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Your Monthly Guide to the CA News, Information & Events

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President's Communication

Dear Students,

Your respective examinations are over and you may be enjoying little break that you have got for relaxation and rejuvenating yourself. I personally consider this phase very crucial and vital as you can use this period to strengthen your grip over the subjects and improve the proficiency level in your weak areas. In order to chart out your career graph, you need to unleash the hidden potential that you possess.

There are students who are scared to face the consequences of their performance in the examination, to the extent that they go into their shell whereas there are students who boldly discuss and review their performance. I exhort you to follow the latter approach because it would help you to identify your weak areas and only then, you can work towards improving them. This attitude will certainly help you in all your future endeavours.

I feel that there is an urgent need to provide our students a comprehensive exposure to hone their professional skills. Strong foundation is a must for

a multi-dimensional personality. The success of any professional largely depends upon how one withstands the challenges. I would like you to remember that nothing in this world is impossible if you have a strong will and a high level of commitment to accomplish your set objectives. You should formulate a long term strategy and accordingly plan your career.

We, at the Institute are committed to cater to the requirements of each and every student. The demand for CAs has increased as a result of phenomenal growth in the Indian Economy. Such a dynamic scenario demands that you should equip yourself with the latest information and knowledge.

I do agree that since the quality and standard of CA course is very high so it is little tough to achieve success with less efforts. It is imperative for you to dream high and to turn your dream into reality. You need to imbibe qualities of *Integrity, Perseverance and Patience* in your life.

With Best Wishes

Yours sincerely,

CA. Amarjit Chopra

President, ICAI, New Delhi



Vice-president's Communication

Dear Students,

May 2010 Examinations are over. On a very cheerful note, I convey my best wishes for your respective examinations results. Your persistent hard work will certainly hold the key to unlock the doors of the desired success. After the examinations, it is very apt time for you to assess and monitor your performance. Success or failure in any examination does not mean end to the world. Always remember that each failure you come across brings you one step closer to success.

As a sincere and committed student, you can learn easily from the experiences of the CA rank holders that only through *Desire, Dedication, Determination and Discipline* they could able to excel the pinnacle of the success. Hence, it requires conceptual knowledge, core competence and practical knowledge to achieve the desired success. I hope that your conscientious efforts in the

examinations will pave your way to attain the same amount of success.

I also feel glad that apart from our examination system, the course curriculum and the articleship training are truly impeccable. Our Institute is very proactive to transform the process of learning and enriching the world of knowledge of CA professionals to surpass the emerging challenges of the professional arena. The profession has developed immensely over the years. The CA profession has widened its sublime services in the broad spectrum.

Our Institute has taken its joint stride on the path of distinction. I am pretty confident that you will bring laurels by your glorious professional efforts. Let's remain incessant in this enduring journey of professional excellence.

With best wishes and good luck!

Yours sincerely,

CA. G. Ramaswamy

Vice-President, ICAI, New Delhi

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Message From The Chairman, Board of Studies

Dear Students,

I am writing this message to enable you to plan your career in a manner that you are able to achieve your desired goal in your professional as well as personal life. It is very important for every student of chartered accountancy course to plan for a suitable career and accordingly prepare oneself while undertaking studies as well as after passing the examination.

What are the Options?

The career planning will involve a basic decision about:

- Whether to be a professional in practice as a Chartered Accountant;
- Whether to be working in employment;
- Whether to act as an entrepreneur and to be in industry, services, education or other businesses.

It is not so easy to take this decision and it may be advisable to understand and analyse one's :

- Family background including financial and social strength;
- Academic capability and strength;
- Personal preferences and choices;
- Expected Opportunities.

Choose a Specialization:

It is also important for the student to very carefully choose areas of his/her specialization where he or she will make a career either as a practicing professional or even as a working professional in industry or as an entrepreneur. The possible choices could be –

• **Taxation Expert**

- Direct Taxes expert
- Indirect Taxes expert (Service Tax, VAT, GST, Custom, Central Excise etc.) This will require in depth knowledge of tax laws, regular study of High Court and Supreme Court decisions as well as decisions by ITAT.

• **Accounting, Audit and Assurance** will require deep knowledge of accounting standards, international GAAP, auditing standards as well as in depth knowledge of business processes and risk management and so on.

• **Finance :**

This would require expert knowledge of financial analysis, financial planning, financial instruments, financial products and knowledge about various financial institutions / banks, multilateral agencies in India and abroad besides knowledge of capital market.

• **Investment Banking / Merchant Banking :**

This area would additionally require theoretical and practical knowledge about listing requirement in India, national and international capital markets, stock exchanges, merchant banking and investment banking practices as well as financial markets which could be approached / tapped.

• **Corporate Laws and Economic Laws :**

This would require in-depth knowledge of law and practices in the fields of corporate laws, SEBI Rules and Regulations, for example Takeover Code, Public Issue Guidelines and so on.

• **Information Technology :**

This would require an indepth knowledge of various technologies including ERP, Business Process Engineering, various Information Technology softwares and presentation technology and technology in relation to languages like HTML, XBRL and so on.

The above list is only illustrative and the suggestions only indicative. It may be very important for the students to actually have a medium term plan as well as long term plan so that their entire study and focus can be on the area of their specialization based on the targeted career plan. The plans need to be reviewed 6 monthly initially and later after every 3 years.

Importance of Training :

The training with a Chartered Accountant firm and industrial training will provide a broad and basic understanding about, how the businesses are run, various business processes as well as the environment and in case the student is able to develop a deep expertise in any area of his choice, it is possible to get a suitable opportunity to work on the practical side to further harness his/her capability.

• **Target Career Building and not Money :**

Career Building is more important than short term approach for making quick money. It is very important to think not to earn much money during the training period as well as initial few years of you as a qualified professional. The secrets of practical aspects of your area of specialization will start unfolding , once your patience for having a longer and devoted relationship with your employer/ clients is tested and established.

• **Job Hopping :**

The trend of change in training employers as well as change in career path and change in post qualification employer very quickly may result into initial financial gain, but will completely spoil your career as a reliable professional. A minimum period of 2-3 years needs to be spent with an employer and job should be changed only as a part of overall career plan and not with the intention of making some more bucks.

Ethics

Ethics are the keys to sustained success. For this following are crucial

- Confidentiality
- Creditability
- Competence

I sincerely look forward to hear from you your ideas in response to the above as well as issues facing you in this regard, to enable the Board of Studies to plan appropriate guidance.

Yours sincerely

CA. Vinod Jain

Email : chairmanbos@icai.org

Limited Liability Partnership- Procedure for Incorporation

B.Parvathavarthani*



Limited Liability Partnership (LLP) is a body corporate and is a separate legal Entity. It is a special type of partnership wherein liabilities of partners are limited. It has the feature of perpetual succession where the change in partners does not affect the existence of Partnership.



It differs from the traditional partnership from the fact that the liability of partners is limited to the amount of agreed contributions. In other words, no partner is liable for the misconduct or unauthorized acts of other partners.

Incorporation Procedure

Incorporation procedure of LLP is similar to that of Company. The following is the procedure for incorporation of LLP:

Name of LLP

The name of LLP must end with the word **“Limited Liability Partnership” or LLP.**

The Name applied for, should not resemble the name of existing LLP or it should not be prohibited under Emblems and Names (Prevention of improper use) Act, 1950. If the proposed name contains the words Company Secretary/ Cost Accountant/ Chartered Accountant / advocates or similar words, the same should be allowed only after obtaining approval from the Council governing institute or such other authority specified by the government.

Section 16 of the LLP Act, 2008, specifies that the application for reservation of the name should be made in Form No.1 to the Registrar having

Jurisdiction over the registered office of the LLP. The Form No.1 can also be filed electronically to the Registrar using a digital signature of the applicant. The Foreign LLP/Firm/ Company by applying in Form No. 25 and on payment of the prescribed fee can reserve its existing name in India. In Both cases, the

reservation of the name is valid for 3 months within which person incorporating the LLP must file all relevant documents with Registrar for incorporation. However, the reservation can be renewed on making a fresh application after paying the prescribed fee. If the Registrar is satisfied, then the reservation of the name is communicated within 7 days of application for reservation.

Registered office of LLP

The Registered office of LLP need not be the same place where the business is conducted. LLP may give another address for service of documents within the jurisdiction in which registered office is situated. The LLP must comply with the procedures laid down in the agreement. If the agreement is silent, then the consent of partners should be obtained. Form No.12 should be submitted within 30 days for intimating the above address.

Explanation of Term Partner and Designated Partner

Partner means any person who is a partner in accordance with LLP agreement. Every LLP must have Minimum of two partners. Body Corporates / Individuals can become Partners.

*The author is a student of ICAI (Reg.No. SRO 0210818)

The following persons are disqualified from becoming partners:

1. Person of Unsound mind
2. Person who has applied to be adjudicated as insolvent and his application is pending.
3. Undischarged Insolvent

Section 6(2), provides that if the number of partners in LLP is less than two and LLP continues to carry on business for more than six months, then the person who is a partner during the period and who has knowledge of the above fact is personally liable for the obligations of LLP during that period. After the period of six months, LLP may have wound up by the tribunal.

Designated Partner means any partner designated as such in section no.7. According to Section 7(1) every LLP must have two designated partners who are individuals. Out of two designated partners, one of them must be resident in India. Resident means any person who stays in India for a period of 182 days or more during the immediately preceding one year. In case LLP has all partners who are body corporates or one or more partners are the body corporate then at least two partners who are individual or nominees of the body corporate shall act as designated partners.

If LLP contravenes the provision of section 7(1), then LLP and its every partner shall be punishable with a fine, which is not less than Rs 10000 but not more than Rs 500000.

Section 7(2) specifies that at the time of filing of incorporation document, LLP must state the person who is designated partners and should also state that each of partners from time to time of LLP is to be designated partners and hence every partner shall be designated partner.

Section 7(3), specifies that the designated partner must file his consent in Form No.9 as prescribed under LLP rules, 2009.

According to section 7(4), every LLP must file with

the Registrar the particulars of partner and designated partner and changes therein within 30 days in Form No. 4 as prescribed under LLP rules, 2009. If the LLP fails to comply with the above provision, then LLP and its every partner is liable with a fine of not less than Rs 10000 but not exceeding Rs 1 lacs.

Every Designated Partner must obtain DPIN (Designated partner Identification Number) from the Central Government. The application for DPIN should be made in Form No 7 electronically.

The following persons are disqualified from becoming Designated Partners:

1. Every person who is adjudicating as an insolvent in immediately preceding 5years
2. Every person who suspends payment to creditors or has made a composition with them immediately preceding 5years
3. Every person who is convicted of an offence involving moral turpitude and sentenced to imprisonment for the period not less than six Months
4. Every person who is convicted by the court for an offence involving under section 30 of the Act.

LLP agreement must specify the amount of interest on capital to be paid on their contributions. Profits and losses must be distributed to partners in the ratio of their capital contribution.

LLP Agreement

LLP agreement must be filed in Form No.3 and Notice of appointment of Partner and designated partner in Form No.4 should be filed at the time of Filing Form No. 2 or within 30 days of incorporation.

Capital Contribution

Partners in LLP must agree to contribute in accordance to LLP agreement. There is no provision in LLP Act, 2008 regarding the minimum level of contribution by partners. In case of no agreement, then the contribution should be made as agreed by partners. Contribution can be in the form of Cash/ Intangible/ Tangible/Movable and immovable assets and any other benefits like promissory notes, contracts to be executed etc. If any Immovable /



tangible/ Intangible/ movable assets or any other benefit is brought as the contribution, then the same has to be valued by Practicing Chartered Accountant/ Cost Accountant or by approved valuer of central government. Contribution can also be given in installments. At the time of Incorporation, partner must indicate the full amount of contribution. However, partner is liable for the agreed amount, which is unpaid. LLP agreement must specify the amount of interest on capital to be paid on their contributions. Profits and losses must be distributed to partners in the ratio of their capital contribution. It can also be distributed on some other basis, which is mutually agreed by way of LLP agreement. In case there is any increase or decrease in the capital contribution, the LLP is required to submit Form No. 3 for filing particulars of amendment in the LLP.

Other Requirements

If any corporate is a partner, then the board should authorize a person by way of resolution for signing various documents for and on behalf of the company.

As per Rule 11(1) of LLP Act, 2008, incorporation document should be filed with the Registrar in Form No. 2. Chartered Accountant/Company secretary/ Cost accountant/ Advocate who is engaged in formation of LLP must certify that all the requirements of the LLP Act, 2008 has been complied in Part B of Form No.2. If any wrong / false statement is made, then the person is punishable with imprisonment for a term which may extend to two years and with a fine which is not less than Rs 10000 but not more than Rs 5 Lacs.

Proof of the address of registered office should be enclosed. If the LLP declares residence of partners or office premises as the registered office, then authorization/ consent letter of Partner, rent agreement and proof of address must be enclosed.

Section 12 specifies that if the requirement of LLP has been complied, then the Registrar within 14 days of filing Form No. 2 shall register the same and issue certificate in the form. No.16 stating that the LLP is incorporated.

The Certificate issued by Registrar serves as conclusive evidence that LLP has been incorporated.

The Institute of Chartered Accountants of India

**CA Students Sub-Regional Conference
Hosted by Vasai Branch of WIRC of ICAI**

Days and Dates : Saturday, 19th June & Sunday 20th June 2010

Venue : Venkatesh Banquet Hall, Near Flyover Bridge
Bhayandar West, Dist.Thane.

Registration fee : Rs.500/- per participant

Students are invited to contribute papers for various technical sessions. Paper writers are exempted from immediate payment of Registration fee. All paper writers, whose papers are selected for presentation at the conference, shall be reimbursed registration fee. For more details, visit www.vasai-icai.org and www.wirc-icai.org.

Money Laundering – Indian Scenario

Kunal Suraiya*

The concept of two parallel economies in India and many other developing countries has been existent since quite some time. Every other day there are news reports of people accepting bribes for award of contracts, special concessions, etc.

What is Money Laundering and what is its impact?

The word 'laundering' literally is used for cleaning dirty clothes. Money Laundering refers to the conversion or 'laundering' of money, which is illegally obtained, in order to make it appear to originate from a legitimate source. The Financial Action Task Force on Money Laundering (FATF) defines money laundering as "the processing of criminal proceeds to disguise their illegal origin, in order to legitimize the ill-gotten gains of crime." Indian anti-money laundering law encompasses the money generated from numerous different crimes viz. drug trafficking, racketeering, embezzlement, etc. Apart from these activities, black money is also generated by businessmen, by completing off-the-book transactions in order to evade various taxes and levies.

Money Laundering deprives the Government of some much needed tax revenues, thereby raising the burden of honest law-abiding citizens. Also, development suffers, because of lack of funds. Besides, due to the rapid movements of large amounts of money, financial institutions may become destabilized, thus in turn threatening savings and retirement fund accounts with these institutions.



The Money Laundering Process

Money Laundering is often described as occurring in three stages:

Placement refers to the initial point of entry for funds derived from illegal activities. The aim of the launderer is to remove the

cash from the location of acquisition so as to avoid detection from the authorities, and then to transform it into other assets. This can be done through purchases of monetary instruments such as money orders, postal orders, etc. Other financial services like credit cards may also be used.

Layering refers to the creation of complex networks of transactions, which attempt to obscure the link between the initial entry point and the end of the laundering cycle. It involves many transactions and conversions to blur the trail back to the original crime. This may include investments, purchases of a variety of goods and services, use of several smaller cheques to purchase a bank wire, etc.

Integration is the final step in the laundering process, and involves the return of funds to the legitimate economy with an apparently legitimate provenance. This may include investment in the securities of a company, purchase of real estate, luxury items, etc. By this stage, it becomes exceedingly difficult to distinguish between legal and illegal wealth.

What is terrorist financing?

Terrorist financing is exactly the reverse process

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of money laundering. Here, the money earned from legal sources is used to fund illegal and terrorist activities. Funds earned from legal sources are used to aid terrorists and extremist organizations in acquiring guns, ammunitions, explosives, etc.

Various means used by launderers to carry out their activities:

- 1) Smurfing – It is probably the most commonly used method. It involves many individuals who deposit cash into bank accounts or buy bank drafts in small amounts to avoid the reporting threshold.
- 2) Money services and Currency Exchanges – These services enable individuals to exchange foreign currency that can then be transported out of the country. Money can also be wired to accounts in other countries.
- 3) Credit cards – Overpaying credit cards and keeping a high credit balance gives launderers access to these funds to purchase high value items or to convert the credit balance into cheques.
- 4) Refining – This involves the exchange of small denomination bills for larger ones, and usually involves an individual converting the bills at a number of different banks in order not to raise suspicion. This helps in reducing the bulk of large quantities of cash.
- 5) Value Tampering – This is yet another common method, wherein launderers purchase property from owners, on paper, at a price below its actual value and then pay the difference of the price ‘under the table’.
- 6) Loan Back – Under this method, a launderer provides an associate with a large sum of illegitimate money, and the associate creates the paperwork for a loan or mortgage back to the criminal for the same amount, including the necessary documentation.

RBI has directed all banks to implement KYC guidelines for all new accounts in the second half of 2002. The main purpose of KYC norms was to restrict money laundering and terrorist financing when it was introduced in the late 1990s in the US.

Role of FIU-IND

The Government of India, in November 2004, set up the Financial Intelligence Unit-India (FIU-IND) as the central national agency responsible for receiving, processing, analyzing and disseminating information relating to suspect financial transactions. It is also responsible for coordinating and strengthening the efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and related crimes. It is an independent body reporting directly to the Economic Intelligence Unit (EIU) headed by the Finance Minister.

Prevention of Money Laundering Act, 2002

The Prevention of Money Laundering Act, 2002 (PMLA 2002) and the Rules notified there under came into force with effect from 1st July 2005, after being passed by both the houses of Parliament and receiving the assent of the President on 17th January 2003. Director, FIU-IND and Director (Enforcement) have been conferred with exclusive and

concurrent powers under relevant sections of the Act, to implement the provisions of the Act.

Section 3 defines Offence of money laundering as “Whoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering.”

Section 4 deals with punishment for money-laundering. “Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than 3 years but which may extend to 7 years and shall also be liable to a fine which may extend to 5 lakh rupees.”

However, if the offence relates to an offence specified under Para 2 of Part A of the Schedule

(i.e. Offences under the Narcotic Drugs and Psychotropic Substances Act, 1985), the words “which may extend to 7 years” shall be substituted by the words “which may extend to 10 years”.

Section 5 provides for pre-adjudication provisional attachment in appropriate cases. It outlines the procedure of such provisional attachment.

Section 8 provides for Adjudication for the purpose of determination and recording a finding, as to whether the provisionally attached proceeds of crime, or retention of the records and property seized under the act are involved in money laundering, and if so, to confirm the attachment till conclusion of the trial proceedings as provided in the act.

Section 11 confers powers on the adjudicating authority, similar to those vested in a Civil Court under the CPC, 1908.

Obligations of Banking Company, Financial Institutions and Intermediaries

Chapter IV Section 12 requires the above mentioned entities to a) maintain a record of all the transactions as per the prescribed nature and value, which may consist of a single transaction or a series of transactions taking place within a span of a month; b) furnish information of such transactions to the director within a month; c) to verify and maintain records of the identity of all its clients as prescribed.

However, where the principal officer has reason to believe that a single transaction or a series of related transactions have been valued below the prescribed value so as to avoid the provisions of this section, then information has to be furnished to the director. Also, such records have to be maintained for a period of 10 years from the date of cessation of transactions with clients.

To go as footnote

(Financial Institution means a FI defined in 45-I(c) of the RBI Act, 1934 and includes a chit fund

company, a co-operative bank, a housing finance institution and a NBFC. Intermediaries in this context refers to stock brokers, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser Depository Participants, Custodian of Securities, Foreign Institutional Investors, Credit Rating Agencies

and any other intermediary associated with securities market and registered under section 12 of the SEBI Act, 1992.)

Documents that are required under KYC norms include proof of identity and proof of address such as Ration card, electricity or telephone bill, or a letter from the employer or any other publicly recognized authority certifying the address.

In exercise of the powers conferred under Section 73(1) and (2), the Central Government in consultation with RBI notified in July 2005 “**The Prevention of Money - Laundering (Maintenance of Records of the nature and the value of transactions, the procedure and the manner of maintaining and time of furnishing information and verification and maintenance of records of the identity of clients of banking companies, financial institutions**

and intermediaries) Rules 2005’. These rules were further amended in May 2007 vide Notification No.4/2007.

Rule 3 provides that records are to be maintained in respect of the following:

- All cash transactions of the value of more than Rs.10 lakhs or its equivalent in foreign currency
- All series of cash transactions valued below 10 lakhs, integrally connected to each other, and which have taken place within a month
- All cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security or document has taken place
- All suspicious transactions, whether or not made in cash. (E.g. false identification documents, suspicious background, case of insider trading, block deal at prices other than market price etc.)

Rules 4 and 5 provide for the information to be maintained in respect of the records and the procedure of maintaining the information.

Rule 7 describes the various reports to be submitted to FIU in either manual or electronic form, and include Cash Transaction Report (CTR), Suspicious Transaction Report (STR) and Counterfeit Currency Report (CCR). Due dates for filing reports are fifteenth of succeeding month in case of CTR, and seven working days from date of occurrence of transaction in case of CCR and STR.

Rule 9 provides for the verification of various documents to be submitted by clients at the time of account opening, depending on the nature of the client.

Summons, Searches and Seizures

Chapter V of the act deals with summons, searches and seizures. It confers various powers on the director and the appropriate authority to carry out surveys of premises, search and seize records and property, examine person on oath, etc. Section 19 also empowers the appropriate authority to arrest a person, if the said authority has reason to believe that the person is guilty of any offence punishable under the act.

Other Provisions of the Act are - Appellate tribunal (Chapter VI), Special Courts (Chapter VII), Authorities under the act (Chapter VIII), Reciprocal arrangement for assistance in certain matters (Chapter IX) (i.e. agreements with foreign countries), Miscellaneous provisions (Chapter X) (i.e. punishments, cognizance of offences, recovery of fines, power to make rules, etc.).

Anti Money-Laundering programme for Insurance sector

Insurers, agents and corporate agents are required to maintain records of the nature of transactions mentioned under Rule 3 of the PMLA Rules 2005 discussed above, as well as those relating to identity of clients for a period of 10 years. The

programme also promotes the submission of the reports discussed earlier. Monitoring of cash transactions by the insurers requires them to ensure premiums are paid only out of clearly identified sources of funds, and remittances of premiums by cash should not exceed Rs.50000, premium/proposal deposits beyond Rs.50000 should be remitted only through cheques, DD, credit card or other banking channels. Also integrally related transactions, wherein the aggregate value exceeds Rs.50000 a month should

be examined more closely. In this regard, IRDA has issued certain guidelines related to customer identification, KYC, risk profile, etc.

Know Your Customer (KYC) Guidelines

The main purpose of KYC norms was to restrict money laundering and terrorist financing when it was introduced in the late 1990s in the US. Taking a leaf out of the US book, the RBI has directed all banks to implement KYC guidelines for all new accounts in

the second half of 2002.

Under these guidelines, banks and FIs are required to put in place a policy framework to know their customers before opening any new account. Documents that are required under KYC norms include proof of identity (Passport, voter's ID card, PAN card or driving license) and proof of address (Ration card, electricity or telephone bill, or a letter from the employer or any other publicly recognized authority certifying the address). Some banks may also ask for verification by an existing account holder.

In 2004, RBI had come out with more specific guidelines, which were divided into four parts – Customer Acceptance policy, Customer Identification procedures, Monitoring of transactions and Risk Management.

Also, the RBI through various notifications has made the KYC norms applicable to NBFCs, Miscellaneous NBCs, RRBs, Co-operative banks, etc.

A CA can act as a consultant, providing his vast experience in handling huge quantitative data for verification. He can also help in building effective AML programs for FIs.

SEBI too had directed non-banking agencies to put in place their AML policies and KYC norms.

The RBI vide its Master Circular **DBOD. AML. BC. No. 2/14 .01.001/2009-10 dated July 1 2009**, has consolidated all instructions on KYC norms/AML standards/Combating of Financing of Terrorism (CFT)/Obligations of Banks under PMLA 2002 issued up to June 30 2009.

PMLA (Amendment) Act 2009

The Amendment Act received the assent of the President on March 6, 2009. Following are the main highlights of the Act:

- a) Various new clauses have been inserted in Section 2, and many others have been modified. 'Authorized person', 'designated business or profession', 'offence of cross border implications', 'payment system' and 'payment system operator', etc. have been defined.
- b) Under section 5, the director/deputy director, with effect from the date of this Amendment Act coming into force, can provisionally attach property in certain cases for a period of 150 days. Earlier, this time limit was 90 days.
- c) The age limit for Chairperson/Member of adjudicating authority has been increased from 62 years to 65 years.
- d) Under Section 17, before this Amendment Act, only the Director had the power to order a search and seizure through an officer subordinate. Now, any other officer not below the rank of Deputy Director has also been authorized.
- e) Section 28 deals with qualifications to be appointed as Chairperson/Member of the adjudicating authority. Now, there is no requirement for a Member to be or have been a Judge of a High Court.
- f) A new sub-section (7) has been inserted in Section 60 that provides for returning of property seized in India, as result of execution of a request from a contracting state, or

compensating the state after disposal of the property on mutually agreed terms, after deducting the necessary expenses.

- g) Parts A and B of the Schedule have been modified, and a multitude of new offences have been inserted.

Anti Money-Laundering Software

Few of the popular AML softwares are GIFTSWEB EDD (used by Bank Of India) and eGIFTS (used by ICICI Bank) from GIFTS Software Inc., AMLOCK (implemented by SBI in March 2009) and Bank Alert (UTI Bank, Karnataka Bank) from 3i Infotech,

Complinet from Mantas Software, AML2 from ECONWARE and Searchspace AML. AML Modules include Transaction filtering, which enables real-time queries of transactions against a watch-list and batch scans against customer databases; and KYC Analytics, which enables banks and FIs to meet compliance requirements, and also uses various techniques to detect complex patterns.

Other Laws for preventing money-laundering

Smugglers and Foreign Exchange Manipulators Forfeiture of Property Act, 1976, The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA), The Benami Transactions (Prohibition) Act, 1988, The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

Opportunities For CAs

It is said that with problems come opportunities. This age-old adage holds true here as well. A CA can act as a consultant, providing his vast experience in handling huge quantitative data for verification. He can also help in building effective AML programs for FIs. A CA can also aid the government in proper implementation of the Act. Also, CAs can carry out KYC Audit, which includes customers due diligence procedures, systems audit for checking identity from external database, etc. CAs can even provide Risk Advisory Services and Management Advisory Services.

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MCA – 21- A Technical Revolution in E-Governance

Gaurav Agrawal*



Introduction

Ministry of Corporate Affairs (MCA), Government of India has initiated MCA – 21 program, for easy and secure access to MCA services in a manner that best suits the corporate entities and professionals besides the public. MCA – 21 stands for e- governance initiative of MCA of 21st century and it aims at repositioning MCA as an organisation capable of fulfilling the aspirations of its stakeholders in the 21st century. Rather than compelling the business community to physically travel to MCA offices, MCA services are available at the place of their choice, be it their homes or offices. MCA - 21 project is designed to fully automate all processes related to the proactive enforcement and compliance of the legal requirements under the Companies Act, 1956. MCA portal is the single point of contact for all

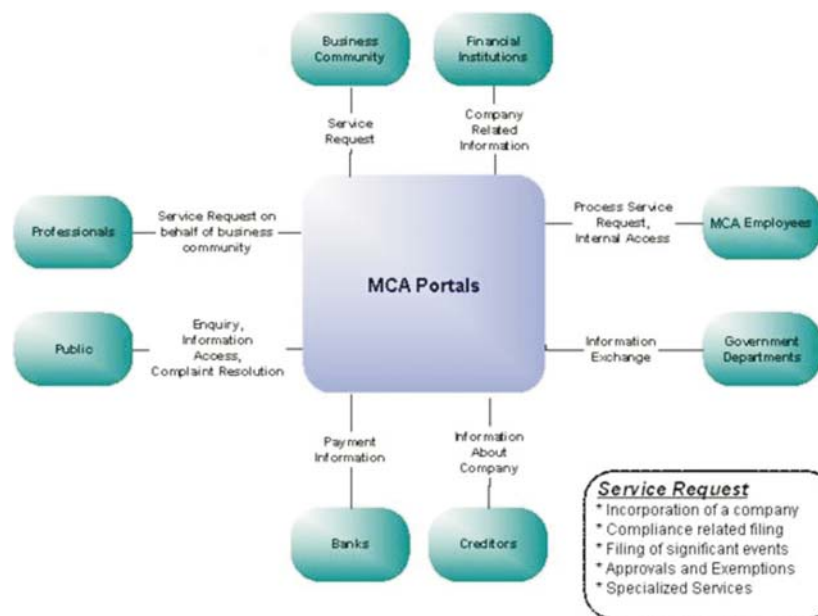
MCA related services, which can be easily accessed over the Internet by all users.

Ministry's Vision

“To be a leader and partner in initiatives for corporate reforms, good governance and enlightened regulation, with a view to promote and facilitate effective corporate functioning, investor protection and inclusive growth, empower the Indian citizen and have a global footprint.”

About MCA Portal

Adopting international best practices, MCA – 21 application adds immense value to the stakeholders. The project also envisages a cost – effective software solution for various in-house functions and it connects everyone in its ambit and as the same can be clearly illustrated through the under mentioned diagram:



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The re-engineered electronic forms, also called e-Forms, are capable of helping the citizens in the process of filling the information electronically. The e-Forms and attached documents, all in the electronic format, are automatically assigned to the MCA staff and the progress tracked until the service is delivered to the citizens.

Information Technology Act, 2000 – Origin of E-governance

E-governance or Electronic Governance is the application of Information Technology to the Government functioning in order to bring about Simple, Moral, Accountable and Responsive and Transparent (SMART) Governance.

The Information Technology Act, 2000 (Central Act 21 of 2000), was enacted to make in the main, three kinds of provisions, as under:

- a. It provides legal recognition for transaction carried out by means of electronic data interchange and other means of electronic communication usually referred to as “electronic commerce”.
- b. It facilitates the electronic filing of documents with the Government agencies.
- c. It amends the Indian Penal Code, 1860, The Indian Evidence Act, 1872, The Bankers’ Book Evidence Act, 1891 and The Reserve Bank of India Act, 1934, to bring in electronic documentation within the purview of the respective enactments.

Legal Recognition of Electronics Records

Section 6 of The Information Technology Act, 2000 brings in the regime of electronic records and digital signature in public records, by making an analogous provision, which grants recognition to electronic records, and digital signatures, in cases where any law provides for:

- a. the filing of any form, application or any other documents with a Governmental office or agency; or
- b. the grant of any license, permit, etc; or
- c. the receipt or payment of money in a particular manner.

Retention of Information

Section 7 of The Information Technology Act, 2000 seeks to permit the retention of information in the

electronic form, where any law provides that certain documents, records or information shall be retained for any specific period.

Thus, The Information Technology Act, 2000 provides a legal recognition to MCA – 21 and it is the initiative and origin of MCA – 21.

Key Issues in MCA – 21

I. E – stamp

Registrars of Companies have to ensure that proper stamp duty is paid on the instruments registered with their office. As of now, physical submission of documents is mandatory where stamp duty is levied in order to ascertain that applicable stamp duty has been paid. In the present scenario, even though the e-Form is submitted instantly, the RoC office has to wait for receipt of physical stamp papers to initiate necessary processing. It results in service delivery time getting longer. Hence, in furtherance of e-governance initiatives, provisions regarding stamp duty applicable on filing of e-forms have been amended and stakeholders shall have a facility to pay stamp duty in the electronic manner also. As of now, this process shall cover

Form 1 (including MoA, AoA); Form 5 and Form 44 only, accordingly revised e-forms are being introduced w.e.f. 12.09.2009. These provisions shall be applicable to the e-forms filed subsequent to this amendment. In case e-forms filed earlier are ‘Resubmitted’ after implementation of this change, e-stamp shall not be applicable.

Keeping in view the requirement of stakeholder’s awareness, process of e-stamp has not been made mandatory, meaning thereby, stakeholders have option to pay stamp duty in electronic manner through MCA - 21 system or in physical form as per the existing procedure. Further, this process shall be applicable only to such States/Union Territories, which have agreed to the request of Ministry of Corporate Affairs for collection of e-stamp duty on their behalf.

II. Digital Signature Certificates (DSC)

Digital Signature Certificate is the digital equivalent (that is electronic format) of physical or paper certificates. A digital certificate can be presented electronically to prove the identity, to

*DIN is mandatory for
Directors of Indian
Companies who are
not a citizen of India.
However, DIN is not
mandatory for
directors of the foreign
company having
branch offices in India.*

access information or services on the internet or to sign certain documents digitally.

The Digital Signature Certificate is issued by licensed Certifying Authority (CA). Certifying Authority means a person who has been granted a license to issue a digital signature certificate under section 24 of the Indian Income Tax Act, 2000.

Section 16 of The Information Technology Act, 2000 required the Central Government to prescribe the security procedure for electronic records, having regard to the commercial circumstances prevailing at the time when the procedure is used. Thus, in respect of such requirement a digital signature is deemed to be a secure digital signature, if, by the application of an agreed security procedure, it can be verified that a digital signature, at the time it was verified:

- a. was unique to the subscriber affixing it;
- b. was capable of identifying such subscriber;
- c. was created in a manner or using a means under the exclusive control of the subscriber and is linked to the electronic records to which it relates, in such manner that if the electronic record was altered, the digital signature would be invalidated. [Section 15 of the Information Technology Act, 2000]

III. Certified Filing Centre (CFC)

A Certifying Filing Centre (CFC) for MCA e-filing, other than the Physical Front Offices or Facilitation Centre set up by the Ministry of Corporate Affairs, to be set up and operate by an appropriately qualified private individuals, firm or body corporate under the MCA – 21 e-governance Program, from where the actual electronic filing of documents by companies may be enabled along with associated facilitation on the payment basis. Accordingly, it has been decided to provide an opportunity for the Professional Institutions (ICSI, ICAI, ICWAI), their Regional Councils/Local chapters, individual practicing members and the firms of professionals to create and set-up the required facilities for this purpose. The Certified Filing Centre thus set-up by the Professional would be over and above the facilitation Centre set-up by the Ministry under the programme. While the services available from the Facilitation Centre set-up by the Ministry would be without any charge, the services provided by these Certified Filing Centers will entail payment of service Charges.

IV. Director Identification Number (DIN)

The concept of a Director Identification Number

has been introduced for the first time with the insertion of Section 266A to 266G of Companies (Amendment) Act, 2006. As such, all the existing and intending directors have to obtain DIN within the prescribed time frame as notified. DIN is also mandatory for directors of Indian Companies who are not a citizen of India. However, DIN is not mandatory for directors of the foreign company having branch offices in India. Only a single DIN is required for an individual irrespective of the number of directorship held by him. DIN is a unique identification number and once obtained is valid for life time of a director.

The application with provisional DIN is examined and processed in the DIN Processing Cell in the office of Regional Director (NR) at Noida. After it is found to be in order, a DIN approval letter is generated and dispatched under Postal Certificate to the applicant at the address given by him in the application form. The provisional status of DIN is converted into a regular DIN and activate in the system.

Steps after the DIN are allotted:

1. The Director, to whom a DIN is allotted, is required to inform the companies, on which one is a Director, about the DIN allotted to him/her in Form DIN – 2 within a period of one month of allotment of DIN.
2. The companies, thereafter, are required to inform the Director Identification Number of the Directors on their company board to RoC in Form DIN - 3 within a period of seven days after receipt of information to this effect from the Directors.

There are provisions for incorporating any changes in the personal particulars of a Director, including his address, after he was submitted the information initially in Form DIN – 1. The required changes are to be intimated to the Government of India [Regional Director (NR) at Noida] in Form DIN – 4 in manual mode as in the case of Form DIN – 1.

V. Pre – Certification of e – forms

Apart from authentication of e – forms by authorized signatures using digital signatures, some e-forms are also required to be pre – certified by Practicing Professionals. Pre – certification means certification of correctness of any document by a professional before the same is filed with the Registrar.

The pre – certification is to be carried out by inter – alia, Company Secretary, Chartered Accountants, Cost & Work Accountants, in whole – time practice.

Analytical Procedures – An Integral Part of Audit Process

Sai Prashanthi. S*



Analytical procedures have become increasingly important to audit firms and now being considered an integral part of the audit process. The importance of analytical procedures is demonstrated by the fact that the Auditing and Assurance Standards Board, the board that establishes the standards for conducting financial statement audits, has required that analytical procedures should be performed during all audits of financial statements. The purpose of this article is to provide the reader with a general understanding of analytical procedures and to describe the process that auditors use in applying analytical procedures.

What is an Analytical Procedure?

In common parlance, Analytical Procedure is one of the financial audit skills, which helps an auditor understand the client's business and the changes taking place in the entity. It helps to identify the potential risk areas and assists in planning the audit procedures.

Definition: As per Standard on Auditing 520, it is defined as "The analysis of significant ratios and trends, including the resulting investigation of fluctuations and relationships that are inconsistent with other relevant information or which deviate from predicted amounts."

Object of the pronouncement: The purpose of this pronouncement is to establish standards on the application of analytical procedures during the course of audit. Such procedures are recommended by SA – 500(R) "Audit Evidence" as a method of collection of audit evidence. These procedures may be applied at different stages of audit.

Analytical Procedures include comparison of financial information (data in financial statements) with:

1. Prior Periods
2. Budgets or Forecasts
3. Predictive estimates. Eg. Estimation of depreciation to be charged for the year.
4. Similar industrial information and so on.

Analytical procedures involve consideration of predictable relationships, such as:

1. Gross profit to Sales,
2. Payroll costs to employees,
3. Financial information and non-financial information, for examples the CEO's reports and the industry news,
4. Stock comparisons ie., Stock levels in different stores should bear a regular turnover ratio relationship to Sales,
5. Policy decisions ie., decisions taken with the actual results.

Purpose of Analytical Procedures:

- To assist in planning the nature, timing and extent of other audit procedures;
- As substantive procedures, when their use is more effective or efficient in reducing detection risk for specific financial statement assertions;
- As an overall review, to conclude whether financial statements as a whole are consistent with auditors' knowledge of the business;
- To provide evidence as to the completeness, accuracy and validity of the data produced by the accounting system, based on inter-relationships between financial data.

When should an auditor emphasize on Analytical Procedures?

- Planning stage: To understand the business and identify areas of potential risk. The auditor

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should use the analytical procedures both on financial and non-financial aspects.

- Audit Stage: The Auditor's reliance on substantive procedures to reduce detection risk relating to specific financial statement assertions may be derived from test of details or analytical procedures or a combination of both.
- Review Stage: To conclude on the consistency and reasonableness of the financial information of the entity.

Sources through which Analytical Procedures can be reviewed:

1. Interim financial information
2. Budgets
3. Management accounts
4. Non-Financial information
5. Bank and cash records
6. VAT returns
7. Board minutes
8. Discussion or correspondence with the client at they year-end

If Analytical Procedures are performed as Substantive Procedures:

Meaning of Substantive Procedure: It means procedure designed to obtain audit evidence to verify the completeness, accuracy, validity and to detect material misstatements in that accounting system. These involve tests of details (transactions and balances) and analytical procedures.

Factors to be considered:

In performance of Analytical Procedures as Substantive Procedures, the auditor should consider the following aspects:

- Objectives of the analytical procedures and the extent to which the results can be relied upon.
- Nature of the entity.
- Availability of information.
- Reliability on the available information.
- Relevance of the information available.

- Source or origin of information.
- Comparability.

If analytical procedures are being performed as a substantive test, the auditor will need to gather information to evaluate the explanation being considered, since the primary purpose of substantive analytical procedures is to provide evidence as to the validity of an account balance. The type and amount of corroboration for the explanation will vary based on factors such as the size of the unexpected difference, the significance of the difference to the overall financial statements, and the risks (e.g., internal control and inherent) associated with the account balance(s) affected. As any of these factors increase, the reliability of the information obtained in support of the explanation should also increase. SA - 520 provides guidance for auditors in the evaluation of the reliability of

data. Some of the factors to be considered by the auditors include the following:

- Data obtained from independent sources outside the entity are more reliable than data obtained from sources within the entity.
- If data are obtained from within the entity, data obtained from sources independent from the amount being audited are more reliable.
- Data developed under a system with adequate controls are more reliable than data from a system with poor controls.

After an auditor gathers information for purposes of evaluating an analytical procedures explanation, it is a matter of professional judgment in determining whether the evidence adequately supports the explanation. This is one of the most important steps of the analytical procedures process and is referred to as the decision phase of the process. If, after evaluating the evidence, the auditor finds that the explanation being considered does not adequately explain the unexpected difference, the auditor should return to the "explanation generation" phase of the process. If the auditor believes that the audit evidence obtained adequately supports the explanation, the

Where the Analytical Procedure identifies the significant fluctuations, which are inconsistent with other relevant information, the auditor should investigate and obtain adequate explanations and appropriate corroborative evidence.

auditor may proceed to the final step of the process, which is “documentation.” While the extent of written documentation will vary depending on the materiality of the unexpected difference, the audit working papers will generally include a written description of material unexpected differences, an explanation for the difference, evidence that corroborates the explanation, and the judgment of the auditor as to the adequacy of the explanation.

Extent of reliance on Analytical Procedures:

- 1. Nature of Risks** - The effect of analytical procedures depends upon the assessment of inherent and control risks. In situations where the control risk is high, reliance should be placed on test of details of transactions than on analytical procedures.
- 2. Materiality of items involved** - Where certain individual items of income and expenditure are not material, comparison with previous year data may provide sufficient audit assurance.
- 3. Accuracy of prediction** - If the expected results of analytical procedures can be predicted with reasonable accuracy, such procedures will be more reliable.
- 4. Other audit procedures** - Other audit procedures directed towards the same audit objectives, which may provide confirmatory of evidence.

Auditor's duty in investigating unusual items:

When analytical procedures identify significant fluctuations or relationships that are inconsistent with other relevant information or that deviate from predicted amounts, the auditor should investigate and obtain adequate explanations and appropriate corroborative evidence. The inquiries about unusual items should be followed by:

- **Corroboration of management responses** – Comparing the management responses with the auditor's knowledge about the business and other available evidence.
- **Representation by management** - Obtaining oral or written representations with respect to the unusual items and the reasons for such deviations.
- **Other audit procedures** – In the absence of management explanation, it is necessary to apply other audit procedures based on the results of such inquiries.

Where the Analytical Procedure identifies the significant fluctuations, which are inconsistent with other relevant information, the auditor should investigate and obtain adequate explanations and appropriate corroborative evidence.

Effective date: This Standard on Auditing became operative for all audits relating to accounting periods beginning on or after April 1, 1997.

Articles invited for Students' Journal, Special Issues

We are planning to bring out a few Special Issues of the Students' Journal in the forthcoming months. The main focus will be on IFRS, Direct Tax Laws, Indirect Tax Laws, Corporate Laws including SEBI Guidelines and Regulations, Insider Trading Code, Public Issue Guidelines, International and Indian Capital Market, Finance including Resource Raising and International Financing including special financial instruments being used internationally, and Labour and Economic laws.

Articles are invited from members, academicians, students and others on the above subjects for inclusion in the Student Journal. An article should comprise 1200 to 1600 words only. Articles written by the students are especially encouraged. The authors are advised to enclose the following along with the articles:–

1. A formal & signed undertaking in the form of a letter stating that the article is original in all respects and does not infringe any copyright and has not been published elsewhere or has been sent for publication.
2. A latest passport size colour photograph (with full name and registration number written on the back of the photograph).
3. A soft copy of the article with complete communication and E- mail address. Articles received without the details/ enclosures specified above will not be considered.

All correspondence in this regard should be addressed to The Board of Studies, ICAI, A-94/4, Sector-58, Noida – 201 301 with the full name, complete address and the membership/ registration number if applicable.

Greek Economy Crisis and India

Prem Bhutani*

Introduction

Greek economy is at a critical juncture in its history. After 16 years of continuous growth in its GDP, it has now entered the second year of negative growth. In 2009, its GDP fell by 1.6% and in 2010 a similar figure is expected. While some European countries are slowly coming out of the economic crisis, Greece is falling into a deep slump.



Until recently the Greek economy was expanding. Availability of easy credit was one of the elements that contributed to the boom. Besides, other factors such as European Union (EU) aid and state spending also led to the expansion of the economy. Now these two sources of economic growth, state spending and credit from the banks, have dried up. The banks are in crisis and the state is overburdened with debt. In the past Greek banks invested heavily in Eastern Europe and Turkey and made reasonable profits. Now, however, because of the crisis there, Greek banking profits have plummeted.

Maladies affecting the economy

The Greek economy is in serious debt trap. The budget deficit has more than doubled in just six months from 6.2% of GDP in the second half of 2009 to 12.7% in January 2010. Currently it is nearly 14% of GDP. Three factors contributed to this sudden leap in debt. First there were lower tax revenues due to the impact of the recession. This adds to the already chronic level of tax evasion in Greece. Secondly, for some time the Greek government had been hiding the real level of debt and state expenditure from the European Union. This was in order to facilitate funding from the

EU. And thirdly, the lavish spending by the government has also added fuel to the fire. Now, officially the national debt stands at 112.7% but it has been estimated that the real figure is closer to 120%.

What made things worse at the end of last year was when European Central Bank announced it was going to cut loan facilities

to Greece. This prepared the present nightmare scenario for the Greek financial system. The situation is so critical that any major bank could collapse in Greece in the coming period and due to acute shortage of funds the government would not be in a position to carry out a large-scale bailout. This means that the only option open to Greece is to apply "shock therapy" i.e. to undertake massive cuts in social spending, wage freezes and increase in taxes so on.

Production wise the situation is grim in Greece. Industrial production fell by about 25% in 2009. The rate of unemployment which had been falling till 2008, started rising thereafter. From 7.8% unemployment rate in 2008, it increased to more than 10% in 2009. In 2009 alone, 186,000 jobs were lost. There are now well over 500,000 unemployed in Greece. However, this is not the end of the story. It is estimated that unemployment could soon hit the 20% mark in near future.

Bail Out Package

Although European Union (EU) did not favour bailout of a crisis ridden EU country, International Monetary Fund, the European commission, and the European central bank, in order to ensure stability of the euro area and to contain global fallout have

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agreed for the bailout of Greece. A package worth \$ One trillion or • 750 billion is chartered out to rescue Greece from financial meltdown. Of the •750, the other 15-euro countries are to supply •500bn in bilateral loans, while the IMF puts up the remaining •250bn. In return for the lifeline, Greece has committed to take austerity measures. These include, cutting state expenditure, reducing wages, pensions, and other benefits in Greece's bloated public sector and increasing tax rates. The deficit is to be reduced from the present 14% of GDP to less than 3% by 2014.

Spill Over Effects on EU

It is feared that Greek crisis may have cascading effect on International finance. France and Switzerland, who are the largest holders of Greek bonds, would start stumbling and whole Europe may get affected in the process. The economic crisis of Greece and other European countries like Portugal, Spain and Italy have raised fears that this may lead to a massive crisis in European Union (EU) and in fact, it is feared that it may lead to breaking of the EU.

Its likely impact on India

Opinions are different as to the likely impact of Greek crisis on India. Some economists are of the view that India's trade with Greece is of insignificant amount and as such India is not going to get affected greatly only because of Greece. In fact, they believe that due to relatively good performance of India investors might consider it as a safe haven and might, at least in the short run, divert their capital flows here. Other economists believe that India cannot remain immune to the Greek disease. It is feared that the Greek disease may spread to other countries and it may ultimately affect Indian exports. This is so as EU is the largest trade partner of India. Besides, foreign direct investment in India may also be severely affected. This will affect many ongoing projects as a great number of them are funded by foreign inflows. Indian equity market has also been affected at least in the short run. However, it is expected that the Greek crisis would not disturb the Indian economy in a major way as the economy's fundamentals are strong and government policies are positive.

NRI Professor to head Harvard Business School

It is a matter of great pride for the Indian community that an Indian-born business administration scholar Dr Nitin Nohria has been selected as the tenth Dean of Harvard Business School (HBS). Dr Nohria, who is the Richard P Chapman Professor of Business Administration at HBS, has also held senior administrative positions at the School, including Senior Associate Dean for faculty development and Chair of HBS' organisational behaviour unit.

Dr Nohria graduated in chemical engineering from the Indian Institute of Technology Mumbai and received his Ph.D. in management from Massachusetts Institute of Technology's Sloan School of Management. His doctoral thesis was on behavioural and policy sciences. Dr Nohria has co-written and co-edited 16 books. He has also authored more than 50 articles and dozens



of teaching cases and notes. His intellectual interests centre on human motivation, leadership, corporate transformation and accountability, and sustainable economic and human performance. His books have explored a wide range of topics on how leaders from different backgrounds rose in American

business to business practices that are successful in differentiating organisations.

A 2008 article written by Dr. Nohria and fellow faculty member Rakesh Khurana for the Harvard Business Review said "managers have lost legitimacy over the past decade in the face of a widespread institutional breakdown of trust and self-policing in business." The two called for a "rigorous code of ethics" for business leaders, similar to the medical profession's Hippocratic Oath.

The Enterprise: IT Governance

Sangeetha Jagannathan*

Business technology investments of today face a dilemma regardless of factors such as size, revenue, industry, and region or business model; on how technology can be leveraged with foolproof controls to deliver the agility and responsiveness needed to compete on the world stage. The efficiency measure is, if business processes are optimized and execution costs reduced. These often lead to reinventing business models and in the process explore the alignment of technology with sound strategic business objectives.

A comprehensive view of the enterprise processes need to justify return on investment aligned with management objective criteria. The need for a structured set of steps designed to ensure that all relevant facts have been included in the process to identify risks and to ensure that it produces the anticipated outcomes is vital.

A framework provides best practices with a practical guidance in aligning information technology resources with an enterprise's business objectives and improvements in operational efficiency. In addition, a comprehensive IT governance capability in an enterprise ensures sustained value from IT-enabled investments from the scope of all levels of management within an enterprise. The article provides a brief overview of IT Governance Institute's, Val IT Framework 2.0 that regards value delivery as the key focus area of IT governance.

"Effective IT governance plays a pivotal role in business value an organization generates from IT"
(The Value IT Framework 2.0)



While COBIT sets good practices for the means of contributing to the process of value creation, Val IT sets good practices for the ends, by providing enterprises with the structure they require to measure, monitor and optimize the realization of business value from investments in IT.

(COBIT- Control Objective for Information and related Technology)

The Val IT framework takes the enterprises' governance view and focuses on the two fundamental IT governance related questions:

"Are we doing the right things?"

The strategic question.

Is the investment?

- In line with our vision.
- Consistent with our business principles.
- Contributing to our strategic objectives.
- Providing optimal value, at affordable cost, at an acceptable level of risk.

And

"Are we getting the benefits?"

The value question.

Do we have?

- A clear and shared understanding of the expected benefits.
- Clear accountability for realising the benefits.
- Relevant metrics.

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- An effective benefits realization process over the full economic life cycle of the investment.

To fulfill the value management goal of enabling the enterprise to realize optimal value at an affordable cost with an acceptable level of risk from IT-enabled investments, the Val IT principles need to be applied within three domains namely: see figure 1. The processes undertaken under each domain are to be followed both in parallel and iteratively in accordance with the key management practices.

- (i) Value Governance,
- (ii) Portfolio Management, and
- (iii) Investment Management.

Summary of Val IT Principles

IT-enabled investments will:

- Be managed as a portfolio of investments
- Include the full scope of activities required to achieve business value
- Be managed through their full economic life cycle

Value delivery practices will:

- Recognise there are different categories of investments that will be evaluated and managed differently
- Define and monitor key metrics and respond quickly to any changes or deviations
- Engage all stakeholders and assign appropriate accountability for the delivery of capabilities and the realization of business benefits
- Be continually monitored, evaluated and improved

Figure 1: Val IT Principles

Each domain comprises of a collection processes and interacting activities that align with management practices. The process is to have a clear business reasons for existing, accountable owners, clear roles and responsibilities for execution and performance measurement. The inter-related processes identified in the framework are the guiding principles for input, output,

descriptions with RACI (Responsibilities, Accountable, Consulted and Informed) charts, and goals and metrics at different management levels.

The Val IT principles applied within the three domains:

(i) Value Governance (VG):

The objective of value governance is to embed value practices within the enterprise aligned with an informed and committed leadership throughout the corporate suite(C-suite) which helps in:

- Establishing the governance framework for value management that is fully integrated with overall enterprise governance.
- Providing strategic direction for the investment decisions.
- To define the characteristics of portfolios required to support new investments and resulting services, assets and other resources.
- Improving value management on a continual basis, based on lessons learned.

(ii)Portfolio Management (PM):

It translates the business strategy into IT strategy and goals from the board-level investment oversight. It identifies an appropriate investment mix based on rate of return, degree of risk and type of benefit for the programmes in the portfolio that implement the strategy. The commitment to portfolio management helps enterprises to:

- Establish and manage resource profiles.
- Define investment thresholds.
- Evaluate, prioritize, and select, defer, or reject new investments.
- Manage and optimize the overall investment portfolio.
- Monitor and report on portfolio performance.

(iii) Investment Management (IM):

The key components of IM are:

- Business case: To select the right investment programme and manage them during their execution.
- Programme management: It governs all processes that support execution of the programmes.
- Benefits realization: The set of tasks required to actively manage the realization of programme benefits. The goal of IM is to ensure that the enterprise's individual IT-enabled investments contribute to optimal value.

The organizational leaders commit to IM by improving their ability to:

- Identify business requirements.
- Develop a clear understanding of candidate investment programmes.
- Analyse alternative approaches to implementing the programmes.
- Define each programme and document; maintain a detailed business case for it, including the benefits' details, throughout the full economic life cycle of the investment.
- Assign clear accountability and ownership, including those for benefits realization.
- Manage each programme through its full economic life cycle, including retirement.
- Monitor and report on each programme's performance.

Relationship amongst Val IT Principles, Processes and Practices:

Val IT supports the enterprise goal of creating optimal value from IT-enabled investments at an affordable cost, with an acceptable level of risk and is guided by a set of principles applied in value management processes that are enabled by key management practices and are measured by performance against goals and metrics.

The Synergistic Relationship between Val IT and CoBIT:

While CoBIT focuses on IT governance in the perspective IT function, Val IT or enterprise

governance of IT deals with delivering value while managing risk. Comparisons between the frameworks with focus on governance, processes and portfolios are:

Governance Focus

Val IT: Enterprise governance of IT.

CoBIT: IT governance.

Process Focus

Val IT:

- Programme design and initiation.
- Benefit realization.
- Investment and ongoing value management aspects of all processes.

CoBIT:

- IT solution delivery.
- IT operational implementation.
- IT service delivery.

Portfolio Focus

Val IT:

- Manage the investment portfolio.
- Provide the overall view of portfolio performance.

CoBIT:

- Manage the IT project portfolio in support of investment programmes.
- Manage the IT service, asset and other resource portfolios.
- Provide information on the performance of the IT service, asset and other resource portfolios.

Hence, the Val IT framework addresses the enterprise governance of IT as a whole with the focus on strategic alignment, value delivery, resource management, risk management and performance management. The need for IT-enabled value generation requires a set of sequential and parallel initiatives to meet the intended strategy and benefit realization. Today's challenges for an enterprise includes increase profits and deliver value products at lower cost, create opportunities to play on a global platform and facilitate a clear business value.

The importance of IT for CA students

Angad Pal Singh*



Introduction

It is well recognised that Chartered Accountancy profession is one of the most integral and respected professions in India. CAs have thus the responsibility to take it to the top of the world by usage of latest technologies.

It has been usually seen that CA students are reluctant to study the subjects relating to Information technology (IT) and also they do not like to concentrate on IT skills.

In CA offices also, mostly either 'a basic level of IT is used (like preparing documents on MS word and some data on Excel sheets in a simple manner)' or 'it is not used at all'. Many a times it is seen that on 31st day of March of every assessment year, there is a heavy crowd and long queues of articles at Income Tax Office for submission of manual Income Tax Returns. This clearly shows either the lack of e-filing knowledge or reluctant attitude towards the same amongst Chartered Accountants and students. CAs and students have been seen with laptops in hand but still found calculating the tax liability or other related things on calculators. It cannot be said that CAs and students are not using IT at all. There are numerous CAs who are using IT at its level best. But in today's IT era, our professionals should be completely engaged in Information technology and make its fullest use to exploit its numerous advantages. Leveraging IT within the scope of professional delivery involves expertise in using tools like Excel.



During my articleship, the exposure to use these tools made me realize the benefit of increasing my efficiency. I am obliged to the principal of the firm where I am employed as article for facilitating a platform. The use of these IT tools efficiently can be paralleled as, Excel can solve the purpose at CA professional level as Java solves at Engineering level. A tool like Excel overcomes repetitive tasks with automated inbuilt formulae, functions and programmed instructions

like macros. Most students are only familiar with basic functions like =SUM () or =AVERAGE () or =IF() etc. There is much more with excel to make your data extremely automatic. =VLOOKUP () or =HLOOKUP () or =ISERR () or =MID () are some of those helpful tools which aid in building up strong and automated utilities for solving various things.

I urge students to gain expertise in IT tools like excel which would help them to make audit reports quite faster than before. They also help in scrutinize the data of various clients (specially banks), calculate tax liabilities, amount of exemptions allowed, service tax to be deposited in the current month, STCG and LTCG on shares in a much comprehensive and interesting ways. IT tools are a 'must go for' thing for an accounting professional. In an era of the world becoming a global village through the facilitation of information, communication and technology electronic mode of business transactions, corporate

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governance, supply chain etc is the order of the day. The Indian government has been ardently putting its efforts in providing e-filing services for Income Tax returns, TDS returns, VAT/ST returns, Company law returns, E-payment of taxes etc. These have enabled citizens work from the comfort of his/her office/home avoiding long queues in banks for submission of taxes and crowd at ITO for submission of returns. Various government portals viz., incometaxindia.gov.in and mca.gov.in are the examples of such endeavors of government. Professionals must make fullest use of such facilities and save a lot of their time to be utilized in more work and study. Still long queues are seen at departments for manual submission of returns (which have not been compulsorily required to be filed electronically). Even ICAI has enabled e-Filing facilitation and provides help on its website link "e-Filing Help".

Why aren't we adopting the e-filing method so extensively? Is it very tough? Or does it involve the incurring of extra costs? Or does it not provide additional conveniences?

CA professionals must ensure that only those documents, which cannot be filed electronically, are filed manually.

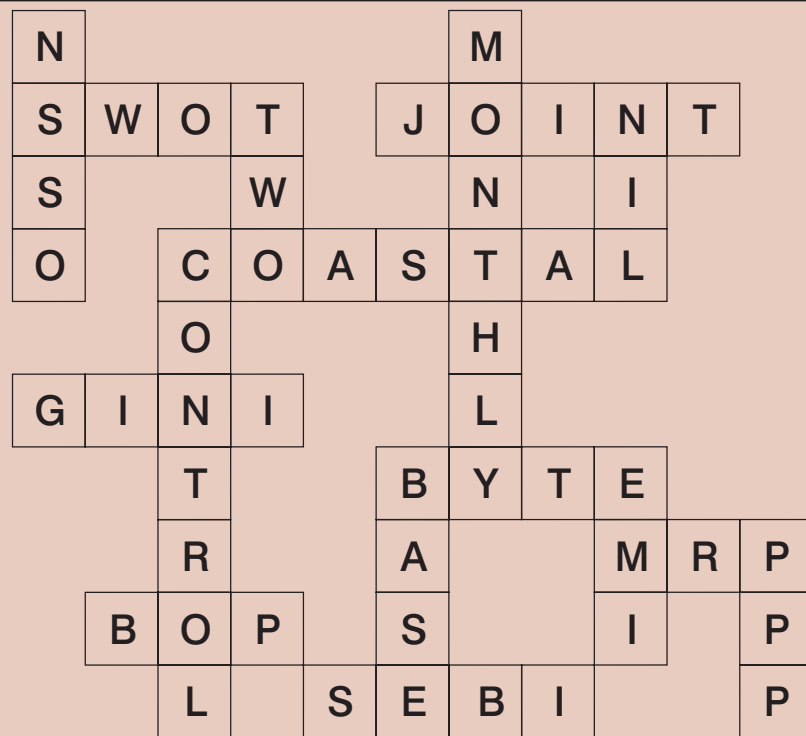
Studying and properly understanding the IT

subjects given by ICAI; namely Information technology in PCC and ISCA/MICS in CA final is indispensable for CA students in developing their professional competencies. Students generally avoid reading these subjects and prefer to cram up the matter in the last months and write it up in the exams. This hinders their career opportunities and their practice in the field of Information Security and Control, ERP implementation, Database managements etc. These areas are found to be highly remunerative for a Chartered Accountant and can only be taken up by those who have got adequate understanding of the said subjects with deep concentration and keen interest. Thus, it is very important for CA students, not to cram up these subjects, rather understand the concepts behind each topic and go conceptually as they do for finance management or Law.

In the end I would just conclude that IT skill and expertise will enhance our professional abilities, make our work more reliable, enable storage and reprinting of original documents viz., Challans, ITR Acknowledgements thereby avoiding the hassle and tension of preserving the original stamped documents. It shall help us to work efficiently by enabling e-Filing, e-Pay our bills, taxes etc. at anytime and anywhere.

CROSSWORD

May-2010
solution



Major Security Threats in Wireless Networks

Santosh K. Pandey*

Signals in wireless networks are omni directional and spread beyond the desired coverage area. Due to this weakness, many active and passive methods are available for doing attacks in wireless network transmission. Inserting the data into wireless networks or modifying any transmitted data is called active method whereas passive methods include monitoring the traffic in promiscuous mode to gather information about wireless networks. With the availability of various software, it is very easy to attack on wireless networks. Major security threats, which are possible in wireless networks, are as follows:

- **Active Scanning / Probing Threat:**

The most common threat of wireless networks is doing attack by Active software like Net Stumber (for Windows) and Dstumber (for UNIX/Linux). These software work on the method of active scanning. Attacks transmit the probe request to locate an access point. If an access point is available, it will transmit probe response for that request. The response frame consists of SSID, Source/Destination MAC Address. Once an attacker captures this response frame, he/she has all the necessary information to enter into the network. Hence, in the absence of a strong authentication mechanism, attackers may easily enter into the network.

In another scenario, when an access point is implemented using open system authentication, the attacker can easily join the network. On the third scenario, when an access point uses a 'Shared Key Authentication', which is based on encrypted challenge-response mechanism, the job of attacker becomes a bit tough, but not impossible.

- **Spoofing Threat:**

Another major threat in wireless networks is 'MAC Address Spoofing', which alters the

manufacture assigned MAC address to another value. This is conceptually different than the traditional IP address spoofing, where an attacker sends data from an arbitrary source address and does not expect to receive a response to their genuine source (Internet Protocol)IP address. An attacker may choose 'MAC Address Altering' for several reasons, e.g. to bypass access control list, to impersonate an already authenticated user or disguise his/her presence on the network.

- **802.11 Beacon Flood Threat:**

This technique requires generating thousands of counterfeit/fake 802.11 beacon frames and then transmits them on the network. Beacon frame contains the information about the SSID of the network. Hence, it becomes difficult for the client to choose correct SSID to find a legitimate IP. There are several tools available to generate and transmit the fake beacon frames. The famous tool for such an activity is Fake-IP (for both Windows and Linux).

- **Authentication/ De Authentication Flood Threat:**

In this, the attacker broadcasts the association or authentication request frames from a fake address either to an access point (infrastructure mode) or to clients (ad-hoc mode). So, when an access point or a client sends reply and awaits response from the attacker holding the information about the request in memory enters into an infinite loop. Thus, they are loaded with false authentication/ de-authentication requests and legitimate entities are put on hold for sometime, hence denying services to them. Air Jack and Void 11 are the tools, which are used to achieve this effect.

- **Threat from Unauthorized Devices:**

In case of wireless networks, unauthorized

**The author is Executive Officer, ICAL.*

access are not only limited to clients, but it is also applicable to access points. Sometimes, an authorized person, due to intruder/malicious users does not plant these access points. Once planted, this rogue access point is configured to operate on a higher broadcasting power and poses itself as a valid access point. Sometimes, legitimate users plant access point to improve their coverage. Attackers use wireless networks analyzing tools for this purpose. If the access point is established within fire walled network, it creates a backdoor within that network.

- **Jamming Threat:**

One of the most famous security threats for wireless networks is jamming. In this, the attacker operates on the same frequency and channel of the target network. He/she operates at higher power, thus disabling the actual access point. Due to this the network arrives at standstill position and the user fears an attack on the network. This may happen because other equipments use microwave signals, e.g. microwave oven or remote controls, cordless phones, etc.

- **'Man in the Middle' Threat:**

Wireless networks are also prone to 'Man in the Middle' attack. In this, an attacker sends management frames to client and forces them to dissociate from a valid access point and prompt them to join another fake access point setup by an attacker posing as a valid access point.

In this article, the various security threats of wireless networks were discussed. We have also analyzed them on 'how different software tools help the attacker to perform an attack in wireless networks'. Intelligent access points can have better control and can impose better security constraints. In future, we may have clients with secure authentications by default and these intelligent access points will have the user profile and working pattern known. Hence, it will be competent to differentiate the attacker from a normal user. Thus, it becomes necessary to have a standardized hardware and software combined or a firmware solution to overcome these security threats in wireless networks.

Know Your English

Dr. Naveen K Mehta*

Some Popular English Idioms

A close shave: When you come extremely close to a dangerous or unpleasant situation or only just manage to avoid it.

The policemen have a close shave in the encounter.

To crack the whip: To make someone work harder by threatening them.

The group leader cracked the whip to finish the project.

A golden handshake: To receive a large payment on leaving a company.

Jitendra was not satisfied with his present job as he got a golden handshake from his previous job."

A big cheese: An important person, a leader.

Mr. Ritesh is a big cheese in the cotton industry.

A dead end job: A job that has no chance of promotion or advancement.

Mohan is highly qualified and experienced but in a dead end job.

Some Interesting Homophones

Sew Sew is the verb meaning "to stitch."

So So is a conjunction meaning "in order that."

Sow Sow is the verb meaning "to plant."

Complement Complement means "to complete or go with."

Compliment Compliment is an expression of admiration or praise.

Stationary Stationary means "not moveable."

Stationery Stationery refers to paper and envelopes use to write letters.

Beware of Confusing Words!

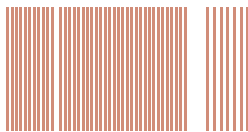
Advise is a verb, which means to give information.

For example: "I **advise** Rajesh to join CA course."

Advice is a noun, which means a suggestion or a recommendation.

For example: "I like his **piece of advice**."

*The Contributor is Sr. Executive officer ICAI



Accounting

Amendment to Listing Norms: Reduction in time between issue closure and listing

At present, it takes on an average around **22 days to list the securities after an issue closes**. This exposes investors as well as issuers to market risk as well as leading to infrastructural stress and costs. One of the reasons identified for this delay is data entry at multiple level and reconciliation thereof. Needless to say, any reduction in the period taken to list an issue after closure is in general interest of investors.

In consultation with market intermediaries, **SEBI has decided to reduce the time between issue closure and listing to 12 working days**.

In the new process, the syndicate members shall capture all data relevant for purposes of finalizing basis of allotment while uploading bid

data in the electronic bidding system of the stock exchanges. In order that the data so captured is accurate, syndicate members may be permitted an additional day to amend some of the data fields entered by them in the electronic bidding system.

It is to be noted that syndicate members shall be responsible for any error in the bid details uploaded by them

In order to facilitate quicker processing of applications for the purpose of allotment, instead of the name of the applicant, it is proposed to use Permanent Account Number of the applicant.

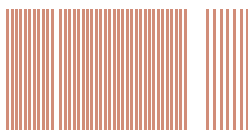
(Source: www.sebi.gov.in; via CIR/CFD/DIL/3/2010 dated April 22, 2010)

Balanced Scorecard

Since Kaplan and Norton developed the concept of balance scorecard in early 1990's, thousands of organizations worldwide have applied it. Key to its popularity lies in its flexibility and adaptability. When first developed, the scorecard was positioned as a holistic performance measurement framework, which could provide management with useful information relating to financial performance, internal process, customer perception and internal learning and growth. The second-generation scorecards helped individuals and teams to define what they must do well to contribute to higher-level goals. These were mostly found in manufacturing and healthcare organizations, especially those that have been implementing total quality management (TQM) programmes. The third generation scorecards marked a significant development in the identification of 'causality' - action and resultant impact - between and within scorecard perspectives and thus focus has been refinement

of strategy, rather than financial matrix at the heart of the management processes.

In other words, while first generation scorecards used to have focus on financial and non-financial performance, second generation emphasized on understanding on business model through value propositions and casual relation between objectives. The over-riding contribution of third generation scorecard rests in clarification and expression of the links between performance drivers and their impact on progress towards strategic success, conveyed through strategy mapping process. If we accept that organizations create value through their superior co-ordination and integration, then it is the third generation scorecard, which highlights the extent of integration i.e correct balance needed between operation and strategy. The design process focuses on the critical business issues (CBI) - highest priority problems and opportunities that are to be addressed in order for the strategic mission to be fulfilled.



Guidelines for Credit Rating Agencies by the Securities and Exchange Board of India (SEBI)

Circular No. CIR/MIRSD/CRA/6/2010 dated 3-05-2010: Guidelines for Credit Rating Agencies

In order to impart higher credibility to the processes and procedures associated with the credit rating, Securities and Exchange Board of India (SEBI), in consultation with the Credit Rating Agencies (CRAs), has, vide this circular, prescribed the following transparency and disclosure norms:

- 1. Rating Process:** CRAs to maintain records in support of each credit rating and review / surveillance for a period of five years after maturity of instruments.
- 2. Default Studies:** CRAs to publish information about the historical default rates of CRA rating categories.
- 3. Dealing with Conflict of interest:** CRAs to formulate policies and internal codes for dealing with conflict of interests in respect of its employees.
- 4. Obligations in respect of Rating of Structured Finance Products:** CRAs may undertake rating

of structured finance products, namely, instruments / pay-outs resulting from securitization transactions.

- 5. Unsolicited Credit Ratings:** In case of unsolicited credit ratings, credit rating symbol to be accompanied by the word "UNSOLICITED" in the same font size.
- 6. Disclosures:** A CRA to make all disclosures on their websites.
- 7. Implementation Schedule and Reporting:** CRAs to take necessary steps to implement these guidelines immediately and ensure its full compliance latest by June 30, 2010.
- 8. Additional Disclosures:** CRAs can make additional disclosures other than those stipulated in the guidelines with the prior approval of its Board.

The complete text of the above circular can be downloaded from:

<http://www.sebi.gov.in/circulars/2010/cirmirsd06.pdf>

Income Tax

CBDT Notification No. 29 dated 23 April 2010 New Income Tax Return Form SARAL II for Assessment Year 2010-11

CBDT notifies New Income Tax Return Form SARAL II (ITR 1) for Assessment Year 2010-11 for individuals having income from Salary / Pension / Income from one House Property (excluding loss brought forward from previous years) / Income from other Sources (excluding winning from lottery and income from race horses). CBDT also notifies Income Tax Return

Verification Form ITR-V for Assessment Year 2010-11 for SARAL II (ITR-1) ITR-2, ITR-3, ITR-4, ITR-5, ITR-6 & ITR-8 transmitted electronically without digital signature.

The complete text of the above notification can be downloaded from:

http://law.incometaxindia.gov.in/DIT/File_opener.aspx?page=NOTF&schT=&csId=db162fbb-0555-4653-9e67-c818dd522568&sch=&title=Taxmann%20-%20Direct%20Tax%20Laws

Notifications and circulars in indirect taxes issued in April, 2010

Area	Notification No.	Amendment	Effect of amendment
Service tax	23/2010-ST dated 29.04.2010	The commercial training or coaching centre services provided in relation to “ Modular Employable Skill courses ” provided by a vocational training provider registered under ‘Skill Development Initiative Scheme’ of the Ministry of Labour and Employment, have been exempted from whole of the service tax.	Notification No. 3/2010-ST dated 27.02.2010 had restricted the exemption from service tax in relation to vocational training courses only to the vocational training institutes affiliated to the National Council for Vocational Training. The said exemption has now been extended to Modular Employable Skill courses also.
Area	Circular No.	Issue	Clarification
Service tax	122/03/2010-ST dated 30.04.2010	Whether CENVAT credit of the service tax paid can be claimed under rule 4(7) of the CENVAT Credit Rules, 2004 when payments are made through debit/credit notes, debit/credit entries in books of account or by any other mode as mentioned in Explanation (c) to section 67 of the Finance Act, 1994 for transactions between associate enterprises?	It is clarified that CENVAT credit is admissible in the said case. Rule 4(7) does not indicate the form of payment and does not place any restriction on payment through debit in the books of accounts. If the service charges as well as the service tax have been paid in any prescribed manner which is entitled to be called ‘gross amount charged’, credit will be allowed under said rule.
		Whether CENVAT credit of the service tax paid can be claimed where a service receiver does not pay the full invoice value and the service tax indicated thereon due to some reasons?	It is clarified that CENVAT credit of service tax can be availed where a service receiver does not pay the full invoice value and the service tax indicated thereon due to reasons like discount, unsatisfactory service etc. provided he has paid the amount of service tax (whether proportionately reduced or the original amount) to the service provider. The credit taken would be equivalent to the amount that is paid as service tax. However, in case of subsequent refund or extra payment of service tax, the credit would have to be altered accordingly.

Business Laws & Corporate Laws**Business Laws****(i) The Payment of Gratuity Act, 1972**

The Payment of Gratuity (Amendment) Bill, 2010 proposes to raise the ceiling of gratuity to be paid from the present level of Rs. 3.5 lacs to Rs. 10 lacs.

Corporate Laws**(i) The Companies Act, 1956**

The Supreme Court paves the way for setting up National Company Law Tribunal (NCLT) to deal with company matters. Earlier, the amendment to the Companies Act, 1956 through the Companies (Amendment) Act, 2002 to set up the NCLT was rendered unconstitutional by the Madras High Court. Thereafter, the Central Government had moved the Supreme Court against the orders of Madras High Court. Now the apex court upheld the validity of the Companies (Amendment) Act, 2002 with certain conditions.

(ii) SEBI Act, 1992

In exercise of the powers conferred under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992, SEBI has decided to reduce the time between issue closure and listing to 12 working days in the general interest of investors. This revised procedure shall be applicable to all public issues opening on or after May 3, 2010. For further details refer www.sebi.gov.in

(iii) FEMA, 1999

The Reserve Bank of India has allowed authorised dealers and full-fledged money changers to sell foreign exchange in the form of foreign currency notes and coins up to \$3,000 or its equivalent as compared to existing limit of \$2,000 to the travellers proceeding to countries other than Iraq, Libya, Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States with immediate effect. For further details refer www.rbi.org.in

3G Network Technology

Introduction

For the last couple of years, one of the hottest topics in computing and communications has been wireless technology. Most industry observers agree that next-level wireless technology will offer more bandwidth, security, and reliability, making it more suitable for multimedia, e-commerce, video-conferencing, and other advanced applications. Those applications could include video-on-demand; mobile e-commerce; wireless web surfing; location-sensitive services, such as programs that find nearby theatres or restaurants; and customized personal information services, available anytime, anywhere.

Focus on Wireless Technology

In the late 1970s and early 1980s, consumer wireless communications began to take off. The early mobile phones used first-generation technology, which was analog, circuit-based, narrow-band, and suitable only for voice communications. The second-generation technology was digital, circuit-based, narrow band, and suitable for voice and limited data communications. 2.5G technologies are upgrades to 2G technologies have more bandwidth than 2G but less than 3G. 2.5G uses existing spectra and does not require an entirely new network infrastructure and thus can be implemented faster and less expensively than 3G. The key question now is: What comes next?

The next important wireless approach will be 3G technologies, suitable for voice and advanced data applications, including online multimedia and mobile e-commerce. 3G promises transmission speeds of up to 2.05 Mbps in stationary applications, 384 Kbps per second for slow moving users, and 128 Kbps per second for users in vehicles. 3G is thus considerably faster than 2 and 2.5G technology.

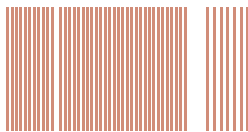
What is 3G Technology?

3G is the third generation of wireless mobile technology, which represents an evolution over the existing 2G services. While 2G network allows data, text messaging and speech, the 3G technology allows additional services such as multimedia messaging, customized infotainment, videos and rich voice.

3G technology comprises of three primary standards: W-CDMA (Wide-band Code Division Multiple Access), CDMA2000, and TD-CDMA (Time Division CDMA). Each standard is based on and provides an upgrade path for at least one of today's primary wireless interfaces namely: TDMA (Time Division Multiple Access), GSM (Global System for Mobile Communications), and CDMA. The bandwidth and location information available to 3G devices give rise to application not previously available to mobile phone users. Some of the applications of 3G technologies are Mobile TV, Location-based services, Video conferencing, Tele-medicine, and Video on demand.

3G Network in India

Till date, nearly 132 countries are having operational 3G networks and approximately 4.7 billion mobile subscribers world wide. In world market, Japan and S.Korea are seen as leaders in 3G. Additionally UK, Germany, Italy and US also have widespread usage. In India, first 3G service was launched through MTNL in 2008, followed by BSNL. The 3G technology has come a long way since the world's first 3G network premiered in 2001 by NTT DoCoMo of Japan offering peak speed of 348 Kbps. Today, 3G networks can hit peak speeds of 21 Mbps and have the potential of reaching between 50 Mbps and 100 Mbps over the next two years.



Income Tax

1. Would the doctrine of merger apply for calculating the period of limitation under section 154(7)?

CIT v. Tony Electronics Limited (2010) 320 ITR 378 (Del.)

The issue under consideration is whether the time limit of 4 years as per section 154(7) would apply from the date of original assessment order or the order of the Appellate Authority.

The High Court held that once an appeal against the order passed by an authority is preferred and is decided by the appellate authority, the order of the Assessing Officer merges with the order of the appellate authority. After merger, the order of the original authority ceases to exist and the order of the appellate authority prevails. Thus, the period of limitation of 4 years for the purpose of section 154(7) has to be counted from the date of the order of the Appellate Authority.

Note - In this case, the Delhi High Court has followed the decision of the Supreme Court in case of Hind Wire Industries v. CIT (1995) 212 ITR 639.

2. Can long-term capital gain exempted by virtue of erstwhile section 54E be included in the book profit computed under erstwhile section 115J?

N. J. Jose and Co. (P.) Ltd. v. ACIT (2010) 321 ITR 0132 (Ker.)

The assessee claimed exemption under section 54E on the income from long-term capital gains by depositing amounts in specified assets in terms of the said provision. In the computation of book profit under section 115J, the assessee claimed exclusion of capital gains because of exemption available on it by virtue of section 54E. The Assessing Officer reckoned the book profits including long-term capital gains for the purpose of assessment under section 115J.

The High Court held that once the Assessing Officer found that total income as computed

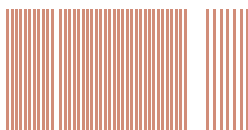
under the provisions of the Act was less than 30 per cent of the book profit, he had to make the assessment under section 115J which does not provide for any deduction in terms of section 54E. As long as long-term capital gains are part of the profits included in the profit and loss account prepared in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956, capital gains cannot be excluded unless provided under the Explanation to section 115J(1A).

Note – It may be noted that the rationale of this decision would apply even where minimum alternate tax (MAT) is attracted under section 115JB, on account of tax on total income being less than 18% of book profits (for A.Y. 2011-12) or 15% of book profits (for A.Y. 2010-11). If an assessee has claimed exemption under section 54EC by investing in bonds of NHAI/ RECL, within the prescribed time, the long term capital gains so exempt would be taken into account for computing book profits under section 115JB for levy of minimum alternate tax (MAT), since Explanation 1 to section 115JB does not provide for such deduction. Further, it may be noted that even the long term capital gain exempt under section 10(38) is included for computation of book profit under section 115JB.

3. Is an employee liable to pay interest under sections 234A, 234B and 234C, where the employer has failed to deduct tax at source, but has later paid such tax with interest under section 201(1A)?

CIT v. Emilio Ruiz Berdejo (2010) 320 ITR 190 (Bom.)

The High Court held that the person who fails to deduct tax is liable to pay interest under section 201(1A). Sections 234A, 234B and 234C cast liability on the assessee to pay interest for the default committed by him in the circumstances mentioned in the sections. Interest charged under sections 234A, 234B and 234C are compensatory and not in the nature of penalty.



Therefore, where the deductor had already discharged tax liability with interest payable under section 201(1A), no further interest could be claimed by the Revenue from the deductee-employee either under section 234A or section 234B or section 234C.

4. Can the interest under sections 234B and 234C, be levied on the basis of interest calculation given in the computation sheet annexed to the assessment order, though the direction to charge such interest is not mentioned in the assessment order?

CIT v. Assam Mineral Development Corporation Ltd. (2010) 320 ITR 149 (Gau.)

The Assessing Officer determined the total income of the assessee for the year in question and issued an order. No specific order levying interest was recorded by the Assessing officer. However, in the computation sheet annexed to the

assessment order, interest under 234B and 234C was computed while determining the total sum payable by the assessee. On appeal the Commissioner of Income-tax (Appeals) deleted the interest charged under sections 234B and 234C.

The High Court held that, as per the judgment of the Supreme Court in case of *CIT v. Anjum M. H. Ghaswala (2001) 252 ITR 1*, the interest leviable under sections 234B and 234C is mandatory in nature. The computation sheet in the form prescribed signed or initialed by the Assessing Officer is an order in writing determining the tax payable within the meaning of section 143(3). It is an integral part of the assessment order. Hence, the levy of interest and the basis for arriving at the quantum thereof have been explicitly indicated in the computation sheet and therefore, such interest has to be paid.

Indirect Tax

1. Does the activity of packing imported compact discs in a jewel box along with inlay card amount to manufacture under section 2(f) of the Central Excise Act, 1944 ?

CCE v. Sony Music Entertainment (I) Pvt. Ltd. 2010 (249) E.L.T. 341 (Bom.)

The appellant imported recorded audio and video discs in boxes of 50 and packed each individual disc in transparent plastic cases known as jewel boxes. An inlay card containing the details of the content of the compact disc was also placed in the jewel box. The whole thing was then shrink wrapped and sold in wholesale. The Department contended that the said process amounted to manufacture.

The High Court observed that none of the activity that the assessee undertook involved any process on the compact discs that were imported. It held that the Tribunal rightly concluded that the activities carried out by the respondent did not amount to manufacture since the compact disc

had been complete and finished when imported by the assessee. They had been imported in finished and completed form.

2. Whether penalty can be imposed on the directors of the company for the wrong CENVAT credit availed by the company?

Ashok Kumar H. Fulwadhya v. UOI 2010 (251) E.L.T. 336 (Bom.)

It was held that words “any person” used in rule 13(1) of the erstwhile CENVAT Credit Rules, 2002 [now rule 15(1) of the CENVAT Credit Rules, 2004] clearly indicate that the person who has availed CENVAT credit shall only be the person liable to the penalty. The Court observed that, in the instant case, CENVAT credit had been availed by the company and the penalty under rule 13(1) [now rule 15(1)] was imposable only on the person who had availed CENVAT credit [company in the given case], who was a manufacturer. The petitioners-directors of the company could not be said to be manufacturer availing CENVAT credit.

3. Can a commission agent also acting as a consignment agent be covered under the definition of 'clearing and forwarding agent'?

CCE v. Mahaveer Generics 2010 (17) S.T.R. 225 (Kar.)

The assessee contended that activity carried on by him came within purview of 'commission agent' and not under the 'clearing and forwarding agent'. The Court elucidated that assessee in question had not restricted its activities to business of commission agency, but had also carried on business as consignment agent. Since the consignment agent had been brought under statutory definition of 'clearing and forwarding agent' by inclusive clause, the High Court held that the assessee falls under the definition of 'clearing and forwarding agent' after considering the following points:-

- Agreement itself termed the assessee as a consignment agent.
- Price was mutually decided by the principal and the agent (assessee). Had the assessee been merely a commission agent, price determination would not have been within his domain.
- Since assessee had been given the authority and power to appoint dealers, stockists and distributors, it implied that it was not merely a commission agent.
- Mere procurement of purchase orders was not involved, but stored goods were also cleared and forwarded to stockists and dealers by the assessee.

4. Is the Settlement Commission empowered to grant the benefit under the proviso to section 11AC in cases of settlement?

Ashwani Tobacco Co. Pvt. Ltd. v. UOI 2010 (251) E.L.T. 162 (Del.)

The Court ruled that benefit under the proviso to section 11AC could not be granted by the Settlement Commission in cases of settlement.

It elucidated that the order of settlement made by the Settlement Commission is distinct from the adjudication order made by the Central Excise Officer. The scheme of settlement is contained in Chapter-V of the Central Excise Act, 1944 while adjudication undertaken by a Central Excise Officer is contained in the other Chapters of the said Act. Unlike Settlement Commission, Central Excise Officer has no power to accord immunity from prosecution while determining duty liability under the Excise Act.

Once the petitioner has adopted the course of settlement, he has to be governed by the provisions of Chapter V. Therefore, the benefit under the proviso to section 11AC, which could have been availed when the matter of determination of duty was before a Central Excise Officer was not attracted to the cases of a settlement, undertaken under the provisions of Chapter-V of the Act.

5. Is the want of evidence from foreign supplier enough to cancel the confiscation order of goods undervalued?

CCus. v. Jaya Singh Vijaya Jhaveri 2010 (251) E.L.T. 38 (Ker.)

In the instant case, the High Court held that in a case of confiscation of goods because of their under valuation, Tribunal could not cancel the confiscation order for the want of evidence from the foreign supplier. The Court considered it be illogical that a person who was a party to undervaluation would give evidence to the Department to prove the case that the invoice raised by him on the respondent was a bogus one and that they had received underhand payment of the differential price. Resultantly, the Court upheld the confiscation order.

Dummy Articleship- De-recognition of full training period

The articleship training is the backbone of Chartered Accountancy course as it gives an opportunity to the articled assistants to acquire on-the-job work experience of a professional nature, inculcate a disciplined attitude for hard work, develops necessary skills in applying theoretical knowledge to practical situation. In this regard, the Council of the Institute has been taking different initiatives from time to time to streamline and sustain the efforts of the Institute in providing effective articleship.

The appropriate Committee of the Institute on the basis of the relevant information / documents brought to its notice on dummy articleship had decided to de-recognize the entire period of articleship allegedly served by three articled assistant varying from 1 year 08 months to 02 years 04 months.

This is for information of all concerned.

Deputy Director (MSS)

07th May, 2010

CA Day Celebrations

The Northern India Regional Council of the Institute of Chartered Accountants of India will organize a one day CA Students Conference and a Blood Donation Camp in New Delhi in connection with the CA Day on June 29, 2010.

The programme will start at 10 in the morning. The venue is being hosted on the website of the NIRC (www.nirc-icai.org). All Students of the Institute are cordially invited to attend the programme.

Coaching Classes for CPT Students

Northern India Regional Council of the ICAI will organize regular coaching classes for CPT w.e.f. 1st June 2010 at New Delhi. Seats are limited. Interested students are advised to register with NIRC (i.e. at ICAI Bhawan, NIRC, 5th Floor, Annex Building, Post Box No. 7100, Indraprastha Marg, New Delhi – 110002) at an early date on all working days during office hours (9.45 AM to 5.30 PM).

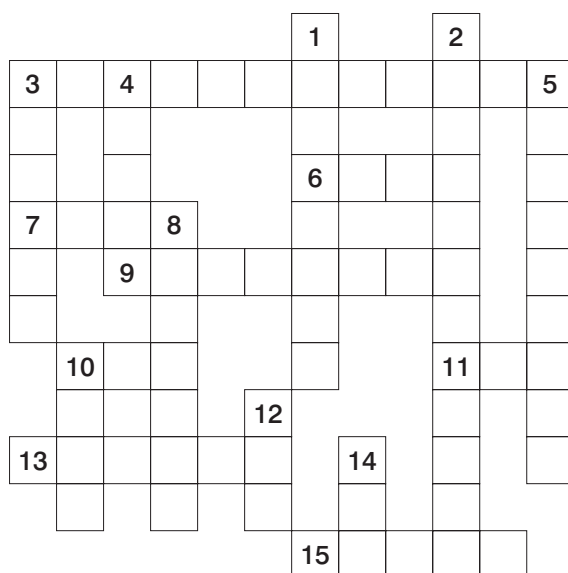
CLASSES	COURSE FEE	CLASS TIMINGS	CLASS DAYS
CPT (All Subjects)	Rs.5000/- (Full Course)	3.00 PM to 6.00 PM	Monday to Saturday
MODE OF PAYMENT	DD/Pay-order in favour of “NIRC of the ICAI” payable at Delhi/New Delhi		

The relevant form may be downloaded from www.nirc-icai.org

The duration of the Course will be Three Months

Features of the Programme :

- Notes & Handouts, Assignments Sheets, Power Point Presentations.
- Prominent/Eminent faculties from different Universities and Senior Chartered Accountants.
- Model Test Papers to prepare the exam.
- Frequent Mock Tests to assess the performance.
- Centralized Location.



CROSSWORD

ACROSS

3. There would be no capital gains tax either in the hands of the company or in the hands of the, consequent to conversion of the company into an LLP, provided the conditions specified in section 47(xiiib) are fulfilled.
6. Review Board of ICAI ensures that in carrying out their professional attestation services assignments, the members of the Institute comply with the Technical Standards laid down by the Institute
7. Top is computer which is smaller than any standard laptop computer and is built around a form factor.
9. The Settlement Commission has now (effective from 1st June, 2010) to pass an order with in months from the end of the month in which the application is made.
- 10..... is often called the brains of a computer system.
- 11.A type of outsourcing in which one or more human resources processes are transferred to an external provider that owns, administers, and manages these processes.
- 13.A highly debt ridden EU country in news recently.
- 15.Maximum number of members in private company.

DOWN

1. The benefit of investment-linked tax incentive under section 35AD has been extended to the specified business of building and operating a new, anywhere in India.
2. Divesting a major product line or market is strategy.
4. Inc. is an American multinational corporation that designs and manufactures consumer electronics, computer software, and personal computers.
5. Meeting of the members held only once during the lifetime of the company.
8. Written records of the proceedings of a meeting of a company.
- 12.Maximum number of partners in a banking company.
- 14..... Act mandates timely response to citizen requests for government information.