investors may not prefer higher dividend, even if the tax rate on dividend is more favourable for multiple reasons:

- Taxes on dividends are paid when the dividend is received, while capital gains taxes are paid when shares are sold.
- The cost basis of shares may receive a step-up in valuation at the shareholder's death. This means that taxes on capital gains may not have to be paid at all.
- Tax exempt institutions such as pension funds and endowments will be indifferent between dividends and capital gains.

Types of Dividend Policies

Dividend policy is a strategy that



A **stable dividend policy** is the one in which regular dividends are paid that generally do not reflect short-term volatility in earnings. A **constant dividend payout ratio policy** is the policy of paying out constant percentage of net income as dividends. A **residual dividend policy** is based on paying out as dividends any internally generated funds remaining after such funds are used to finance positive NPV projects. This type of dividend has been often mentioned in theoretical discussions of dividend policy but is rarely used in practice. ”

a company follows to determine the amount and timing of dividend payments. In this reading we categorise and discuss three types of dividend policy – stable dividends, constant dividend payout ratio, and residual dividend policies. A *stable dividend policy* is the one in which regular dividends are paid that generally do not reflect short-term volatility in earnings. A *constant dividend payout ratio policy* is the policy of paying out constant percentage of net income as dividends. A *residual dividend policy* is based on paying out as dividends any internally generated funds remaining after such funds are used to finance positive NPV projects. This type of dividend has been often mentioned in theoretical discussions of dividend policy, but is rarely used in practice.

Stable dividend policy – the target payout ratio

Companies that use a stable dividend policy base dividends on a long-term forecast of suitable earnings, and increase dividends when earnings have increased to a suitably higher level. Thus, if the long-term forecast for sustainable earnings is slow growth, the dividends would be expected to grow slowly over time, more or less independent to cyclical upwards or downwards spike in earnings. If sustainable growth were not expected to grow over time, however, the corresponding dividends would be level (i.e. not growing). Compared with the two other types of dividend policies, a stable dividend policy typically involve less uncertainty for shareholders about the level of future dividends. This is because the other types of policies reflect to a higher degree short-term volatility

in earnings and/or investment opportunities.

A stable dividend can be modeled in a process of gradual adjustment towards a target payout ratio based on long-term sustainable earnings. A *target payout ratio* is a goal that represents the proportion of earnings that the company intends to distribute (pay out) to shareholders as dividends over the long term. A strict interpretation of the target payout ratio method means that a company would pay out a specific percentage of its earnings each year as dividends, and the amount of those dividends would vary directly with earnings. A more common approach, however, is for management to define a target payout ratio and seek a dividend level that satisfies the target, on average, over time.

The target payout ratio approach is based on three general conclusions concerning the way companies seem to set their dividend policy based on empirical observation.

- Base annual dividends on a target payout ratio applied to long-term sustainable earnings. The dividend growth rate must equal the long-run growth rate in earnings in order for the Gordon growth model to be applied to valuing a stock.
- Moving slowly towards that target payout ratio over time rather than all at once.
- Avoid cutting or eliminating the dividend except in extreme circumstances.
- If company earnings are expected to increase and the current payout ratio is below the target payout ratio, an investor can estimate future dividends through the following formula:

$$\left(\text{expected dividend} \right) = \left(\text{previous dividend} \right) + \left(\text{expected increase in EPS} \right) \times \left(\text{target payout ratio} \right) \times \left(\text{adjustment factor} \right)$$

where:

adjustment factor = $1/\text{number of years over which adjustment in dividend will take place.}$

Example

Last year ABC Inc. had earnings of ₹3.50 per share and paid a dividend of ₹0.70. In the current year, the company expects to earn ₹4.50 per share. The company has a 35% target payout ratio over five year period. Expected dividends have been presented in the workings below:

$$\begin{aligned}\text{Expected dividend} &= 0.70 + [(4.50 - 3.50) \times (0.35) \times (1/5)] \\ &= 0.70 + 0.07 \\ &= 0.77\end{aligned}$$

Note that while the earnings are expected to increase by approximately 28.6% ($\text{₹}1.00/\text{₹}3.50$), the increase in dividend would be 10% ($\text{₹}0.07/\text{₹}0.70$)

Constant dividend payout ratio policy

In this type of policy, a dividend payout ratio decided by the company is applied to current earnings to calculate the dividend. With this type of dividend policy, dividends fluctuate with earnings in the short term. Constant dividend payout ratio policies are infrequently adopted in practice.

Residual dividend policy

The residual dividend policy is an intuitively appealing dividend policy that is rarely used in practice because it typically results in highly volatile dividend payments. The residual dividend policy is based on paying out as dividends the full amount of any internally generated funds remaining after financing the current projects capital expenditure (investments in positive NPV projects) consistent with the target capital structure. A residual dividend policy presumes that equity financing comes from

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reinvested earnings rather than new share issuance, which is more expensive. Directing internally generated funds first to positive NPV projects is consistent with shareholder wealth maximisation as is, typically, distributing to shareholders the balance that cannot be so invested. The residual dividend policy puts investments in positive NPV projects ahead of considerations of not reducing the dividend. Under the residual dividend policy, however, dividend may swing from low to zero when capital expenditure needs are high (relative to internally generated funds) too high when reverse situation holds. The increased uncertainty about future dividends may lead investors to require a higher rate of return on equity investments as compensation, possibly offset any advantage to the policy.

Example

Larson Company has ₹1,000 in earnings. Larsen has a target debt-to-equity ratio of 0.5. This implies a capital structure of one-third debt and two-third equity. If the firm reinvests all its earnings, the equity will increase by ₹1,000. To maintain the target capital structure, the firm

must borrow an additional ₹500. Thus, the total amount of funds that can be generated without selling new equity is $\text{₹}1,000 + \text{₹}500 = \text{₹}1,500$. If planned capital spending is less than the total amounts of capital available (for example ₹900 versus ₹1,500 the firm can pay dividends. To maintain the target capital structure, the ₹900 capital spending will be financed with $[(1/3)(\text{₹}900)] = \text{₹}300$ of debt and $[(2/3)(\text{₹}900)] = \text{₹}600$ of equity. The residual amount is $(\text{₹}1,000 - \text{₹}600) = \text{₹}400$, so dividends under the residual method would be ₹400.

Effect of Initiation of Regular Dividends on Price-To-Earnings Multiple

According to dividend preference theory, a company that pays regular dividends is often perceived as having less risk and a lower cost of equity. We can use the constant dividend discount model to see that this lower cost of equity may lead to a higher price-to-earnings ratio for the firm.

Emerald Bank and Trust is a regional financial firm located in the western United States. The firm has never paid a dividend, but due to acquisitions over the last ten years, Emerald has grown to a considerable size. Management believes the rate of acquisitions will slow in the future and that it is time to start a regular dividend payment to shareholders. Emerald's chief financial officer has compiled the following information

- Emerald currently sells at a P/E ratio of 10 to 12 times current earnings per share.
- The industry average P/E is 14 to 16 times earnings.
- The growth rate for the firm is estimated as 7%.
- The required rate of return on Emerald's stock is 11%
- Initiation of dividend would

lower the required rate of return to 9%.

- Next year's earnings are estimated to be \$ 4.00 per share.
- Emerald has a target payout ratio of 30%

Starting with the constant dividend discount model

$$P_0 = \frac{D_1}{r_s - g}$$

Divide both sides of the equation with E_1 , where E_1 = next year's estimated EPS.

$$\frac{P_0}{E_1} = \frac{\frac{D_1}{E_1}}{r_s - g}$$

Calculate Emerald's P/E ratio

$$\frac{P_0}{E_1} = \frac{\frac{\$1.20}{\$4.00}}{0.09 - 0.07} = \frac{0.30}{0.02} = 15$$

The conclusion is that if Emerald initiates a dividend, investors may perceive the company as less risky, and the P/E may increase from its current level of 10 to 12 times earnings to 14 to 16 times earnings. Mathematically, the higher P/E ratio is a result of the reduction in the required rate of return. This causes a smaller spread between the required rate of return and the constant growth rate, which lowers the denominator in the constant growth dividend discount model formula – the lower the denominator the higher the P/E ratio.

Signals Conveyed by Omission or Declaration of Dividends – Cross Country Differences

MM assumed that all investors – including outside investors – have the same information about the company: a situation of asymmetric information. In reality, corporate managers typically have access to more detailed and extensive information about the company than do the outside investors.

A situation of asymmetric information raises the possibility that dividend increases or decreases may affect share prices because they may convey new information about the company. A company's board of directors and management, having more information than outside investors, may use dividends to signal to investors (i.e. convey information) how the company is really doing. A company's decision to initiate, maintain, increase or cut a dividend may convey more credible information than positive words from management because cash is involved. For a signal to be effective it must be difficult or costly to mimic by another entity without the same attributes. Dividend increases are costly to mimic because a company that does not expect its cash flows to increase will not be able to maintain the dividend at increasingly high levels in the long run. (In the short run the company can borrow to fund dividends.)

Empirical studies broadly support the thesis that dividend initiations or increases convey positive information and are associated with future earnings growth, whereas dividend omission or reductions convey negative information and are associated with future earning problems.

The information conveyed by dividend initiation is ambiguous. On one hand, a dividend initiation could mean that a company is sharing its wealth with shareholders – a positive signal. On the other hand, initiating dividend could mean that a company has a lack of profitable reinvestment opportunities – a negative signal. In rare cases however, management can attempt to send positive signal by cutting the dividend. Management may believe profitable investment opportunities are available and that shareholders would ultimately receive a greater benefit by having earnings re-

invested in the company rather than being paid out as dividend.

Information content in dividend policy changes is viewed differently across countries. In United States, investors infer that even small changes in a dividend send a major signal about the company's prospects. However, in Japan and other Asian countries, investors are less likely to assume that even a large change in dividend policy signals anything about a company's future prospects. As a result, Asian companies are freer to raise and lower their dividends as circumstances change without being concerned about how investor reaction may affect the stock price.

Dividend Policy: A Summary

What we conclude about the link between dividends and valuations? It is difficult to show an exact relationship between dividend and value because there are so many variables affecting the value. In theory, in absence of market imperfections, Miller and Modigliani find that dividend policy is irrelevant to the wealth of a company's investors. But in reality, the existence of market imperfection make matters more complicated. In additions, some investors are led, by logic or custom, to prefer dividends. Financial theory predicts that reinvestment opportunities should be the dominating factor. Indeed, no matter where they are located in the world, smaller, fast growing companies pay out little or none of their earnings. Regardless of jurisdiction, more mature companies with fewer reinvestment opportunities tend to pay dividends. For these mature companies taxes, laws, tradition, signaling, ownership, structure, and attempts to reconcile agency conflicts all seem to play a role in determining the dividend payout ratio. ■

Municipal Bonds and India



Municipal Bonds have been a grand success in western countries, particularly in United States of America. Municipal Bonds are not a so widely used instrument in India. This article focuses on Municipal Bonds in Indian market – as a viable investment option and an instrument for raising public funds for infrastructural development of the country. This article also discusses what are municipal bonds, their types and features, their success in western countries, why these investment instruments are not common in India, obstacles in Indian municipal bonds market, the need and benefits of municipal bonds in the growing and maturing Indian economy and the need of support from markets and regulatory authorities for municipal bonds.

The capital market comprises equities and debt market. Debt market is a market for issuance, trading and settlement in fixed income securities of various types. Fixed income securities can be issued by a wide range of organisations including the Central and State Governments, public bodies, statutory corporations, banks, institutions and corporates.

Fixed Income securities – as an investment option – have been very successful in the investment world, more particularly in the West, when it comes to retail investor participation, since they are regarded as safe, less volatile and considered reliable, able to generate fixed returns over a period of time, with less risk of default.

Fixed income securities offer one of the most attractive investment opportunities in regard to their safety of investments, adequate

liquidity, and flexibility in structuring a portfolio, easier monitoring, long term reliability and decent returns. They are an essential component of any portfolio of financial and real assets, in the form of pure interest-bearing bonds or asset-backed mortgages or securitised instruments. Examples of Fixed income securities are Bonds (Municipal Bonds, Treasury Bonds, Corporate bonds, etc.), Fixed Deposits, etc.

Fixed income securities are one of the most dynamic instruments in the financial system; interest and time-value of money being the two crucial factors.

Bonds

Simply put, a bond is a debt security. According to Wikipedia, when we purchase a bond, we lend money to a government, municipality, corporation, federal agency or other entity, known as an



Anand Wadadekar

(The author is working as a Specialist – Portfolio Performance Measurement with a US based Asset Management Company. He can be reached at ebboard@icai.org)

Simply put, a bond is a debt security. According to Wikipedia, when we purchase a bond, we lend money to a government, municipality, corporation, federal agency or other entity, known as an issuer. In return for that money, the issuer provides us with a bond in which it promises to pay a specified rate of interest during the life of the bond and to repay the face value of the bond (the principal) when it matures, or comes due. ”

issuer. In return for that money, the issuer provides us with a bond in which it promises to pay a specified rate of interest during the life of the bond and to repay the face value of the bond (the principal) when it matures, or comes due. In United States, the types of bonds available for investment are U.S. government securities, municipal bonds, corporate bonds, mortgage and asset-backed securities, federal agency securities and foreign government bonds. Bonds are also called Bills, Notes, Debt securities, or Debt obligations.

Types of Bonds

Zero-Coupon Bonds

This is a type of bond that makes no coupon (interest) payments but instead is issued at a considerable discount to par value. For example, a zero-coupon bond with a \$1,000 par value and ten years to maturity is trading at \$600; you'd be paying \$600 today for a bond that will be worth \$1,000 in ten years.

Municipal Bonds

Municipal Bonds, also known as "munis", (in United States) are attractive to many investors because the interest income is exempt from

income tax. In addition, munis often represent investments in state and local government projects that have an impact on the daily lives, including schools, highways, hospitals, housing, sewer systems and other important public projects.

Corporate Bonds

A corporate bond is a bond issued by a corporation, other than a government or likewise. It is a bond that a corporation issues to raise money in order to expand its business. These are usually longer-term debt instruments, generally with a maturity date falling at least a year after their issue date. The term "commercial paper" is sometimes used for instruments with a shorter maturity.

Municipal Bonds

A municipal bond is a bond issued by a city or other local government, or their agencies. Potential issuers of municipal bonds include cities, counties, redevelopment agencies, special-purpose districts, school districts, public utility districts, publicly owned airports and seaports, and any other governmental entity (or group of governments). Municipal bonds may be general obligations of the issuer or secured by specified revenues. Interest income received by holders of municipal bonds is often exempt from the federal income tax and from the income tax of the state in which they are issued, although municipal bonds issued for certain purposes may not be tax exempt.

Municipal bonds are debt obligations issued by states, cities, counties and other governmental entities, which use the money for infrastructural development like, building schools, highways, hospitals, sewage systems, and many other projects for the public good.

Working of Municipal Bonds in the West

As mentioned earlier, Municipal bonds are issued by states, cities, and public organisations, to raise funds. The methods and traces of issuing debt are governed by an extensive system of laws and regulations, which vary by state. Bonds bear interest at either a fixed or variable rate, which can be subject to a cap known as the maximum legal limit. If a bond measure is proposed in a local county election, a Tax Rate Statement may be provided to voters, detailing best estimates of the tax rate required to levy and fund the bond.

The issuer of a municipal bond receives a cash payment at the time of issuance in exchange for a promise to repay the investors who provide the cash payment (the bond holder) over time. Repayment periods can be as short as a few months (although this is rare) to 20, 30, or 40 years, or even longer.

The issuer typically uses proceeds from a bond sale to pay for capital projects or for other purposes it cannot or does not desire to pay for immediately with funds on hand. Tax regulations governing municipal bonds generally require all money raised by a bond sale to be spent on one-time capital projects within three to five years of issuance. Certain exceptions permit the issuance of bonds to fund other items, including ongoing operations and maintenance expenses, the purchase of single-family and multi-family mortgages, and the funding of student loans, among many other things.

Because of the special tax-exempt status of most municipal bonds, investors usually accept lower interest payments than on other types of borrowing (assuming comparable risk). This makes the issuance of bonds an attractive source of financing to many

municipal entities, as the borrowing rate available in the open market is frequently lower than what is available through other borrowing channels.

Municipal bonds are one of several ways states, cities and counties can issue debt. Other mechanisms include certificates of participation and lease-buyback agreements. While these methods of borrowing differ in legal structure, they are similar to the municipal bonds described in this article.

The two basic types of municipal bonds are:

General obligation bonds:

Principal and interest are secured by full faith and credit of the issuer and usually supported by either the issuer's unlimited or limited taxing power.

Revenue bonds: Principal and interest are secured by revenues derived from tolls, charges or rents from the facility built with the proceeds of the bond issue. Public projects financed by revenue bonds include toll roads, bridges, airports, water and sewage treatment facilities, hospitals and subsidised housing. Many of these bonds are issued by special authorities created for that particular purpose. Most municipal notes and bonds are issued in minimum denominations of \$5,000 or multiples of \$5,000.

Success in Western Countries

In the United States, it is common for the various state governments to fund major infrastructure projects by issuing municipal bonds (or munis) by leveraging the federal, state and local body finances.

The US Municipal Bond market is \$2.2 trillion strong and forms nearly more than 12% of the total debt market. With more than \$300 billion worth such bonds issued in 2005-2006, given its tax deductible nature,

it is one of the highest yielding debt instruments. The municipal bond market is a specialised segment of the debt market. In US, most urban infrastructural projects like water supply and sewerage are funded through issue of municipal bonds. Also, the secondary market for municipal bonds is active, with sufficient liquidity. Some municipal bonds are tax exempt, thereby lowering the cost of borrowing of the issuer. The credit rating mechanism of the municipal bonds is very robust, creating a sense of surety and confidence among the investors.

Municipal Bond Market and India

Municipal Bonds hold good potential in urban infrastructural development and financing. The scenario seems likely to change, given more than ₹1 lakh crore of urban infrastructure investment estimated over the next five years.

In India, a beginning in this direction was made in the late 1990s, but the momentum was not maintained. The Bangalore Municipal Corporation was the first municipal body to raise funds by issuing bonds, backed by state government guarantee in 1997. On the other hand, the Ahmedabad

Municipal Corporation came out with bonds in 1998 that were not backed by a similar guarantee. ₹125 crore issue of eight-year bonds by the Bangalore Municipal Corporation in September, 1997, followed by an ₹100 crore issue of seven-year bonds by the Ahmedabad Municipal Corporation in January, 1998 were the two Bond issues by municipal corporations. Pune Municipal Corporation (PMC) approached CARE for a credit rating of its proposed ₹2000 million General Obligation Bond issue and was rated CARE AA.

The Indian federation has a three-tier structure: Government of India comprises the first tier, the state governments and union territories comprise the second, while the urban and rural local self-governments (local bodies) make up the third tier. Of the 3,682 urban local bodies in India, 96 are municipal corporations while the rest are municipalities. Of these 96, seven are in 'mega cities' with populations in excess of 4 million, and 28 in cities with populations between 1 million and 4 million. The 35 cities with populations in excess of 1 million are likely to experience urbanisation growth and infrastructure spending that is significantly in excess of the national average, whereas the others are also likely to see robust growth. Overall economic growth will be the key driver for urbanisation, which must be powered by strong infrastructure. Municipal bonds will be the key enabler in building this infrastructure. With increasing urbanisation, pushing demand for infrastructure and the Government of India's thrust for infrastructure development, a bonds-backed urban revolution seems a viable route.

By encouraging municipal bodies to approach the capital market to raise funds, the efficiency of these bodies could also be

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In the United States, it is common for the various State governments to fund major infrastructure projects by issuing municipal bonds (or munis) by leveraging the federal, state and local body finances. The US Municipal Bond market is \$2.2 trillion strong and forms nearly more than 12% of the total debt market. With more than \$300 billion worth such bonds issued in 2005-2006, given its tax deductible nature, it is one of the highest yielding debt instruments. ”

enhanced considerably. Revenue bonds, which naturally are the most popular, will increase awareness about service delivery and its efficiency.

The concept of municipal bonds as an additional mechanism for raising resources for urban infrastructure projects was first discussed in December 1995 at a national seminar. Later, the Rakesh Mohan Committee on the Commercialisation of Infrastructure Projects in India also discussed the possibility of using municipal bonds as a tool for raising finances from markets.

Internationally, Municipal Bonds have played a key role in the creation of urban infrastructure assets in United States and Canada. Therefore, it was envisaged that adapting this model to the Indian context would open new vistas for attracting private capital to the urban infrastructure sector.

In contrast, a mere ₹850 crore (\$210 million) has been raised through Municipal Bonds in India since the first Municipal Bond issued by Bangalore in 1997. Municipal Bonds form nearly 10% of the debt market in the US. TamilNadu and Karnataka are

the only two states to have raised resources from the market through the pooled finance route.

Why Municipal Bonds Are Not Common or Successful in India?

Considering the large involvement of the municipal corporations in the infrastructure development of the country and increasing urbanisation, municipal corporations have failed to raise their own funds from the public.

The first reason why Municipal Bonds are not common or a success in India, since the very word 'Municipal/Municipal Corporation' creates a sense of distrust among the people/investors due to reasons like subtle, slothful, inefficient, bureaucracy, corruption-ridden, political interference, lack of accountability, improper management practices and lack of capable human resources on the boards of local bodies, low productivity, long gestation period, erratic revenue flows, etc.

Another major reason for lack of trust is lack of reliable credit rating and the difficult methodology involved in the rating. Further is the lack of information of the end use of the funds raised through the issue of municipal bonds. Also there is a fear among investors about not getting the investment back on maturity.

The municipal bond market in India is a minuscule 0.1% of the total corporate bond market. In the last six years, municipalities in India have tapped the bond market only 13 times.

Need of Municipal Bonds

In India, municipal bodies are the main providers of key urban services like water supply and sewerage. There are at present around 80 municipal corporations, around 1770 municipal councils, around 229 Town Area Committees and around 717 Notified Area

Committees in India, with state governments having the discretion in deciding the status of urban settlements. Local expenditure accounted for near to 50% share of the estimated total (central, state and local) government spending in the Mumbai metropolitan area while in other cities; the share of local expenditure in total government expenditure is close to 40%.

Urban population in India is expected to account for about 35% of its total population by 2011, and around 40% to 45% by 2021. This increasing urbanisation will add to the demand for basic services such as water supply, sanitation, sewerage, solid waste management, and drains, and infrastructure such as roads, flyovers, highways, and parking lots. This means that corporations need to make huge investments in urban infrastructure to cope with increasing demand. Jawaharlal Nehru National Urban Renewal Mission estimates, that India needs more than ₹1.2 trillion of investment in urban infrastructure over the next seven years (from 2007).

Despite increasing urbanisation and the consequent pressure on

Municipal Bonds hold good potential in urban infrastructural development and financing. The scenario seems likely to change, given more than ₹1 lakh crore of urban infrastructure investment estimated over the next five years. In India, a beginning in this direction was made in the late 1990s but the momentum was not maintained. The Bangalore Municipal Corporation was the first municipal body to raise funds by issuing bonds, backed by state government guarantee in 1997. ”

urban services, the financial powers and responsibilities of municipal bodies have undergone negligible changes. This has rendered municipal bodies unable to garner the resources required to meet the demands of growing urbanisation.

In the present scenario, with the control of fiscal deficit becoming a critical area of economic management, budgetary allocations to municipal bodies may decrease. Concessional funding may be a thing of the past. Multilateral and bilateral funding will be difficult, as there is increasing pressure from the donor countries to bring about greater accountability and market orientation in the projects financed by them. Municipal bodies therefore need to identify new sources of funds, such as municipal bonds, for financing their schemes.

In India also, some measures have been introduced to attract investments in infrastructural projects which include a five year tax holiday to BOT operators in infrastructure projects, tax benefits to financial institutions on interest and dividend income earned from financing infrastructure projects and tax benefits on investments in infrastructure. However, until recently, municipal bodies in India did not attempt to tap the capital markets.

Development of a municipal bond market in India depends on significant improvement in the credit quality of Municipal Corporations.

Civic Bodies Need Easier Access to Bond Market, Says RBI Study

"There's scope to develop a municipal bond or muni bond market in India because municipalities and corporations that govern urban local areas in the country do not generate enough money from taxes and utility payments to fund their expenditure". (livemint.com)

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These are the findings of a study conducted by a research group at the Reserve Bank of India, on urban local bodies. The study, carried out by the Development Research Group, a wing of RBI's department of economic analysis and policy, also suggested that borrowing restrictions on these bodies should be relaxed. Also apart from muni bonds, specialised municipal funds and public-private partnerships could be looked at as ways to finance the creation or maintenance of urban infrastructure.

The RBI study, which covered 35 metropolitan municipal corporations, had criticised elaborate state government controls on municipal authorities that crimp latter's ability to levy taxes and user charges or to borrow funds. The study also suggested that municipal bodies work towards improving their budgeting and accounting systems and the quality of disclosure of information to the public.

"There is no source of reliable data on finances of all local bodies in India to estimate their resource gaps. There is also a lack of uniformity in classification and reporting of financial data, which do not allow precise comparison on various parameters," the study said.

Most Municipal Acts in India impose restrictions on the power of municipalities to borrow funds. The state government concerned needs to approve any efforts by the civic bodies to raise debt.

Municipalities usually borrow on the strength of the taxes, duties and fees they expect to earn. However, state governments prescribe other conditions regarding rate of interest, repayment of principal, the interest rate on bonds, date of floatation, even the schedule for loan repayment. They also specify the purposes for which a municipality can access the market, where they are typically allowed to raise money for construction of permanent 'works', acquisition of land and buildings, and repayment of government and other debts.

Need of Support from Markets and Regulatory Authorities

Shri M. Damodaran, the then Chairman of India's capital market regulator – SEBI – said at an international conference held in Mumbai in December 2007, that it would work towards strengthening the municipal bond market in India and emphasised the need for encouraging investors to consider municipal bonds as an attractive alternative to other financial instruments.

SEBI should come up with guidelines/rules for issue of municipal bonds and try to create a market environment for investment and trading in the bonds.

Credit Rating agencies also need to step up to research and rate the Municipal Bond issues.

Municipal Bonds will also create another good investment avenue for people, if they are given security of repayment through sovereign guarantee or likewise.

With growing infrastructural needs of the country, municipal bonds will prove to be a good fund-raising instrument. ■

‘Totalisation Agreement’ with US Will Augment Billions of Dollars Annually in India’s Forex!



What is a Totalisation Agreement?

The Totalisation Agreement is an agreement executed between two countries for the benefit of those workers who have divided their careers between them. Due to breaking-up of their career between two countries, quite often such workers face a dilemma where they are not entitled to claim retirement benefits from either nation. Such situation arises as either they have not worked enough in a country or due to occurrence of a long discontinuance of work in their home country; or a combination of both of such factors.

Therefore, in order to protect their retirement benefits, a need to draw an agreement between two countries does arise. Such International Social Security/Retirement Plan arrangement between the two countries are referred as “Totalisation Agreements”. Totalisation Agreements mainly serve following two purposes:

- This agreement is executed between two countries with a view to fill the gap of retirement benefit of those workers who have divided their career between two countries; and
- To eliminate dual Social Security/Retirement benefit taxation in the situations where constituent of one nation works in the other country and due to taxation structure of the countries, is required to pay social security taxes in both countries on the same earnings.

Background of Totalisation Agreements

Due to globalisation, the working of today’s corporate world has undergone a major transformation. Such numerous changes in the working environment had not been witnessed by the corporate sector in the past. Many of today’s corporate workers are exposed to vivid working contexts in which they are called upon to render their professional expertise and skills. Such working scenarios may vary from working within the country to various overseas locations also on expatriate terms. Stationing at overseas job location for few years is very much in vogue as one of the available options more than ever before. These options quite often push professional career on the fast track. Simultaneously it provides a good opportunity to the constituents for having some international exposure and that too in addition of making some extra bucks.

However, the flip side of these circumstances is that quite often the returning professionals are caught in a dilemma of two different employee retirement benefit



CA. Rakesh Kumar Jain* and CA. Gagan Gujral**

(*The author is member of the Institute and Founder Chairman of United States (New York) Chapter of ICAI.

** The author is a member of the Institute and Past Chairman of United States (New York) Chapter. They can be reached at founder.icai.newyork@gmail.com)

systems as each country has its own. In the absence of any legal protection on counting their contribution to the retirement benefit system of the countries they worked for; they often end up at the receiving end for no fault of their own.

Where Does US Stand on Totalisation Agreements with Other Nations?

Totalisation agreements executed by USA so far with various countries do allow such workers to qualify for partial US or foreign benefits based on combined or totalised coverage credits from both countries. Under a Totalisation Agreement, partial benefits are passed on to such workers based on combining their career between the two countries.

The totalisation agreements benefit however has a minimum requirement to be met by a foreign worker. The agreements allow Social Security Agreement (SSA) to totalise US and foreign coverage credits only if the worker has at least six quarters of US coverage. Similarly, a person may need a minimum amount of coverage under the home country's system in order to have US coverage counted toward meeting the home country's benefit eligibility requirements.

The US has already entered in totalisation agreement with two dozen countries (namely Australia, Austria, Belgium, Canada, Czech Republic, Chile, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Netherlands, Norway, Poland, Portugal, South Korea, Spain, Sweden, Switzerland and United Kingdom).

Where Does India Stand on Totalisation Agreements Execution with Other Nations?

India has signed totalisation agreements with other developed countries like Denmark, Belgium and Germany. Though we have different retirement benefit systems in place, still the objectives are the same. For example, the agreement signed with Denmark on

India has signed totalisation agreements with developed countries like Denmark, Belgium and Germany. Though we have different retirement benefit

systems in place, still the objectives are the same. For example, the agreement signed with Denmark on 17th February 2010 states that a person normally employed in India by an Indian employer shall be subject to only Indian Social Security Legislation (i.e. Provident Fund) during a period of secondment to Denmark provided that the period of employment there is not expected to exceed five years. ”

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The agreement signed with Belgium on 1st September, 2009 is also on the similar lines. It exempts Indian worker from Belgium's Social Security Taxes payment for a period of five years. Totalisation agreement with Germany has come in force w.e.f. 1st October, 2009 and it allows four years exemption to an Indian worker working in Germany from their Social Security taxes payment.

Signing of totalisation agreements with above mentioned European nations has happened over last couple of years. Such move on India's part demonstrates that due to a change in corporate personnel mix at global level, things need to be looked upon with the change in time. USA is one of the countries which attract skilled Indian workers in large numbers every year. Therefore, to protect the interest of such workers in the long run, certainly the issue of having totalisation agreement with United States has become paramount. Though, India and USA have different retirement benefit plans, nonetheless, totalisation agreements with the countries like Denmark, Belgium and Germany can be used as reference benchmark to enter into same kind of agreement with USA.

For understanding the implications of totalisation agreement with US comprehensively, we need to address the following issues string by string as all of them are inter related in this context:

1. How US Laws pertaining to Social Security System do affect Indian workers?

Under the laws of the US, social security programme covers all US citizens and residents working for foreign affiliates of American companies regardless of their working location in the country or overseas. This is in addition to US citizens and permanent residents who are working within the United States. The nexus of social security system does cover foreign workers also who work in the United States; again regardless of their citizenship and permanent resident country.

Accordingly, H-1B and L-1 workers in the United States pay Social Security (SS) and Medicare taxes on their salaries. The Dependent/Spouses of H-1B and L-1 visa holders are issued H-4 and L-2 visa respectively. The holders of H-4 visa are not entitled to work in the country while L-2 visa holders over the age of 18 years can work legally provided they get work permit from United States Citizenship and Immigration Services (USCIS).

However, many of the beneficiaries of H-1B and L-1/L-2 visa are not likely to take advantage of the Social Security due to their return to India after working for a few years in the United States. The main cause of non-availability of SS's advantages to such workers is that the benefits of SS do not kick in for at least ten years from the date when the first pay check is received by such workers in the United States. In a nutshell, returning Indian nationals do not benefit in any manner after making a contribution toward social security and Medicare.

US have a large number of skilled Indian professionals working on non-immigrant work visas like H-1B and L-1. They make a significant contribution to the economy of Uncle Sam. Unlike those European nations with whom US have already signed totalisation agreements, India does not have the same retirement benefit system. Therefore, when Indian nationals rejoin Indian corporate sector after coming back from US, they find that deductions made out of their paychecks in the yesteryears (when they were working in the US) were a complete waste of money for them. Moreover, discontinuance of working in India during those years further affects their retirement benefits adversely. Thus, in spite of contributing toward retirement schemes, they are deprived of its benefits in both the countries.

Just like the nationals of developed European nations, most Indian nationals also do not remain as permanent residents of the United States to reap benefits of the social security when it becomes due to them. The reason for return, for each Indian national varies from individual to individual. It may range from personal reasons to unfortunate job loss too.

However, the single most substantial factor responsible for their return is the long haul to attain permanent residency of US. Once an Indian

national decides to march towards employer sponsored Green Card processing, generally he/she is seen stuck with stagnancy in his/her current employment. The Green Card processing for the majority of Indians takes a whopping 6 to 12 years time. Apparently, many Indians do not mind that too for attaining legal permanent status in a developed country like US. However, the agony is that during this time, the immigration laws neither allow changing of employment nor accepting a significant rise in the paycheck nor promotion in their existing employment for such constituents until their immigration petition reaches to the last stage of its processing i.e. I-485 application filing. Obviously, such Indians are bound to encounter frustrations as they are not in charge of steering their career after filing for employment based permanent residency of US. Due to circumstances beyond their control, they are not able to rise in their professional career while their counterparts in India are always on the move. As India is offering plenty of professional opportunities to its nationals now, they rather decide to return to India after working for few years in the US as compared to opting for the Green Card processing. Thus, in the interest of such returning Indian work force, the need of having totalisation agreement with US does arise as an arguable issue.

2. How does the Social Security System work in the United States?

Generally, in a layman's language, Social Security is understood as the counterpart of India's Provident Fund Scheme. In broad terms, it is true, though, the modus operandi of Social Security is completely different from India's Provident Fund Scheme.

Under Provident Fund Scheme both employer and employee pay 12% of the basic salary and the employee keeps on getting interest at scheduled rate until the money is withdrawn. However, under Social Security Scheme (for the year 2010), the employer was obliged to deduct 6.2% (4.2% for the year 2011) from the first \$106,800 of the employee toward social security tax. The employee's earnings in excess of \$106,800 are not subject to social security tax. In addition to the Social Security tax, the entire amount of each employee's taxable earnings is subject to the Medicare tax of 1.45%. Both the Social Security tax and the Medicare tax must be matched by the employer.

Social Security benefits are based on lifetime earnings of the employee. Social Security office uses work history of the employee to determine eligibility for retirement. The employee starts getting benefits

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of Social Security at full retirement age of 65 years. However, it can be received at reduced rates after reaching at 62 years of age. Further, Social Security credits are counted toward eligibility for Medicare when the employee reaches 65 years of age.

For being eligible to receive the benefits of Social Security, one has to have at least 40 credits. The credits are based on the amount of earnings. In year 2011, one credit is counted for each \$1,120 of earnings, up to a maximum of four credits per year. Therefore, to receive benefits of Social Security, one has to work for at least ten years.

To account for changes in average wages since the year the earnings were received, Social Security earnings are 'adjusted' or 'indexed'. (Rates of such index since the year 1951 are furnished under Table – A).

Table - A
Index Factors for Calculating Primary Insurance Amount
Source: U.S. Social Security Administration

S.NO.	Year	Maximum Earnings Subject to S.Security Tax (In USD)	Factor
1	1951	3,600	14.54
2	1952	3,600	13.69
3	1953	3,600	12.97
4	1954	3,600	12.90
5	1955	4,200	12.33
6	1956	4,200	11.53
7	1957	4,200	11.18
8	1958	4,200	11.08
9	1959	4,800	10.56
10	1960	4,800	10.16
11	1961	4,800	9.96
12	1962	4,800	9.49
13	1963	4,800	9.26
14	1964	4,800	8.90
15	1965	4,800	8.74
16	1966	6,600	8.24
17	1967	6,600	7.81
18	1968	7,800	7.31
19	1969	7,800	6.91
20	1970	7,800	6.58
21	1971	7,800	6.27
22	1972	9,000	5.71
23	1973	10,800	5.37
24	1974	13,200	5.07
25	1975	14,100	4.72
26	1976	15,300	4.41
27	1977	16,500	4.16
28	1978	17,700	3.86
29	1979	22,900	3.55
30	1980	25,900	3.25
31	1981	29,700	2.96
32	1982	32,400	2.80
33	1983	35,700	2.67
34	1984	37,800	2.52
35	1985	39,600	2.42
36	1986	42,000	2.35
37	1987	43,800	2.21
38	1988	45,000	2.11
39	1989	48,000	2.03
40	1990	51,300	1.94

S.NO.	Year	Maximum Earnings Subject to S.Security Tax (In USD)	Factor
41	1991	53,400	1.87
42	1992	55,500	1.78
43	1993	57,600	1.76
44	1994	60,600	1.71
45	1995	61,200	1.65
46	1996	62,700	1.57
47	1997	65,400	1.48
48	1998	68,400	1.41
49	1999	72,600	1.34
50	2000	76,200	1.27
51	2001	80,400	1.24
52	2002	84,900	1.22
53	2003	87,000	1.20
54	2004	87,900	1.14
55	2005	90,000	1.10
56	2006	94,200	1.05
57	2007	97,500	1.01
58	2008	102,000	0.98
59	2009	106,800	1.00
60	2010	106,800	1.00

Thereafter, aggregate of indexed social security is calculated for the 35 years in which the employee earned most. If the employee worked for less than 35 years in his/her lifetime, the remaining years are taken at zero dollar value for calculating the aggregate indexed value of 35 years. To arrive at 'Primary Insurance Amount' (PIA), such aggregate of 35 years Indexed Social Security amount is divided by 420 i.e. number of months in 35 years. The resultant number thus calculated, is average indexed monthly earnings. Indexed monthly earnings are then factored at different slab rates as under to arrive at monthly installment of Social Security.

First \$749 - @ 90%

Amount in excess of \$749 but not exceeding \$4,517 - @ 32%

Remaining amount over \$4,517 (if any) - @ 15%

The total of the amount calculated under above mentioned calculations, is how much a person would receive at full retirement age - 65 or older, depending upon his/her date of birth.

When a person who has worked and paid Social Security taxes dies, certain members of the family may be eligible for survivors benefits, depending upon the person's age at the time of death. Survivors of very young workers may be eligible if the deceased worker was employed for 1 ½ years during the three years before his/her death.

3. How much is Indian share in H-1B and other work visa beneficiaries?

Every year United States issues 65,000 H-1B visa to various professionals. However, for the years

1999 and 2000 it was increased to 115,000 per fiscal year. Thereafter, for the years 2001, 2002 and 2003, this limit was further enhanced to 195,000 visas per financial year. In addition, another 20,000 H-1B visas CAP was placed for those who had acquired Masters Degree from a US University. A complete break – up of H-1B visa beneficiaries of various nationals since year 2000 has been furnished in Table – B.

4. How far have H-1B visa and other work visa holders of Indian nationality gone in Green Card Processing?

For employment based green card processing, H-1B beneficiary has to go through three stages namely: Labor Certification, Employer based immigration and Adjustment of Status (AOS). Immigration stage is also known as I-140 stage while AOS stage is known as either I-485 or the last stage of Green Card processing.

Table - B

H-1 Petitions Approved by Country of Birth of Beneficiary

Source: US Department of Homeland Security (Office of Immigration Statistics)

S.NO	Country of Birth	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	TOTAL
1	Argentina		1,236	1,611	1,311	1,118	793	521	460	400	457	7,907
2	Australia	1,056	1,487	1,107	986			516	509			5,661
3	Brazil	1,363	1,947	1,414	1,307	1,201	1,071	843	894	784	964	11,788
4	Canada	5,465	9,184	7,893	6,201	5,229	4,246	3,587	3,972	3,968	4,579	54,324
5	China - Mainland	12,333	16,847	11,832	11,144	11,365	10,643	9,859	10,890	9,157	8,989	113,059
6	Colombia	1,519	2,909	2,362	1,788	1,578	1,214	872	826	740	795	14,603
7	France	2,024	2,748	1,925	1,621	1,622	1,228	977	1,005	879	1,256	15,285
8	Germany	2,018	2,598	1,955	1,969	1,769	1,475	1,186	994	895	1,031	15,890
9	Hong Kong	1,070										1,070
10	India	60,757	90,668	21,066	29,269	60,062	57,349	59,612	66,504	61,739	33,961	540,987
11	Indonesia	1,150										1,150
12	Israel					1,053	594					1,647
13	Italy									489	695	1,184
14	Japan	2,805	3,676	2,970	3,287	2,845	2,379	1,829	1,584	1,334	1,710	24,419
15	Korea	3,160	4,484	3,886	3,893	3,924	3,831	3,313	3,612	3,029	3,919	37,051
16	Malaysia	1,339	1,464	900	1,085	656	775	458	521			7,198
17	Mexico	1,465	2,561	1,905	1,771	1,601	1,206	1,169	1,476	1,375	1,614	16,143
18	Nepal									783	668	1,451
19	Pakistan	2,490	3,904	1,955	1,501	1,536	1,535	1,263	1,302	1,315	1,003	17,804
20	Philippines	4,002	7,294	6,648	6,852	4,783	3,316	2,829	3,696	3,957	3,734	47,111
21	Russia	2,469	2,900	1,523	1,265	1,308	962	797	665	541	692	13,122
22	South Africa	1,020										1,020
23	Taiwan	2,864	3,406	2,366	2,109	1,922	1,795	1,602	1,997	1,818	1,856	21,735
24	Turkey		1,517	1,319	1,479	1,328	1,188	908	1,196	1,054	1,175	11,164
25	United Kingdom	4,166	6,053	4,192	3,871	3,391	2,407	1,712	1,499	1,333	1,991	30,615
26	Venezuela		1,720	1,610	1,798	1,532	1,122	726	717	579	697	10,501
27	Other Countries	23,793	32,024	22,911	20,678	20,423	17,579	15,035	15,712	13,166	14,514	195,835
28	Country of Birth Unknown	383	452	234	129	251	219					1,668
		138,711	201,079	103,584	105,314	130,497	116,927	109,614	120,031	109,335	86,300	1,221,392

Notes:- 1. The Fiscal Year is 12 months period from 1st October to 30th September
2. Data for the Fiscal Year 2010 was not available yet.

From this table, it can be seen that Indian nationals had a considerable share in the total allotment of H-1B visa. Out of 1,221,392 H-1B visas issued, Indian nationals were the beneficiaries of 540,987 visa. This represents their share over 44% in H-1B visa market. Therefore, anything pertaining to H-1B visa rules will certainly have a significant impact on the career path of the professionals of Indian nationality. This number of Indian work force on work visas will be further bolstered by the addition of J-1, L-1/L-2 and R-1 (other work visa categories) visa holders.

Based on each case, credentials of the H-1B beneficiaries and qualification/experience requirements for existing jobs; their cases are processed under three categories known as EB-1, EB-2 and EB-3. The date on which the application is filed for Labor Certification under EB-2 and EB-3 categories is known as Priority Date of the Green Card processing. Cases falling under EB-1 are exempt from Labor Certification. Date of filing I-140 petition is considered as Priority Date for those who are exempt from first stage of Green Card processing i.e. Labor Certification. Priority Date virtually controls the case processing status.

The aforesaid 3 stages of Green Card processing are progressive. The first two stages of it are employer sponsored for EB-2 and EB-3 categories. Every year, Department of Labor issues 140,000 Green Card Visa numbers for all employment based categories of green card seekers. Based on this, United States Citizenship and Immigration Services (USCIS) process the pending Green Card cases. These cases are processed on the basis of available visa numbers. Unless a visa number is available, H-1B visa holder who has already gone through the first two stages of the Green Card processing successfully, cannot file for I-485 stage. For this reason Priority Date of the case comes into frame to decide whether the application for I-485 can be filed at this juncture. In other words, unless the Priority Date is current for an applicant, I-485 application can not be filed by him/her.

Due to the fact that Green Card Visa numbers demand has usually been in excess of its supply, it has been seen that filing for I-485 stage may take many years. Moreover, filing for I-485 stage is not the end of the road. It may take another string of many years to adjudicate the case as Priority date under each category of EB class keeps on fluctuating depending upon the latest equilibrium of demand and supply forces of visa numbers availability. Due to heavy demand of visa numbers, sometimes it has been retrogressed by months/ years too!!

Majority of cases being processed by USCIS for Indian nationals are under EB-3 category while only a very few fall under EB-1 category. As per Visa Bulletin of December 2011 issued by US Department of State on 10th November 2011; the cut off Priority dates for various nationals are:

Employment- Based	All Chargeability Areas Except Those Listed	Areas			
		CHINA- mainland born	INDIA	MEXICO	PHILIPPINES
1 st	C	C	C	C	C
2 nd	C	15MAR08	15MAR08	C	C
3 rd	15JAN06	08SEP04	01AUG02	15JAN06	15JAN06
Other Workers	01JAN06	22APR03	22JUL02	01JAN06	01JAN06
4 th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5 th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C
5 th Pilot Programs	C	C	C	C	C

Source: United States Department of State
C = Current

Table - C
(All EB I - 485 Inventory pending at service centers as of 26 May 2011)

Source : United States Citizenship and Immigration Services

S.NO.	Nationality of Applicants	Fiscal Year 1997	Fiscal Year 1998	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	TOTAL
EB-1 Category																	
1	China - Mainland	13	2	0	0	25	18	6	7	5	23	84	52	82	687	355	1,359
2	India	0	1	0	0	7	14	6	17	7	33	68	34	75	951	592	1,805
3	Mexico	4	0	0	0	1	2	0	1	6	2	58	6	21	299	183	583
4	Phillipines	1	0	0	0	1	1	0	0	0	7	3	1	4	29	24	71
5	Rest of the World (Except Mainland China, India, Mexico and Phillipines)	6	8	2	8	75	124	59	19	39	76	355	150	353	3,141	1,755	6,170
	TOTAL	24	11	2	8	109	159	71	44	57	141	568	243	535	5,107	2,909	9,988
EB-2 Category																	
1	China - Mainland	0	0	0	0	15	7	8	303	109	3,814	5,531	0	0	0	0	9,787
2	India	2	0	0	2	23	97	174	381	396	11,524	9,937	0	0	0	0	22,536
3	Mexico	0	0	0	0	5	0	0	4	3	38	3	22	43	152	61	331

S.NO.	Nationality of Applicants	Fiscal Year 1997	Fiscal Year 1998	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	TOTAL
4	Phillipines	0	1	0	0	3	1	0	3	1	36	86	75	109	518	176	1,009
5	Rest of the World (Except Mailland China, India, Mexico and Phillipines)	1	3	1	3	18	30	24	37	73	258	370	833	2,050	4,099	1,002	8,802
	TOTAL	3	4	1	5	64	135	206	728	582	15,670	15,927	930	2,202	4,769	1,239	42,465

EB-3 Category

1	China - Mainland	0	0	0	0	67	13	35	885	1,009	1,195	607	0	0	0	0	3,811
2	India	4	7	1	16	262	6,687	11,880	13,606	8,281	11,403	4,972	0	0	0	0	57,119
3	Mexico	11	13	0	4	561	184	545	1,106	1,436	2,266	925	0	0	0	0	7,051
4	Phillipines	5	3	0	2	63	29	48	109	1,838	4,758	2,543	0	0	0	0	9,398
5	Rest of the World (Except Mailland China, India, Mexico and Phillipines)	21	8	6	24	1,323	368	542	882	13,920	19,272	8,367	0	0	0	0	44,733
	TOTAL	41	31	7	46	2,276	7,281	13,050	16,588	26,484	38,894	17,414	0	0	0	0	122,112

EB-4 Category

1	China - Mainland	0	0	0	0	0	0	0	2	1	3	0	0	1	15	1	23
2	India	0	0	0	1	0	1	0	3	2	4	3	1	12	86	4	117
3	Mexico	0	1	0	0	0	1	0	5	0	5	0	1	6	72	21	112
4	Phillipines	0	0	0	0	1	0	2	3	2	1	0	0	5	27	5	46
5	Rest of the World (Except Mailland China, India, Mexico and Phillipines)	2	4	0	1	47	12	18	26	28	41	20	39	74	756	29	1,097
	TOTAL	2	5	0	2	48	14	20	39	33	54	23	41	98	956	60	1,395

EB-5 Category

1	China - Mainland	0	0	0	0	0	0	0	0	0	0	2	0	0	1	28	31
2	India	0	0	0	0	0	3	3	0	0	8	2	0	0	0	4	20
3	Mexico	0	0	0	0	0	0	0	0	0	0	1	0	0	0	4	5
4	Phillipines	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5	Rest of the World (Except Mailland China, India, Mexico and Phillipines)	1	0	0	0	0	0	0	1	1	11	1	0	4	5	35	59
	TOTAL	1	0	0	0	0	3	3	1	1	19	6	0	4	6	71	115

Other - EW

1	China - Mainland	0	0	0	0	8	1	0	2	3	0	10	0	0	0	0	24
2	India	0	0	0	0	27	12	25	24	7	15	11	1	0	0	0	122
3	Mexico	0	0	0	5	193	42	48	22	20	14	33	1	0	0	0	378
4	Phillipines	0	0	0	1	28	7	34	16	22	30	22	3	1	0	0	164

S.NO.	Nationality of Applicants	Fiscal Year 1997	Fiscal Year 1998	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	TOTAL
5	Rest of the World (Except Mailland China, India, Mexico and Phillipines)	6	8	0	1	188	87	257	233	89	131	134	7	2	0	0	1,143
	TOTAL	6	8	0	7	444	149	364	297	141	190	210	12	3	0	0	1,831

GRAND TOTAL

1	China - Mainland	13	2	0	0	115	39	49	1,199	1,127	5,035	6,234	52	83	703	384	15,035
2	India	6	8	1	19	319	6,814	12,088	14,031	8,693	22,987	14,993	36	87	1,037	600	81,719
3	Mexico	15	14	0	9	760	229	593	1,138	1,465	2,325	1,020	30	70	523	269	8,460
4	Phillipines	6	4	0	3	96	38	84	131	1,863	4,832	2,654	79	119	574	205	10,688
5	Rest of the World (Except Mailland China, India, Mexico and Phillipines)	37	31	9	37	1,651	621	900	1,198	14,150	19,789	9,247	1,029	2,483	8,001	2,821	62,004
	TOTAL	77	59	10	68	2,941	7,741	13,714	17,697	27,298	54,968	34,148	1,226	2,842	10,838	4,279	177,906

Note: 1. Fiscal Year is 12 months period from 1st October to 30th September

Table – C shows the status of pending I-485 cases as of 26th May 2011 for various nationals. This table shows that a total of 81,719 Indian cases pertaining to the years 1997 - 2011 were pending for adjudication with USCIS. As the priority date in respect of EB-3 (slowest moving forward category among all EB based categories) is 1st August 2002, status of pending cases before August 2002 is not considerable in Table – C.

As per USCIS inventory of 81,719 pending I-485

Indian National cases (Refer Table - C); only 353 cases were pertaining to years prior to 2002. Therefore, the impact of such pending cases pertaining to years prior to 2002 shall be minimal. An important aspect about the filing of Green Card is that visa number needs to be obtained in respect to each and every dependent of the H-1B/L-1/J-1 and R-1 beneficiaries also who are seeking to have the Green Card on the basis of the primary applicant (working professional).

Table - D**Estimates of Dependent Members percentage on Primary Work Visa Holders**

		Total	H-1B	H-4	J-1	J-2	L-1	L-2	R-1	R-2
Total No. of Visas Issued in the year	1997	57,721	31,684	17,693	2,874	1,437	1,628	1,695	618	92
Total No. of Visas Issued in the year	1998	74,120	40,246	24,303	2,855	1,485	2,276	2,167	682	106
Total No. of Visas Issued in the year	1999	101,354	55,062	32,711	3,288	1,670	4,206	3,603	683	131
Total No. of Visas issued during 1997 to 1999 to Indian Nationals		233,195	126,992	74,707	9,017	4,592	8,110	7,465	1,983	329
% of Dependents w.r.t. Total Numbers of Visas (For the years)	1997			H		J		L		R
	1998			35.83%		33.33%		51.01%		12.96%
	1999			37.65%		34.22%		48.77%		13.45%
				37.27%		33.68%		46.14%		16.09%
I. Combined % of dependents for the three years - (For each category of Work Visas separately)										
II. Combined % of Dependents for the three years (For all Work Visas - Taken together)		37.35%		37.04%		33.74%		47.93%		14.23%
	Say	37.00%		37.00%		34.00%		48.00%		14.00%
III. Therefore, Estimated % of Workers on Work Visa w.r.t. to Total Visas issued under that Category		63.00%	63.00%		66.00%		52.00%		86.00%	

Note: Source for No. of Visa issued: - Department of Homeland Security

Based on the no. of work visa issued to Indian nationals under H-1B, J-1, L-1 and R-1 for the years 1997, 1998 and 1999 an estimate has been worked out in Table – D about the percentage of Primary work visa holders with respect to total visa holders under the work categories. From the calculations made in Table – D, it works out to app. 63% as the primary work visa holders to the total visa holder numbers.

of the work visas among all work visa categories for Indian nationals. Hence, the basis of H-1B visa rules will impact the conclusion considerably.

For the purposes of assuming the likely Indian working force at the start of Fiscal year 1999, it has been assumed that entrants of three years immediately preceding to the year 1999 were working on work visas in the country. This in reality is a very conservative approach as generally a

Table - E

Estimates of Dependent Members percentage on Primary H-1 Work Visa Holders
(For the years 2000 to 2009)

		Total	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	Under H Category											
a)	Total Visa Issued (including to Spouses and Dependents) (As per Table - F)	1,008,250	100,369	119,167	78,009	72,803	104,311	85,091	104,250	135,926	117,622	90,702
b)	Less: Visa issued (excluding to Spouses and dependents) (As per Table - B)	540,987	60,757	90,668	21,066	29,269	60,062	57,349	59,612	66,504	61,739	33,961
c)	Visa issued to Spouses and Dependents (a-b)	467,263	39,612	28,499	56,943	43,534	44,249	27,742	44,638	69,422	55,883	56,741
d)	Percentage of Dependents to primary work visa holders	46.34%	39.47%	23.92%	73.00%	59.80%	42.42%	32.60%	42.82%	51.07%	47.51%	62.56%

Table - F

Various Non-Immigrant work Visas (Including Dependents) issued to Indian Nationals
Source: US Department of State (Bureau of Consular Affairs)

S.NO.	Fiscal Year (From 01 October to 30th Sept.)	H	J	L	R	TOTAL
1	Fiscal Year - 2000	100,369	5,435	15,563	986	122,353
2	Fiscal Year - 2001	119,167	6,042	19,925	1,064	146,198
3	Fiscal Year - 2002	78,009	5,325	27,458	968	111,760
4	Fiscal Year - 2003	72,803	5,311	29,111	1,091	108,316
5	Fiscal Year - 2004	104,311	4,838	33,681	1,149	143,979
6	Fiscal Year - 2005	85,091	5,231	39,849	991	131,162
7	Fiscal Year - 2006	104,250	5,932	50,864	1,377	162,423
8	Fiscal Year - 2007	135,926	7,678	64,196	2,809	210,609
9	Fiscal Year - 2008	117,622	8,815	65,193	2,327	193,957
10	Fiscal Year - 2009	90,702	7,577	50,145	632	149,056
11	Fiscal Year - 2010	97,907	7,909	65,956	673	172,445
		1,106,157	70,093	461,941	14,067	1,652,258

Notes:- 1. The Fiscal Year is 12 months period from 1st October to 30th September
2. H visa is issued to Skilled Workers and to their immediate Dependents including their spouses
3. J Visa is issued to Exchange visitors and to their immediate dependents
4. L Visa is issued to Inter company employees and to their immediate dependents
5. R Visa is issued to Religious workers and to their immediate dependents

In other words, it can be concluded that based on the workings done in Table – D; behind every working visa holder seeking employment based Green Card; 0.37 (1-0.63) visa numbers are consumed towards their dependents. However, over the years between years 2000 – 2009; the percentage of dependents with respect to primary visa holder has gone upto app. 46% (Refer Table – E and F). This needs to be noted that H-1 visa constitute the major portion

person can work upto 6 years on H-1B visa and for five years on L-1 visa.

Table - G

IMMIGRANTS ADMITTED ON THE BASIS OF EMPLOYMENT BASED CATEGORIES

(Pertaining to Indian Nationals only)

Source: Department of Homeland Security

Year	No. of immigrant Visas issued
Fiscal Year 2000	13,872
Fiscal Year 2001	36,074

Year	No. of immigrant Visas issued
Fiscal Year 2002	39,793
Fiscal Year 2003	18,506
Fiscal Year 2004	34,983
Fiscal Year 2005	47,705
Fiscal Year 2006	17,169
Fiscal Year 2007	28,703
Fiscal Year 2008	25,577
Fiscal Year 2009	20,264
Fiscal Year 2010	31,118
TOTAL	313,764

Further, during the period of year 2000 to year 2009, a total of 313,764 Indian nationals have been issued Green Cards under various work visa categories (Refer Table – G). This needs to be noted here that this total of 313,764 does include spouses and dependents of primary work visa holders also as immigrant visa number needs to be obtained for each and every person seeking immigration on the basis of non immigrant work visa entry in the country.

visa holders of Indian nationality are estimated to be working in the United States at the end of Fiscal Year 2010. This estimate has been arrived at after adjusting for 51,483 primary work visa holders whose cases are pending under I-485 stage for adjudication. In other words, in the calculations of Table – H, they have been considered on the lines of Green Card holders as they have decided to march towards the long haul to employment based immigration and do not intend to return; though, they still may be working on H-1B Visa or on EAD (Employment Authorisation Document).

More insight on the status of I-485 pending cases constituents:

After filing I-485 application with USCIS, the beneficiary of H-1B has an option to work on the basis of EAD (Employment Authorisation Document) without affecting the outcome of his/her pending application. This can be done with the aid of American Competitiveness 21st Century Act

Table - H										
Estimates of Social Security and Medicare Tax paid by Indian Nationals working on Various Work Visas i.e. (H, J, L and R)										
Fiscal Years	Estimated No. of Indian Nationals Holding H,J,L and R Visas				Estimated No. of Primary Visa Holders		Estimated Social Security and Medicare Tax Workings			
	Opening	New Arrivals	Received Green Card	Closing Number	Estimated % of Primary Visa Holder	Estimated No. of Primary Visa Holder	Estimated Median Annual Salary (In \$)	Estimated Annual Salary (In Billion \$)	Estimated SS Withheld @ 6.20%	Estimated SS Withheld @ 1.45%
	Refer Table - D	Refer Table - F	Refer Table - G		(Table - D)		(Table - I)		(In Billion \$)	(In Billion \$)
	(1)	(2)	(3)	(4) = (1) + (2) - (3)	(5)	(6) = (4) * (5)	(7)	(8)	(9)	(10)
2000	233,195	122,353	13,872	341,676	63.00%	215,256	52,800	11.366	0.705	0.165
2001	341,676	146,198	36,074	451,800	63.00%	284,634	55,000	15.655	0.971	0.227
2002	451,800	111,760	39,793	523,767	63.00%	329,973	53,174	17.546	1.088	0.254
2003	523,767	108,316	18,506	613,577	63.00%	386,554	52,000	20.101	1.246	0.291
2004	613,577	143,979	34,983	722,573	63.00%	455,221	53,000	24.127	1.496	0.350
2005	722,573	131,162	47,705	806,030	63.00%	507,799	55,000	27.929	1.732	0.405
2006	806,030	162,423	17,169	951,284	63.00%	599,309	60,000	35.959	2.229	0.521
2007	951,284	210,609	28,703	1,133,190	63.00%	713,910	60,000	42.835	2.656	0.621
2008	1,133,190	193,957	25,577	1,301,570	63.00%	819,989	60,000	49.199	3.050	0.713
2009	1,301,570	149,056	20,264	1,430,362	63.00%	901,128	64,000	57.672	3.576	0.836
2010	1,430,362	172,445	31,118	1,571,689	63.00%	990,164	64,000	63.371	3.929	0.919
Less: Adjustment for I-485 pending cases (Refer Table - C)										
Total Pending Cases				81,719	63.00%	51,483	64,000	3.295		
Adjusting such pending cases for the maximum of previous 6 years of Salary (Maximum Allowable time to work on H-1B visa in normal circumstances) As a conservative approach, salary has been taken at the latest annual median rate									(1.226)	(0.287)
TOTAL						938,681			21.451	5.017
Note:										
1. Median Annual Salary for the year 2010 has been assumed on the lines of year 2009.										
2. I-485 application pending nationals are excluded from the workings as they are likely to stay back in USA after the successful adjudication of their application.										

Therefore, detailed workings have been made (Refer Table – H) in estimating the number of likely primary work visa holders in the United States at the end of year 2010. From Table – H it appears that app. 938,681 i.e. (990,164 – 51,483) primary work

(also known as AC 21 Act). In such scenario, the beneficiary of H-1B can afford to have his/her H-1B visa revoked provided that certain conditions are met under AC 21 Act. Further, he/she can switch to other companies and take – up better job prospects

also as long as the new job assignments are within the ambit of Labor Certification done earlier. The new job title though does not make any difference at this point of time.

Due to a long wait (running in many years) between filing of I-485 application and its adjudication, many Indian nationals nonetheless, decide to take advantage of AC 21 Act. Therefore, at this juncture, they renunciate their H-1B status and start working on EAD henceforth as it provides them much needed leverage in switching over jobs and employers. Such a move on their part helps them in advancing their professional career. Accordingly, a part of those expected 51,483 work visa workers (As worked out above in Table - H) whose cases of I-485 application are pending for adjudication, might have come on EAD status by now.

As they have already been considered on the lines of Green Card holders in the calculation of expected work visa workers at the end of year 2010; their impact will not affect the calculations made in Table - H.

5. How will the Totalisation Agreement benefit Indian nationals?

Data pertaining to Annual Compensation of all H-1B beneficiaries by major occupation group (as per US department of State) has been furnished in Table - I. Based on the median annual compensation listed down therein (Table - I), an estimate has been made in Table - H about the deductions made from Indian skilled work force on account of Social Security (@6.2% per annum) and Medicare tax (@ 1.45% per annum) for the years 2000 to year 2010. This data is pertaining to only those workers who have not gone in the process line of obtaining green cards. So, they can be assumed as the workers who intend to return to their home country.

The calculations worked out under Table - H shows that a whopping app. \$21.451 billion was deducted on account of Social Security Tax from such Indian workers. In addition, another app. \$5.017 billion was deducted towards Medicare tax. Thus, the total deductions were app. \$26.468 billion.

With totalisation agreement in place, these savings would be a good recoup to their retirement losses for not working in India during those six years. As on their return to India, this money would eventually have been brought into India. Thus, Indian forex reserves also would have gone up by app. \$26.468 billion.

6. How will the Totalisation Agreement benefit US employers?

Social Security Tax and Medicare Tax matching by the employer is a deductible expense in Income Tax Return of the employers. Therefore, it is obvious that with the placement of totalisation agreement, US employers would not have been required to match-up SS and Medicare Tax on the salaries to Indian work visa holders. Thus, the non-payment of \$26.468 billion as calculated in Table-H, would eventually have increased their pretax profits. Assuming 35% as corporate tax rate, this increase in profits would have resulted in app. \$9.26 billion as additional Income Tax liability for them. As a consequence of which, net estimated increase in the post tax profit for US employers would have been app. \$17.21 billion i.e. \$1.56 billion annually. \$17.21 billion additional cash inflow availability with the employers (due to the placement of totalisation agreement between India and USA) in the form of additional PAT (Profit After Tax) would have allowed them to invest this money in the creation of infrastructure jobs through internal accruals. On the basis of assuming 65K as required amount

Table - I Annual Compensation of All H-1B Beneficiaries by Major Occupation Group Source: US Department of State (USCIS)											
(Median Annual Compensation of the Beneficiary in US \$ - For the years)											
S.NO.	Occupation	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
	Total	52,800	55,000	53,174	52,000	53,000	55,000	60,000	60,000	60,000	64,000
	Known Occupations with Annual Compensation	52,900	55,000	53,500	52,000	53,000	55,000	60,000	60,000	60,000	64,000
1	Computer related occupations	55,000	58,000	60,000	60,000	58,000	60,000	60,000	60,000	61,000	68,000
2	Occupations in Architecture, Engineering and Surveying	58,000	60,000	57,247	58,217	60,000	60,000	64,000	67,000	70,000	72,000
3	Occupations in Education	35,000	35,232	36,000	38,000	39,000	40,000	43,000	43,000	45,000	47,000
4	Occupations in Administrative Specialisations	40,795	44,806	41,500	42,000	45,000	48,000	52,000	55,000	60,000	57,000
5	Occupations in Medicine and Health	46,200	45,000	45,760	46,943	49,000	52,000	56,000	56,000	58,000	60,000

S.NO.	Occupation	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
6	Managers and Officials N.E.C.*	60,000	65,000	58,801	60,000	61,000	65,000	75,000	81,000	84,000	83,000
7	Occupations in Life Sciences	35,000	38,000	38,000	39,000	41,000	42,000	43,000	45,000	45,000	47,000
8	Occupations in Mathematics and Physical Sciences	51,100	55,000	55,000	55,000	58,000	59,000	62,000	65,000	68,000	70,000
9	Miscellaneous Professional, Technical and Managerial	50,000	54,000	52,510	52,000	58,000	60,000	65,000	64,000	72,000	78,000
10	Occupations in Social Sciences	42,000	45,000	44,000	44,000	49,000	53,000	60,000	70,000	65,000	65,000
11	Occupations in Art	38,000	40,000	38,400	40,000	40,000	43,000	45,000	48,000	49,000	48,000
12	Occupations in Law and Jurisprudence	90,000	90,000	85,000	70,720	88,500	90,000	105,000	103,000	125,000	92,000
13	Occupations in Writing	35,000	37,000	35,000	36,000	36,000	38,000	40,000	41,000	43,000	42,000
14	Occupations in Entertainment and Recreation	33,280	33,000	33,280	33,280	35,000	35,000	36,000	38,000	37,500	36,000
15	Occupations in Museum, Library and Archival Sciences	36,696	36,803	37,150	37,040	39,000	42,000	43,000	45,000	46,000	48,000
16	Fashion Models	125,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	102,000
17	Occupations in Religion Theology	30,520	30,000	30,000	30,000	33,000	32,000	33,000	31,000	35,500	34,500
Occupation Unknown		46,000	42,118	40,000	40,000	45,000	48,000	50,000	54,000	55,000	61,000

Notes:-

1. Annual compensation refers to what the employer agreed to pay the beneficiary at the time the application was filed.
2. Compensation excludes non-cash compensation and benefits such as health insurance and transportation.
3. Compensation is based on full time employment of 12 months.
4. * N.E.C. indicates Not Elsewhere Classified

for the creation of each of such jobs, it would have helped the employers to add - up more than 264,000 jobs in the country. (Note: - The Council of Economic Advisors has estimated that \$92,000 in direct government spending creates one job-year, regardless of the sector of the economy. The US Department of Transportation, arguably the most knowledgeable government agency when it comes to transportation spending and the resulting job creation, states that an investment of \$35,941 creates

US have a large number of skilled Indian professionals working on non-immigrant work visas like H-1B and L-1. They make a significant contribution to the economy of

Uncle Sam. Unlike those European nations with whom US have already signed totalisation agreements, India does not have the same retirement benefit system. Therefore, when Indian nationals rejoin Indian corporate sector after coming back from US, they find that deductions made out of their paychecks in the yesteryears (when they were working in the US) were a complete waste of money for them. Moreover, discontinuance of working in India during those years further affects their retirement benefits adversely. Thus, inspite of contributing toward retirement schemes, they are deprived of its benefits in both the countries. ”

one infrastructure-related job. Therefore, based on the average of these two numbers, app. 65K can be assumed as an amount required investing in order to create one infrastructure related job).

For an economy, where the unemployment rate is still hovering around 9.2% and is encountering the worst economic recession since the great depression of 1930's with a loss of almost 4 million jobs over last ten years; this new job creation would have been a huge bonanza; now it is a lost opportunity. As the spine of America's manufacturing sector is the small business, it could have well resulted even in keeping the businesses floating during troubled water, which otherwise have shut down by now.

Therefore, to ensure that at least any of such new jobs creation potential does not go waste in the future and Social Security Administration does not enrich itself unjustly by keeping the money of those who will never take advantage of it when it will become due on them; it will be judicious for the country's think tank to execute totalisation agreement with India without any further delay.

Moreover, the decrease in Social Security and Medicare Tax payments will reduce the manufacturer's eventual cost of production too. As a consequence of which, it will provide them an edge over their overseas competitors in broadening their international market share by spreading these savings to the eventual selling price of the product.



Conclusion

An in-depth analysis of the facts of existing structure of retirement benefit schemes of USA as done above shows that it is detrimental to the interest of returning Indian nationals. The absence of totalisation agreement between India and USA is letting United States Social Security Authority enrich itself unjustly at the expense of returning Indian work force. Further, the US economy too is losing the potential of creating extra productive infrastructure jobs by applying the same principals of retirement schemes on returning Indian nationals. In other words, both India and the United States seem to have locked horns in lose-lose situation under the existing rules of the game.

Due to its emerging market, India has a big say in business with United States and is being recognised as an upcoming economic power. Over last couple of decades, India has successfully established herself as a major force in almost all spheres of business. All developed countries and superpowers reckon it. In today's business matrix at global level if someone still

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considers India as perished, it will be at his/her own peril only!

The absence of totalisation agreement with the United States has already costed app. \$26.47 billion to India over last decade. This amount represents app. 8.34% of India's estimated forex of \$317.50 billion as of 14th October 2011. For the sake of academic interest, just imagine if these \$26.47 billion had flowed in India during last decade, how much it would have impacted Indian Rupee in its strengthening against all major currencies of the world? Further, on looking at this number of \$26.47 billion; on an average, it would have been almost equal to one and a half year's FDI (Foreign Direct Investments). The inflow on account of FDI in India has been in the range of \$4 billion - \$35 billion per year over last decade.

A visit to India by US President also corroborates the fact that how much United States weighs India as its strategic partner in business. Probably the prevailing business environment is the best ever time to mount pressure on USA for the execution of totalisation agreement with US. Perhaps, no other working environment at ministry level would have been better than now to initiate a dialogue with the United States on this issue. India should take full advantage of the wind blowing in her favour. Afterall, it is old saying 'Make hay, when it is bright sunny day'!

Disclaimer: The authors of this paper are not immigration attorneys and the views pertaining to immigration to United States expressed hereinabove are entirely their personal views and should not be construed as legal advice on immigration matters. Consultation of immigration attorney for obtaining legal advice on the matter supra is recommended by the authors. By law only an attorney can provide legal advice in the United States.

Note: For detailed information on employment based immigration to USA, please refer to paper Employment based immigration to USA – A long haul! published in ICAI's September - 2008 issue by the authors of this article.

Using Business Intelligence (BI) Tools and Techniques¹

Data Indigestion and Information Starvation

It is estimated that the amount of private and enterprise data stored on computers is doubling every twelve to eighteen months. It is neither information technology nor the lack of information that holds enterprises back. Information systems today are producing more and more data for users resulting in data indigestion and information starvation. Data indigestion refers to the phenomenon in which enterprises are inundated with data at all levels, but cannot use it or understand its value. Information starvation refers to the phenomenon in which enterprises are unable to discover relevance in the information they have to work with. What is missing in many information systems is analytical information which can aid decision making and be a guide to users. Using technology, what the business leader requires is an information system which can turn data into decisions for creating a new landscape to chart the enterprise future and avoid being lost in the deluge of data. Information is no longer power, but relevant information applied to action is the key enabler for enterprises. Peter Drucker says: "What is important is not the tools but the concepts behind them". It is important to create a conceptual map of the information architecture of the enterprise so that using the right tools relevant information can be provided to the decision maker. Data Warehouses, Key Performance Indicators, CAAT Tools and Broad Based Digital Dashboards find place in the list of the top issues identified by CPAs in Public Accounting. Chartered accountants with their expertise in business processes supplemented with knowledge of BI tools and

techniques can provide greater assurance while auditing information systems and can also provide value added services.

What is Business intelligence (BI)?

Business Intelligence (BI) enables enterprises to harness the power of information. BI in simple words refers to the process of collecting and refining information from many sources, analysing and presenting the information in useful ways so that users can make better business decisions. BI has been made possible because of advances in a number of technologies, such as computing power, data storage, computational analytics, reporting and networking. There are many definitions of BI, but one of the most apt one is: "BI is essentially timely, accurate, high-value, and actionable business insights, and the work processes and technologies used to obtain them". BI provides an approach to solving business problems with a framework for managing tactical and strategic operations performance. From the perspective of decision-making, BI uses data about yesterday and today to facilitate making better decisions about tomorrow. This is done through various means such as selecting the right criteria to judge success, locating and transforming the appropriate data to draw conclusions, or arranging information in a manner that best provides insights into the future thus making enterprise to work smarter. BI enables managers to see things with more clarity, and empowers them to peek into the possible future. Traditionally, BI has been associated with data warehousing, but in the near future, it is expected that BI technology will be able, with increasing efficiency, to

reach out into the source systems, grab data, and transform what it finds into what it needs to perform its analysis. The key benefit of BI is the promotion of good decision-making habits at all levels which positively impacts enterprise performance. Research shows that BI continues to be the number one spending priority for Chief Information Officers.

Key BI Tools and Techniques

Simple reporting and querying: This involves using the data warehouse to get response to the query: "Tell me what happened." The objective of a BI implementation is to turn operational data into meaningful knowledge. This requires that BI must be connected with the enterprise data and all the necessary data is available in one place, in one common format. Data Warehousing (DW) provides the perfect architecture to combine all the data dispersed throughout the enterprise in different applications in a variety of formats, on a range of hardware, which could be anywhere to be converted into one common format and available centrally for further processing. DW is collection of data from multiple sources within the company and outside the company. It generally includes data relevant to the entire enterprise. The data could be summary data and historical data as well as current operational data. The data requires "cleaning" and other integration before use and is therefore stored in separate databases from current operational data.

Business analysis: This involves using the data to get response to the query: "Tell me what happened and why." Business analysis refers to presenting visualising data in a

¹ Contributed by **CA A. Rafeeq** (The author is a member of the Institute. He can be reached at rafeeq@vsnl.com.)

multidimensional manner. Query and report data is presented in row after row of two-dimensional data. Typically, the first dimension is the headings for the data columns and the second dimension is the actual data listed below those column headings. Business analysis allows the user to plot data in row and column coordinates to further understand the intersecting points.

Dashboards: This involves using the information gathered from the data warehouse and making it available to users as snapshots of many different things with the objective of getting response to the query: "Tell me a lot of things, but without too much effort". Dashboards are flexible tools that can be bent into as many different shapes as per user requirements. It includes a collection of graphs, reports, and KPIs that can help monitor such business activities as progress on a specific initiative.

Scorecards: This involves providing a visual representation of the enterprise strategy by taking critical metrics and mapping them to strategic goals throughout the enterprise. Scorecards offer a rich, visual gauge to display the performance of specific initiatives, business units, or the enterprise as a whole and the individual goals in the context of larger enterprise strategy. Scorecards distill information into a small number of metrics and targets and provide users with an at-a-glance perspective of information. A scorecard has a graphical list of specific, attainable strategic milestones, combined with metrics that serve as benchmarks. Specific measures on how well the company has actually performed specified activities are linked in the scorecard with graphical display highlighting the status of each goal.

Data mining or statistical analysis: This involves using statistical, artificial intelligence, and related techniques to mine through large volumes of data and providing knowledge without users even having to ask specific

questions. The objective is to provide interesting and useful information to users by design even without their querying. Data Mining involves data analysis for discovering useful patterns that are "hidden" in large volume of diverse data. For example: Market segmentation - identify common characteristics of customers who buy same products, Market Basket Analysis - identify what products are likely to be bought together and Insurance Claims Analysis - discover patterns of fraudulent transactions.

Implementing BI in Enterprises: Integrating Business with Technology

Technologies such as data warehousing, data-marting, data-mining, online analytical processing, three-tier client-server technologies, desktop navigation tools, search engines, etc. can consume data and produce information to anyone at anytime and anywhere. However, if these technologies are not effectively implemented, they can only cause information over-load producing only more irrelevant data at a faster pace. An effectively implemented BI can provide relevant information to the right people at the right time for the right managerial decision, thus actualising the dream of making data into decisions. BI is made possible on account of the massive computing power available today, but implementing BI is not just about buying the tools, but about creating the right culture dedicated to the principles and practices that make high-quality, usable insights possible. Using BI requires not only understanding how to use new tools, but also developing the perspective of asking the right what-if questions and using the answers in decision-making. The implementation of BI requires commitment from both business and technology with business managers providing a rational, measurement-based approach for setting strategy and running operations and the IT professionals supporting the BI culture. Successful implementation of BI requires ensuring that business

comes first and technology is second. BI with the right management culture will usher in system of evidence-based rational decisions with a clearer picture of the past and present based on analysed data.

Transitioning from Classical Pull Information to Emerging Push Key Insights

In its traditional role, BI relied on a pull environment. This requires users to go out and create queries, build reports, or view the standard reports created by someone else. Users always need data to do their tasks, and it's up to them to navigate through the query and reporting systems to get what they need. The latest generation of BI tools is moving more decisively to a push environment. With push technology, a designated power user assembles data on behalf of the user community and delivers it at critical moments. The underlying data is the same as in a pull environment, but the data "pusher" decides what data is important, the staff to whom it's important to, how it should be presented, and when that information should flow into the hands of the enterprise's critical teams.

Conclusion

BI tools and techniques enables users to derive business insights that are accurate, valuable, timely which can be used for effective decision making enabling employees to add value to the enterprise. Although BI tools are available in high end ERP software and also as specialised tools, it is important to remember that the concept of BI is present in most of the software in the form of reporting and querying tools. Chartered accountants during the course of their assignment for assurance and consulting can use the power of querying and reporting as relevant even in a limited way, as feasible. However, for those interested in providing BI implementation and consulting services, it is must to have good understanding of technologies, tools, processes, and trends that make up BI with the practical skills in using software. ■

□ Indirect Tax Reforms Not To Wait For GST

Without waiting any more for introduction of the much-debated Goods and Services Tax (GST), the Union Finance Ministry has decided to go ahead with indirect tax reforms, particularly those related to services. The ministry is planning to time the rollout of Place of Supply (PoS) rules with the negative list for services, to be put into force next year. PoS rules would specify which state should get tax in case production and consumption of services are distributed among several states or jurisdictions. The place of supply is where consumption of service takes place. In the proposed rules, tax arising out of consumption within a jurisdiction should accrue there. The ministry is in the advanced stages of finalising the draft rules and a discussion paper is likely to be put in the public domain soon. A final call will be taken after securing the finance ministers nod for announcing a negative list in the Budget. Once approved, both negative list and PoS rules may come into effect from 1st July next year. Two teams of the finance ministry, comprising a member of the Central Board of Excise & Customs, two joint secretaries and three directors, have just returned after studying the PoS rules and overall GST structure in New Zealand and Britain. This followed the September visit of the empowered committee of state finance ministers to Spain, France, Brussels and Luxembourg to study GST there. In the existing regime, the place of supply for services is not so relevant because these are only taxed by the central government and the place of taxation does not affect revenue receipts. Yet, the ministry believes having these rules early would prepare everyone for GST, under which the place of supply would directly affect a states revenue kitty. However, the PoS rules even outside a GST framework will hold significance in case of cross-border service transactions, currently governed by rules on export and import for services. PoS will replace these rules, to align these with the negative list of services. "Current export-import rules can't work under the negative list, where services won't be defined. We will withdraw those when PoS rules come...PoS is the logical progression, whether GST comes or not. Any VAT or GST system should stand on two legs. Time of Supply is one leg, which we introduced earlier this year, and PoS is another leg," a finance ministry official said. The official said PoS would help resolve many complicated issues such as supply of services to Jammu & Kashmir, which has a special status, and could otherwise be considered for exports; place of taxation in cases where multiple locations are used for a service; cases where a property is located abroad and services are provided by Indians; or services provided by a foreign telecommunications company to Indians.

(Source: <http://www.business-standard.com/india/>)

□ Now, Pay Income Tax through ATM

Paying income tax may now be as easy as paying your credit card or phone bill. Central Board of Direct Taxes has now enabled payment of taxes through ATMs of certain designated banks using the Online Tax Accounting System (OLTAS). These include — Corporation Bank,

Bank of Maharashtra, Union Bank of India, UCO Bank, Bank of Baroda, Oriental Bank of Commerce, Punjab and Sind Bank, Axis Bank, HDFC Bank, Indian Bank, Canara Bank, Punjab National Bank, Central Bank of India and Andhra Bank. The facility covers payment of advance tax, self-assessment tax as well as tax due after regular assessment. With this, the ATM will display the option of direct tax payment, on clicking which, details like PAN and heads of taxes will be shown. The assessment year and the amount will have to be entered on the ATM screen after which funds will be debited from the individual's account. The tax-payer will receive a printed acknowledgment as well as SMS on a successful transaction, said a press release from Chief Commissioner of Income Tax, Nagpur. A facility for issuing a tax receipt has been made at the card issuing bank too.

The tax-payers can get the facility for tax payment through a one-time registration process, which will be subject to normal process of checks to verify the person's credentials and other information submitted, the press release said.

(Source: <http://www.thehindubusinessline.com/>)

□ I-T Department Targets 'Forced Voluntary Disclosures'

Deciding against bringing in a Voluntary Disclosure of Income Scheme (VDIS), the income tax department has decided to use some force in this regard. A senior Central Board of Direct Taxes (CBDT) has said that the department had initiated an extensive exercise under which it was sending notices on money kept abroad on the basis of tips/leads from tax authorities in various countries and also transaction data over recent years. The idea is that we want to drive home the message about the I-T department getting ready to bite you, so pay the taxes due, he said. The Income-tax (I-T) Act had provisions to disclose hidden income and assets voluntarily, getting in return a waiver of penalty and also prosecution, he added. The officer declined to give details, but said work in this regard was on.

(Source: <http://www.business-standard.com/india/>)

□ IT Order to Reveal Finances to Info Seeker Stayed

An Income Tax Department's order, terming a religious Trust a "deemed public authority" for availing tax rebates and asking it to disclose its finances to a person under the transparency law, has been stayed by the Delhi High Court. A single-judge bench of Justice Vipin Sanghi stayed the order of the in-house IT appellate authority, mandated to deal with appeals under the Right to Information Act, on a plea by Shri Sai Bhakta Samaj, a religious trust managing the popular Sai Baba Temple at Lodhi Colony in South Delhi. The trust had contended in its appeal against IT appellate authority's order that it is out of the purview of RTI Act as it is not a public authority as the tax exemption cannot be treated as government funding and even if it is treated so, it is not substantial for rendering it a public authority.

(Source: <http://beta.profit.ndtv.com/news>)

■ **RBI Eases Share Transfer Rules to Woo Foreign Direct Investment**

Liberalising and rationalising the procedures and policies governing Foreign Direct Investment (FDI) in India, the Reserve Bank of India (RBI) has said transfer of shares between Indians and non-residents will not require its permission in several key areas such as financial services. The RBI permission has also been done away with for transfer of shares between residents and non-residents in cases where the Foreign Investment Promotion Board (FIPB) has already given its clearances and the Securities and Exchange Board of India (SEBI) guidelines are met. It said the RBI nod is not needed if the original and resultant investments are in line with the existing FDI policy and FEMA regulations in terms of sectoral caps, conditionalities such as minimum capitalisation, reporting requirements and documentation. However, the RBI has made it clear that the transactions will have to comply with SEBI regulations, FDI sectoral caps and the pricing guidelines as specified by the central bank.

(Press Trust of India)

■ **SEBI Wants MF Houses to Rope in More Brokers While Launching ETFs**

The securities market regulator, SEBI, has told fund houses to strengthen market making while launching exchange-traded funds (ETFs). The regulator wants fund houses to empanel more brokers as market makers and allot a larger trading book to them for creating liquidity on the exchange, mutual fund industry officials said. In the case of gold exchange-traded funds, the regulator wants asset management companies, or fund houses, to appoint more bullion traders who have exchange memberships as market makers. Exchange-traded funds require a strong exchange platform as they are traded on the exchanges intra-day. Market maker is usually a broker who buys or sells a particular stock or fund unit (in case of ETFs) on a regular and continuous basis at a publicly-quoted price. The market maker does spread trading, hoping to make a profit on the bid-offer spread, or strike a profitable buy or sell deal. According to executives in a few mutual funds, the regulator's move is aimed at boosting liquidity on the exchange and create more counter-parties for these products.

(Source: <http://www.hindustantimes.com>)

■ **HC Upholds Income Tax Department's View on Taxing Infosys for Onsite Services**

An old tax case has come back to haunt Infosys, the country's second-largest software company. In a ruling that backs the Income-Tax Department's claim of ₹100 crore, the Karnataka High Court has upheld the view of tax authorities that the work carried out by Infosys for clients overseas, from 1992-1993 to 1996-1997, is in the nature of 'technical services'. The judgement could have implications for the subsequent years as well and lead to substantial tax claims on Infosys, with similar ramifications for some of the other software exporters. Indian software exporters such as Infosys send their employees overseas

to work on client projects. In most cases, the employees work out of the client's premises. For a majority of Indian service providers, including Infosys, nearly half the revenue comes from work it does overseas, better known as onsite locations. The I-T department contended that gross export earnings from providing technical services were not eligible for tax exemption but only the net export earnings after deduction of expenses incurred in foreign exchange, such as salaries paid to these employees, under Section 80HHE. Under such arrangements while the client company abroad pays for every professional deputed, the Indian firm pays a regular salary and a daily allowance to each of them for all days spent abroad at the premises of the overseas client. "This issue of 80HHE has earlier been decided in our favour by ITAT. Infosys had contested the tax authorities claim that it was not in the business of providing technical services in the appellate tribunal. All along the company maintained that it is in the business of software development. The appellate tribunal ruled in favour of Infosys, following which the I-T department challenged the order in the Karnataka High Court.

(Source: <http://www.economictimes.com>)

■ **Mumbai Police Owes ₹ 85 Crore in Taxes**

No one, not even the police, can evade the long arm of the tax department. In an unexpected development, the Service Tax department of the Central Board of Excise and Customs has slapped a show-cause notice to the Mumbai police for non-payment of ₹85 crore in the form of service tax arrears. The department contended that the Mumbai police force collects large sums of revenue by providing police protection to eminent personalities and at public events -- but do not observe the practice of paying service taxes for any of their bills. According to the existing norms, even the Mumbai police is expected to pay 10% of the total charges billed to their customers as service tax, and the amount collected under the said heading is to be deposited with the Service Tax Department at regular intervals.

(Source: <http://timesofindia.indiatimes.com/>)

■ **Case against JPSI for 'Tax Evasion'**

The Formula One race organisers in India, Jaypee Sports International Ltd (JPSI), seem to have landed in trouble with a central revenue intelligence agency -- under the finance ministry -- booking a case against the organisers for evading payment of duties to the tune of ₹20 crore. The Directorate General of Central Excise Intelligence (DGCEI) has booked a case of duty evasion against the organisers of F1 race held in Greater Noida recently. The organisers had paid ₹200 crore to the F1 brand owners but DGCEI alleged they did not pay the 10% service tax on the remittance. Though, normally, the company receiving payment in lieu of services rendered deposits the levy, in this case since the company was not based in India, the obligation was on the organisers to deduct the tax and make payments, a senior finance ministry official said.

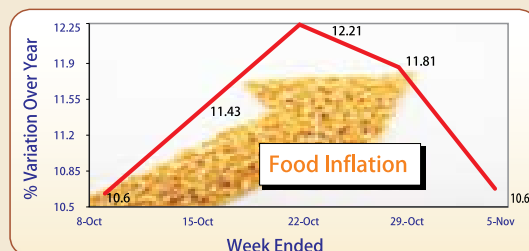
(Source: <http://www.indianexpress.com/>)

PENAL PROVISIONS FOR NON-COMPLIANCE OF CPE GUIDELINES IN VARIOUS COUNTRIES

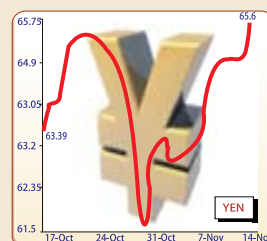
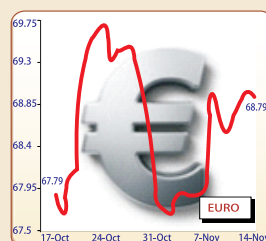
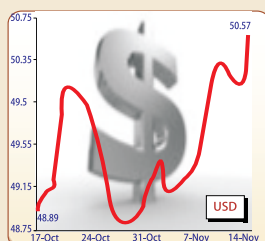
SI No.	Country/Board	Penal Provisions
1.	The Institute Of Chartered Accountants of Belize (Central America)	■ CPE Committee may allow a grace period for compliance. If subsequent to the grace period the member has still not complied, notification will be given in writing to the Investigations Committee for their consideration. A copy of this referral will be forwarded to the member. ■ If the Investigations Committee is of the opinion that a prima facie case for non-compliance with the CPE guidelines has been made out against the member, the matter will be referred to the Disciplinary Committee for further action in accordance with the Institute's By-laws. http://www.icab.bz/news/faqs-mainmenu-29/17-icac-continuing-professional-education-guidelines?start=5
2.	Japanese Institute of Certified Public Accountants (Japan)	■ When members fail to submit CPE reports, JICPA follows up by sending them a reminder. ■ JICPA members are required to earn forty credits a year. If he or she does not earn forty credits in a year, he or she has to earn extra credits in the following year(s). CPE credit completion for audit team members of Audit Corporations is an important review subject for the Quality Control Review. http://www.sec.gov/rules/pcaob/pcaob200303/jicpa062703.htm
3.	Institute of Chartered Accountants of Australia (Australia)	■ An FCPA or CPA Member who cannot provide evidence of sufficient CPD commitment may be reverted to ASA status. ■ An associate member may be suspended and referred to a one person tribunal, ultimately leading to the possible forfeiture of membership. http://www.cpaaustralia.com.au/cps/rde/xbcr/cpa-site/148853_My_CPD_Commitment_Update_WEB_0510.pdf
4.	The Institute of Chartered Accountants of Ireland (Ireland)	Continued or wilful failure to comply could result in you being excluded from membership. http://www.charteredaccountants.ie/CPD/Requirements/CPD-Guidance/
5.	Institute of Chartered Accountants of Scotland (Scotland)	Non-compliance of CPE guideline will lead to Financial Penalty http://www.icas.org.uk/site/cms/download/Regulation/RegComp_Annual_Review_2010.pdf
6.	The Institute of Chartered Accountants of Trinidad & Tobago	Membership Certificates will be withdrawn from members. In addition, Practising Certificates will be withdrawn from practising members. http://www.icatt.org/members-cpe.html
7.	Institute of Chartered Accountants of Jamaica (West Indies)	■ Persistent non-compliance (that is frequent non-compliance), suspension of registration of membership may be applied until this breach is corrected. ■ Chronic non-compliance (that is non-compliance with an attitude of intention not to comply), deregistration of membership will apply. ■ Such other disciplinary actions as the ICAJ may determine to be appropriate, which could involve a combination of the sanctions foregoing. http://www.icaaj.org/pdf/CPD%20Returns%20Guidelines1.pdf
8.	Institute of Internal Auditors Singapore (Singapore)	CPE reporting on or before the deadline by 30 th April 2011. Failing to comply, your certification status will be moved to "inactive". http://www.iaa.org.sg/
9.	Gulf Co-Operation Council Accounting & Auditing Organisation (Saudi Arabia)	■ Non-compliance with CPE requirements shall subject the member to penalties in accordance with the legal and regulatory rules adopted in member countries which may reach cancellation of membership. ■ Membership may be cancelled http://www.sra.org.uk/solicitors/cpd/solicitors.page
10.	Malaysian Institute of Accountants (Malaysia)	Members who fail to observe proper standards of professional conduct as set out in the by-laws may be required to answer a complaint before the Investigation and the Disciplinary Committees of the Institute. http://www.mia.org.my/new/faqs.asp
11.	Hong Kong Society of Accountants (Hong Kong)	Council shall refuse a member's application to renew his/her registration as a CPA if the member fails to comply with the CPD requirements as set down by the Council. http://app1.hkicpa.org.hk/membership/cpd/mandatory/FAQ_05.php
12.	The Institute of Chartered Accountants of Pakistan (Pakistan)	Non-compliance of CPD Directive will be reviewed by the CPD Committee and if deemed appropriate the matter may be referred to the Executive Committee. http://www.icap.org.pk/web/links/11/faqs.php#q4
13.	New Mexico Public Accountancy Board	■ Although a plan of action may be approved immediately upon receipt, the board reserves the right to levy a fine at a later date for late CPE of \$10.00 per day not to exceed \$1,000. ■ The board may waive this fine for good cause. ■ If all CPE requirements are not met within 90 days beyond the expiration date of the license, the license shall be subject to cancellation.
14.	The Canadian Institute of Chartered Accountants (Canada)	A member who is non-compliant with the CHIMA mandatory CPE policy will be decertified. https://www.echima.ca/continuing-education
15.	The Institute of Internal Auditing Switzerland	The Institute of Internal Auditing Switzerland automatically places a CIA in inactive status when the CIA fails to meet established CPE requirements. CIAs in the inactive status may not use the CIA designation. Any wrongful use of the CIA designation will be reported to the IIA's Ethics Committee for disciplinary action. http://www.svir.ch/fileadmin/downloads/education/cia/E_Anforderungen_CPE.pdf

SI No.	Country/Board	Penal Provisions
16.	China	Members may be removed from the register of members. http://www2.accaglobal.com/members/cpd/review/
17.	Institute of Chartered Accountants of Sri Lanka	Members who have not complied with the CPD requirements will be given an additional time frame of six months to comply. Persistent non compliance after being reminded by the CPD Secretariat, whether deliberate or unintentional, may be subject to disciplinary action. http://www.icasrilanka.com/Logins/Members/CPD_Handbook.pdf
18.	Certified General Accountants Association of British Columbia	Members who appear to be non-compliant with the CPD Requirements will go through a formal process involving a complaint, followed by an investigation and, if the member is found in breach, a resulting discipline actions is to be taken like imposing fines. http://www.cga-bc.org/members.aspx?id=5942
19.	New Mexico	(1) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action. (2) Non-compliance will be subject to a minimum \$250.00 fine and any other penalties deemed appropriate by the board as permitted by Section 20B of the act. http://www.bestcpe.com/course_states/new_mexico.htm
20.	Barbados	Graduate members must complete the minimum CPD requirements to transfer to corporate membership. ■ Corporate members who fail to meet the minimum CPD requirements will be invited to an interview with the CPD Sub-committee and an interim arrangement will be designed specifically for that member. Interim arrangements will be designed on a case by case basis. ■ Corporate members who blatantly reject the CPD program will be recommended for de-registration.
21.	The Oregon Board of Accountancy	16-hour CPE penalty. Licensees who submit an application for renewal of a permit and who have not complied with the CPE requirements are required to complete and report an additional 16 hours of qualifying CPE. http://arcweb.sos.state.or.us/rules/OARS_800/OAR_801/801_040.html
22.	Texas State Board of Public Accountancy	The license automatically revoked without prejudice and without further notice and hearing. http://www.soah.state.tx.us/pfdsearch/pfds/457%5C11%5C457-11-3190-pfd1.pdf
23.	Minnesota Board of Accountancy	"Failure to report CPE, failure to obtain CPE required by this part, reporting of an amount less than that required, or fraudulently reporting CPE is a basis for disciplinary action under Minnesota Statutes, Section 326A.08. A licensee not in compliance with this part on 30 th June of each year shall be assessed a late processing fee of \$50 for the first month, or partial month, of noncompliance and \$25 per month, or partial month, of noncompliance thereafter until the date the licensee is in compliance with this part and provides documentation of compliance in writing to the board." http://www.boa.state.mn.us/Licensing/licensees.aspx
24.	Casualty Actuarial Society (Virginia, US)	CAS members who are listed as Non-Compliant with the CAS Continuing Education policy may be subject to administrative and other penalties (fines). http://www.casact.org/education/index.cfm?fa=ceinfo
25.	Tennessee State Board of Accountancy	(1) A penalty of eight (8) additional CPE hours will be assessed against license holders for each year they fail to meet the twenty (20) hour one (1) year minimum required by Rule 0020-5-.03 unless an extension of time is granted by the Board. (2) A penalty of eight (8) additional CPE hours will be assessed against those license holders who fail to meet the eighty (80) hour two (2) year minimum required by Rule 0020-5-.03 unless an extension of time under 0020-5-.07 is granted by the Board. (3) Any penalty assessed under this rule shall be completed within one hundred eighty (180) days of the end of notification of the deficiency. http://www.tennessee.gov/sos/rules/0020/0020-05.pdf
26.	Connecticut State Board of Accountancy	You are in non-compliance if you do not complete at least 40 hours of acceptable CPE by 30 th June: ■ If you earn 40 hours CPE after 30 th June, 2010 and on or before 30 th September, 2010 you must pay a CPE late fee of \$315 along with the renewal fee. ■ If you earn 40 hours of CPE after 30 th September, 2010 and on or before 31 st December, 2010 you must pay a late fee of \$625 along with the renewal fee. ■ If you have not earned or will not earn your 40 hours of CPE by 31 st December, 2010, you must contact Board legal counsel at (860) 509-6183. http://www.ct.gov/sboa/cwp/view.asp?a=2184&Q=295714&sboaNav=%7C
27.	Institute of Chartered Accountants of England & Wales	You must make you annual CPD declaration for the preceding year before 31 st January. This is a requirement of membership and failure to do so may result in disciplinary action. http://www.icaew.com/en/members/cpd/make-a-cpd-declaration
28.	New Zealand	Members who repeatedly fail to satisfy NZICA's CPD requirements may be referred to the Professional Conduct Committee.
29.	The Institute of Chartered Accountants of Nepal (Nepal)	Failure in complying with the requirements of CPE Credit during a financial year will result in non renewal of the COP.
30.	South Africa	Any registered person who willfully refuses to undertake CPD activities or comply with the CPD conditions is guilty of improper conduct and provisions of Sections 27(3), 28, 29, 30, 31, 32 and 33 of the Act shall apply. Disciplinary actions are to be taken against them. http://www.sacapsa.com/sacap/action/media/downloadFile?media_fileid=422

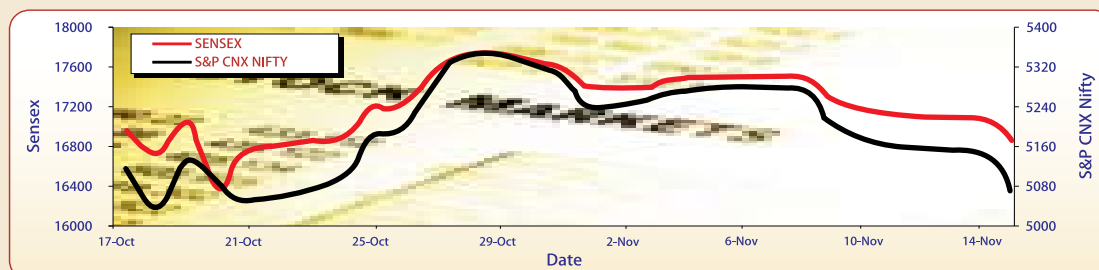
Economic Indicators



Indian Rupee vs. Major Foreign Currencies (October 16, 2011 to November 15, 2011)



Stock Markets



Selected Indicators

(per cent per annum)

Item	2010	2011					
	Oct.29	Sep.23	Sep.30	Oct.7	Oct.14	Oct.21	Oct.28
Cash Reserve Ratio ⁽¹⁾	6.00	6.00	6.00	6.00	6.00	6.00	6.00
Bank Rate	6.00	6.00	6.00	6.00	6.00	6.00	6.00
Base Rate ⁽²⁾	7.50/8.50	10.00/10.75	10.00/10.75	10.00/10.75	10.00/10.75	10.00/10.75	10.00/10.75
Deposit Rate ⁽³⁾	7.00/8.00	8.50/9.25	8.50/9.25	8.50/9.25	8.50/9.25	8.50/9.25	8.50/9.25
Call Money Rate (Weighted Average) ⁽⁴⁾	6.96	8.25	8.27	8.00	8.27	8.26	8.40

Notes: (1) Cash Reserve Ratio relates to Scheduled Commercial Banks (excluding Regional Rural Banks).

(2) Base Rate relates to five major banks since 1st July, 2010. Earlier figures relate to Benchmark Prime Lending Rate (BPLR).

(3) Deposit Rate relates to major banks for term deposits of more than one year maturity.

(4) Data cover 90-95 per cent of total transactions reported by participants. Call Money Rate (Weighted Average) is volume-weighted average of daily call money rate for the week (Saturday to Friday).

Readers are Invited to contribute write-ups or any relevant and interesting piece of information for this feature at ebboard@icai.org.

ACCOUNTANT'S BROWSER

'PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE'

Index of some useful articles taken from Periodicals/Newspapers received during Oct.- Nov. 2011 for the reference of Faculty/Students & Members of the Institute

1. ACCOUNTING

Accounting Fraud at CIT Computer Leasing Group, Inc. by Jeffrey E. Michelman, etc. *Issues in Accounting Education*, Vol.26/3, 2011, pp.569-591.

Enforcing Financial Reporting Standards: The Case of White Pharmaceuticals AG by Henning Zulch & Dominic Detzen. *Issues in Accounting Education*, Vol.26/3, 2011, pp. 619-632.

2. AUDITING

Effective Audit Supervision by Chris Dogas. *Internal Auditor*, Oct. 2011, pp.55-57.

Relevance of Audit Reports by Anil J. Sathe. *BCAJ*, Oct. 2011, pp.5-6.

3. ECONOMICS

Impact of Global Financial Crisis on Financial Consumers: Global & Indian Perspective on Need for Consumer Protection- Role of Ombudsmen by K.C. Chakrabarty. *RBI Bulletin*, Oct. 2011, pp.1671-1676.

Monetary Policy Dilemmas: Some RBI Perspectives by Duvvuri Subbarao. *RBI Bulletin*, Oct. 2011, pp. 1655-1662.

Monetary Policy Response to Recent Inflation in India by Deepak Mohanty. *RBI Bulletin*, Oct. 2011, pp. 1681-1687.

Performance of Private Corporate Business Sector: 2010-11 by Department of Statistics & Information Management. *RBI Bulletin*, Oct. 2011, pp. 1697-1715.

Towards Making Right to Information Act More Meaningful by V. S. Das. *RBI Bulletin*, Oct. 2011, pp.1677-1680.

The Sustainable Economy by Yvon Chouinard, etc. *Harvard Business Review*, Oct. 2011, pp.52-62.

4. EDUCATION

An Assessment of the Expansion of Higher Education in India by Renu Batra & Shakeel Ahmad. *University News*, Oct. 24-30, 2011, pp.1-9.

Inclusion of ICTs in Higher Education: Technology Literacy for Today & Tomorrow by Seema Jain. *University News*, Oct. 10-16, 2011, pp.11-16.

5. LAW

Cross Border Insolvency in the Light of the Companies Bill, 2009 by Vinita Choudhury & Mansi Tewari. *Company Law Journal*, Vol.4, 2011, pp.10-34.

A Stronger Partnership by Neil Baker. *Internal Auditor*, Oct. 2011, pp.32-36.

6. MANAGEMENT

Causal Disclosures on Earnings & Earnings Management in an IPO setting by Walter Aerts & Peng Cheng. *Journal of Accounting & Public Policy*, Sep.-Oct. 2011, pp. 431-459.

Realistic Retirement: When Planning for Your Golden Years & Sustainable Retirement Income, There is Fantasy & Then There's Reality by Jim C. Otter. *CA Magazine*, Nov. 2011, pp.34-37.

7. TAXATION & FINANCE

Business Restructuring – Implications U/S. 56 (2) (VIA) by Nanda Shah. *BCAJ*, Oct. 2011, pp.15-19.

Cross-border Secondments – Tax Implications by Mehul Turakhia. *BCAJ*, Oct. 2011, pp.9-14.

Tax Schemes & Aggressive Tax Planning by Graham Tubb & Tracey Lloyd. *Chartered Accountants Journal*, Oct. 2011, pp.28-29.

Full Texts of the above articles are available with the Central Council Library, ICAI, which can be referred on all working days. For further inquiries please contact on 011-23370154 or by e-mail at library@icai.org

ICAI
invitation
for
PARTICIPATION



ICAI AWARDS 2011

10th December, 2011
Bangalore Palace, Bangalore

for details please visit :
http://icai.org/forum/awards_bg.html



Chairman of the Jury
Shri N. R. Narayana Murthy,
Chairman Emeritus, Infosys Ltd.



Organised by:
Committee for Members in Industry
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

For details contact:
CA. K. Raghu, Chairman, CMII of ICAI, Email: cmii@icai.in
Official Contact:
Dr. Surinder Pal, Secretary, CMII ♦ Tel: +91 (11) 30110555/491/430
Email: service_mii@icai.in, cmii@icai.in
Website: www.icai.org, www.cmii.icai.org

ICAI
invitation
for
PARTICIPATION



financial services EXPO

9th and 10th December 2011

Hotel Lalit Ashok, Bangalore



INVESTMENT AND BUYING OPTIONS FOR THE DISCERNING INVESTOR

An exhibition to showcase financial and investment products and services to Chartered Accountants, Corporate leaders and decision makers.

WHY PARTICIPATE?

Financial Services Expo is organized as a part of the Corporate Forum, a platform where Chartered Accountants and Corporates from all over India would mark their presence. This would enable various organizations ranging from Banking, Insurance, Mutual Funds, Capital Markets, Real Estate, Information Technology products and services and other technological products to interact with Chartered Accountants, Investors, Finance fraternity, and Corporate Decision Makers.

Chartered Accountants in today's Corporate scenario are the major financial advisors. They have the complete understanding of the latest market trends as they have with them a thorough training blended with analytical approach and research of years.

Being at the event in the midst of all these key decision makers would provide your company with a big business opportunity as these Chartered Accountants play an important role in the decision making process with their vast knowledge of Finance, Accounting and Market understanding.

EXHIBITORS PROFILE

The participation is restricted to the first 50 companies from the following sectors

- Banking
- Insurance
- Mutual Funds
- Capital Market
- Real Estate
- Information Technology
- Software development
- Other Tecnological Products.

Invitations would be sent to over 1,50,000 Chartered Accountants in Industry or in practice as well as leading decision makers from the Corporate world.

PAYMENT TERMS

All payments accepted by way of Cheque / Demand Draft in favour of 'The Secretary, The Institute of Chartered Accountants of India' payable at New Delhi.

PARTICIPATION FEES

Rs. 2, 00,000/- + 10.3% Service Tax
for two days i.e. 9th and 10th December 2011

THE PACKAGE WOULD INCLUDE

Fully furnished booth to each Company: 9 sq. mtr. (approx. 100 sq. ft.)

Facilities: Fascia, table with 2 chairs, lighting, plug point etc.

Two Complimentary invitations to the ICAI Awards 2011 function to be held on 10th December 2011 at Bangalore.



For Details Contact

CA. K. Raghu, Chairman, CMII of ICAI
Tel: +91 (11) 30110491 | Email: cmii@icai.in

Mr. Jagadish Kumar NS, Assistant Secretary, Bangalore
Contact No. +91 (80) 30563500, 09342732548, Email: bangalore@icai.org, dcobangalore@icai.org, Jagadish.ns@icai.org

OR

Dr. Surinder Pal, Secretary, CMII
Contact No.: 011-30110430, Email: cmii@icai.in, service_mii@icai.in, mii@icai.in

ICAI invitation for PARTICIPATION



CAREER ASCENT MID CAREER CAMPUS

9th December 2011

Hotel Bangalore International, Bangalore



OBJECTIVE

As a measure to develop employment opportunities for Chartered Accountants, Committee for Members in Industry (CMII) of The Institute of Chartered Accountants of India (ICAI) has been successfully organizing placement programmes twice a year for Newly Qualified Chartered Accountants, wherein prospective employers and new members interact and explore the possibility of taking up employment careers in various organisations.

Career Ascent is a step ahead as an extension to the same programme but with a different objective. It aims at providing the experienced Chartered Accountants with a platform to assess their potential and refinement in work, which they have acquired during their working tenure.

CAREER ASCENT – A GREAT ADVANTAGE FOR CORPORATES

If you are looking for complete business solution provider, then end your search by participating in Career Ascent for experienced Chartered Accountants, wherein you would have access to a vast database of Chartered Accountants.

ELIGIBILITY OF CANDIDATES FOR CAREER ASCENT-MID CAREER CAMPUS

Chartered Accountants who have 1 year or more than one year of Industry experience, passed C.A. final examination on or before May, 2010 and having the membership of Institute as on 31st October, 2011 are eligible to participate. Also the members who have got placements through the placement programmes organized by the Institute between 01.11.2010 to 31.10.2011 are not eligible to apply.

Campus Interview Dates

Centre	Last Date of Registration for Companies Upto 05:00 PM	Last Date of Short-listing by Companies Upto 11:00 PM	Consent sending by Candidates Upto 11:00pm	Interview Dates
Bangalore	1 st December, 2011	5 th December, 2011	6 th - 7 th December, 2011	9 th December 2011

Participation Fees for Career Ascent

For Organisations other than Firms of CAs	For Firms of CAs
Rs. 1,50,000/- + Service Tax @ 10.3%	Firms with more than 10 partners: Rs. 1,50,000/- + Service Tax @ 10.3%
	Firms with less than 10 partners: Rs. 1,20,000/- + Service Tax @ 10.3%

ICAI

invitation

for

PARTICIPATION

for details please visit

<http://icai.org/forum/gulf.html>



GULF CAMPUS

10th December, 2011

Bangalore



OBJECTIVE

The Committee for Members in Industry (CMII) of The Institute of Chartered Accountants of India (ICAI) provides opportunity to the employers to interact with Members and Newly Qualified Chartered Accountants through its Campus Placement Programme.

Gulf Campus Placement Programme is a step ahead as an extension to the same programme but with a different objective. CMII is organizing a separate Placement Programme through video conferencing mode for Chartered Accountants. Chartered Accountants are getting placed not only within the country but are also taking up jobs abroad. Many CAs are providing their services to the organizations in GCC and Middle East. To facilitate employment for Chartered Accountants in the GCC, CMII of ICAI is organizing Gulf Campus Placement Programme.

This programme would enable the corporates working in Gulf Council Countries (GCC) to recruit Chartered Accountants through video conferencing mode from Bangalore.

GULF CAMPUS – A GREAT ADVANTAGE FOR CORPORATES FROM GULF COUNCIL COUNTRIES (GCC)/MIDDLE EAST

Corporates working in Gulf Council Countries (GCC)/ Middle East can now end their search by participating in Placement Programme wherein they would have access to a vast database of Chartered Accountants of The Institute of Chartered Accountants of India.

The event would provide an opportunity to companies to select Chartered Accountants as per their requirement criterion.

ELIGIBILITY OF CANDIDATES FOR GULF CAMPUS

Chartered Accountants who have 1 year or more than one year of Industry experience, passed C.A. final examination on or before May, 2010 and having the membership of Institute as on 31st October, 2011 are eligible to participate. Also the members who have got placements through the placement programmes organized by the Institute between 01.11.2010 to 31.10.2011 are not eligible to apply.

Organised by:

Committee for Members in Industry

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

For details contact:

CA. K. Raghu, Chairman, CMII of ICAI, Email: cmii@icai.in

Official Contact : Dr. Surinder Pal, Secretary, CMII or
Mr. Ajeet Nath Tiwari, Placement Coordinator CMII of ICAI
Tel: +91 (11) 30110548/450/430

Email: placements@icai.in, mii@icai.in, campus@icai.in,
Website: www.icai.org, www.cmii.icai.org

ICAI
invitation
for
PARTICIPATION



Corporate Conclave

9th & 10th December, 2011

Hotel Lalit Ashok, Bangalore



12 CPE Hours

CORPORATE CONCLAVE – Two Day National Convention

Committee for Members in Industry jointly with Direct Taxes Committee, Indirect Taxes Committee and Committee on International Taxation of ICAI

Hosted by: Bangalore Branch of SIRC of ICAI

Date & Time	Venue
Friday, 09 th & Saturday, 10 th December 2011	Hotel Lalit Ashok, Kumara Krupa, Highgrounds, Bangalore - 560001
Day – 1 Friday, 09 th December 2011	
Timings	Topics to be discussed
Inaugural Session - 09:30 AM to 10:45 AM	
Technical Session I 11:00 AM to 01:30 PM	Direct Taxes - Contemporary Issues in Business Deductions-CA. Dr.Girish Ahuja, New Delhi - Tax implications of Real Estate Transactions-CA. Chetan Karia, Mumbai
1:30 PM to 02:30 PM	Lunch
Technical Session II 02:30 PM to 05:30 PM	Information Technology XBRL - New reporting requirements for Corporates-CA. Gargi Ray, Bangalore
	Indirect Taxes - VAT K-VAT - Recent Issues-CA. Venkatramani, Bangalore

Day – 2 Saturday, 10th December 2011

Timings

Technical Session III
10:00 AM to 01:00 PM

Topics to be discussed

International Taxation

- Outward Remittances - Tax deduction and other Issues-CA. Padamchand Khincha, Bangalore
- Transfer Pricing - Issues and Trends-CA. Vispi.T. Patel, Mumbai

Indirect Taxes

- Service Tax – Issues in-Point of Taxation Rules and Cenvat Credit Rules-CA. A.R.Krishnan, Mumbai

1:00 PM to 02:00 PM

Lunch

Technical Session IV

2:00 PM to 05:00 PM

Corporate Laws and Accounting Standards

- Ind AS Applicability and Future-CA. Amarjit Chopra- Past President,ICAI, New Delhi
- Revised Schedule VI - Issues in Reporting-CA Himanshu Kishnadwala

Programme Chairmen

CA. K.Raghu	- Committee for Members in Industry
CA. Sanjay K. Agarwal	- Direct Taxes Committee
CA. Bhavna G. Doshi	- Indirect Taxes Committee
CA. Mahesh P. Sarda	- Committee on International Taxation

Fee: Members: Rs 3,000/- Non Members: Rs 4,000/-

Fee includes: Course material, Morning tea, Lunch and Evening tea.

One complimentary invitation to ICAI Awards 2011 to be held in the evening of 10th December, 2011 at Bangalore.

Payment Terms:

Payment should be made by Cheque / DD in favour of "The Institute of Chartered Accountants of India" payable at Bangalore and should be sent to – Bangalore Branch of SIRC of ICAI, The Institute of Chartered Accountants of India 'ICAI BHAWAN', 16/0, Millers Tank Bed Area, Bangalore - 560 052. E-mail- cmii@icai.in, dcobangalore@icai.org Telephone: +91(80) 30563541.

For Registration :

At New Delhi

Dr. Surinder Pal
Secretary,CMII
011- 30110491/549,
cmii@icai.in,service_mii@icai.in

At Bangalore

Mr. Jagadish Kumar NS
Assistant Secretary
080-30563541,
dcobangalore@icai.org



For details contact:

CA. K. Raghu, Chairman, CMII,011- 30110491/549, cmii@icai.in,service_mii@icai.in

CA. Venkatesh Babu T R -Chairman -Bangalore Branch of SIRC of ICAI, 080-30563541, dcobangalore@icai.org

COUNCIL GUIDELINES FOR CONVERSION OF CA FIRMS INTO LLPS

(Guidelines No.1-CA (7)/03/2011, dated 4th November, 2011)

In terms of the Council decision dated 14 July, 2011, following guidelines for conversion of CA firms into LLPs and constitution of separate LLPs by the practicing Chartered Accountants have been finalized which are applicable for conversion of CA firms into LLPs or formation of new LLPs by the members in practice of the Institute subject to the provisions of the Limited Liability Partnership (LLP) Act, 2008 and Rules & Regulations framed there under:-

(A) Conversion of CA firms into LLPs

1. All existing CA firms who want to convert themselves into LLPs are required to follow the provisions of Chapter-X of the Limited Liability Partnership Act, 2008 read with Second Schedule to the said Act containing provisions of conversion from existing firms into LLP.
2. In terms of Rule 18(2) (xvi) of LLP Rules- 2009, if the proposed name of LLP includes the words 'Chartered Accountant' or chartered Accountants, as the case may be, as part of the proposed name, the same shall be referred to the Institute of Chartered Accountants of India (ICAI) by the Registrar of LLP and it shall be allowed by the Registrar only if the Secretary, ICAI approves it.
3. If the proposed name of LLP of CA firm resemble with any other non-CA entity as per the naming Guidelines under LLP Act and its Rules, the proposed name of LLP of CA firms may include the word 'Chartered Accountant' or 'Chartered Accountants', as the case may be in the name of the LLP itself and the Registrar, LLP may allow the same name, subject to compliance to Rule 18(2) (xvi) of LLP Rules as referred above.
4. For the purpose of registration of LLP with ICAI under regulation 190 of the Chartered Accountants Regulations, 1988, the partners of the firm shall apply in ICAI Form No. '117' and the ICAI Form No. '18' along with copy of name registration received from the Registrar of LLP and submit the same with the concerned Regional office of the ICAI. These Forms shall contain all details of the officers and other particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
5. The names of the CA firms registered with the ICAI shall remain reserved for the partners as one of the options for LLP names subject to the provisions of LLP Act, Rules and Regulations framed there under.
6. The following guidelines relating to seniority and other criteria shall be followed for registration of LLP with ICAI.
 - (i) Where two similar or identical or nearly similar firm names (whether the partners of such firms are same or not) have been registered by ICAI, under the purposed LLP, only one such firm name shall be approved and remaining firm registered with ICAI, either desires to convert into LLP or not, a change in the firm name shall be required.
 - (ii) The name of the LLP may be like 'X & Co. LLP' or 'X & Associates LLP' and no other suffix shall be approved and registered by ICAI.
 - (iii) The newly converted CA LLPs registered with ICAI shall be allowed to work only in terms of Section 2(2) of the Chartered Accountants Act, 1949 and the object of LLP to be incorporated in Form-2 and Form 17 of the LLP rules, 2009 or in LLP agreement, shall be in the nature of Professional Services allowed under Section 2(2) of the Chartered Accountants Act, 1949. LLP shall be subject to the same regulations, as if they were in partnership firm. Mere conversion into LLP does not give any privileges, which were not earlier with the CA firms.
 - (iv) Inter-se seniority among the firms shall be given to LLP as per existing policy of ICAI. In other words, LLPs shall carry the same seniority, as the firm shall otherwise have under the existing policy of ICAI. In case of merger of 2 LLPs, same rules as applicable to firms merging shall apply.
 - (v) The non converted firms shall also remain on the same position of seniority in relation to converted LLPs as the converted LLPs shall have the same inter-se seniority as the firms had earlier to conversion.
7. These guidelines of conversion of CA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act, Rules and Regulations framed there

under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.

8. The registration number (with minimum 6 numbers) of LLP with ICAI, shall remain the same Firm Registration Number (FRN) allotted to the firm before the conversion by ICAI with the Regional Code like 'W' for Western, 'E' for Eastern, 'S' for Southern, 'N' for Northern and 'C' for Central Region as under:-

Region Code

FRN	W	1	2	3	4	5	6
FRN	S	2	0	0	0	0	0
FRN	E	3	0	0	0	0	0
FRN	C	4	0	0	0	0	0
FRN	N	5	0	0	0	0	0

9. Introduction of LLP, shall not affect the existing regulations in force as regards the name allotment to chartered accountants firms.
10. In case there is a merger of a firm and conversion with LLP and vice-versa, seniority may be provided to the surviving entity as per policy as per **Annexure 'A'*** attached herewith.
11. The provisions of CA Act, 1949, Chartered Accountants Regulations, 1988 and Code of Ethics issued by ICAI shall be applicable to all partners of the converted CA firms into LLP jointly and severally.
12. The following Guidelines are subject to the clarification from Ministry of Corporate Affairs (MCA), Govt. of India, New Delhi:
- Wherever the existing partnership firm have been appointed as statutory auditor of any company after following the due procedure under the Companies Act, 1956 and the said firm with the same partners is converted/formed into LLP, then the same FRN will continue and the Board of Directors of the Company may take on record the conversion/formation of the CA firms into LLP and the new LLP shall be deemed to be an Auditor of the said company for the said financial year in terms of Section 58(4) of the LLP Act, 2008.
 - Wherever more than one partnership firms with all the partners desire to convert/ form only one LLP, in that case the name and FRN may be selected of only one of such firms for the purpose of registration with ICAI and;

- The other such firms shall stand dissolved.
- Seniority shall be decided as per applicable rules of ICAI.
- The Board of Directors of all the Companies who have appointed all the erstwhile firms as auditors, may take a declaration from the said LLP with all the partners of all the erstwhile firms on record and the appointment of auditors of all the erstwhile firms made under the Companies Act, 1956, shall be deemed to be in the name of the said LLP.

(B) Constitution of separate LLPs

13. All members of ICAI in practice who want to constitute separate LLPs are required to follow the provisions of the Limited Liability Partnership Act, 2008 read with the Rules framed there under.
14. In terms of Rule 18(2) (xvi) of LLP Rules- 2009, if the proposed name of LLP includes the words 'Chartered Accountant' or chartered Accountants, as the case may be, as part of the proposed name, the same shall be referred to the ICAI by Registrar of LLP and it shall be allowed by the Registrar only if the Secretary, ICAI approves it.
15. For the purpose of registration of LLP with ICAI under regulation 190 of the Chartered Accountants Regulations, 1988, the partners of the firm shall apply in ICAI Form No. '117' and the ICAI Form No. '18' along with copy of name registration received from the Registrar of LLP and submit the same with the concerned Regional office of the ICAI. These Forms shall contain all details of the officers and other particulars as called for together with the signatures of all partners or authorized partner of the proposed LLP.
16. The following guidelines relating to seniority and other criteria shall be followed for registration of LLP with ICAI.
- Inter-se seniority among the firms shall be given to LLP as per existing policy of ICAI. In other words, LLPs shall carry the same seniority, as the firms shall otherwise have under the existing policy of ICAI. In case of merger of two LLPs, same rules, as applicable to firms merging, shall apply.
 - The name of the LLP may be like 'X & Co. LLP' or 'X & Associates LLP' and no other suffix shall be approved and registered by ICAI.

(* For further details please visit the website of ICAI, i.e. www.icaai.org)

- (iii) The newly constituted CA LLPs registered with ICAI shall be allowed to work only in terms of Section 2(2) of the Chartered Accountants Act, 1949 and the object of LLP to be incorporated in Form-2 and Form 17 of the LLP rules, 2009 or in LLP agreement, shall be in the nature of Professional Services allowed under Section 2(2) of the Chartered Accountants Act, 1949. LLP shall be subject to the same regulation, like the partnership firms. Mere conversion into LLP does not give any privileges, which were not earlier with the CA firms.
17. These guidelines of conversion of CA firms into LLP shall also be applicable to the conversion of proprietary firm into LLP subject to the provisions of LLP Act, Rules and Regulations framed there under. The conversion of proprietary firm shall be by way of incorporation of new LLPs.
18. The registration number (with minimum 6 numbers) of LLP with ICAI, shall be like the Firm Registration Number being allotted to the firms by ICAI with the Regional Code like 'W' for Western, 'E' for Eastern, 'S' for Southern, 'N' for Northern and 'C' for Central Region .
19. Introduction of LLP, shall not affect the existing regulations in force as regards Name allotment to chartered accountants firms.
20. The provisions of CA Act, 1949, Chartered Accountants Regulations, 1988 and Code of Ethics issued by ICAI shall be applicable to all partners of the LLP jointly and severally.
21. In case of any dispute in respect of these guidelines, the same shall be referred to the committee of the Institute and the decision of that committee shall be final and binding on the members of the Institute.
22. For the purpose of any clarification regarding the approval and registration of proposed LLP with the ICAI, the requests can be sent at the following address:-
- The Secretary
The Institute of Chartered Accountants of India
P.B No: 7100, "ICAI Bhavan", Indraprastha
Marg
New Delhi – 110002
23. These Guidelines shall come into force w.e.f. 4th November, 2011. ■



Expert Advisory Committee of The Institute of Chartered Accountants of India

The fast changing and immensely competitive environment often calls upon organisations to enter into complex business deals and transactions where accounting practices and norms are not yet settled. In such situations, accounting for transactions and auditing thereof becomes a difficult task. This gives rise to the need for authoritative guidance on such matters. The Expert Advisory Committee (EAC) of the Institute of Chartered Accountants of India fits into the role of giving such authoritative guidance in the form of Opinions on matters relating to application and implementation of accounting and auditing standards and other pronouncements comprising generally accepted accounting and auditing principles under peculiar and intricate situations. Over a period of time, EAC's role has become widely acknowledged with members in practice and industry alike increasingly seeking the services of EAC to unravel wide array of issues and complex problems while discharging their duties, such as preparation and presentation of financial statements, reconciling the views of

auditors, management, various stakeholders and authorities, etc.

Opinions can be obtained from the EAC on payment of nominal charges of ₹25,000/₹10,000 (₹50,000/₹20,000 proposed) as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. The Rules can also be obtained from the Institute's Head Office at New Delhi. For further information, Secretary, Expert Advisory Committee can be contacted through e-mail at eac@icai.org.

For the benefit of the members, EAC also regularly publishes Compendium of Opinions where the opinions finalised during a year are published in a volume of the Compendium. So far, EAC has released 28 volumes of the Compendium. A CD of 'Compendium of Opinions' containing more than 1000 opinions issued up to January 2009 has also been released by the Committee. All these publications of the Committee are available for sale at the Institute's Office at New Delhi and its Regional Council Offices at Mumbai, Chennai, Kolkata and Kanpur.



Empanelment of Chartered Accountant firms for the year 2012-2013

Applications are invited *online* from the firms of Chartered Accountants who intend to be empanelled with this office for appointment as auditors of Government Companies/Corporations the year 2012-2013. The format of application will be available on our website: www.cag.gov.in from 1st January to 15th February 2012. Chartered Accountant firms can apply/update the data showing the status of their firm as on 1st January 2012 and generate online acknowledgement letter for the year. They are also required to submit related documents (to be notified in this office website) to this office before 28th February 2012. Only the Chartered Accountant firms who have generated online acknowledgement letter for the year 2012-2013 and

submitted the documents before the due dates will be considered for empanelment.

Any changes in the constitution of the firm occurring after the cut-off date of 1st January 2012 should continue to be updated in the website which will be available throughout the year. However, the changes in the firm occurring after 1st January 2012 till the time of preparing the panel that will lead to a reduction in the rank of the applicant firm shall only be taken into account for ranking the CA firms.

Sd/-
Director General (Commercial)



Commencement of Registrations for Certificate Course on International Taxation

We are pleased to announce that the Committee on International Taxation of ICAI has decided to commence the next Batches of Certificate Course on International Taxation at following centres:

Goa (<http://220.227.161.86/23414citaxchennai.pdf>)
Tuticorin (<http://220.227.161.86/23417citaxtuticorin.pdf>)
Chennai (<http://220.227.161.86/23414citaxchennai.pdf>)
Ernakulam (Kochi) (<http://220.227.161.86/23415citaxkoc>
[hi.pdf](http://220.227.161.86/23415citaxkoc))
Pune (<http://220.227.161.86/23416citaxpune.pdf>)

Eminent, Expert and Learned Speakers drawn from all over India will give value addition to this Certificate Course.

Joining can be done through Payment of prescribed fees - Register through online payment at ICAI website and sending the hard copy of the duly filled registration

form to NOIDA address. Alternatively, make DD of ₹25000 in favour of 'The Secretary, The Institute of Chartered Accountants of India' Payable at New Delhi and fill the registration form and send the same to NOIDA address.

It is suggested that kindly make an on line payment at ICAI website so that registration is confirmed on the spot. It may be noted that due to limitation of seats, the registration will be done on 'first come first serve' basis.

For further information, pl. contact:
Secretary, Committee on International Taxation,
The Institute of Chartered Accountants of India,
ICAI Bhawan, Administrative Office Block,
4th Floor, A-29, Sector-62, Noida (U.P.) - 201309, India,
Telephone Direct - +91 120 3045923
Mobile No. 09310532063; Email: citax@icai.org



Requirement of Faculty on Ethics

The Institute of Chartered Accountants of India (ICAI) intends to utilize the services of Members of ICAI and others in the field of professional ethics for Chartered Accountants as **Faculty** for the different workshops and seminars on ethics being conducted at different places all over India. The interested persons may please send their willingness along with the Bio-Data by E-mail esb@icai.org or by post to the following :

The Secretary
Ethical Standards Board (ESB)
The Institute of Chartered Accountants of India
Indraprastha Marg
New Delhi - 110002
Phone - [+91] (11) 3011 0422





Information Systems Audit (ISA) Course Assessment Test, December 2011

November 4th, 2011

To be Published in Part III Section 4 of the Gazette of India

Notification

No.13-CA(EXAM)/ISA/D/2011: - In pursuance of Rule 7 of Schedule 'F' to Regulation 204 of the Chartered Accountants Regulations, 1988 (as amended vide Notification No. 1-CA(7)/59/2001 dated 28th September 2001), the Council of the Institute of Chartered Accountants of India is pleased to notify that the Information Systems Audit (ISA) Course Assessment Test will be held on **24th December 2011 (Saturday) from 10.30 AM to 2.30 PM** at the following cities provided that sufficient number of candidates offer themselves to appear from each city as detailed below.

Sl. No.	Name of the Cities	Sl. No.	Name of the Cities	Sl. No.	Name of the Cities
1	AHMEDABAD	13	GANDHIDHAM	25	LUDHIANA
2	AMBALA	14	GUWAHATI	26	MADURAI
3	AURANGABAD	15	GWALIOR	27	MUMBAI
4	BANGALORE	16	HYDERABAD	28	NAGPUR
5	BHOPAL	17	INDORE	29	NASIK
6	BHUBANESWAR	18	JAIPUR	30	PANIPAT
7	CHANDIGARH	19	JALANDHAR	31	PUNE
8	CHENNAI	20	JODHPUR	32	RAJKOT
9	COIMBATORE	21	KANPUR	33	RANCHI
10	DELHI / NEW DELHI	22	KOLHAPUR	34	SURAT
11	ERNAKULAM	23	KOLKATA	35	TRIVANDRUM
12	ERODE	24	LUCKNOW	36	VADODRA

The Council reserves the right to withdraw any centre at any stage without assigning any reason. The above Test is open only to eligible Members of the Institute who are already registered with the Institute for the said course. The fees payable for the above Assessment Test is ₹1000/-.

Payment of fees for the Assessment Test should be made only by Demand Draft. The Demand Draft may be of any Scheduled Bank and should be drawn in favour of "The Secretary, The Institute of Chartered Accountants of India, payable at New Delhi" only. Application together with the prescribed fee be sent so as to reach the Additional Secretary (Exams) at New Delhi on or before **9th December, 2011**.

Applications for admission to the Assessment Test is required to be made in the prescribed form which may be obtained from the Additional Secretary (Exams), The Institute of Chartered Accountants of India, ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002 on payment of ₹100/- per application form.

The forms are also available in the Regional and Branch Offices of the Institute and can be obtained upon cash payment on or from 21st November, 2011. Alternatively, the format of application form can be downloaded from the website of the Institute viz. www.icai.org and the cost of the application form of ₹100/- can be added to the Assessment Test fee of ₹1000/- and the Demand Draft for ₹1100/- has to be sent. The last date for receipt of duly filled in application forms is 9th December, 2011. The application together with the prescribed fee should be sent by Speed Post/Registered Post to the Additional Secretary (Exams.), New Delhi. The applications received after 9th December - 2011 will not be entertained under any circumstances.

(G. Somasekhar)
Additional Secretary (Exams.)





New Branches of Students' Association

October 27, 2011

In pursuance of Regulation 81(5) of the Chartered Accountants Regulations, 1988, read with Rule 4 of the Chartered Accountants Students' Association Rules (as contained in Appendix No. (5) to the Chartered Accountants Regulation 1988), the Council of the Institute of Chartered Accountants of India is pleased to announce the setting up of Branches of Central India Chartered Accountants Students' Associations (CICASA) at Patna, Dhanbad, Allahabad, Ajmer, Saharanpur, Kota, Lucknow, Varansai, Bhilwara, Alwar, Jamshedpur, Ghaziabad, Jabalpur, a Branch of Eastern India Chartered Accountants Students' Association (EICASA) at Bhubneswar and Branches of Western India Chartered Accountants Students' Association (WICASA) at Bhavnagar, Vapi & Akola with effect from September 21st, 2011.

The Branches shall be known as under:

1. Patna of CICASA,
2. Dhanbad of CICASA,
3. Allahabad of CICASA,
4. Ajmer of CICASA,
5. Saharanpur of CICASA,
6. Kota of CICASA,
7. Lucknow of CICASA,
8. Varansai of CICASA,

9. Bhilwara of CICASA,
10. Alwar of CICASA,
11. Jamshedpur of CICASA,
12. Ghaziabad of CICASA,
13. Jabalpur of CICASA,
14. Bhubneswar of EICASA,
15. Bhavnagar of WICASA,
16. Vapi of WICASA,
17. Akola of WICASA

As prescribed under Rule 4(b), of the Chartered Accountants Students' Association Rules, the Branch shall, at all time function subject to the control, supervision and direction of the Central Council, exercised through the Regional Council or the Regional Students' Association and shall be governed by the directions issued by the Central Council from time to time, for the functioning of the Branches of Students' Association or such other directions that may be issued from time to time.

Sd/-
(T. Karthikeyan)
Secretary



Invitation for Empanelment of Resource Persons for Investor Awareness Programmes

The Committee on Financial Markets and Investor's Protection (CFM&IP) is one of the Non-Standing Committees of the Institute. The functions of the Committee include spreading awareness among the investor about their rights and responsibilities besides preparing suggestions on various Regulations/Circulars relating to Financial Markets for submission to the Government/Regulators.

We are pleased and proud to state that the Institute of Chartered Accountants of India has been designated as the nodal authority by the Ministry of Corporate Affairs, Government of India to organise 4000 Investor Awareness Programmes across India through the Institute's vast network of Regional Councils and Branches during the year 2011-2012.

The Committee invites proposals from Chartered Accountants, Bankers, Capital Market experts, MBAs, professors and teachers having a flair of capital market and public speaking skills for acting as Resource Persons for conducting the aforesaid programmes. **The resource persons have to plan and organise such programmes**

of two hours duration in small towns (other than district headquarters) at their own initiative. Arranging venue, assembling at least 50 participants per programme and disseminating financial literacy will be their key responsibilities. For this, MCA will pay a lump sum amount of ₹5,000/- per programme inclusive of TA/DA and honorarium of the Resource Person.

Interested persons are requested to send their detailed profile along with name of the towns where they can conduct programmes to the following address:

The Chairman,
Committee on Financial Markets and Investors' Protection
The Institute of Chartered Accountants of India,
A-29, Sector 62,
Noida 201309
Ph: 09350799912, 0120-3045905/945
E-Mail: cfmip_rp@icai.org





An Initiative of Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), ICAI

Revised Guidelines of Network

Networking: A Step Forward for Consolidation

Do you think that there is a need to expand the size of your practice?

Are you planning to build the capacity of your Firm?

Are you looking at expanding your reach to business clients across the country?

If yes, then Networking could be the solution. The expectations of today's users are that of – **'Expertise, Experience & Efficiency'**. Networking enables professionals to provide Multi-locational services through a 'Single Window', which is the need of the hour. Networking can expand your business opportunities exponentially and take you to the next orbit of professional practice.

Need for Capacity Building

The Committee has considered practical difficulties in consolidation of CA Firms – formation of Networking. Various impediments have been examined and to address these issues, the Committee has appropriately finalized the revised Guidelines of Networking facilitating members and firms for its easy adoption. The Revised Guidelines for Networking has been finalized by the Committee.

The details about the Revised Guidelines of Network can be seen at
<http://220.227.161.86/24427announ14280.pdf>

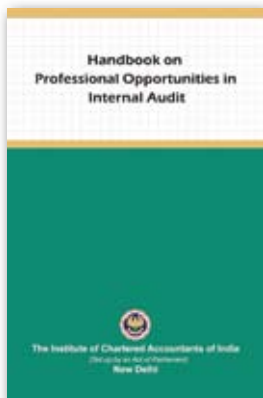


New Publication - Internal Audit Standards Board

Handbook on Professional Opportunities in Internal Audit

(Pages: 263 pages + 14 initial pages + 2 cover pages)

Price: ₹ 250/- (including CD)



The globalisation of business, growing complexity of transactions and new-age IT infrastructure have revolutionised the concept of trade and commerce. Simultaneously, the fear of risks has also grown and to combat and reduce risk, internal auditors have come up with better internal controls. Internal audit profession has witnessed a sea-change from the traditional typical 'compliance' or 'transaction' audit to a much more dynamic 'Risk-based Audit', 'Controls Assessments', 'Controls Rationalisation' and so forth. The range of activities undertaken by internal audit teams has increased and gained importance. They cover a whole gamut of operations ranging from review of finance and operations to providing assurance and consulting services.

This Handbook on Professional Opportunities in Internal Audit issued by the Internal Audit Standards Board discusses the evolving opportunities for the members in internal audit and is a useful tool for the future of internal auditors.

Significant Features of the Handbook are:

1. This Handbook is divided into eight parts:
 - Part I - Provides insight into evolution of internal audit – past, present and future, Definition of internal audit, scope and need on internal audit, internal audit cycle.
 - Part II – Provides step-wise detailed guidance on management of internal audit activity from planning to reporting.

- Part III – Extensive knowledge about the change in business trends and practices in industrial services, financial services and service industry.
 - Part IV – Deals comprehensively with Computer Assisted Audit Techniques.
 - Part V – Contains list of Standards on Internal Audit.
 - Part VI - Guidance regarding internal audit reporting
 - Part VII and VIII -
 - Provide guidance regarding opportunities available for internal audit
 - Deals with the procedures to be followed while conducting specialised internal audit
2. Contains Specimen Audit Report Cover Letter and Specimen Internal Audit Report.

This Handbook comes with a CD of the entire material to ensure ease of reference and reusability.

Ordering Information:

The publication(s) can be obtained from the sales counter at the Head Office or at the Regional Offices of the Institute. Copies can also be obtained by post. To order by post, send a demand draft for the amount of price of the publication (add the charges indicated below for the desired mode of delivery) in favour of the "The Secretary, The Institute of Chartered Accountants of India, New Delhi", payable at New Delhi, to the Postal Sales Department, the Institute of Chartered Accountants of India, A-29, Sector -62, Noida - 201309.

Postal Charges:

By Courier:	Within Delhi:	₹ 10/-
	Rest of India:	₹ 21/-
By Registered Parcel:	Within India:	₹ 35/-
By Unregistered Parcel	Within India:	₹ 17/-



Classifieds

4879 Required CA's as partners in experienced C.A.firm in Mumbai with good arrangement/terms and freedom for personal practice, place and age no bar. Contact: glen.office@gmail.com/ 26254421/ 9920317933.

4880 A firm with over 5 decades at chennai and branches in mumbai/bengaluru/trichy offering services in direct taxation/statutory/non statutory audit wishes to expand its offerings in indirect taxation & international taxation. the firm is exploring opportunities to replicate its model at mumbai, delhi, bengaluru, and hyderabad cities and other tier ii cities of maharashtra, karnataka, ap,tamil nadu & puducherry. firm invites proposals for merger contact email: caacquisitionmerger@gmail.com

4881 Kochi based firm of Chartered Accountants with corporate audits require young/experienced CAs. Selected Candidates will have excellent exposure to Company/Tax/IS Audit and Consultancy and be groomed to eventually become partners of the firm. Please mail your proposals to : babuakallivalil@gmail.com

4882 Required CA's as partners/paid assistants for Delhi firm with long-term arrangements for mutual benefit. No interference in personal practice, place and age no bar. Contact: bankaudit2008@gmail.com

4883 CA with CWA, CIA, CISA qualification seeks assignments/sub-contract in practice or employment in Bangalore. Contact 735305895 email arvs64@hotmail.com



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4. Create Interactive classroom led by Industry leaders in Private Equity, Fund raising, Banking, Mutual Fund, Forex Management, Merchant Banking
5. 360 degree overview of business finance domain with comprehensive course content similar to what they teach you in Top 10 B-Schools
6. More than 100 Books prescribed for reference the latest and the best
7. Focus on practical & managerial approach towards Business Finance to prepare student for CFO and top Managerial positions
8. Special training sessions on International Taxation, Business Restructuring, Trusts, Intellectual Property etc to prepare for International Assignments
9. Course is designed to amplify the business finance skills of Chartered Accountants and enabling them to become Business leaders
10. Well-equipped libraries at ICAI Bhawans at New Delhi, Mumbai & Centres of Excellence, Hyderabad
11. An in built 7 days residential internship/training programme at ICAI's Centre of Excellence, Hyderabad.

Knowledge mix for your business needs

- Comprehensive Finance Curriculum
- Unique mix of faculty
- Focus on Indian market
- Innovative practical application
- Healthy combination of students
- Rigorous testing procedures

Who should recruit MBF?

- Bank - operations and credit.
- Investment Bankers, Fund & Treasury Managers
- Merchant Bankers
- Equity Analysts, Private Equity, Mutual Funds, Hedge Funds, Venture Capital Funds
- Corporates for Core Finance, Treasury & Projects, as CFOs

How to recruit?

- Register on www.cmii.icai.org
- Mr. A. P. Kar, Secretary, CMA
Email: ap.kar@icai.org
Phone: +91 – 9350799912
- Mr. Surender Pal
Email: cmii@icai.org; spal@icai.in
Phone: +91 – 9350799931

Course Content

LEVEL I	Paper I - Financial Planning & Analysis
	Paper II - Fund Raising, Structuring & International Finance
LEVEL II	Paper III - Financial Markets & Portfolio Management
	Paper IV - Forex, Treasury & Risk Management
LEVEL III	Paper V - Valuations, Acquisitions and Risk Analysis
	Paper VI - Banking & Trade Finance

Work Experience



- <04 years
- 04-08 years
- 09-10 years
- 11-13 years
- >13 Years



Certificate Course on Master in Business Finance

**3rd Batch Delhi, Mumbai, Chennai & Kolkata
from January 2012**

Course Objective

The Committee on Management Accounting (CMA) of ICAI will conduct 3rd Batch of Master in Business Finance Certificate Course (MBFCC). Course coverage is extensively wide across various topics of advanced financial management like Capital Market, Investment Banking, Fund Raising & Fund Management, Corporate Valuation, Merger Acquisition, Banking, Forex Market, Treasury Management, Risk Management etc. with an aim to provide knowledge and skill required for tomorrow's CFO and high end consultancy in finance.

Comprehensive Finance Curriculum
Unique mix of faculty
Focus on Indian Market
Innovative practical and managerial applications
Good combination of experience profile of students

Eligibility

Only the Members of ICAI and the Students of the Institute who have passed the CA Final Examination are eligible to pursue this Course.

Course Contents

LEVEL I :
Paper I - Financial Planning, Analysis & Management
Paper II - Fund Raising, Structuring & Portfolio Management
LEVEL II
Paper III - Financial Markets & Capital Market
Paper IV - Forex, Treasury & Risk Management
LEVEL III
Paper V - Valuations, Acquisitions and Risk Analysis
Paper VI—Banking & Trade Finance

Course Duration and Course Hours

This is approximately One year course. Classes will be held on alternative Saturdays (2 pm to 8 pm) and Sundays (9am to 2pm). Further, there will be two (one week each) full day residential programmes at Centre of Excellence at Hyderabad.

Two Weeks Full Time Residential Programme at Centre of Excellence, Hyderabad

The Residential Programme aims at bringing eminent national and international faculty members to guide the students in undertaking practical and innovative project work. The fees for Residential Programmes at Centre of Excellence at Hyderabad for which Rs. 20,000 (Rs. Twenty thousand only) for two Residential programme which include cost of stay, food etc.

Faculty

The Faculty members for the course are from IIM's, XLRI, NIBM, MDI, premier Universities, Public & Private Sector Banks/ Financial Institutions, Mutual Funds, ICRA, SIDBI, ICRA, Senior Chartered Accountants from Industry Profession and reputed academicians.

Course Registration

The course registration is on receipt of duly filled in and signed Course Registration form with course fee of Rs. 30,000 (Rs. Thirty Thousand only) vide DD/ Pay Order in favor of "The Secretary, ICAI" payable at Delhi. Course fee can also be paid online through ICAI Payment Portal : www.icai.com/html

Registration Form Submission:

The Registration form with course fee has to be sent at the following address:

The Secretary,
Committee on Management Accounting (CMA)
ICAI Bhawan
Administrative Block, 3rd Floor
A-29, Sector-62 Noida (U.P)
Pin :-201309
Ph:-0120-3045905 / 9350799912
E-mail:-cma@icai.in, cma@icai.org
(Details in website www.icai.org)

**Committee on Management Accounting
The Institute of Chartered Accountants of India**

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 24 th December, 2011
	Venue Moradabad Branch of CIRC of ICAI, Gr. & 1st floor, Dubey Complex, Opposite Sai Hospital, Delhi Road, Moradabad – U.P - 244 001
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Moradabad Branch of CIRC of ICAI	
24th December, 2011	
09:00 a.m. to 10:00 a.m.	Registration of participants and Inaugural Session
Sessions	Topics to be discussed
Session-I 10.00 a.m. to 01.00 p.m.	Revised Schedule VI
	CA. Mohd. Salim An Overview of XBRL
	CA. Chandan Goyal
Session-II 02.00 p.m. to 05.00 p.m.	ICAI Tax Suite software
	KDOC & eSecretary software
Open House & Valedictory Session 05.00 p.m. to 05.30 p.m.	
Registration Fees:- ₹ 200/- per participant	
Cheque/DD should be drawn in favour of "Moradabad Branch of CIRC of ICAI " & sent to Moradabad Branch of CIRC of ICAI, Gr. & 1st floor, Dubey Complex, Opp. Sai Hospital, Delhi Road, Moradabad (U.P) - 244 001; Ph: (0591) 2481042 Email: moradabad@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	
Programme Chairman	Programme Coordinator
CA. Vijay Kumar Garg Chairman Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. Deepak Gupta Chairman, Moradabad Branch of CIRC of ICAI Phone: 09837035100 Email: deepakkartikeya@rediffmail.com
For Registration & Information, contact details: CA. Abhinav Agarwal, CPE Chairman, Moradabad Branch of CIRC of ICAI, Mobile: 94122-35748, E-mail fcaabhinav@gmail.com	

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 15 th December, 2011
	Venue ICAI Bhawan, Hyderabad Branch of SIRC of ICAI, 11-5-398/C, Red Hills, Hyderabad-500004 Andhra Pradesh, India.
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Hyderabad Branch of SIRC of ICAI	
15th December, 2011	
09:00 a.m. to 10:00 a.m.	Registration of participants and Inaugural Session
Sessions	Topics to be discussed
Session-I 10.00 a.m. to 01.00 p.m.	Practice Management in CA Firms
	CA. Nitin Shingala, Mumbai Capacity Building Through IT Tools
	CA. B.C. Chechani, Mumbai
Session-II 02.00 p.m. to 05.00 p.m.	Corporate Advisory Services – The emerging professional avenue
	CA. Pratap G. Subramanyam, Bangalore
	Business Deductions under IT Act – The new trends
CA. Manish Dafria, Indore	
Open House & Valedictory Session CA. Vijay Kumar Garg, Chairman, CCBCAF & SMP, ICAI 05.00 p.m. to 05.30 p.m.	
Registration Fees:- ₹ 700/- per participant Cheque/DD should be Drawn in Favour of "Hyderabad Branch of SIRC of ICAI" and sent to Hyderabad Branch of SIRC of ICAI, ICAI Bhawan, 11-5-398/C, Red Hills, Hyderabad-500004 Andhra Pradesh, India. Ph: +91-40-23393182, 23317026/ 27/ 28 Email: hyderabad@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	
Programme Chairman	Programme Directors
CA. Vijay Kumar Garg Chairman Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. J. Venkateswarlu Central Council Member, ICAI Phone: 09392017738 Email: jv@icai.org CA. M. Devaraja Reddy Central Council Member, ICAI Phone: 09399935799 Email: devarajareddy@yahoo.com
Coordinator Chairman, Hyderabad Branch of SIRC of ICAI, Mobile: 09246539689	

Residential Refresher Course

CPE 10 Hours	Date 17 th and 18 th December, 2011
	Venue Shree Vilas Hotel, Bus Stand, N.H.8, Nathdawara (Rajsamand), Rajasthan.
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Bhilwara Branch of CIRC of ICAI	
Saturday, 17th December, 2011	
9:30 a.m. to 11:00 a.m.	Registration of participants and Inaugural session
Chief Guest Dr. C. P. Joshi*, Union Cabinet Minister for Road Transport & Highway, Government of India Vice Presidential Address CA Jaydeep N Shah, Vice President- ICAI Special Address Shri Madan Lal Paliwal, M.D., Miraz group	
Sessions	Topics to be discussed and Speaker
Session-I 11:00 am to 02:00 pm	Capacity Building & Office Management Capacity Building of Practitioners - CA. Dhinal Ashvinbhai Shah, Central Council Member, ICAI Office Management & Opportunity in Stock Market - CA. C. S. Nanda, Central Council Member, ICAI
Session-II 03:00 pm to 05:00 pm	Importance of Audit Documentation & XBRL XBRL- Overview - CA. Rajkumar Adukia, Central Council Member, ICAI Documentation & SMP's - CA. Shyam Lal Agarwal, Jaipur
Sunday, 18th December, 2011	
Session-III 10:00 am to 01:00 pm	Critical Issues & Opportunities in Direct & Indirect Tax Interpretation of Law - CA. Ravindra Holani, Central Council Member, ICAI Critical Aspects in Direct Taxes & Issues in TDS and Assessment - CA. (Dr.) Girish Ahuja Critical Aspects in Service Tax - CA. Manoj Jain, Jaipur Critical Aspects in Rajasthan VAT - CA. Ajay Saria, Udaipur

Session-IV 02:00pm to 04:00pm	Capacity Building through IT Tools K Doc & E-Secretary - CA. B.C. <i>Chechani</i> ICAI-Tax Suite software - CA. Vinod Khandelwal, Jaipur ICAI-ROC software - Mr. Amit Mehta
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Open House & Valedictory Session 04:00 p.m. to 04:30 p.m.	Session Chairman CA. Vijay Kumar Garg, Chairman, CCBCAF & SMP, ICAI
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Registration Fees	With Accommodation	Without Accommodation
Particulars	₹	₹
FCA	1500.00	1100.00
ACA	1400.00	1000.00
Accompanying Person	1100.00	900.00
Child(3-12 Yr)	900.00	700.00
Child(above 12 Yr)	1100.00	900.00

Cheque/DD should be drawn in favour of "Bhilwara Branch of CIRC of ICAI" and sent to Bhilwara Branch of CIRC of the ICAI, ICAI Bhawan, Opp. Hotel Surya Mahal, Shastri Nagar, Bhilwara, Rajasthan-3011001, Phone: 01482-252434 E-mail: icaibhl@gmail.com, bhilwara@icai.org

Limited Seats, Registration on First Come First Served Basis. Advance confirmation of registration is required.

Programme Chairman	Programme coordinator
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.cbcac@icai.org Phone: 9414041872	CA. Ajay Kasliwal Chairman, Bhilwara Branch of CIRC of ICAI Email: kasliwal.ajay@gmail.com Phone: 09828146872

For further details, contact:

CA. Ashok Jathliya, Past Chairman, Bhilwara Branch of CIRC of ICAI Email: jathliya@gmail.com, nvagrecha@gmail.com Phone: 09414112165, 09414112304

* Subject to consent.

Residential Refresher Course on Capacity Building Measures of Practitioners & CA Firms

CPE 8 Hours	Date 28 th and 29 th January, 2012
	Venue Siddhart Resort, Shree Mahaveer Ji, Karuli, Rajasthan
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Jaipur Branch of CIRC of ICAI	
28th January, 2012	
11:30 a.m. to 12.30p.m.	Registration of participants and Inaugural session
Chief Guest Shri Namo Narain Meena*, Union Minister of State Finance Session Chairman CA. Jaydeep Narendra Shah, Vice President, ICAI Guest of Honour CA. Ved Jain, Past President, ICAI	
Day 1: 28th January, 2012	
Sessions	Topics and Speaker
Session-I 2.00 PM to 4.00 PM	New Challenges in CA Profession Session Chairman : CA. Ved Jain, Past President, ICAI Speaker: CA. Rajendra Kumar P, Council Member ICAI, Chennai Special Address: CA Ravi Raniwala, Jaipur Key Note: CA Vinod Jain, Council Member ICAI, Delhi
Session-II 4.10 PM to 6.10 PM	Audit Documentations for SMP's Session Chairman: CA Vinod Jain, Council Member ICAI, Delhi Speaker: CA. Pankaj Jain, Council Member ICAI, Mumbai Special Address: CA. Shyam Lal Agarwal, Jaipur
Day 2: 29th January, 2012	
Session-III 9.00 AM to 10.00 AM	An Overview on Direct Tax Chairman: CA Ved Jain, Past President, ICAI Speaker: CA. (Dr.) Girish Ahuja, New Delhi

Session-IV 10.15 AM to 1.15 PM	Capacity Building Through IT Tools Session Chairman: CA. K. L. Jhanwar, Jaipur Speakers: Kdoc & E-Secretary – CA. B C Chechani ICAI Tax Suite – CA. Kapil Goyal ICAI ROC – CA. Saurabh Mishra, Delhi	
Open House and Valedictory Session 1.15 PM to 2.00 PM	Session Chairman CA. Vijay Kumar Garg, Chairman, CCBCAF & SMP, ICAI	
Registration Fees	With Accommodation	Without Accommodation
Particulars	₹	₹
FCA	1800	1100
ACA	1700	1000
Accompanying Person	1100	1000
Child(3-12 Yr)	800	800
Child(above 12 Yr)	1100	1000
Note ■ Payment may be made by Cheque/Demand Draft in favour of Jaipur Branch of CIRC of ICAI & should be sent to Jaipur Branch of ICAI, The Institute of Chartered Accountants of India, ICAI Bhawan, D-1, Jhalana Institutional Area, JLN Marg, Jaipur-302004 ■ Limited seats, Registration on First come First serve basis ■ Accommodation in Siddarth Resort shall be provided as per First come First serve, thereafter accommodation shall be provided at other place.		
Special Attraction: 1) Special Aarti & Darshan of Bhagwan Mahaveer Swamiji at the evening of First day. 2) “Hansod Sandhya by Kavi Sampat Saral”		
Programme Chairman CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners ICAI Email: chairman.cbcacf@icai.org Phone: 9414041872		Programme coordinator CA. Rakesh Jhalani Chairman, Jaipur Branch of CIRC of ICAI Phone: 9829064513 Email: jaipur@icai.org
For Registration & Information, contact details: CA. Pawan Kunango Email: pkanungoca@gmail.com , Phone: 9414050311		

* Subject to consent.

One Day Workshop on Excellence in Profession

CPE 6 Hours	Date 17 th December, 2011	
	Venue SAI GARDENS, Sabri Road, Mirzapur, UP 231001	
Organised by Ethical Standards Board of the ICAI		
Hosted by Mirzapur CPE Study Chapter of CIRC of ICAI		
9.00 A.M – 10.45 A.M	Registration and Inaugural Session	
Sessions	Topics to be Discussed and Speakers	
Technical Session I & II 10.45 A.M to 13.45 P.M	I. Ethical Issues and Tendering System By <i>CA Subodh Kumar Agrawal</i> , FCA, Central Council Member	
	II. Service Tax: How to Decide Taxability and Scope of Levy By <i>CA Ravi Holani</i> , FCA, Central Council Member	
Technical Session III & IV 14.30 P.M to 17.30 P.M	III. Direct Taxes : Critical Issues Related to Taxation of Real Estate Transactions By <i>CA. Amresh Vashisht</i>	
	IV. VAT – Key Issues and Scope for the Profession By <i>CA Rajeev Goyal</i> , AGRA	
17.30 P.M to 18.15 P.M	Open House – Brain Storming & Valedictory Session	
Fees Participation Fee :- ₹ 600/- Cheque(local)/draft in favour of “ MIRZAPUR CPE STUDY CHAPTER” payable at Mirzapur and should be sent with duly filled Registration form to Co-ordinator at B.B.Goenka, 624, Gosain Tola, Mirzapur 231001		
Chairman of the Committee CA. Subodh Kumar Agrawal, FCA Chairman, Ethical Standards Board Mobile - 09830022848 Email: subodhka@yahoo.com , subodhka@gmail.com	Programme Director CA. Ravi Holani, FCA Central Council Member Mobile - 09425109183 Email: raviholani@yahoo.co.in , rediffmail.com	Secretary of Ethical Standards Board Sh. N.P. Singh Secretary, Ethical Standards Board Email - npsingh@icai.org Phone - (011) 30110422
For Registration and Further Details		
Chairman, Mirzapur CPE Study Chapter of CIRC of ICAI E-mail – goenkabb@gmail.com Mobile – 09415288237		

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date
	17 th December, 2011
Venue	
Hotel Ramada Inn, Near GPO, Jalandhar	
Organised by	
Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by	
Jalandhar Branch of NIRC of ICAI	
17 th December, 2011	
09:30 a.m. to 10:00 a.m.	Registration of participants and Inaugural session
Sessions	Topics and Speaker
Session- I 10.00 a.m. to 01.00 p.m.	Capacity Building Measures: Networking, Merger & Corporate form of Practice CA. <i>Charanjot Singh Nanda</i> Central Council Member
	Issues on Income Tax
Session-II 02.00 p.m. to 05.00 p.m.	Issues on Service Tax
	Capacity Building through IT Tools
Open House & Valedictory Session 05.00 p.m. to 05.30 p.m.	
Registration Fees:- ₹ 350/- per participant	
Cheque/DD should be Drawn in Favour of “Jalandhar Branch of NIRC of ICAI” and sent to Jalandhar Branch of NIRC of ICAI, ICAI Bhawan, Bhag Singh Sidhu Chemist Building, Civil Lines, G T Road, Jalandhar City 144 001 Phone: 181 4600711 Email: jalandhar@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	
Programme Chairman	Programme Director
CA Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org	CA. Charanjot Singh Nanda Central Council Member Phone: 9811130985 Email: csnanda@gmail.com
For Registration & Information, contact details: CA. Salil Gupta, Chairman, Jalandhar Branch of NIRC of ICAI, Mobile: 09357905030	

Residential Refresher Course

CPE 12 Hours	Date 3 rd and 4 th December, 2011	
	Venue Wood Castle Resort, Corbett – Ramnagar (U.K.)	
Organised by Ethical Standards Board of the ICAI		
Hosted by Moradabad Branch of CIRC of ICAI		
Day 1 (3rd December, 2011)		
10.00 A.M to 11.00 A.M Inaugural Session		
Sessions	Topics to be Discussed and Speakers	
Technical Session I-11.00 A.M to 12.30 P.M	Ethical Standard and Tendering in Audit by <i>CA Subodh Kumar Agrawal</i> , FCA, Central Council Member	
Technical Session II-12.30 P.M to 14.00 P.M	Interpretation on Law, Deeds and Documents – Special Address by <i>CA Ravi Holani</i> , Central Council Member	
Technical Session III & IV 14.30 P.M to 17.30 P.M	CENVAT Credit on Input, Input Service and Capital Goods by <i>CA Sandeep Mukharjee</i> and <i>CA Sukant Ray</i>	
Day 2 (4th December, 2011)		
Technical Session V & VI 10.30 A.M to 14.00 P.M	Disciplinary Mechanism and Code of Ethics by <i>CA. J Venkateswarlu</i> , Central Council Member	
Technical Session VII & VII 14.30 P.M to 17.00 P.M	Service Tax – How to Identify Scope of the Levy by <i>CA. Yashwant Mangal</i>	
	Survey Under Income Tax – How to Handle by <i>CA. Ravi Raniwala</i>	
17.00 P.M to 17.30 P.M	VAT Audit – Scope of Practice by <i>CA. Rajeev Goyal</i>	
	Open House & Valedictory Session	
Participation Fees Adults – 3000/-, Children from 5 to 12 years (Without Extra Bed) – 1500/-, Children up to 5 years – NIL, Local Members without stay – 1900/-. Cheque(local)/draft in favour of “Moradabad Branch of CIRC of ICAI” payable at Moradabad and sent it with duly filled Registration to the Moradabad Branch of CIRC of ICAI. Limited Seats, Registration on First Come First Serve Basis.		
Chairman of the Committee CA. Subodh Kumar Agrawal, FCA Chairman, Ethical Standards Board Mobile : 09830022848 Email: subodhka@yahoo.com , subodhka@gmail.com	Programme Director CA. Ravi Holani, FCA Central Council Member Mobile : 09425109183 Email: raviholani@yahoo.co.in , raviholani@rediffmail.com	Secretary of Committee Sh. N.P. Singh Secretary, Ethical Standards Board Email: npsingh@icai.org Phone - (011) 30110422

For Registration and Further Details

Chairman, Moradabad Branch of CIRC of ICAI
Phone: 09837035100
Email: deepakkartikeya@rediffmail.com

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date
	18 th December, 2011
	Venue
	Karnal
Organised by	
Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by	
Karnal Branch of NIRC of ICAI	
18 th December, 2011	
09:30 a.m. to 10:00 a.m.	Registration of participants and Inaugural session
Sessions	Topics and Speaker
Session- I	Capacity Building Measures:
10.00 a.m. to	Networking, Merger &
01.00 p.m.	Corporate form of Practice
	CA. Charanjot Singh Nanda,
	Central Council Member
	Issues on Income Tax
Session-II	Issues on Service Tax
02.00 p.m. to 05.00 p.m.	Capacity Building through IT
	Tools
Open House & Valedictory Session	
05.00 p.m. to 05.30 p.m.	
Registration Fees:- ₹250/- per participant	
Cheque/DD should be Drawn in Favour of “Karnal Branch of NIRC of ICAI” and sent to Karnal Branch of NIRC of ICAI, ICAI Bhawan, SCO 24-25, First Floor, Opp. Krishan Mandir, Urban Estate, Sector-14, Karnal -141001 (Haryana), Phone: (0184)4045666, Email: karnalnirc@gmail.com	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	
Programme Chairman	Programme Director
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org	CA. Charanjot Singh Nanda Central Council Member Phone: 9811130985 Email: csnanda@gmail.com
For Registration & Information, contact details: CA.Girish Aneja, Chairman, Karnal Branch of NIRC of ICAI, Email: anejagirish@yahoo.com , Phone: 9896014979	

Seminar on Capacity Building Measure Through Information Technology Tools

CPE 12 Hours	Date Saturday 3 rd December, 2011 & Sunday, 4 th December, 2011
	Venue Green Court Club, Mira Bhayandar Road, Mira Road East

Organised by

Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI

Hosted by

Vasai Branch of WIRC of ICAI

Inaugural Session

Day 1: Saturday 3rd December 2011

Session I

Information Technology in CA Office

- Computer Hardware, Networking and Connectivity
- IT Security, Backup & Data Storage

E-Governance

- Cyber Law, Compliance & E-Filing
- Soft copy Administration, Digital Signature Management & Challenges

Speaker: Mr. Prashant Mali

Session II

Office Automation Tools & TIPS for CA Office

- Office Automation Software
- Income Tax Utilities
- Service Tax Utilities
- Companies Law Utilities
- Case Study – CA User

Speaker: Eminent Faculty from CCH Pro Product

Day 2: Sunday 4th December 2011

Session III

New Savings and Earning Opportunities using Technology Tools & Utilities

- Free Collaboration & Productivity Applications
- Administration Tools & Application
- Aligning various Tools & Gadgets
- Cloud based SaaS & PaaS Applications & Services

Speaker: CA. Ashwin Dedhia

Session IV

Knowledge Management and Document Security

- E-Secretary
- K-Doc
- Knowledge Resources & Portals
- Integration with Websites Case Study – CA User

Speaker: CA. B. C. Chechani

ICAI - Tax Suite CA. Vinod Khandelwal

Registration Fees:- ₹ 1500/- for Members; ₹ 1700/- for others

Cheque/DD should be Drawn in Favour of " Vasai Branch of WIRC of ICAI" and sent to Vasai Branch of WIRC of ICAI, Office No. 115/116, Ostwal Ornate, Bldg No. 1A, Jesal Park, Opp. Jain Mandir, Bhayandar (East), Thane – 401 105, Ph: (022) 28178518, 32459348, E-Mail: vasaibranchca@hotmail.com, vasaibranch@gmail.com

Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required

Programme Chairman	Programme Director
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. Atul C Bheda Vice-Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: atul.bheda@icai.org Phone: 09323323667

For Further details, please contact

CA. Unmesh Narvekar, Chairman, Vasai Branch of WIRC of ICAI, Mobile No. – 09821236179, unmeshnarvekarca@yahoo.co.in

Workshop on Capacity Building of CA Profession

CPE 6 Hours	Date 6 th December, 2011
	Venue Bhubaneswar Branch of EIRC of ICAI, ICAI Bhawan

Organised by

Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF & SMP), ICAI and Ethical Standard Board (ESB), ICAI

Hosted by

Bhubaneswar Branch of EIRC of ICAI

Theme

With advent of globalization and challenges posed by the liberalization process taking place worldwide, a need is felt for strengthening competencies of CA firms and small practitioners. ICAI's initiative is to enlarge visibility of CA profession and to rejuvenate practice portfolio of Small and Medium Practitioners. ICAI has formed CCBCAF&SMP Committee for popularizing effective union of CA firms by facilitating consolidation through Networking, Mergers and setting up Management Consultancy Services etc. Committee's focus is on enriching SMPs through Capacity Building measures for bringing up world class competency and brand image. This Workshop will concentrate on issues & impediments related to capacity building as well as highlight emergent issues of profession.

2.30 p.m. to 3.00 p.m.	Registration of participants and Inaugural session
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First Session (3.00 p.m. to 4:30 p.m.)

Capacity Building Measures: Networking, Merger and Corporate Form of Practice

Second Session (4:30 a.m. to 6:00 p.m.)

Code of Ethics

Third Session (6:15 a.m. to 7:45 p.m.)

Emerging Opportunities of ERP

Fourth Session (7:45 p.m. to 9:15 p.m.)

Capacity Building Through IT Tools

Open House & Valedictory Session (9:15 pm to 9.30 pm)
Session Chairman
CA. Subodh Kumar Agrawal, Chairman, Ethical Standards Board, ICAI

Registration Fees:- ₹ 400/- per participant
Cheque/DD should be drawn in favour of "Bhubaneswar Branch of EIRC of ICAI" and sent to **Bhubaneswar Branch of EIRC of ICAI, ICAI BHAWAN, A-122/1, Nilkantha Nagar, Nayapalli, BHUBANESWAR - 751 012**
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.

Programme Chairman	Programme coordinator
CA. Vijay Kumar Garg, Chairman Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org	CA. Subodh Kumar Agrawal Chairman, Ethical Standards Board, ICAI Phone: 09830022848 Email: subodhka@yahoo.com , subodhka@gmail.com

For further details, please contact:
CA. B. Manoj Kumar Patro, Chairman, Bhubaneswar Branch of EIRC of ICAI, Phone: 09437014015
Email: manoj.patro@gmail.com

Registration Fees:- ₹ 250/- per participant
Cheque/DD should be Drawn in Favour of "Ludhiana Branch of NIRC of ICAI" and sent to Ludhiana Branch of NIRC of ICAI, ICAI Bhawan, Near Silver Oak Palace & Garden, Basant City road, Pakhhowal Road, Ludhiana-141001, Phone: (161) 5091043, Email: ludhiana@icai.org
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.

Programme Chairman	Programme Director
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org	CA. Charanjot Singh Nanda Central Council Member Phone: 09811130985 Email: csnanda@gmail.com

For Registration & Information, contact details:
CA. Pankaj Periwal, Chairman, Ludhiana Branch of NIRC of ICAI, Email: ca.pankajperiwal@gmail.com,
Phone: 9417240316

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 16 th December, 2011 Venue CA. S.S. Periwal Auditorium, ICAI Bhawan, Pakhowal Road, Ludhiana.
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Ludhiana Branch of NIRC of ICAI	
16th December, 2011	
08:45 a.m. to 09.30 a.m.	Registration of participants and Inaugural session
Sessions	Topics to be discussed and Speaker
Session- I 10.00 a.m. to 01.00 p.m.	Capacity Building Measures: Networking, Merger & Corporate form of Practice CA. Charanjot Singh Nanda, Central Council Member Issues on Income Tax
Session-II 02.00 p.m. to 05.00 p.m.	Issues on Service Tax Capacity Building through IT Tools
Open House & Valedictory Session 05.00 p.m. to 05.30 p.m.	

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 16 th December, 2011 Venue ICAI Bhawan, Shikhar, Subhash Road Opp Income Tax Office, Dehradun
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Dehradun Branch of CIRC of ICAI	
16th December, 2011	
10.30 a.m. to 11.15 a.m.	Registration of participants and Inaugural session
Sessions	Topics to be discussed
Session-I 11.15 a.m. to 02.15 p.m.	Critical Issues on Service Tax Critical Issues on Income Tax
Session-II 02:45 p.m. to 05:30 p.m.	ICAI-TAX Suite K-Doc & e-Sec Software
Open House & Valedictory Session 05.30 p.m. to 06.00 p.m.	
Registration Fees:- ₹ 400/- per participant Cheque/DD should be drawn in favour of " Dehradun Branch of CIRC of ICAI " and sent to ICAI Bhawan, "Shikhar", 15, Subhash Road, Opp. Income Tax Office, Dehradun - 248 001, Phone: 0135-2714232, Email: dehradun@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	

Programme Chairman	Programme coordinator
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. Sangeeta Karla Chairman, Dehradun Branch of CIRC of ICAI Email: sangeetakarla.ca@gmail.com Phone: 9897002026
For Registration & Information, contact details: CA. Ankur Gupta, Secretary, Dehradun Branch of CIRC of ICAI, Email: ankurgupta19@rediffmail.com	

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 20 th December, 2011 Venue Ahmednagar Branch of WIRC of ICAI, 2 nd floor, Mutha Chambers, (Old Vasant Talkies), Market Yard Road, Ahmednagar – 414 001
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Ahmednagar Branch of WIRC of ICAI	
20th December, 2011	
09:30 a.m. to 10:00 a.m.	Registration of participants and Inaugural session
Sessions	Topics to be discussed and Speaker
Session- I 10.00 a.m. to 01.00 p.m.	Capacity Building Measures: Networking, Merger & Corporate form of Practice CA. Atul C. Bheda, Vice Chairman, CCBCAF&SMP
	Emerging Opportunities for Practice Development & Office Management for Chartered Accountants CA. Atul C. Bheda, Vice Chairman, CCBCAF&SMP
Session-II 02.00 p.m. to 05.00 p.m.	Limited Liability Partnership: An Insight Capacity Building Through IT Tools
Open House & Valedictory Session 05.00 p.m. to 05.30 p.m.	

Registration Fees:- ₹ 750/- per participant
Cheque/DD should be Drawn in Favour of "Ahmednagar Branch of WIRC of ICAI, " and sent to Ahmednagar Branch of WIRC of ICAI, 2nd floor, Mutha Chambers, (Old Vasant Talkies), Market Yard Road, Ahmednagar – 414 001 Phone: (241) 2324761, 2324229 Email: ahmednagar@icai.org, canagar@rediffmail.com
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.

Programme Chairman	Programme co-ordinator
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. Vijaykumar Vishnuprasad Marda Chairman, Ahmednagar Branch of WIRC of ICAI Phone: 07875435111 Email: vijaymarda@rediffmail.com
For Registration & Information, contact details: CA. Ajay Mutha, Secretary Ahmednagar Branch of WIRC of ICAI Mobile: 09422222324	

Full day Seminar

CPE 6 Hours	Date Saturday, 17 th December, 2011 Venue Shantinath Hall , Ahmedabad Branch of WIRC of ICAI, 123, Sardar Patel Colony , Naranpura , Ahmedabad
Organised by Continuing Professional Education Committee of ICAI	
Hosted by Ahmedabad Branch of WIRC of ICAI	
9.30 am to 10.30 am Registration & Inauguration	
Sessions	Topics to be Discussed and Speakers
Technical Session I 10.30 am to 12.00 noon	Wealth Maximization (Including Succession Planning) for HNI - Key Issues Dr. Pravin P. Shah, Mumbai
Technical Session II 12.00 noon to 1.30 pm	Fund raising options-including private equity Shri Atul Mehra, CEO, J.M. Financial
Technical Session III 2.30 pm to 4.00 pm	Recent controversy on Software Payments Shri Pradeep Parikh, Mumbai, Retired Member ITAT

Technical Session IV 4.15 pm to 5.45 pm Forensic Audit - Frauds & investigations Shri Chetan Dalal, Mumbai	
Delegate Fee : ₹ 300/- for members (Cheque / DD should be drawn in favour of 'Ahmedabad Branch of WIRC of ICAI')	
Seminar Co-ordinators	
CA. Sumantra Guha Chairman, Continuing Professional Education Committee, ICAI Phone: +91 9831015331 Email: ca.sumantraguha@gmail.com	CA. Dhinal A. Shah Central Council Member Phone: +91 9825029950 Email: dhinal.shah@in.ey.com
	CA. Devang A. Doctor Doctor Chairman, Ahmedabad Branch of WIRC of ICAI Phone : (79)26402739, 26403096, +91 9825029354 Email: devangdoctor@yahoo.co.in
For Registration, please Contact: Ahmedabad Branch of WIRC of ICAI, ICAI Bhawan, 123, Sardar Patel Colony, Naranpura, Ahmedabad – 380 014 Phone: +91 (79)2768 0946, 2768 0537; +91 9447046952 Email: ahmedabad@icai.org	

Two Days Workshop on Excellence in Service Tax at Mathura

CPE 12 Hours	
Date On 7 th & 8 th December 2011	
Venue Hotel Brijwasi Royal, State Bank of India Crossing, Near Mathura Junction, Mathura	
Organised by Committee For Members In Industry of ICAI	
Hosted by Mathura Branch of CIRC of ICAI	
Day 1: 7th December, 2011	
9.00 a.m. – 11.00 a.m	Registration, Breakfast and Inaugural Session
Special Address by Hon'ble President Special Address by Hon'ble Vice-President	
Topics to be Discussed	Speakers*
Technical Session I & II, 11:00 am – 13:30 pm I. Service Tax: How to decide taxability II. classifications and Exemptions.	Speaker : CA. Ravi Holani, Central Council Member, Session Chairman: CA. K. Raghu, Central Council Member
Technical Session III 14:30 pm – 16:00pm Valuation of Taxable Service	Speaker : Ms Kriti Somani Session Chairman: CA. Ravi Holani, Central Council Member

Technical Session IV 16:00 – 18:00 Registration, Returns and Assessments in Service Tax – Key Issues	Speaker : CA. Yashwant Mangal, Udaipur Session Chairman: CA. S.B. Gupta,
Day 2: 8th December, 2011	
Technical Session V 10:00 – 12:00 How to handle departmental proceedings— Search, Seizure and Investigation,	Speaker CA. P. Rajendra Kumar, Central Council Member Session Chairman: CA. M.C. Agrawal
Technical Session VI 12:00 – 14:00 Audit and certification under Excise & Custom and Service Tax	Speaker CA. Rajendra Kumar P., Central Council Member Session Chairman: CA. K.K. Gupta
Technical Session VII 14:45 – 16:00 CENVAT Credit on Input, Input Service and Capital Goods	Speaker CA. Sandeep Mukharjee Technical Session Chairman: CA. M.L. Chaturvedi
Technical Session VIII 16:00 – 17:45 Audit and Certification work under VAT	Speaker CA. Rajeev Goyal Technical Session Chairman: CA. M.L. Mittal,
Open House – Brain Trust & Valedictory Session	
Special Arrangement for 7th December Evening: Darshan of Shri Bankey Bihari Ji, Vrindaban and Shri Giriraj Ji Maharaj, Goverdhan;	
8th Morning 6.00 am: Darshan of Shri Dwarikadheesh Ji Maharaj and Yamuna Maharani Ji.	
Participation Fees ₹ 1500/- Cheque (local)/draft in favour of "Mathura branch of CIRC of ICAI" payable at Mathura and sent it with duly filled Registration to the Mathura Branch of CIRC of ICAI Bohre Ji Ka Bada, Near K. R. Degree College, Bhens Bahora, MATHURA - 281 001 (U. P.)	
Limited Seats, Registration on First Come First Served Basis.	
Chairman of the Committee CA K Raghu, Committee For Members in Industry, ICAI	Programme Director CA Ravi Holani, Central Council Member, ICAI
For Registration & further details, please contact: ICAI Mathura Branch Office Bohre Ji Ka Bada, Near K. R. Degree College, Bhens Bahora, MATHURA - 281 001 (U. P.) mathurabranchofcirc@gmail.com Mobile No: 9358697932	

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 20 th December, 2011 Venue ICAI Bhawan, Bikaner
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Bikaner Branch of CIRC of ICAI	
20th December, 2011	
9:30 a.m. to 10:30 a.m.	Registration of participants and Inaugural Session
Sessions	Topics to be discussed
Session-I 10:30 am to 01:30 pm	RTI/ An Assessment Critical Issues on Income Tax
Session-II 02:30 pm to 05:30 pm	ICAI-TAX Suite K-Doc & e-Sec Software
Open House and Valedictory Session Session Chairman: CA. Vijay Kumar Garg, Chairman, CCBCAF&SMP 05:30 p.m. to 06:00 p.m.	
Registration Fees:- ₹300/- per participant	
Cheque/DD should be drawn in favour of “ Bikaner Branch of CIRC of ICAI ” and sent to The Institute of Chartered Accountants of India, Khaturia Bhawan, Transport Gali, G. S. Road, Bikaner – 334001. Phone No. : 151-2203788, Fax : 151-2203788, E-mail: bikaner@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	
Programme Chairman CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	Programme coordinator CA. Manoj Kumar Pareek Chairman, Bikaner Branch of CIRC of ICAI Email: mkpareekbkn@yahoo.com Phone: 94142-30111
For Registration & Information, contact details: CA Sudhish Sharma, Secretary, Bikaner Branch of CIRC of ICAI, Email: sudish.nice@gmail.com , Phone: 94141-43143	

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 13 th January, 2012 Venue ICAI Bhawan, Behind Stadium, CA Lane scheme No. 8 Extension, Alwar-301001
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Alwar Branch of CIRC of ICAI	
13th January, 2012	
09:30 a.m. to 10:00 a.m.	Registration of participants and Inaugural session
Sessions	Topics to be discussed
Session- I 10:00 a.m. to 11:30 a.m.	Professional Ethics and Misconducts
Session-II 11:30 a.m. to 01:00 p.m.	Professional Issues on Income Tax
Session-III 02:00 p.m. to 03:30 p.m.	Professional opportunities of Chartered Accountants
Session-IV 03:30 p.m. to 05:00 p.m.	Capacity Building through IT Tools
Open House & Valedictory Session 05.00 p.m. to 05.30 p.m.	
Registration Fees:- ₹300/- per participant Cheque/DD should be Drawn in Favour of “ Alwar Branch of CIRC of ICAI ” and sent to Alwar Branch of CIRC of the Institute of Chartered Accountants of India, Behind Stadium, CA Lane scheme No. 8 Extension, Alwar-301001, Ph: (0144) 2336381, Email: alwar@icai.org	
Limited Seats, Registration on First Come First Served Basis. Advance confirmation of registration is required.	
Programme Chairman CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org	Programme Director CA. Rakhee Garg Chairperson, Alwar Branch of CIRC of ICAI Phone: 09829247562 Email: armca@noblealw.com
For Registration & Information, contact details: CA.Sandip Jain, Secretary, Alwar Branch of CIRC of ICAI, Email: bs.jain@yahoo.co.in , Phone: 09414366212	

National Conference on “Emerging Paradigm for Accounting Professionals: Special Thrust on Public Finance & Government Accounting”

CPE 12 Hours	Date 17 th & 18 th December 2011 (Saturday & Sunday)
	Venue Hotel Country Inn & Suites, 64/6 Site-iv, Sahibabad, Uttar Pradesh, Ghaziabad 201010
Organised by Committee on Public Finance & Government Accounting, ICAI	
Hosted by Ghaziabad Branch of Central India Regional Council of ICAI	
Jointly with Central India Regional Council of ICAI	
Theme The implications of international trade regime have far reaching implications for the future of Accountancy profession and with the world moving towards a global integration, the road to sustainable economic growth lies in aligning with the global financial and trading system. This National Conference is primarily intended to make the participants thoughtful of the topics deliberated and to visualize the potential of these sectors.	
Day 1-Saturday, 17th December 2011	
9.00 a.m. to 9:30 a.m.	Registration
Technical Session I- 9:30 a.m. to 1:00 p.m.	1.) Taxation of Charitable, Religious Trust & Societies by CA. (Dr.) Girish Ahuja 2.) Inaugural and Special address by President-ICAI on Government Accounting in Transition: A way forward
Technical Session II- 2:00 p.m. to 5:00 p.m.	1.) IFRS by CA. C V Sajan 2.) IFRS by CA. Yagnesh M Desai
Day 2-Sunday, 18th December 2011	
Technical Session III- 9:30 a.m. to 1:00 p.m.	1.) Revised Schedule VI by CA. Anil Sharma 2.) Service Tax Provisions for Builders & Contractors by CA. Ashok Batra
Technical Session IV- 2:00 p.m. to 5:00 p.m.	1.) Recent Trends in Taxation of Services by CA. Rajendra Kumar P 2.) Appeals, Search & Seizures Procedures by Dr. Rakesh Gupta

Registration Fees: ₹ 850/- for CA Members (if registration is done up to 10th December 2011)
 ₹ 950/- for CA Members (if registration is done after 10th December 2011)
 ₹ 500/- for CA. Final Students

DD/Pay order/Cheque should be drawn in favour of 'Secretary ICAI' payable at New Delhi and sent to Secretary, Committee on Public Finance & Government Accounting, ICAI Bhawan, A-29, Sector-62, Noida-201 309. Please mention your name, membership number and contact details at the back of the cheque/demand draft.

Registration on First Come, First Serve Basis.

Programme Chairman CA. Anuj Goyal, Chairman, Committee on Public Finance & Government Accounting, ICAI	Programme Director CA. Vivek Khanna Chairman, CIRC of ICAI	Programme Coordinator CA. Mukesh Bansal, Chairman, Ghaziabad Branch of CIRC of ICAI
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For further details & information, please contact:
 Secretary, Committee on Public Finance & Government Accounting, Phone: (0120) 3045950, 3045968, Email: cpf_ga@icai.org, Website: www.icai.org

Workshop on Capacity Building Measures of Practitioners & C A Firms

CPE 6 Hours	Date 10 th December, 2011
	Venue Hotel Sita Kiran, Bareilly
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Bareilly Branch of CIRC of ICAI	
10th December, 2011	
9:30 a.m. to 10:30 a.m.	Registration of participants and Inaugural Session
Sessions	Topics to be discussed
Session-I 10:30am to 01:30pm	Revised Schedule VI An Overview of XBRL
Session-II 02:30pm to 05:30pm	ICAI-TAX Suite Software K-Doc & e-Sec Software
Open House and Valedictory Session 05:30 p.m. to 06:00 p.m.	

Registration Fees:- ₹500/- per participant

Cheque/DD should be drawn in favour of "**Bareilly Branch of CIRC of ICAI**" and sent to The Institute of Chartered Accountants of India, B-57, 2nd floor, Butler Plaza, Civil Lines, BAREILLY – 243001, Phone: (581) 2473890 Email: bareilly@icai.org

Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.

Programme Chairman	Programme coordinator
CA. Vijay Kumar Garg Chairman Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. Mohd. Nazar Siddiqui Chairman Bareilly Branch of CIRC of ICAI Email: mnazarca@gmail.com Phone: 9412190733

For Registration & Information, contact details:
CA. Vinay Krishna, Vice Chairman, Bareilly Branch of CIRC of ICAI, vinay. Email: krishna@icai.org, Phone: 9837645633

Open House and Valedictory Session

04:30 p.m. To 05:00 p.m.

Registration Fees:- ₹1000/- per participant

Cheque/DD should be drawn in favour of "**Mangalore Branch of SIRC of ICAI**" and sent Mangalore Branch of SIRC of the ICAI, 2nd floor, Mahendra Arcade, Kodial Bail, MANGALORE – 575 003, Phone: (824) 2495722, 4279104, Fax: (824) 2495722 Email: mangalore@icai.org

Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.

Programme Chairman	Programme coordinator
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA. Chandramohan K.Y Chairman, Mangalore Branch of SIRC of ICAI Email: cmky.mng@gmail.com Phone: 0824-4283192, 8088993192

For Registration & Information, contact details:
CA. Muralimohan Bhat, Vice Chairman, Mangalore Branch of SIRC of ICAI, Phone: 0824-2458383, 98451 02004, Email: muralimohan@mca.co.in

Workshop on Capacity Building Measures of Practitioners & CA Firms

CPE 6 Hours	Date 24 th December, 2011
	Venue Hotel Deepa Comforts, M.G.Road, Mangalore - 575003
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Mangalore Branch of SIRC of ICAI	
24th December, 2011	
8:00 a.m. to 9:30 a.m.	Registration of participants and Inaugural Session
Sessions	Topics to be discussed
Session-I 9:30am to 12:30pm	Professional Ethics, An Assessment Peer Review & Documentation
Session-II 01:30pm to 04:30pm	An Overview of XBRL Capacity Building Through IT Tools

Residential Refresher Course on Capacity Building Measures of Practitioners & CA Firms

CPE 14 Hours	Date 20 th , 21 st & 22 nd January, 2012
	Venue Hotel Tripenta, Malampuzha, Palakkad
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI	
Hosted by Palghat Branch of SIRC of ICAI	
20th January, 2012	Registration of participants and Inaugural Session
Topics to be discussed	
Issues on Income Tax	
Corporate law an Overview	
Issues on Service Tax	
Accounting standards	

Project Financing	
Excell as Audit Tool	
Opportunities For CAS	
Open House and Valedictory Session	
Registration Fees	
Delegates (including accommodation, breakfast, lunch, dinner, course material and entertainment):	
■ Resident Member per Participant (on twin sharing basis) : ₹ 6,000/-	
■ Resident non-Member per Participant (on twin sharing basis) : ₹ 7,000/-	
■ Resident ARS members (on twin sharing basis) : ₹ 5,000/-	
For ARS members of Palghat Branch per participant	
■ Non-resident ARS members of Palghat Branch : ₹ 2,500/-	
Non-Resident members : ₹ 3,000/-	
Non-resident non-members : ₹ 4500/-	
Accompanying person(including accommodation, breakfast, lunch, dinner and entertainment):	
■ For Spouse/Children (Age below 15 years) : ₹ 4,500/-	
■ Age below 15 years) : ₹ 3,500/-	
Cheque/DD should be drawn in favour of “Palghat Branch of SIRC of ICAI” and sent ICAI Bhawan, 8/121/ (2), Indrani Nagar, Chunnambuthara, PALAKKAD- 678 012, Phone: 0491-2576450,2576676, E-mail: palghat@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	
Programme Chairman	Programme coordinator
CA. Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA S.Krisnan Kutty Chairman, Palghat Branch of SIRC of ICAI Email: skkutty@gmail.com Phone: 09349617261
For Registration & Information, contact details: CA. P. Suresh, Secretary, Palghat Branch of SIRC of ICAI, Phone: 9447443247, Email: shsa75@gmail.com	

Residential Refresher Course

CPE 12 Hours	Date 21st and 22nd January, 2012 (8 AM to 5 PM) Venue Valley View, Club & Resort, Near Nakoda Ji Gate, Nakoda Ji Tirth Road, Balotra, Rajasthan
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners(CCBCAF & SMP),ICAI	
Jointly Hosted by Jaipur Branch of CIRC of ICAI Pali Branch of CIRC of ICAI	
Saturday, 21st January, 2012	
08.30 A.M to 10.00 A.M.	Registration of participants and Inaugural Session
Chief Guest *CA Jaydeep Narendra Shah, Vice President , ICAI	
Technical Session	
First Technical Session - 10.00 AM to 1.00 PM	
Topic: Office Management & Capacity Building	
Chairman session: Kamal Kishore Kasat, Jodhpur	
Speaker	
1) Office Management For SMP's - CA. Nilesh Vikamsay, Central Council Member, ICAI	
2) Capacity Building of SMP'S – CA. Pankaj Tyagee, Central Council member, ICAI	
3) SMP's & Minimum Recommendatory Fees - CA. C. L. Yadav, Jaipur	
Second Technical Session - 2.00 PM to 5.00 PM	
Topic: Importance of Audit Documents and Eticial Issues	
Chairman session: CA V P Goyal , Jodhpur	
Speaker	
1) Importance of Audit Documentations - CA K L Jhanwar, Jaipur	
2) Practical Aspects in Ethical Issue for Members - CA. Rajendra Kumar P, Central Council Member, ICAI	
3) Practical aspects of Audit Documentation – CA. J K Agarwal, Jaipur	

Sunday, 22nd January, 2012

Third Technical Session- 9.00 AM to 12.00 PM

Topic: Critical Issues in Direct Tax & Indirect Tax

Chairman session: CA. Jeetmal Parakh Binraj, Pali (9460234806)

Speaker

- 1) Practical issues in Direct Tax - CA. (Dr.) Girish Ahuja
- 2) Issues in Service Tax & Central excise – CA. Pankah Malik, Jaipur
- 3) Issues In Rajasthan VAT - CA. Sumer Patawa, Jodhpur

Fourth Technical Session - 1.00 PM to 4.00 PM

Topic: Capacity Building Through I T Tools

Chairman session: CA O P Maheshwari, Regional Council member

Speaker

- 1) CA B C Chechani, K doc & E Secretary
- 2) CA Vinod Khandelwal, ICAI Tax Suite
- 3) CA Saurabh Mishara, Delhi, ICAI ROC

**Open House & Validatory Session
4.00 PM to 4.30 PM**

Chairman Session: CA Vijay Kumar Garg, Chairman CCB CAF & SMP Committee, ICAI

Registration Fees	With Accommodation	Without Accommodation
Particulars	₹	₹
FCA	2100	1200
ACA	2000	1100
Child(3-12 Yr)	800	500
Child(above 12 Yr)	1500	800

Note:

Payment may be made by cheque /Demand draft in favour of Jaipur Branch of CIRC of ICAI & should be sent to Jaipur Branch of ICAI. The Institute of Chartered Accountants of India, ICAI Bhawan, D-1, Jhalana Institutional Area, JLN Marg, Jaipur-302004

- 1) * Pick & drop Facility from Balotra to Venu and pro.

Conference Chairman

CA. Vijay Garg
Chairman-CCBCAF & SMP
Email: chairman.ccbcaf@icai.org
Mobile: 9414041872

Conference coordinator

CA. Rakesh Jhalani
Chairman Jaipur Branch
Email: jaipur@icai.org
Mobile: 9829064513

For Further Details please Contact:

CA Ashok Jain ,Email: jainak90@gmail.com,
harkawat205@yahoo.com, 09414078881

Workshop on Ethics & Capacity Building Measures of CA Professionals

CPE 6 Hours	Date 12 th December, 2011
	Venue ICAI Bhawan, Siliguri
Organised by Committee for Capacity Building of CA Firms and Small & Medium Practitioners and Committee on Banking, Insurance & Pension	
Hosted by Siliguri Branch of EIRC of ICAI	
12th December, 2011	
2:00 p.m. to 3:00 p.m.	Registration of participants and Inaugural Session
Sessions	Topics to be discussed
Session-I 3:00pm to 6:00pm	International Transaction: Taxation Issues
	International Transaction: Banking Issues
Session-II 6:15pm to 9:15pm	International Transaction: FEMA Issues
	An Overview of payroll management
Open House and Valedictory Session CA. Vijay Kumar Garg, Chairman, CCB CAF&SMP CA. Subodh Kumar Agrawal, Central Council Member, ICAI 9:15 p.m. To 9:30 p.m.	
Registration Fees:- ₹ 700/- per participant	
Cheque/DD should be drawn in favour of " Siliguri Branch of EIRC of ICAI " and sent ICAI Bhawan, Near Over bridge, Tinbatti More, Siliguri Jalpaiguri Highway, P.O. Siliguri Dist: Jalpaiguri; PIN – 743005, Phone No: 0353 - 2560445/ 2562984, Email: siliguri@icai.org	
Limited Seats, Registration on First Come First Serve Basis. Advance confirmation of registration is required.	

Programme Chairman	Programme Co-Chairman
CA Vijay Kumar Garg Chairman, Committee for Capacity Building of CA Firms and Small & Medium Practitioners, ICAI Email: chairman.ccbcaf@icai.org Phone: 9414041872	CA V. Murali Chairman, Committee on Banking, Insurance & Pension Email: victorg321@rediffmail.com , victorg321@gmail.com Phone: 09841040010
For Registration & Information, contact details: CA Aditya Kumar Maheshwari, Chairman, Siliguri Branch of EIRC of ICAI, Email: aditya.ca@rediffmail.com , Phone: 9733044550	

National Conference - JAGRITI 2011 'EMPOWERING THE PROFESSION'

CPE 12 Hours	Date 16th-17th December, 2011 Venue Pragjyoti ITA Centre for performing Arts, Machkhowa, Guwahati
Organised by Continuing Professional Education Committee, ICAI	
Hosted by The GUWAHATI BRANCH of EIRC of ICAI	
Friday, 16th December, 2011	
9.30 a.m. to 10.30 a.m.	Inaugural Session
Chief Guest: The Governor of Assam, H.E. J. B. Patnaik* Guests of Honour: CA. J N Shah, Vice President of ICAI	
Technical Session I (10.45 am to 1.45 pm) Social Responsibilities of the Profession Session Chairman : CA. Amarjit Chopra, Past President ICAI Keynote Address: “Bringing About Transparency in Public Expenditure: Role of CA” by CA. Amarjit Chopra, Past President, ICAI Guest Speaker : “Chartered Accountants in Nation Building: Expectations of the Society” by Dr. Gautam Barua, Director, IIT, Guwahati Special Address: CA. Subodh Kr. Agrawal, Central Council Member, CA. Ranjeet Kumar Agarwal, Secretary, EIRC	

Technical Session II (2.45 pm to 5.45 pm) Corporate Financial Reporting Session Chairman: CA. Abhijit Bandyopadhyay, Central Council Member Speakers: "From Financial Reporting to Business Reporting" by CA. P. R. Ramesh, Mumbai: Tackling the Intricacies of Revised Schedule VI by CA. Debashis Mitra, Guwahati Special Address: CA. Subhash Chandra Saraf, Treasurer, EIRC Saturday, 17th December, 2011		
Technical Session III (10.00 a.m. to 1.00 p.m.) Indirect Taxation Session Chairman: Shri D. D. Ingty, Chief Commissioner, Central Excise, Shillong Speakers: "Constitutional Authority to levy Tax: Centre State Tussle" by CA. V.Raghuraman, Bangalore: "Point of Taxation Rules 2011 & Negative List of Services" by CA. J. K. Mittal, New Delhi Special Address: CA. Pramod Dayal Rungta, Member, EIRC		
Technical Session IV (2.00 pm to 5.00 pm) Direct Taxation Session Chairman: Shri R. K. Gupta, Chief Commissioner of Income Tax, Guwahati Keynote Address: "Direct Taxation in India: Way Forward" by CA. R. Bupathy, Past President, ICAI Speakers : "Real Estate Transactions: Taxation Aspects" by CA. Padam Chand Khincha, Bangalore Special Address: CA. Prasun Kumar Bhattacharyya, Vice Chairman, EIRC		
Participation Fee: CA. Members - ₹2000/- per participant; CA. Students - ₹700/- per participant; Others - ₹2000/- per participant Please Issue your Cheque/Draft in the name of "Guwahati Branch of EIRC of ICAI" payable at Guwahati.		
For Registration & further details, please contact Guwahati Branch of EIRC of ICAI, ICAI Bhawan, 2 nd By Lane, Manik Nagar, R G Baruah Road Guwahati – 781005; Ph No 0361 2207660, Or visit us at www.icaiguwahati.org ; Email id – icai.guwahati@gmail.com , guwahati@icai.org		
Conference Chairman CA. Sumantra Guha, Chairman, Continuing Professional Education Committee of ICAI Phone: +91 9831015331	Conference Convener CA. Anil Kumar Agarwala Chairman, Guwahati Branch of EIRC of ICAI Email: akagarwala@gmail.com Phone: 09435086605	Conference Co-ordinator CA. Kaberi Bhuyan Chairperson, CPE Committee, Guwahati Branch of EIRC of ICAI Email: kaberibhuyan@sify.com Phone: 09864095563

* Subject to consent.

Leadership Beyond



Leadership, to extract its true essence must be Leadership Beyond. Something that is beyond mere good intentions, limits, excuses, fantasies, etc. It has to be real in order to be effective and purposeful. Leadership involves clear vision and strong perseverance. A leader is one who inspires change, ignites talent and lifts others to greatness. When it is said that leaders are born, does it not sound as a statement by someone who has given up on one's development? A far real statement is that leaders are also made. The progress lies in our hand. Choice is ours. So what do we have to wait for? To be reborn as a leader or to develop oneself into a leader in this life itself! Good leaders are 'made', not born. The only requisite is to have the desire and willpower and one can become an effective leader. A good leader develops through a perpetual process of self-study, education, training, experience and keeps away from resting on their laurels. Read on to explore more.



CA. Umesh Mishra

(The author is a member of the Institute.
He can be reached at eboard@icai.org)

The common thought what emerges out of our mind about a leader is a person who leads a group of persons on front, through a struggle or problem and takes the group towards a set goal. It may sound so simple to describe, but usually not so in practice. The leader is an overall strategist and executer of the plan to an objective. In the process, the leader is challenged to demonstrate various capabilities from which together, the traits of leadership. These can be summarised here as under, though not exhaustive.

Confidence -A leader has tremendous confidence in himself. The confidence is not an academic

term which can be read, practiced and possessed. It involves knowing oneself, one's strengths and weaknesses. The knowledge of one's self comes through introspection into self and awareness of one's actions all along, not as an occasional practice, but as a natural way of life. One, who knows self, knows others well too.

Initiation- A leader always exerts himself beyond ordinary ones. Always tries to take those steps to achieve an objective which, in common parlance, are termed as extra, but are very essential for any achievement. Initiation should not be confused with meaning-

less restlessness to keep doing something. It should be understood correctly as an on-going purposive effort for a set goal.

Commitment- One cannot commit to anything without knowing or understanding it fully at heart and being convinced of its rationale without an iota of doubt. Also, commitment is a property of a stable mind. A wavering mind seldom demonstrates commitment. Self-confidence improves one's commitment. Commitment is beyond mind. It has more to do with one's heart than one's sole mind. So when the process of conviction reaches one's heart through one's mind, the sense of commitment deepens. A leader has tremendous harmony between his mind and heart where normally others lack in.

Focus- Self-confidence and commitment keep a leader focused on the goal.

Maturity- Maturity resides in a mind with grown and developed faculties. It is also converse of fickle mindedness and impatience. With a stable and convinced mind, a leader has superior maturity levels than ordinary masses. Maturity reflects patience to think and allow events to unfold naturally before one decides to act. It involves knowledge to deal with a matter squarely on merits without prejudice. Prejudices colour our decisions and we get swayed to unnecessary events.

Empowerment & Delegation- A leader never believes in doing everything self. A leader always believes in the empowerment of team members largely. A leader knows well how to harmonise his efforts with those of his team members. Maturity and patience help a leader work with a team better than any other.

It is said that leaders are born. Does it not sound as a statement by someone

who has given up on one's development? A far real statement is that leaders are also made. Who makes a leader? None other than the leader himself. The progress lies in our hand. Choice is ours. So what do we have to wait for? To be reborn as a leader or develop self into a leader in this life itself! Look beyond and transform yourself into a leader with good leadership in serving those who are led rather merely viewing self as elevated above them. As such perspective erodes the respect of the one being led. ☞

Team-engagement- A leader knows well that for any team to be successful, it is essential that the team members understand the goal, commit themselves to the goal and take ownership of the goal objectives. It can be brought in only by involving them in the whole process where they get a sense of ownership of the process, right from the goal formulation, related decision making till their accomplishments. A seasoned leader desists from imposition of any sort and never dominates.

Responsibility- A leader never blames anyone for even composite failures and takes complete responsibility of failures. He knows that more than blaming someone in the process, what is more important is introspection into the events and finding out the causes of failures and act quickly to accomplish the objectives. He never loses sight of the goals. All other things are secondary. A leader always finds

credit for success unimportant against the lessons of failure or possible future improvements in the so called success.

A 'Leader' is a clear visionary and has a strong perseverance. We can continue discussing the merits of a leader and the list is endless. There are many leadership philosophies, styles, approaches and traits which make one feel that leadership is no common practice. Let us try to know what really makes a leader so distinguished. Is it his resolve and ability to grow and make his team-mates capable of setting objectives and achieving them their own, which brings this distinction? If we minutely examine this, we find there are certain simple traits as laid down below, which make an individual a distinct leader.

Collective Thinking- A leader always encourages his team mates to think on various aspects of a subject matter. He may add a perspective to it based upon his knowledge, but does not limit the horizon or process to his knowledge alone and prods the team mates to think holistically beyond and evolve a better and refined approach. A leader understands well the collective power of human minds *vis-à-vis* a single human mind. He tries helping minds of his team-mates break their barriers and flow free for higher thoughts and solutions.

Simple Approach- A leader always leads by an example. In fact, that is how he evolves into a leader. A leader is always simple, not only by nature, but in approach too. We all know that simple solutions touch our heart straight. Simple approaches can be easily practiced and bring in quick results. So he does not adopt simplicity because of its austere or moral significance, but due to its enormous benefits it brings to the team in terms of

The leader is an overall strategist and executer of the plan to an objective. He is one who has confidence, is good at initiation, is focused and team oriented, possesses maturity, commitment, responsibility and inclusive approach. ”

understanding, harmony and ease of practice. Simplicity is really most uncommon in us.

Focus on Result and Time-A leader follows efficiency and effectiveness. He takes all measures to ensure that solutions and approaches are efficient and effective. He is result oriented. He modularises the whole process of goal accomplishment into smaller sub-sets of achievable goals which can be clearly delegated to team-mates and monitored for their measurable results. He sets a culture of goal prioritisation and result-oriented time management for maximum results. He emphasises and practices thoughtfulness and purposefulness in every action team undertakes. After all, he knows that if team actions are not thoughtful and purposeful, results will never be delightful.

Pursuit for Excellence - A leader always aspires for excellence at work, but is matured enough not to expect it the first time. He knows that excellence is a result of continuous skill and self development. He is keen on observing and understanding the strengths and weaknesses of his team members. He works hard to develop the strengths of his team members further into an expertise of excellence. He knows well that the quality of accomplishment of set goals and his leadership squarely depends on the expertise

he builds and grounds within his team members.

Commonness- A leader is highly common in his thought process and approach. Commonness is a highly confused term. We have given it a meaning of lesser importance such that what is common has no quality or uniqueness. All of us want to be distinct and unique, and in this quest, try to do weird things which have least utility and benefits to others. Normally, we are unmindful in our actions and do not care for others. How often we think before our actions and their impact on others? A leader always thinks of the impact of his action on others. Above all, being common is a virtue whereby one easily connects with masses and enlists their support. Just imagine that if a leader always tries to be different from his team-mates, what disastrous team efforts will emerge out of his efforts. A team spirit does not denote an official consensus, but a common conviction at the heart of all on a matter. This will not be possible without being common with the team-mates.

Independence of Thoughts- A leader is never prejudiced. One would be prejudiced if one has a great liking for a particular viewpoint or approach which negates opportunities to see greater merits. A leader is highly past-neutral but the merit does not lie in that alone. A leader has the ability to float his mind freely with the merits of any matter and settle with the best out of them. This allows a leader to see things clearly through the eyes of others as they intend, without losing his individual identity and judgment. A leader uses his mind more as a processor than a reservoir of ideas.

Positivism- A leader is highly positive. Positivism should not be

confused with idealism or simply looking for merits in everything; even demerits. Being positive requires applying one's experience practically and logically. If a matter meets rejection, it surely requires our knowledge and experience to be revised or upgraded to judge if it's practical and logical. Despite that, if that matter remains impractical and illogical, we can not be really positive to it naturally as that shall be a forced imposition on our mind and heart which will reverse its impact at the earliest opportunity if those have not accepted it anyway. A leader knows this fact and does not expect positivism beyond its meaning. A leader always looks for merits in all aspects he deals with and acts on their relative advantages. Above that, the leader uses positivism as a capability to turn a demerit into a merit failing which at least he finds beneficial applications of those demerits for team benefits.

Positivism also involves interpreting and pointing out the unintended merits of team-mates' efforts and approaches and encourages them to act on them in alignment of the intended goals. It is a tremendous virtue to see and interpret merits of others

A leader knows well that for any team to be successful, it is essential that the team members understand the goal, commit themselves to the goal and take ownership of goal objectives. It can be brought in only by involving them in the whole process where they get a sense of ownership of the process, right from the goal formulation, related decision making till their accomplishments. ”



and encourage them to act better towards their goals. It builds on the team understanding, cohesion and purposive-ness.

A Contributor- A leader never deplores the bad results of his team. He suggests better future alternatives and sets a healthy debate. He puts alternatives and thereby prods team-mates to excel them. He always desists to formulate the approaches himself and makes it a team process. He interprets and converts low merit approaches of his team-mates into high merit ones, giving them the sense of ownership rather than owning them self.

Informal- A leader is an excellent blend of formality and informality. He is close to all the team members informally on their meritorious efforts and decisions, but knows well to infuse a sense of common unease when those efforts and decisions lack merits, setting the pitch for immediate discussion and improvement.

Inclusiveness- A leader seldom expresses an opinion of himself. He believes in evolving an opinion though inclusive discussions and avoids all efforts and actions which reflect sheer individual dominance and promotes team togetherness.

There is nothing which an individual cannot cultivate within if one has hunger for it. We have not understood ourselves. If we do, we will begin to be a self-leader gradually. If this process of self-development is continued sincerely, each one of us shall be a leader in one's own right.

He believes in his best efforts, but is seasoned well not to bemoan adverse results. He has the ability to absorb the adverse effects equally sportingly.

Now, how often do we come across a person possessing these virtues of a leader? The problem lies here. We always want a packaged ideal solution. We have been told to be ideal since birth and keep seeking that in our every endeavour. Should we not admit that we are not ideal as per our social definition and nor we can be? So why waste efforts trying being something we are not prepared for. We are extroverts and normally look outwards for a solution, whereas most often it lies within. We look for a leader to lead us to our intended results. We always want service from outside. Self-service pains us. Someone

else must serve us to our comfort. Are we realistic in our approach? Should we not end this and accept reality? Should we not look inwards within ourselves and with whatever strengths we have, begin to lead ourselves? There is nothing which an individual cannot cultivate within if one has the hunger for it. We have not understood ourselves. If we do, we will begin to be a self-leader gradually. If this process of self-development is continued sincerely, each one of us shall be a leader in one's own right.

We must realise and recognise that the virtues flow from our hearts and not from our minds. We can feign a virtue, but that shall be temporary. It will not last longer as we may not be well convinced, experienced, and practiced into it. We will do a great disservice to ourself by imitating a virtue of a leader. Let's not deceive ourselves by trying to be someone we have not prepared ourselves to be. Let us understand and accept our realities which are the core of our self-development. If we are real to ourselves, there is hope that we will improve ourselves. Not necessarily! Realisation alone is not enough. We must work for results.

It is said that leaders are born. Does it not sound as a statement by someone who has given up on one's development? A far real statement is that leaders are also made. Who makes a leader? None other than the leader himself. The progress lies in our hand. Choice is ours. So what do we have to wait for? To be reborn as a leader or develop self into a leader in this life itself! Look beyond and transform yourself into a leader with good leadership in serving those who are led rather merely viewing self as elevated above them. As such perspective erodes the respect of the one being led. Wake up to our real potential and transcend the leadership, beyond. ■

Guidance Note on Certification of XBRL Financial Statements

NOTE:

The Forms 23AC-XBRL and 23ACA-XBRL, issued by the Ministry of Corporate Affairs for filing of returns by the Companies are enclosed vide Appendix G. The forms require the following certificate to be issued by, inter alia, a chartered accountant:

Certificate - Form 23AC-XBRL (Balance Sheet)

It is hereby certified that I have verified the above particulars (including attachments) from the audited financial statements of and that all required attachment(s) have been completely attached to this form. It is further certified that the attached XBRL document(s) fairly present, in all material respects, the audited financial statements of the company, in accordance with the XBRL taxonomy as notified under Companies (Filing of documents and forms in eXtensible Business Reporting Language) Rules.

Certificate - Form 23ACA-XBRL (Profit and Loss Account)

It is hereby certified that I have verified the above particulars (including attachment(s)) from the audited financial statements of and that all required attachment(s) have been completely attached to this form. It is further certified that the attached XBRL document(s) fairly present, in all material respects, the audited financial statements of the company, in accordance with the XBRL taxonomy as notified under Companies (Filing of documents and forms in eXtensible Business Reporting Language) Rules, 2011.

The guidance provided in this Guidance Note enables the chartered accountant (the practitioner) to issue a certificate in the format as envisaged vide Form No. 23AC-XBRL and 23ACA-XBRL. In addition, however, Appendix F to the Guidance Note also contains an illustrative format of a certificate. Practitioners undertaking engagements to certify XBRL financial statements other than as envisaged under Form 23AC-XBRL and Form 23ACA-XBRL may consider drawing guidance on the form and content of such certificate from the illustrative format given in the Appendix F in case they decide to issue such a certificate in terms of the Engagement Letter.

Introduction

What is XBRL

1. XBRL or the eXtensible Business Reporting Language, is a language for the electronic communication of business and financial data. It is an open, royalty free, international information format (software specification) developed through a process of collaboration between accountants and technologists from all over the world who came together to form the XBRL International¹.
2. XBRL requires that all individual items requiring disclosure in the financial statements be assigned unique, electronically readable tags, which in turn are mapped to taxonomies that have or are being developed by the accounting standard setters, regulators, etc., and are available in public domain.
3. XBRL makes the data readable with the help of two documents – the *taxonomy* and the *instance document*. **Taxonomies** are dictionaries that contain the terms used in the financial statements and their corresponding XBRL tags (i.e., electronically readable codes for each item of financial statements). Thus, taxonomies define the elements and their relationships based on the regulatory requirements and the basic XBRL properties. It includes terms such as net income, earnings per share, cash, etc. Each term has specific

attributes that help define it, including label and definition and potential references. Taxonomies may represent a number of individual business reporting concepts, mathematical and definitional relationships among them, along with text labels in multiple languages, references to authoritative literature, and information about how to display each concept to a user.² **Instance document** is a file that contains business reporting information and represents a collection of financial facts and report – specific information using tags from one or more XBRL taxonomies. The instance document is a computer file that contains entity's data and other entity specific information and is generally not intended to be read by the human eye. Thus, an XBRL instance document is a business report in an electronic format created according to the rules of the XBRL. It contains the facts that are defined by the elements in the taxonomy it refers to, together with their values and an explanation of the context in which they are placed. XBRL Instances contain the reported data with their values and "contexts". Instances documents must be linked to at least one taxonomy, which defines the contexts, labels or references.³ A glossary of important terms used in the context of XBRL financial statements is given in **APPENDIX A** to this Guidance Note.

4. The entities use the prescribed taxonomies to map their reports and generate a valid instance document. In other words, they match the terms/ concepts as used in their financial statements to the corresponding element/s in the taxonomy.
5. National jurisdictions may develop their own standardised taxonomies based on their differing accounting regulations and other requirements of the financial reporting framework. Tagging of financial statements may, however, require considerable amount of judgment on the part of the preparers of the financial statements as there may be multiple tags that could be seen as applicable to a particular financial statement line item.
6. In India, the taxonomy has been developed by the Ministry of Corporate Affairs (MCA), based on the requirements of:
 - Schedule VI of Companies Act;
 - The Accounting Standards; and
 - SEBI Listing requirements.

Taxonomies for manufacturing and services sector (referred as Commercial and Industrial, or C&I) and Banking sector, is acknowledged by the XBRL International.

XBRL Financial Statements – Requirements in India

7. The Ministry of Corporate Affairs, Government of India, vide its General Circular No. 37/2011, dated June 07, 2011 has required the following class of companies (except banking companies, insurance companies, power companies and the Non Banking Financial Companies) to file the financial statements in XBRL form only from the year 2010 – 2011:
 - (i) All companies listed in India and their Indian subsidiaries;
 - (ii) All companies having a paid up capital of ₹5 crore and above; and
 - (iii) All companies having a turnover of ₹100 crore and above.

¹ Source: General Circular No. 09/2011 dated March 31, 2011, issued by the Ministry of Corporate Affairs.

² Source: General Circular No. 09/2011 dated March 31, 2011, issued by the Ministry of Corporate Affairs.

³ Source: General Circular No. 09/2011 dated March 31, 2011, issued by the Ministry of Corporate Affairs.

Objective of this Guidance Note

8. The objective of the Guidance Note is to provide guidance to the practitioners in certification of XBRL formatted statements in terms of the requirements of the Ministry's General Circular No. 57/ 2011 dated July 28, 2011 read with MCA's General Circular No. 43/2011 dated July 07, 2011. These Circulars require that besides signing by signatories as specified under section 215 of the Companies Act, 1956, the financial statements prepared in XBRL mode for filing on MCA-21 portal would also need to be certified by, inter alia, a Chartered Accountant. The financial statements referred here would mean the balance sheet, the profit and loss account, the cash flow statements and the related notes to account. The text of relevant circulars issued by the MCA in respect of XBRL mode financial statements in India is given in **APPENDIX B** to this Guidance Note.
9. It is the responsibility of the management to ensure that the financial statements generated in the XBRL format are in accordance with the taxonomy defined by MCA.

Management Responsibility

10. The responsibility for ensuring that the financial statements generated in the XBRL format are in accordance with the prescribed taxonomy is that of the management of the Company. Accordingly, the management needs to exercise appropriate controls over the following three areas to manage risks associated with generation of XBRL financial statements:
 - a) Selecting, maintaining, and testing the taxonomy ;
 - b) Accurately mapping and tagging data elements to XBRL reports; and
 - c) Enforcing change management procedures for XBRL processes.
11. Selecting an appropriate taxonomy is one of the most important tasks in an XBRL implementation because the taxonomy is the basis for tagging data in an XBRL document. In the instant case the taxonomy is prescribed by the MCA. The organizations must take the time to review and understand the applicable taxonomy. The organizations should also ensure that they remain aware of the updations, if any, to the prescribed taxonomy from time to time and appropriate controls should be put in place to ensure usage of the most appropriate version.
12. Accurately mapping and tagging data elements to XBRL reports creates the normal mapping control issues. Controls should require the appropriate personnel in the organization to review and approve the completeness and accuracy of tagged data elements and watch for consistency of tagged data elements within the selected taxonomy. Generating XBRL documents is a multistep process and changes throughout the process must be appropriately managed.
13. Change management procedures are critical because of the iterative nature of producing financial reports. Adding a tagging step adds complexity, particularly if an organization uses an outside service provider, because it requires several iterations of file transfer and tagging operations.

General Approach to Preparation of XBRL Financial Statements

How XBRL Financial Statements Are Generated

14. There are a number of ways in which XBRL mode financial statements can be generated by the company. These include using XBRL-aware accounting software that enable export of data in XBRL form and allow users to map charts of accounts and other structures to XBRL tags; the financial statements

can be mapped into XBRL using XBRL software tools designed for this purpose; data from accounting databases can be extracted in XBRL format. It is not strictly necessary for an accounting software vendor to use XBRL; third party products can achieve the transformation of the data to XBRL. Further, applications can transform data in particular format into XBRL.⁴ To summarise, generation of XBRL formatted financial statements, can be through the following modes:

- a. **Conversion:** At the most basic level of adoption, an organization takes information from various sources within the organization and then copies or keys this information into an XBRL tool. There is no process change in this approach, merely a conversion of the results of the existing processes to a different format—including the existing inefficiencies.
 - b. **Outsourced:** A second alternative is to use a third-party service provider to generate the XBRL financial statements by interfacing with them with the financial reporting tool. The organization may use XBRL to layer internal metrics and definitions within a permitted extension⁵ to the taxonomy required by the external parties. The process must be robust and repeatable. The mapping of internal metrics to the taxonomy is critical and should involve both management and the service provider so that the risk of communicating invalid or incorrect information is minimized.
15. Ordinarily, creation of XBRL instance document involves the following procedures:
 - Obtaining audited financial statements.
 - These audited financial statements would preferably be in Excel and/ or Word format.
 - Preparation of the source document based on the audited financial statement for XBRL conversion.
 - Mapping the source document to the Target Taxonomy as mandated by MCA.
 - Validating the mapped document to create instance document.
 - Eliminating errors arising out of validation based on error logs.
 - Approval of Instances and mapping by the Board of Directors before creating XBRL instance document.
 - Creating XBRL instance document.
 - Validation of the XBRL instance document by the management using the tool provided by the MCA before filing with the Office of the Registrar of Companies (ROC).

An overview of the features of XBRL tools and the process of generation of XBRL financial statements is given in **APPENDIX C** to this Guidance Note.

16. Regardless of which implementation strategy the company selects, it has to be ensured that the XBRL financial statements so generated are as per the taxonomy defined by MCA. This includes ensuring completeness, accuracy, mapping and structure of the XBRL financial statements.

- **Completeness** means that all required information is formatted at the required levels as defined by the entity's reporting environment. Only permitted information selected by the entity is included in the eXtensible Business Reporting Language (XBRL) files.
- **Mapping** means that the elements selected are consistent with the meaning of the associated concepts in the source information in accordance with the requirements of the entity's reporting environment.
- **Accuracy** means that the amounts, dates, other attributes (for example, Monetary units), and relationships (order and calculations) in the instance document and related files are

⁴ Source: General Circular No. 09/2011 dated March 31, 2011, issued by the Ministry of Corporate Affairs.

⁵ As on date, no extensions are permitted under the taxonomy prescribed by the MCA.

consistent with the source information in accordance with the requirements of the entity's reporting environment.

- **Structure** means that XBRL files are structured in accordance with the requirements of the entity's reporting environment.

Completeness

17. All the information needs to be formatted at the required levels as defined by the applicable reporting requirements in the instance document and related files. Only permitted information selected by the entity is to be included in the XBRL files. Missing information will lead to incomplete reporting and will hamper the users' ability to access information. For example, the Cash Flow Statement needs to be included along with the financial statements as per MCA's General Circular No. 57/ 2011 dated July 28, 2011.
18. Where the company has formatted information that is permitted but not required, it should be ensured that inclusion of such formatted information in the source document is not at the level of detail that is misleading to the users. For example, the audit fees is included in the taxonomy related to Profit and Loss Account while in the source document it is shown under Notes to Accounts.
19. The instance document and related files should contain only facts or presentation or calculation relationships and other information that are included in the source information.

Mapping

20. Elements are essential to communicate the meaning of the information being reported. Thus, selection of appropriate element is important to enable the users to properly analyse and compare disclosure among companies. Accordingly, the elements selected should be consistent with the meaning of the associated concepts in the source information in accordance with the requirements of the company's financial reporting framework. This includes ensuring that:
 - (i) Taxonomies, including versions, referenced in the instance document and related files are those as are permitted by the Ministry of Corporate Affairs.
 - (ii) Element attributes are consistent with the underlying source information.
 - (iii) The most specific element, whose definition is consistent with the concept, has been used.
 - (iv) Use of the selected element is permitted (for example, not deprecated). For example, if the element is deleted in future taxonomy this should not be used.
 - (v) Facts appearing multiple times in the source information are formatted using the same element throughout the instance document and related files when appropriate.
 - (vi) The same element is used for each period for which a concept appears in the underlying source information. For example, if element changes due to taxonomy change, the previous classification needs to be changed.
 - (vii) A new element is only created when no suitable element exists in the selected taxonomy and only if creation such new element is permitted by the Ministry of Corporate Affairs.

Accuracy

21. The instance document and related files must contain information consistent with the source information. Inaccurate amounts, dates and other attributes will impact the usability of the data. Accordingly, the amounts, dates, other attributes (for example, monetary units), and relationships (order and calculations) in the instance document and related files need to be consistent with the source information in accordance with the requirements of the entity's reporting environment.

For this it should be ensured that:

- (i) Elements for accounting concepts with debit or credit balances include a balance attribute.
- (ii) Elements for currency amounts for items other than accounting concepts include (1) a debit or credit balance attribute or (2) a documentation label with an indication of the meaning of a positive or negative value when applicable.
- (iii) Contextual information is consistent with the source information in accordance with the requirements of the entity's reporting environment including the following:
 - The context reporting periods are consistent with the source information (for example, year ended March 31, 2011).
 - The decimal values are consistent with the level of accuracy of the amount as represented in the source information (for example, MCA has permitted two decimals and are presented in full figures in the current taxonomy).
 - The units defined in the instance document are consistent with the measurements represented in the source information (for example, Indian Rupees).
 - The entity identifier in the instance document properly represents the reporting entity (for example, the acronym allotted by the stock exchange on which the securities of the company are listed).
- (iv) Formatted amounts have the appropriate sign based on the nature of the value in the source information, balance attribute, and definition (documentation label) of the element. For example, changes in general ledger can have both debit and credit values.
- (v) When required, the rendered text block information is consistent with the format and layout of the content in the source information. For example, transactions with related parties may need to be reflected as given in the source document (no specific format has been given in taxonomy and can be given in table format).
- (vi) When required, the order and hierarchy reflected in the presentation linkbase are consistent with all headers, captions, and line items in the source information. For example, the MCA taxonomy tree definition should match with the source document.
- (vii) Labels are consistent with the captions in the source information. For example, the elements need to match with the closest definition in taxonomy else this has to be explained with a footnote for the Profit and Loss/ Balance Sheet items while in case of 'Notes to Accounts', these can be disclosed under 'Others'.
- (viii) Calculations reflected in the source information are included in the calculation linkbase in accordance with the requirements of the entity's reporting environment to the extent possible within the technical limitations of XBRL. Only those calculations that are reflected in the source information are included in the calculation linkbase. For example, Consumption of Raw Material is disclosed as Opening + Purchase – Closing is derived in the source document. Since this is not defined in the calculation linkbase in the taxonomy, it can be shown as presentation linkbase in the taxonomy document.
- (ix) All formatted data is consistent with the information underlying source information. For example, profit figures should not change and analytical review between XBRL and source information should be done.

Structure

22. It is essential to structure instance documents and related files in accordance with the requirements to which the

entity's XBRL files are subject. Failure to comply with such requirements may prohibit those files from operating within the requesting party's system. Other structural errors may cause XBRL files to be inconsistent with the HTML version of the source information or not usable by other XBRL software applications. Therefore, the XBRL files should be structured in accordance with the requirements of the entity's reporting requirements. For this, it should be ensured that:

- (i) All information is organized using any required presentation groupings. For example, accounting policy in MCA taxonomy document specifies required formatting information in revenue needs to be specified.
- (ii) The entity scheme and identifier for each context throughout the instance document are identical and in accordance with the requirements of the entity's reporting environment. For example, in real estate company, land is inventory document for retail sales while in case of manufacturing company it can be classified under fixed assets.
- (iii) New table structures are only created when no suitable table structure exists in the taxonomy prescribed by the Ministry of Corporate Affairs. For example, employee benefits are only partly defined in MCA taxonomy and hence new table needs to be defined.
- (iv) Where a test submission validation tool (which may not include validation of all technical requirements) is made available by the Ministry of Corporate Affairs, the instance document and related files pass such validation tests.

Practitioner's Responsibility with reference to Certification of XBRL Financial Statements

23. The members of the Institute may be engaged to perform an assurance or an agreed upon procedures engagement in respect of XBRL financial statements. The Ministry of Corporate Affairs, vide its General Circular No. 43/ 2011 dated July 07, 2011 has required that besides signing by signatories as specified under section 215 of the Companies Act, 1956, a chartered accountant has to certify the financial statements prepared in XBRL mode for filing on MCA-21 portal.
24. The current Standards on Audit issued by the Institute of Chartered Accountants of India do not require the statutory auditors to perform procedures on XBRL data as part of the audit of financial statements. Accordingly, the auditor's report issued on the financial statements in accordance with these Standards on Audit does not cover the process by which XBRL data is tagged or the XBRL data that results from this process.
25. In so far as the Standard on Audit (SA) 720, 'The Auditor's Responsibility in Relation to Other Information in Documents Containing Audited Financial Statements' is concerned, it may be noted that XBRL data does not construe "other information" as envisaged in SA 720 because it is only a machine readable rendering of the data within the financial statements.
26. The responsibility of the practitioner in carrying out a certification of XBRL financial statements in terms of MCA's circular no. 43/2011 of July 07, 2011 read with circular no. 57/2011 of 28 July, 2011 is to certify that the said XBRL financial statements fairly present, in all material respects, the audited financial statements of the Company from which such XBRL financial statements have been prepared, in accordance with the taxonomy prescribed by MCA.
27. The XBRL financial statements though prepared on the basis of the audited financial statements of the company, do not per se result in a verbatim reproduction of the latter. The process of conversion of audited financial statements into XBRL financial statements requires application of judgment, including, in matters of mapping the financial statement items to the appropriate tags in the taxonomy. Currently, the taxonomy prescribed by MCA does not permit any extensions. As a result, many financial statement items/ account heads in certain industry sectors may not have exact corresponding tags in the taxonomy. In such cases, judgement is required to be exercised by the management, having regard to factors such as the nature of the financial statement item/ account head to ensure selection of the most appropriate tag to represent that financial statement item/ account head. Accordingly, having regard to exercise of such judgment by the management as well as the limitations of any normal procedure of certification, would normally not be possible for the practitioner to certify, that the XBRL financial statements fully represent or reflect the audited financial statements of the company or the accuracy or correctness of such XBRL financial statements. In such circumstances, a practitioner can, at best, only certify that the XBRL financial statements fairly present, in all material respects, the audited financial statements of the Company from which such XBRL financial statements have been prepared, in accordance with the taxonomy prescribed by MCA.

Procedures for Certification

28. The practitioner's procedures in respect of XBRL financial statements would, ordinarily, be as follows:
 - Examination of Source Document with the XBRL rendered document using relevant document reader in human readable form. This may be elaborate process of call and compare information with the source documents for all practical purposes.
 - Validation for errors using the MCA tool.
 - Examination of Error Logs at Mapping and Tagging Stage, and also the Error logs generated while carrying out validation using the MCA Tool.
 - In case the XBRL financial statements have been generated by a third party service provider, the practitioner can rely on the report given by the former and may specifically request for following areas such as completeness, mapping, accuracy and structure.
 - Running the formatted XBRL information using relevant reader to satisfy that no changes have been made after validation before filing.
 - Notifying the management of any exceptions observed during the certification. Exceptions have to be brought to the notice of the company.
 - Using the relevant reader, satisfying that no changes have been made after validation but before filing.
29. Any exceptions observed during this process have to be brought to the notice of the management. If the exceptions are significant, they should be communicated to the management immediately for necessary rectification before filing. In case, it is not possible to rectify these exceptions or the management refuses to take necessary corrective action, these exceptions should be reported by practitioner in his certificate giving reasons and whether it would affect the XBRL filing as a whole.
30. The practitioner should also have regard to the following aspects which are also of particular importance in carrying out such certification engagements:
 - (i) There should be clear understanding of the terms of the certification engagement, including:

- the scope of the engagement i.e., the scope of the engagement comprises :
 - conversion of audited financial statements of the company to XBRL mode financial statements in accordance with the taxonomy prescribed by MCA.⁶
 - Certification of the fact that the XBRL financial statements fairly present, in all material respects the audited financial statements of the Company in accordance with the MCA's taxonomy.
- the responsibilities of the management for the preparation and presentation of XBRL financial statements in accordance with the MCA taxonomy, which includes the responsibility for ensuring the completeness, accuracy, mapping and structure of these financial statements. Management is also responsible for the design, implementation, effectiveness, and monitoring of controls over the preparation and submission of the Company's XBRL-tagged data. The practitioner should obtain a written representation to that effect.
- the responsibility of the practitioner for, where applicable, conversion of audited financial statements of the Company to XBRL mode financial statements and certification of XBRL financial statements. It should be made clear that the certification of XBRL financial statements would not involve:
 - Performing procedures that would enable the practitioner to express an opinion on the truth and fairness of such XBRL financial statements.
 - Performing procedures to verify the completeness or accuracy of information provided by the management.
 - Performing procedures that would enable the practitioner to express an opinion on the effectiveness of the design, implementation, effectiveness, and monitoring of controls over the preparation of these XBRL financial statements by the management.
- A statement that the certification would be carried out in accordance with the Guidance Note on Certification of XBRL Financial Statements issued by the Institute of Chartered Accountants of India.
- The fact that, as a part of the certification engagement, the practitioner would request written representations from the management.
- Billing arrangements, etc.
- Restrictions, if any, on distribution of the certificate.

To avoid any misunderstandings at a later date, it would be appropriate that the terms of the engagement are formalized in an engagement letter. An illustrative engagement letter is given as **APPENDIX D**. An illustrative management representation letter is given as **APPENDIX E**.

- (ii) The practitioner should properly plan the certification engagement to ensure that the engagement is carried out in the most effective and timely manner. Besides, the practitioner should also maintain adequate documentation to support his conclusions as contained in the certificate issued by him.
- (iii) The practitioner may not be an expert in evaluating and examining all the technical aspects involved in the preparation of the XBRL financial statements and, may, therefore, need to engage an expert. Ordinarily, the practitioner should not refer to the work of an expert in the Certificate that does not contain his reservations/ exceptions on the subject matter of the certification unless required by law or regulation to do so. If such reference is required by law or regulation, the practitioner should indicate in the Certificate that the reference does not reduce the practitioner's responsibility in respect of the certificate.
- (iv) Since such certification is undertaken after the statutory audit of the general purpose financial statements on which these

XBRL financial statements are based has been completed, the practitioner should invariably review the statutory audit report to ascertain whether there are any matters which have a bearing on his certificate.

- (v) In respect of the format of the certificate, certain factors need to be taken care of, including:
 - The certificate should, generally, be addressed to the engaging party.
 - Specific items covered by the certificate should be clearly identified and indicated.
 - The certificate should clearly lay down the responsibilities of the management vis a vis the practitioner with respect to the XBRL financial statements.
 - The certificate should indicate the manner in which the certification was conducted, e.g., any specific tests performed.
 - If the certificate is subject to any limitations in scope, such limitations should be clearly mentioned.
 - Assumptions on which the XBRL financial statements are based should be clearly indicated if they are fundamental to the understanding of these financial statements.
 - Reference to the information and explanations obtained should be included in the certificate. In certain cases apart from a general reference to information and explanations obtained, the practitioner may also find it necessary to refer in his certificate to specific information or explanations on which he has relied.
 - Since the XBRL financial statements are based on the general purpose financial statements, the certificate should contain a reference to such general purpose financial statements. It should be clearly mentioned that the statutory audit of the aforesaid general purpose financial statements has been completed. Further, the Certificate should also clearly mention whether such audit has been conducted by the practitioner issuing the certificate or by some other Chartered Accountant. In case the general purpose financial statements have been audited by a practitioner other than the one issuing the certificate, he should specify the extent to which he has relied upon them. He may communicate with the statutory auditor for securing his cooperation and in appropriate circumstances, discuss relevant matters with him, if possible.
 - The certificate should ordinarily be a self-contained document. It should not confine itself to a mere reference to another report or certificate issued by the practitioner or another auditor but should include all relevant information contained in such report or certificate.
 - The practitioner should clearly indicate in his certificate, the extent of responsibility which he assumes.

An illustrative format of the Practitioner's Certificate is given in the **APPENDIX F**.

Appendix A

Glossary of XBRL Related Terms

Source: XBRL International

abstract

An attribute of an element to indicate that the element is only used in a hierarchy to group related elements together. An abstract element cannot be used to tag data in an instance document.

attribute

A property of an element, such as its name, balance, data type, period type, and whether the element is abstract.

balance

An attribute of a monetary item type designated as debit, credit,

⁶ Applicable to cases where the certifying practitioner also undertakes conversion of audited financial statements of the company to XBRL mode financial statements.

or neither; a designation, if any, should be the natural or most expected balance of the element—credit or debit—and thus indicates how calculation relationships involving the element may be assigned a weight attribute (-1 or +1).

calculation linkbase

Part of a taxonomy that defines additive relationships between numeric items expressed as parent-child hierarchies.

concept

XBRL technical term for element.

context

Entity and report-specific information (reporting period, segment information, and so forth) required by XBRL that allows tagged data to be understood in relation to other information.

decimal

Instance document fact attribute used to express the number of decimal places to which numbers have been rounded.

deprecated element

Elements within a taxonomy that have been declared not to be used in instance documents due to various reasons (for example, superseded, redundant, or incorrect)

element

XBRL components (items, domain members, dimensions, and so forth). The representation of a financial reporting concept, including line items in the face of the financial statements, important narrative disclosures, and rows and columns in tables.

element definition

A human-readable description of a reporting concept. From an XBRL technical point of view, the element definition is the label with the type “documentation,” and there are label relationships in a label relationships file, but from a user point of view, the definition is an unchangeable attribute of the element.

extension taxonomy or extension

A taxonomy that allows users to add to or modify a published taxonomy in order to define new elements or change element relationships and attributes (presentation, calculation, labels, and so forth) without altering the original.

face of the financial statements

Financial statements without the notes or schedules.

fact

The occurrence in an instance document of a value or other information tagged by a taxonomy element.

hierarchy

Trees (presentation, calculation, and so forth) used to express and navigate relationships.

instance or instance document

XML file that contains business reporting information and represents a collection of financial facts and report-specific information using tags from one or more XBRL taxonomies.

item

XBRL technical term for a kind of element.

label

Human-readable name for an element; each element has a

standard label that corresponds to the element name and is unique across the taxonomy.

label type

A distinguishing name for each distinct element indicating the circumstances in which it should be used; each is given a separate defining role to use in different presentation situations.

line item

Elements that conventionally appear on the vertical axis (rows) of a table.

linkbase

XBRL technical term for a relationships file.

mapping

Process of determining the elements that correspond to lines and columns in a financial statement and which elements must be created by extension.

name

Unique identifier of an element in a taxonomy.

nillable

An attribute that appears on all taxonomy elements and is used (false) on elements that, if used in an instance document, must have a nonempty value. XBRL taxonomy tools normally have the default value for nillable as “true.” There is no need for any extension to define an element with nillable “false.”

parent-child hierarchy

Relationship between elements that indicates subordination of one to the other as represented in a print listing or financial statement presentation. Relationships files use parent-child hierarchies to model several different relationships, including presentation, summation of a set of facts, and membership of concepts within a domain used as the axis of a table.

period type

An attribute of an element that reflects whether it is reported as an instant or duration time period.

presentation linkbase

Part of a taxonomy that defines relationships that arrange elements allowing them to navigate the taxonomy content in parent-child tree structures (hierarchies).

render or rendering

To process an instance document into a layout that facilitates readability and understanding of its contents.

scenario

Tag that allows for additional information to be associated with facts in an instance document; this information encompasses in particular the reporting circumstances of the fact, for example, “actual” or forecast.” The scenario of any fact can be left unspecified.

sign value

Denotes whether a numeric fact in an instance has a positive (+) or negative (-) value.

table

An element that organizes a set of axes and a set of line items to indicate that each fact of one of the line items could be further characterized along one or more of its axes. For example, if a

line item is “Sales” and an axis is “Scenario,” this means that an instance document could have facts that are either for an unspecified scenario or for a specific scenario, such as “actual” or “forecast.”

tag (noun)

Identifying information that describes a unit of data in an instance document and encloses it in angle brackets (<>). All facts in an instance document are enclosed by tags that identify the element of the fact.

tag (verb)

To apply tags to an instance document.

taxonomy, taxonomies

Electronic dictionary of business reporting elements used to report business data. A taxonomy is composed of an element names file (.xsd) and relationships files directly referenced by that schema. The taxonomy schema files together with the relationships files define the concepts (elements) and relationships that form the basis of the taxonomy. The set of related schemas and relationships files altogether constitute a taxonomy.

type or data type

Data types (monetary, string, share, decimal, and so forth) define the kind of data to be tagged with the element name.

unit of measure

The units in which numeric items have been measured, such as dollars, shares, Euros, or dollars per share.

validation

Process of checking that instance documents and taxonomies correctly meet the rules of the XBRL specification.

XBRL footnote link

Additional information that is attached to an element.

Appendix B

MCA's Circulars on XBRL Financial Statements

Circular No.	Date	Issue
09/2011	31.03.2011	Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language (XBRL) mode.
14/2011	08.04.2011	Certification of e-forms under the Companies Act, 1956 by the Practicing professionals
26/2011	18.05.2011	Certification of e-forms under the Companies Act, 1956 by the Practicing professionals
37/2011	07.06.2011	Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language (XBRL) mode
43/2011	07.07.2011	Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language (XBRL) mode
57/2011	28.07.2011	Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language (XBRL) mode

Note: The full text of the MCA's Circulars on XBRL Financial Statements is not reproduced here because of the space constraint. However, the full text of the MCA's Circulars on XBRL Financial Statements is available on the Website of the MCA at the following link:

http://mca.gov.in/XBRL/Notifications_Circulars.html

Appendix C

XBRL Tool Features

The tools used for the data conversion into XBRL document should ordinarily have at the minimum the following features:

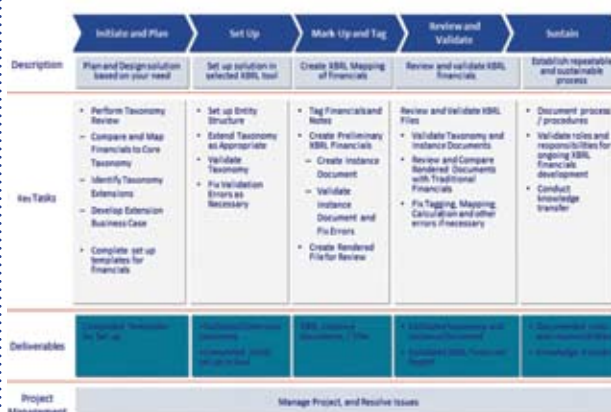
1. Simple process of creating source data using EXCEL template and uploading into or keying into the XBRL software conversion tools in an efficient method.
2. All the Mandatory Items in the Taxonomy should be included the Generic Source Tool Data Template, which is necessary for Taxonomy Validation purposes.
3. The Tool should include the Business Rules Validation Tool (Mandatory Business Rules) which are not part of generic taxonomy validation tools. Tool should include other optional business rules as well.
4. The calculation and presentation should be validated before the instance is created, which gives second layer of validation for instance created.
5. The XBRL document should be viewed in ONE viewer and should have the option of printing (aligned printing).
6. The Tool has the complete cycle included from creation, mapping, create instances, validate instances (both taxonomy and business rules), create XBRL document for filing.

How XBRL Instance Documents Are Created

Documents required

- a) Audited Accounts including Balance Sheet, Profit & Loss account and Cash flow statement
- b) Director's Report
- c) Auditor's Report
- d) Subsidiary Company Information
- e) Additional information required under XBRL Taxonomy.
 1. XBRL Source Information Documentation
 2. XBRL Mapping Documentation
 3. XBRL Instance Creation and internal validation, error logs and their solutions.
 4. XBRL Document – *.xml file
 5. XBRL Document – Validation by MCA Tool. Error reports and Solutions.
 6. XBRL Document – Client acceptance and confirmation.
 7. XBRL Document – Practitioner's Certification – Obtain copy after certification.
 8. XBRL filing information and confirmation from client for filing.

XBRL: Approach



PROCESS NOTES: XBRL APPROACH:

There are five steps involved in the XBRL approach, they are namely:

1. XBRL Design and Planning
2. XBRL Setup
3. XBRL Mark-up and Tagging.
4. XBRL Review and Validate
5. Sustain – Maintenance of XBRL information in documented format.

Each of the above steps is briefly explained in the following paragraphs.

1. XBRL Design and Planning

In this stage, the company's financial information is examined in detail to analyse and understand how the financial information and relevant data can be used in the XBRL document creation considering the current taxonomy.

2. XBRL Setup

In this stage, based on the design and structure, the client information is validated with taxonomy design structure is ready for mapping and tagging. This stage can be treated or considered as "Data Cleansing" Stage to have readily available data prepared using taxonomy ready for next level.

3. XBRL Mark-up and Tagging.

After the Data Cleansing Stage the information is mapped and tagged to relevant taxonomy information and instance creation. Once the instance is created, it is validated for taxonomy calculation, presentation and business rules. If there are any errors on the process of validation, those errors are addressed and finally create an error-free XBRL document.

4. XBRL Review and Validate

The XBRL document created is rendered again in any Viewer in a human readable form and reviewed for their presentation, calculation and validation with the source documents such as audited accounts, director's report, auditor's report and subsidiary information. On examination with the necessary information, the XBRL document has to again to be validated by the tool provided by ministry of company affairs (MCA Tool) before filing. If there are any errors arising out of such validation has to be addressed before XBRL documents are being filed with the company law authorities.

5. Sustain – Maintenance of XBRL information in documented format

In the stage, all the information used and processed for the XBRL documentation at each level has to be maintained for all practical purposes to substantiate the instance created. Once the XBRL document has been validated by MCA Tool, immediately the necessary XBRL file has to be backed up and archived along with the relevant data information used for the XBRL document creation. The source information needs to be kept in safe custody and no further processing should be performed in that file. The XBRL information back-up may be performed used MD5 cryptography to protect the content from any changes using the text editors.

and a summary of significant accounting policies and other explanatory information to XBRL mode financial statements and also certify that these XBRL financial statements fairly present in all material respects, the audited financial statements of the company for the year ended March 31, 20XX, in accordance with the taxonomy specified by the Ministry of Corporate Affairs for filing of the financial statements in the XBRL mode. We are pleased to confirm our acceptance and our understanding of this certification engagement by means of this letter.

Our engagement will be conducted on the basis that the management acknowledges and understands that they have responsibility:

(a) For the preparation of XBRL financial statements in accordance with the taxonomy prescribed by the Ministry of Corporate Affairs. This includes:

- ensuring *Completeness, Accuracy, Mapping and Structure* of these XBRL financial statements.
- ensuring existence and operation of appropriate controls over the process of conversion of audited financial statements to XBRL financial statements.

(b) To provide us with:

- (i) Audited financial statements of Company Limited, viz.
 - audited Balance Sheet of Company Limited for the year ended March 31, 20XX;
 - audited Profit and Loss Account of Company Limited for the year ended March 31, 20XX;
 - audited Cash Flow Statement of Company Limited for the year ended March 31, 20XX; and
 - audit report of Company Limited for the year ended March 31, 20XX.

(ii) Access, at all times, to all information, including the books, account, vouchers and other records and documentation, of the Company, whether kept at the head office of the company or elsewhere, of which [management] is aware that is relevant to the certification of XBRL mode financial statements;

(iii) Additional information that we may request from [management] for the purpose of the certification; and

(iv) Unrestricted access to persons within the entity from whom we determine it necessary to obtain evidence. This includes our entitlement to require from the officers of the Company such information and explanations as we may think necessary for the performance of the certification engagement.

We will conduct our certification in accordance with the Guidance Note on Certification of XBRL Financial Statements, issued by the Institute of Chartered Accountants of India (ICAI). As part of our engagement, we will request from [management and, where appropriate, those charged with governance], written confirmation concerning representations made to us in connection with the certification.

We look forward to full cooperation from your staff during our certification engagement.

[Insert other information, such as fee arrangements, billings⁷ and other specific terms, as appropriate.]

Our certification does not constitute an audit conducted in accordance with the Standards on Audit issued by the Institute of Chartered Accountants of India. Accordingly, we will not express an opinion on the truth and fairness of the XBRL financial statements. Accordingly, as a part of our engagement we will also not perform procedures to verify the completeness and accuracy of the information provided by the management or

Appendix D

Illustrative Engagement Letter

To the Board of Directors of Company Limited
You have requested that we convert the audited financial statements of Company Limited, which comprise the Balance Sheet as at March 31, 20XX, and the Statement of Profit & Loss, and Cash Flow Statement for the year then ended,

⁷ For example, "Our fees will be billed as the work progresses".

such procedures as would enable us to express an opinion on the effectiveness of the design, implementation and monitoring of controls by the management over the preparation of XBRL financial statements. We will, however, bring to your attention any material errors in these XBRL financial statements of which we become aware during our certification process.

Upon completion of our engagement, we will provide you with the XBRL mode a certification on XBRL financial statements referred to above. A draft of the certificate is attached for your reference. The form and content of our certificate may need to be amended in the light of our findings.

Please sign and return the attached copy of this letter to indicate your acknowledgement of, and agreement with, the arrangements for our certification of the XBRL financial statements including our respective responsibilities.

XYZ & Co.
Chartered Accountants
.....
(Signature)

Date : (Name of the Member)
Place : (Designation⁶)

Acknowledged on behalf of.....Company by
.....

(Signature)
Name and Designation
Date

Appendix E

Illustrative Management Representation Letter

[Date]

M/s
Chartered Accountants

We are providing this letter in connection with your engagement to convert the audited financial statements of (the "Company") as of March 31, 20XX, and related financial statement schedules(s) to XBRL financial statements for being furnished by the Company to the Ministry of Corporate Affairs ("MCA") vide their General Circular No. 43/2011 dated July 07, 2011 and also certification of aforementioned XBRL financial statements, prepared from the audited financial statements for the aforesaid period. The term "XBRL-tagged data" in this letter refers to the Company's XBRL instance document, and the related taxonomy extension schema, label linkbase, calculation linkbase, presentation linkbase, and definition linkbase documents, all of which were provided to you on [specify date documents were provided or file names with date(s)].

We confirm that we are responsible for:

- The XBRL-tagged data relating to above mentioned financial statements [and related financial statement schedule(s)]; the completeness, accuracy, and consistency of our XBRL-tagged data; and the related assertions;
- Identifying the applicable XBRL-tagged data filing requirements, determining that the substance of the XBRL-tagged data satisfies the regulatory requirements and filing the XBRL-tagged data in a form and manner that satisfies any regulatory or other requirements of the MCA to which the XBRL-tagged data is to be submitted;
- The design, implementation, effectiveness, and monitoring of

controls over the preparation and tagging of the Company's financial statement data and over the submission of the XBRL-tagged data to the MCA;

- Evaluating and monitoring the completeness, accuracy, and consistency of our XBRL-tagged data, including the work performed by any third parties in assisting us with the preparation of our XBRL-tagged data; and
- Complying with all applicable laws and regulations.

We confirm, to the best of our knowledge and belief, the following representations made to you during your Assistance in XBRL filing engagement:

- All known matters related to the XBRL-tagged data relating to our financial statements or the related assertions have been disclosed to you.
- We have made available to you all:
 - Financial records and related data
 - Documentation relevant to the preparation of the XBRL files, such as [specify documents, e.g., information provided to a third party, tagging worksheets]
 - Output of all validation reports.
- There have been no communications from regulatory agencies affecting the XBRL-tagged data relating to our financial statements referred to above [except for [insert appropriate description]].
- We have no knowledge of any fraud or suspected fraud affecting the entity's XBRL-tagged data.
- We have no knowledge of any significant matters contrary to your findings [except for [insert appropriate description]].
- [Insert any specific representations appropriate for this engagement].

(Name of Chief Executive Officer and Title)

(Name of Chief Financial Officer and Title)

Appendix F

ILLUSTRATIVE FORMAT OF CERTIFICATE ON XBRL FINANCIAL STATEMENTS

To The Board Of Directors Of Company Limited

We have examined the attached Balance Sheet of Company Limited ("the Company") as at March 31, 2011, and the Profit and Loss Account and the Cash Flow Statement of the Company ("the Financial Statements") for the year ended on that date, both annexed thereto, prepared by the Company in the eXtensible Business Reporting Language (XBRL) mode ("the XBRL financial statements"). These XBRL financial statements have been prepared on the basis of the audited financial statements of the Company for the year ended March 31, 2011, on which we/ M/s..... Chartered Accountants (*whichever is applicable*) have expressed an opinion vide our/ their (*whichever is applicable*) Audit Report dated _____, 2011.

The Management of the Company is responsible for the preparation of the XBRL financial statements in accordance with the taxonomy specified by the Ministry of Corporate Affairs for filing of the financial statements in the XBRL mode. Our responsibility is to certify the XBRL financial statements based on our examination, which was conducted in accordance with the Guidance Note on Certification of XBRL Financial Statements issued by the Institute of Chartered Accountants of India.

Based on our aforesaid examination and to the best of our knowledge and belief and according to the information, explanations and representations given to us by the management of the Company, we certify that these XBRL financial statements fairly present, in all material respects, the aforementioned audited financial statements of the Company for the year ended March

⁶ Partner or proprietor, as the case may be.

31, 2011, in accordance with the taxonomy specified by the Ministry of Corporate Affairs for filing of the financial statements in the XBRL mode.⁹

This Certificate is intended solely for your information and for purposes of filing of the Company's financial statements in the XBRL mode in accordance with the Ministry of Corporate Affairs' General Circular No. 43/2011 dated 7th July, 2011 and is not to be used, referred to or distributed for any other purpose without our prior written consent.

For
Chartered Accountants
(Firm Registration No.)
.....
(Name of the member)
Designation
(Membership No.)

Place:

Date:

Appendix G

Form 23AC-XBRL and Form 23ACA-XBRL

FORM NO. 23AC-XBRL [Pursuant to section 220 of the Companies Act, 1956, and Companies(Filing of documents and forms in eXtensible Business Reporting Language) Rules, 2011]	Form for filing XBRL document in respect of balance sheet and other documents with the Registrar
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Note - All fields marked in * are to be mandatorily filled.

Authorised capital of the company as on the date of filing (in ₹) [.....]

Number of members of the company as on the date of filing [.....]

1. (a) *Corporate identity number (CIN) of company [.....] pre-fill
(b) Global location number (GLN) of company [.....]

2. (a) Name of the company [.....]
(b) Address of the registered office of the company [.....]
(c) *e-mail ID of the company [.....]

3. *Date of Balance Sheet as at [.....] (DD/MM/YYYY)

4. *Whether the attached Balance sheet has been audited ☐ Yes ☐ No by the auditors

5. (a) *Whether annual general meeting (AGM) held ☐ Yes ☐ No
(b) If yes, date of AGM [.....] (DD/MM/YYYY)
(c) *Due date of AGM [.....] (DD/MM/YYYY)
(d) Date of AGM in which accounts are adopted [.....] (DD/MM/YYYY) by shareholders
(e) *Whether any extension for financial year or ☐ Yes ☐ No AGM granted
(f) If yes, due date of AGM after grant of [.....] (DD/MM/YYYY) extension

6. *Whether Schedule VI of the Companies Act, 1956 ☐ Yes ☐ No is applicable

7. *Type of Industry [.....]

8. *Whether consolidated balance sheet is also being filed ☐ Yes ☐ No

9. (a) In case of a government company, whether Comptroller and Auditor General of India (CAG of India) has commented upon or supplemented the audit report under section 619(4) of the Companies Act, 1956 ☐ Yes ☐ No
(b) Provide details of comment(s) or supplement(s) received from CAG of India
[.....]

(c) Director's reply(s) on comments received from CAG of India
[.....]

(d) Whether CAG of India has conducted supplementary or test audit under section 619(3)(b) ☐ Yes ☐ No

Attachments

List of attachments

1. * XBRL document in respect of balance sheet, schedules, notes thereto, director's report and auditor's report	Attach	
2. XBRL document in respect of consolidated balance sheet, schedules, notes thereto, director's report and auditor's report	Attach	
3. Statement of subsidiaries as per section 212 (To be attached in respect of foreign subsidiaries)	Attach	
4. Statement of the fact and reasons for not adopting balance sheet in the annual general meeting (AGM)	Attach	
5. Statement of the fact and reasons for not holding the AGM	Attach	
6. Approval letter for extension of financial year or AGM	Attach	
7. Supplementary or test audit report under section 619(3)(b)	Attach	
8. Corporate governance report, Management discussion and analysis and any other document	Attach	
9. Optional attachment(s) – if any	Attach	

Remove attachment

Verification

*☐ To the best of my knowledge and belief, the information given in the form and its attachments is correct and complete.

*☐ I have been authorised by the Board of directors' resolution number * [.....] dated * [.....] (DD/MM/YYYY) to sign and submit this form.

*☐ It is confirmed that the attached XBRL document(s) are the XBRL converted copy(s) of the duly signed Balance sheet and all other documents which are required to be annexed or attached to the Balance Sheet as required under Section 220 of the Companies Act, 1956. It is further confirmed that such document(s) have been prepared using the XBRL taxonomy as notified under Companies (Filing of documents and forms in eXtensible Business Reporting Language) Rules, 2011.

To be digitally signed by

Managing Director or director or manager or secretary of the [.....] company

*Designation [.....]

⁹ In case of any material unresolved exceptions/ departures from MCA taxonomy, noted by the practitioner, the aforementioned paragraph would need to be suitably reworded as follows:

"Based on our aforesaid examination and to the best of our knowledge and belief and according to the information, explanations and representations given to us by the management of the Company, we noted certain material departures from the MCA Taxonomy and on which we have a disagreement with the management. These departures are given in Appendix to this Certificate. Accordingly, these XBRL financial statements do not fairly present, in all material respects, the aforementioned audited financial statements of the Company for the year ended March 31, 2011, in accordance with the taxonomy specified by the Ministry of Corporate Affairs for filing of the financial statements in the XBRL mode."

*DIN of the director or Managing Director; or Income-tax

PAN of the manager; or Membership number, if applicable
or income-tax PAN of the secretary
(secretary of a company who is not a member of ICSI,
may quote his/ her income-tax PAN)

Certificate

*☐ It is hereby certified that I have verified the above particulars (including attachment(s)) from the audited financial statements of

and that all required attachment(s) have been completely attached to this form. It is further certified that the attached XBRL document(s) fairly present, in all material respects, the audited financial statements of the company, in accordance with the XBRL taxonomy as notified under Companies (Filing of documents and forms in eXtensible Business Reporting Language) Rules, 2011.

*☐ It is confirmed that the attached XBRL document(s) are the XBRL converted copy(s) of the duly signed Balance Sheet and all other documents which are required to be annexed or attached to the Balance Sheet as required under Section 220 of the Companies Act, 1956.

☐ Chartered accountant ☐ Cost accountant
(in whole-time practice) or (in whole-time practice) or

☐ Company secretary (in whole-time practice)

*Whether associate or fellow ☐ Associate ☐ Fellow

*Membership number or certificate of practice number

Modify	Check Form	Prescrutiny	Submit
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This eForm has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the filing company

FORM NO. 23ACA-XBRL
[Pursuant to section 220 of the Companies Act, 1956, Companies(Filing of documents and forms in eXtensible BusinessReporting Language) Rules, 2011]

Form for filing XBRL document in respect of Profit and Loss account and other documents with the Registrar

Note - All fields marked in * are to be mandatorily filled.

Authorised capital of the company as on the date of filing (in ₹)

Number of members of the company as on the date of filing

1. (a) *Corporate identity number (CIN) of company pre-fill

(b) Global location number (GLN) of company

2. (a) Name of the company

(b) Address of the registered office of the company

3. *Period of profit and loss account From (DD/MM/YYYY)
To (DD/MM/YYYY)

4. *Whether consolidated profit and loss account is being filed ☐ Yes ☐ No by the auditors

5. *Whether Schedule VI of the Companies Act, 1956 ☐ Yes ☐ No is applicable

6. *Type of Industry

7. *Whether the attached annual accounts have been audited ☐ Yes ☐ No by the auditors

Attachments

List of attachments

1. * XBRL document in respect of profit and loss account, schedules and notes thereto	Attach	
2. XBRL document in respect of consolidated profit and loss account, schedules and notes thereto	Attach	
3. Statement of subsidiaries as per section 212 (To be attached in respect of foreign subsidiaries)	Attach	
4. Optional attachment(s) – if any	Attach	

Remove attachment

Verification

*☐ To the best of my knowledge and belief, the information given in the form and its attachments is correct and complete.

*☐ I have been authorised by the Board of directors' resolution number * dated * (DD/MM/YYYY) to sign and submit this form.

*☐ It is confirmed that the attached XBRL document(s) are the XBRL converted copy(s) of the duly signed Balance sheet and all other documents which are required to be annexed or attached to the Balance Sheet as required under Section 220 of the Companies Act, 1956. It is further confirmed that such document(s) have been prepared using the XBRL taxonomy as notified under Companies (Filing of documents and forms in eXtensible Business Reporting Language) Rules, 2011.

To be digitally signed by

Managing Director or director or manager or secretary of the company

*Designation

*DIN of the director or Managing Director; or Income-tax

PAN of the manager; or Membership number, if applicable
or income-tax PAN of the secretary
(secretary of a company who is not a member of ICSI,
may quote his/ her income-tax PAN)

Certificate

*☐ It is hereby certified that I have verified the above particulars (including attachment(s)) from the audited financial statements of

and that all required attachment(s) have been completely attached to this form. It is further certified that the attached XBRL document(s) fairly present, in all material respects, the audited financial statements of the company, in accordance with the XBRL taxonomy as notified under Companies (Filing of documents and forms in eXtensible Business Reporting Language) Rules, 2011.

*☐ It is confirmed that the attached XBRL document(s) are the XBRL converted copy(s) of the duly signed Profit and Loss account and all other documents which are required to be annexed or attached to the Profit and Loss account as required under Section 220 of the Companies Act, 1956.

☐ Chartered accountant ☐ Cost accountant
(in whole-time practice) or (in whole-time practice) or

☐ Company secretary (in whole-time practice)

*Whether associate or fellow ☐ Associate ☐ Fellow

*Membership number or certificate of practice number

Modify	Check Form	Prescrutiny	Submit
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This eForm has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the filing company

Advertisement

CROSSWORD

066

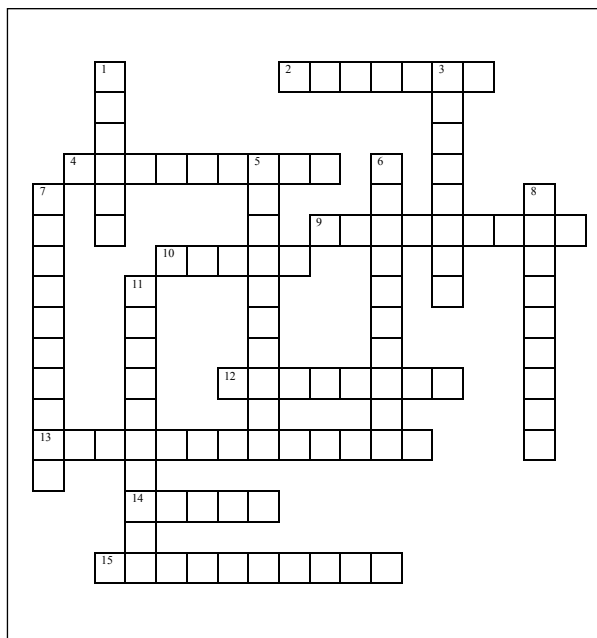
ACROSS

2. Next International Conference of the ICAI is scheduled to be held at _____. (7)
4. A _____ equity share is a financial instrument or other contract that entitles, or may entitle, its holder to equity shares. (9)
9. Internal audit is an independent function, which involves a continuous and critical _____ of the functioning of an entity. (9)
10. First overseas ITT centre has been opened by the ICAI at this place. (5)
12. The RBI has doubled the limit for transfer of _____ by way of gift to a person resident outside India. (8)
13. A programme that is planned and controlled by management and materially changes the scope of a business undertaken by an enterprise is called _____. (13)
14. An amount that Contractor seeks to collect from the customer or another party as reimbursement for cost not included in the contract is called _____. (5)
15. While audit in CIS environment, some of the audit evidence may be in the _____ form. (10)

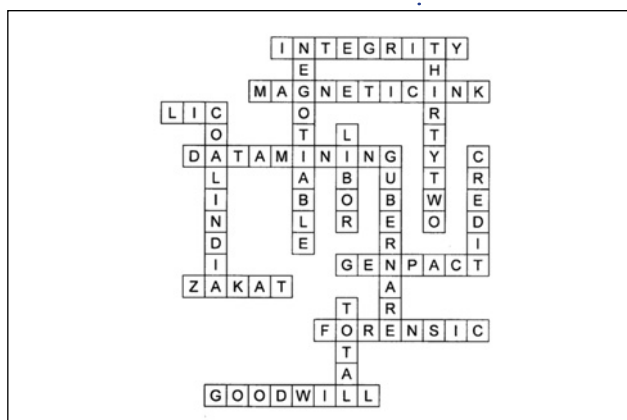
DOWN

1. New Chairman of CBEC. (1,1,4)
3. Internal audit helps in reviewing and ensuring _____ of information systems security and control. (8)
5. _____ loss is the excess of an asset's carrying amount over its recoverable amount. (10)

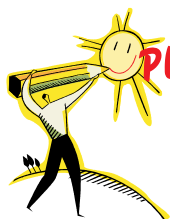
6. The entire set of data from which the auditor wishes to sample in order to reach a conclusion. (10)
7. The term *benchmarking* is first used in relation to _____. (10)
8. ICAI mega event 'Corporate Forum' is scheduled to be held at _____. (9)
11. Studying significant ratios and trends and investigating unusual fluctuations and items is known as _____ Review. (10)



NOTE: Members can claim one hour – CPE Credit – Unstructured Learning for attempting this crossword by filling the details in the self-declaration form to be submitted to your regional office annually to avail CPE hours credit for Unstructured Learning activities under the activity 'Providing Solutions to Questionnaires/puzzles available on Web/ Professional Journals'. There is no need to individually send this crossword in hard copy or email.



SOLUTION CROSSWORD 065



1 Pupil (on phone): "My son has a bad cold and won't be able to come to school today."
School Secretary: "Who is this?"
Pupil: "This is my father speaking!"

2 "I invited my friend for dinner." A husband said to his wife,
"What? Are you crazy? The house is a mess, I haven't been shopping, all the dishes are dirty, and I don't feel like cooking a fancy meal!"
"I know all that."
"Then why did you invite a friend for dinner?"
"Because the poor fool's thinking about getting married."