Price: Rs. 5
Vol. XXXX, No. 12
January, 2012

NIRC NEWSLETTER

NEWSLETTER OF NORTHERN INDIA REGIONAL COUNCIL OF THE ICAI

Proud 2B Indian

Vande Mataram

Vande Mataram!
Sujalaam, suphalaam, malayaja shitalaam,
Shasyashyamalaam, Maataram!

Shubhrajyothsna pulakitayaminim,

Phullakusumita drumadala shobhinim,

Suhasinim sumadhura bhashinim,
Sukhadaam varadaam, Maataram!

NIRC wishes Happy Republic Day

NORTHERN INDIA REGIONAL COUNCIL of
The Institute of Chartered Accountants of India
"ICAI Bhawan", 5th Floor, Annexe Building,
Indraprastha Marg, New Delhi-110002

Printed and Published by CA. Amit Threja,
Deputy Secretary, on behalf of the
Northern India Regional Council of
The Institute of Chartered Accountants of India
"ICAI Bhawan", Indraprastha Marg, New Delhi-2
Phones : 30100500, 30100503
Fax : 30100509 and
Printed at Tara Art Printers Pvt. Ltd., Noida

From the Desk of the Chairman...

Dear Colleagues,

On behalf of Team NIRC and its members, I would like to convey our sincere and heartiest best wishes to you and your family as we move into a new ray of hope and promise for the just started new year 2012.

Once **ShriMorarji Desai**, Minister of Finance quoted that, *"...for safeguarding our own independence and liberty, we have got to provide some checks which automatically do not allow independence and liberty to be misused... Anybody who misuses power loses it: otherwise democracy is not maintained... You, who are accounting for everybody & also auditing the accounts, can do a great deal to improve standards. But to do that you have got to be vigilant all the time, and very humble."*

Everything in the world is created at least twice. Once in the mind of the creator and then converted into reality. There may be accommodations or changes over time but at some point someone somewhere has an idea of what would be developed. This vision of what the future should hold is essential to control our destiny. Without a vision that brings focus and direction we are likely to drift and wander depending upon the tides and currents of events.

The first thing from where the ideas come into sight is "dreams". While operating within our comfort zone is safe, it does not give us the opportunity to grow. Only by trying new things can we get our creative juices flowing and experience the thrill of reaching new heights. There is always some scope for betterment. We should not shy away from adopting innovative ideas. Always welcome 'CHANGE'. **"If one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with a success unexpected in common hours"** – Henry David Thoreau. Trying new things does entail some risks. When we try something new we may experience a sense of discomfort. This comes from not being completely sure of what will lead to success. But this is what leadership is all about... about leading, thinking differently and daring to take risks. Only those who have the courage to lead the society and to be different are winners.

I had the onerous privilege to address you through this column, as well as in the programmes organized by NIRC. You will appreciate that we have tried our level best to sort out members' grievances. The NIRC has taken several initiatives by forming various study groups and organizing multiple seminars on subject of wide professional interest. At the same time the response from the members for seminars had been extremely encouraging. We held many programmes including National, Regional and Sub-Regional Conferences.

March for Profession and for Nation.

Marathon was organized by your NIRC with a motive to keep high the Ethical values, Independence, Integrity, Transparency, Reliability, Good Conduct in the Economic business and financial world. It started from ICAI Bhawan, ITO and took through the prestigious road of Tilak Marg to India Gate and after taking a round of India gate it concluded at Amar Jawan Jyoti. Many members and students dressed in white T Shirts with ICAI logo on it challenged the chilling winter on 18th early in the morning showing their belongingness towards the profession and country.

Seminar on well being and Art Of Living.

Health and Prosperity go hand in hand. While rendering highly technical and time bound services, our members used to assume responsibility and accountability of their clients, hence certain time we develop stress. It is not only important to remain healthy for growth but also for sustainability. To keep healthy our Heart and Brain, your NIRC organized a Yoga/Well Being Camp on 22nd December, 2011 at ICAI Bhawan, in Vishwas Nagar office which will enable our members to stay fit. The programme was addressed by famous Swami Chaturvedi from Chennai and Yogacharya Surakshit Goswami of Speaking Tree.

Lecture On Personality Development

Personality of a person is the mirror of his/her attitude and aptitude. Interpersonal skills and communication ability always open the success gates for a person. It is a hard fact that each person on this earth needs to work upon his/her personality and again on continuous basis. More we learn, more hunger to learn results. Looking this, your NIRC also organized S. Vaidyanath Iyer Memorial Lecture on Personality Development at Hotel Eros, Nehru Place, New Delhi.

Blood Donation Camp

One can almost say that blood is that magic potion which gives life to another person. Human blood has no substitute and cannot be prepared and only source is its donation by human. Requirement of safe blood is increasing and regular voluntary blood donations are vital for blood transfusion services. Keeping this in mind your NIRC organized a voluntary blood donation camp at ICAI Bhawan, Vishwas Nagar.

Chairman

Tree Plantation

With a motive to build a Green Motherland so the future generation gets fresh air to breath members of fraternity planted trees on the road from karkarduma court to ICAI Bhawan, Vishwas Nagar on 22nd December. A step by our fraternity for the society and for Nation at the same time to a message to the world to protect the environment so that our children's get oxygen to breath. Today persons cut trees for saving for the 7th generation without considering the fact that they need fresh air to breath more than anything else. The generosity of you or your organisation can support tree planting and its environmental benefits and ensure that poor rural women and landless community organisations acquire a real economic asset. This is also a part of promoting of environmental sustainability. 90% of the roadside trees planted with assistance from the NIRC members.

Donation at Blind/Deaf and Dumb School

For the 1st time your NIRC providing its service for the society collected contributions from its members and provided materials of utility such as tiffin boxes, warmers etc to poor blind and deaf-dumb children's at their schools. This deed of humanitarian philanthropy was well appreciated by members at large and brought tears to the thankful little ones who though being handicapped had a zeal to study and grow.

Diamond Jubilee Conference On WTO, FEMA and International Taxation.

"Knowledge is Power". Your NIRC following this quote, always endeavor to organize qualitative programmes for the benefit of Members. Last month NIRC organized two days Conference on WTO, FEMA & International Taxation on 23rd and 24th December, 2011 at NCUI Auditorium, Khel Gaon Marg, New Delhi followed by a Cultural Evening by CA Members and their families. The eminent speakers were invited i.e. Sh. Akash Gupta, Sh. S.R. Mehta, Sh. Amar Sinha, Dr. (Mrs.) VijayaKatti, Prof. Abhijit Das, Mr. Rahul K Mitra, Mr. T.P. Ostwal and was chaired by Sh. R.N. Dash, Director General of International Taxation. The event focused on a very important technicaland emerging aspect of our Profession, *i.e.* International Taxation.

Extraoridinary Performance by CA's and their families.

Marvelous and Exiting performance was noticed in cultural evening showing the hidden talent in our members which was well appreciated by the members and their families. The beauty of the programmes was that it was organized by members and the participants were members and their family where on the other hand the audience were also members and their families. Such type of programmes help us to bring the families of the members together which otherwise is rarely available.

Active role of Branches

Branches play a major role for ICAI to reach to its members and students at remote places and at smaller towns. In series of activities with branches Sub Regional Conferences of NIRC were organized at Chandigarh, Jammu and Faridabad branch. In these conferences best available speakers of the country were available to share their views with fellow members.

National Convention of CA Students.

It is our endeavor at NIRC to encourage the students and bring the creativity of the students, your NIRC organized a two days National Convention of students at the prestigious Shri Ram College of Commerce (SRCC) of Delhi University. The Conference with a theme of Custodian of Countries Wealth: The Future Chartered Accountants was attended by more than 900 students from all over the country. The students presented their papers on the various topics *i.e.* Accounting Standards Vs. Ind AS Vs. IFRS, Forensic Accounting, Auditing Standards Compliance in the Present Scenario, Planning: Continuity of Business & Disaster Recovery, Globalization of Capital Market, Future of XBRL as Reporting Language, Contemporary issues in Business Taxation, Changing Perspective of International Taxation under Direct Tax Code, Goods & Services Tax in India – Way Forward, Due Diligence, Code of Ethics and Corporate Social Responsibility. There was stiff competition at and the best among one of them was awarded a winner trophy by the judges/expert on the concerned topics. Though there was stiff competition among the students and the best among the better was selected by the experts, the students enjoyed the event as a whole. Another National Students Convention was organised by board of studies and hosted by the Faridabad branch of NIRC.

Cultural Performance By Our Students.

To entertain the students a cultural Evening of the students, by the students and for the students was organized by NIRC. The best part of the Cultural Evening was that it was planned by the students with the help of members of NIRC, the arrangement the sequence and other logistics were also managed by the students at large, particularly the Co-coordinators who were the important part of the arrangement.

We as TEAM NIRC have traveled to branches of the region and provided them with necessary guidance and encouragement in their endeavor to develop professional opportunities. The NIRC had worked hand-in-hand with Central Council of the ICAI on various matters. Throughout we remained proactive and given our extensive suggestions on various matters to the committees formed by the ICAI. I am also glad to inform you that we brought out publications and distributed many background materials at various seminars/conferences conducted during the last months. At the same time, record 135 numbers of batches of the Course on General Management and Communication Skills were conducted, at times even four batches simultaneously / concurrently. The class-room material, for the first time, was prepared, published and provided to the students attending revisionary classes conducted by the NIRC for their day-to-day reference and guidance.

I take this opportunity to extend to you and your families, my greetings on the occasion of Republic Day and wishing a happy and prosperous future. May this New Year bring more glory to our Institute and success in abundance to all its members.

मुश्किलों से भाग जाना आसान होता है,
हर पहलू ज़िंदगी का इम्तिहान होता है,
डरने वालों को मिलता नहीं कुछ ज़िंदगी में,
लड़ने वालों के कदमों में जहान होता है....

"JAI BHARAT JAI ICAI."
Yours In Professional Fellowship,

January 9, 2012
New Delhi

(CA. Rajesh Sharma)
Mob. : 9810277394

"The improvement of understanding is for two ends: First, our own increases of knowledge; secondly, to enable us to deliver that knowledge to others." **- Dr. A.P.J. Abdul Kalam, Hon'ble Former President of India**

From the Desk of the Secretary...

Dear Professional Colleagues,

God has gifted us another New Year comprising of 366 days which is full of opportunities, challenges together with a sense of responsibility. In this backdrop "I wish all my members and students a very Happy, Prosperous, Joyful and Successful New Year." The year is full of challenges and provides us an opportunity to fulfill the aspirations of our members and students.

Last year your NIRC organized number of programmes. Especially the month of December was full of programmes both for members as well as for students. In the series of programmes NIRC started with Marathon which was held on 18th December, 2011 from ICAI (ITO) to India Gate, Blood Donation Camp on 20th December, 2011 at ICAI Bhawan, Vishwas Nagar, the programme of Tree Plantation was held on 22nd December, 2011 between Karkardooma Court to Vishwas Nagar Office and Donation at Blind School, Orphanage on 22nd December, 2011.

For members NIRC organized Diamond Jubilee Conference on WTO, FEMA & International Taxation on 23rd and 24th December, 2011 at NCUI Auditorium. The Conference was well attended by more than 600 members including both days. The cultural evening of members, by the members and for the members was organized in the evening of 23rd December, 2011. The members and their family participated and it was well appreciated by the members and their family present there at. The cultural evening provided an opportunity to the members to interact among themselves which otherwise is rarely available. The event gathered more importance as it was happening on the occasion of celebrations for the coming New Year.

The National Convention of CA Students was held on 29th & 30th December, 2011 at SRCC Auditorium followed by a Cultural Evening on 29th December. The programme was well attended by 900 students. The programme as well as the Cultural Evening was well appreciated by the students who came to attend from all over India.

The Institute keeping in view the interest of members who could not pay their membership in early years and there is a break in continuation of their membership period has announced General Amnesty Scheme 2011. I request all the effected members to avail the scheme and have the benefit of continuation of their membership period. The scheme is going to close as on 31st March, 2012.

The whole country is awaiting the presentation of General Budget by Hon'ble Finance Minister, Government of India. We as professionals are also anxious to receive the same. The budget is likely to be presented immediately after polling in certain states. NIRC is making arrangement for analysis of the budget to be presented by Hon'ble Finance Minister.

I wish all the students who have taken the examination in November 2011 with best wishes & encourage them with a motivational poem:

सोच को बदलो सितारे बदल जाएंगे,
नजर को बदलो तो नजारे बदल जाएंगे,
मंजिलें पाना हो तो कस्तियां मत बदलना,
दिशा को बदलोगे तो किनारे बदल जाएंगे।
जो सफर इख्तिहार किया करते हैं,
वही मंजिलों को पार किया करते हैं,
बस एक बार चलने का हौसला जा रखिए,
ऐसे मुसाफिरों का रास्ते भी इंतजार किया करत हैं...

With best wishes and warm regards

January 9, 2012

New Delhi

(CA. Sanjay Kumar Agrawal)
Mob. : 9910399944

"Without inspiration the best powers of the mind remain dormant. There is a fuel in us which needs to be ignited with sparks".
- Johann Gottfried Von Herder

N.G.O.'S AND RISK OF MONEY LAUNDERING

Shri S. K. Panda, IRS

Non-profit organizations (NPOs) or the NGOs as they are known popularly play a vital role in the nation's economy and social systems. Their efforts supplement the activity of the government and business sectors in providing essential services, comfort and hope to those in need. The term "non-governmental organization" do not have any generally accepted legal definition. Such organizations are also known as "civil society organizations" or 'Non Profit Organization' or social benefit organization etc. As per available data, India is estimated to have more than 3 million NGOs in the year 2009. Indian NGOs have collectively received foreign contributions at about Rs 49, 000 crore during five years from 2005-06 to 2009-10. A total of 21, 508 such organizations have received such funds for various activities in 2009-10 compared to 21, 542 organizations in 2008-09. Foreign contributions for NGOs / NPOs have come not just from developed countries alone, but also from countries like Afghanistan, Pakistan, Bangladesh, Nepal, Zambia, Congo, who have also donated funds to different organizations. During 2009-10, India's neighbours like Nepal contributed Rs 12 crore, China Rs. 2.8 crore, Afghanistan Rs. 1.9 crore, Pakistan Rs 1.2 crore and Bangladesh Rs 86 lakh. Rapid development of such non-governmental sector occurred in our country as a result of the recognisation of the private participants in assisting the state for upliftment of various social sectors and their causes in the processes of restructuring of the welfare state. More over Globalization during the 20th century gave rise to the importance of NGOs as many problems could not be solved within a nation. NGOs have developed to emphasize humanitarian issues, developmental aid and sustainable development. NGOs exist for a variety of reasons, usually to further the political or social goals like improving the state of the natural environment, encouraging the observance of human rights, improving the welfare of the disadvantage etc. However, there are a huge number of such organizations, and their goals cover a broad range of political, social and philosophical positions.

The ongoing international campaign against terrorist financing has unfortunately demonstrated that terrorists and terrorist organizations exploit the vulnerability of this sector to raise and move funds, provide logistical support, encourage terrorist recruitment or otherwise support terrorist organizations and operations. This possible misuse not only facilitates terrorist activity but also undermines nation's confidence and jeopardizes the very integrity of such entities. Therefore, protecting this sector from terrorist abuse is both a critical component of the global fight against terrorism and a necessary step to preserve their integrity and continue nation's confidence with them. This sector is likely to be vulnerable to abuse by terrorists for a variety of reasons, as they enjoy the public trust, have access to considerable sources of funds, and are often cash-intensive. Furthermore, some NGOs have a global presence that provide a framework for national and international operations and financial transaction, often within or near those areas that are most exposed to terrorist activity. Terrorist organizations are likely to take advantage of these characteristics of NGOs to infiltrate the sector and misuse funds and operations to cover for or support terrorist activity. This sector can be possibly misused as a subterfuge by the donor knowingly as an effective vehicle for money laundering activity particularly at the stage of layering and integration of the crime money for giving it a façade of legitimacy. Money laundering is no more a local phenomenon and has become a global threat due to the reach of the criminals. The crime can be committed in a particular country, crime money received in another and then parked / layered and integrated to the financial system in another country by projecting as untainted proper. Therefore, this sector due to their innocent nature and activity, is likely to become vulnerable, for infiltration of such crime money, in the form of donations for a particular cause being advocated by the said NGOs. By this way some times the criminal is in a position to accountability, integrity, and public confidence in the administration and management of all NPOs.

(3) Countries should be able to demonstrate that the following steps have been taken to promote effective supervision or monitoring of those NPOs which account for: a significant portion of the financial resources under control of the sector and a substantial share of the sector's international activities. NPOs should maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of person(s) who own, control or direct their activities, including senior officers, board members and trustees. This information should be publicly available either directly form the NPO or through appropriate authorities.

(4) Countries should be able to demonstrate that there are appropriate measures in place to sanction violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs. The application of such sanctions should not preclude parallel civil, administrative, or criminal proceedings with respect to

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NPOs or criminal proceedings with respect to NPOs or persons acting on their behalf where appropriate.

(5) NPOs should maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization. Countries should implement measures to ensure that they can effectively investigate and gather information of NPOs.

Countries should undertake domestic reviews of their NPO sector or have the capacity to obtain timely information on its activities, size and other relevant features. In undertaking these assessments, countries should use all available sources of information in order to identify features and types of NPOs, which by virtue of their activities or characteristics, are at risk of being misused for terrorist financing. Countries should also periodically reassess the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities. NPOs should have appropriate controls in place to ensure that all funds are fully accounted for and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities. NPOs should follow a "Know your beneficiaries and associate NPOs" rule, which means that the NPO should make best efforts to confirm the identity, credentials and good standing of their beneficiaries and associate NPOs. NPOs should also undertake best efforts to document the identity of their significant donors and to respect donor confidentiality.

The objective of Special Recommendation is to ensure that this sector is not misused by terrorist organizations posing as legitimate entities so as to exploit NGOs as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or to conceal the clandestine diversion of funds intended for legitimate purposes but diverted for terrorist purposes. These recommendations are the guidelines for the member states to formulate their national laws to combat evils of money laundering and terrorist financing. Possible abuse of the NGO sector by terrorists and terrorist organizations require countries to adopt measures both: (i) to protect the sector against such abuse, and (ii) to identify and take effective action against those NGOs that either are exploited by or actively support terrorists or terrorist organizations. Measures adopted by countries to protect the NGO sector from terrorist abuse should not disrupt or discourage legitimate charitable activities. Rather, such measure should promote transparency and engender greater confidence in the sector, across the donor community and with the general public that charitable funds and services reach intended legitimate beneficiaries. Systems that promote a high degree of transparency, integrity and public confidence in the management and functioning of all NGOs are integral to ensuring that the sector cannot be misused for terrorist financing. A targeted approach in dealing with the terrorist threat to the NGO sector is essential given the diversity geographical spread of our country, so as to ensure that legitimate charitable activity continues to flourish. Flexibility in developing a national consensus to counter terrorist financing in the NGO sector is also essential in order to face the changing nature of the terrorist financing threat. The key aspects which have to be monitored are the source of fund being received by such organizations and their target group and spending pattern. Sometimes it is possible that such organizations unwittingly unknowingly fall victim to crime money being received as donations and getting parked in their account. It is possible that NGOs in their pursuit for getting more such donations forget to cross check on the antecedents of the donor. Therefore educating the stake holders associated with these sectors is not only essential but should be mandatory. The stake holders have an added responsibility on them as most of such NGOs/NPOs also get benefit from the state by way of income tax exemptions, donations under various government schemes etc. The accounts of receipt and spending should be transparent and the return filed by them to various authorities should properly reflect their financial transactions and dealings. They should scrupulously follow a policy of know your Donor, before engaging themselves in to any interaction with them.

Shri S.K. Panda is now working as Commissioner of Central Excise & Customs at Delhi.

Negative List of Services : A Step Towards Advent of GST

CA. Surbhi Premi

1. The concept paper on “Taxation of Services Based on a Negative List” was circulated by Central Board of Excise and Customs (CBEC), Ministry of Finance, on August 31, 2011 to seek feedback from all stakeholders. Many chambers, service providers’ associations, professional institutes, business entities and individuals provided valuable input. After taking into account the valuable feedback, a revised concept paper has been drafted to consider all the relevant issues that may arise if the negative list is to be introduced either under the existing regime of taxation or at the time of GST.

2. **What is the present method for taxation of services**

2.1. Service tax was originally introduced by the Finance Act, 1994 with 3 services on taxable services list. The number of taxable services kept increasing year after year and today, we have 117 taxable services.

2.2. Under the present method, we have detailed description for each taxable service and all other unspecified services are not liable to tax. This method of taxation is also referred to as taxation by way of a positive list.

3. **What is the proposed method for taxation of services (Negative List of Services)**

3.1. The concept paper has proposed to tax the services based on a small negative list of services. A negative list of services implies two things:

A) Firstly, a list of services which will not be subject to service tax;

B) Secondly, other than the services mentioned in the negative list, all other services will become taxable which fall within the definition of the ‘supply of services’.

4. **Why is Negative List of Services desirable**

4.1. Negative list approach will help to bring many untapped sectors into the tax net.

4.2. Negative list approach will be very conducive for a nationwide GST. Positive list/incremental approach to taxation is not suitable for providing a stable system for taxation of services that is at the threshold of getting subsumed into a comprehensive GST.

4.3. In positive list approach, the possibilities of overlaps amongst definitions lead to innumerable administrative issues resulting in litigation and higher compliance costs.

4.4. Further, in case of positive list, some of the definitions could be so wide that they lead to unintended taxation requiring either clarifications or exemptions. On the other hand, many services remain outside the tax net invariably leads to unintended exemptions and thereby, narrower tax base.

Unintended exemptions at intermediate stages lead to breakage of the input tax chain adding costs for the tax-payers and end-users. This will be clear from the following illustration:

Situation 1: No Exemption

	Taxable Inputs	Output	Input Tax credit	Output Tax@10%	Net Liability
Original Supplier	0	100	0	10	10
Service provider I	100	200	10	20	10
Service provider II	200	400	20	40	20
Total					40

Situation 2: Exemption

	Taxable Inputs	Output	Input Tax credit	Output Tax@10%	Net Liability
Original Supplier	0	100	0	10	10
Service provider I	100	200	10	Exempted	0
Service provider II	200	400	0	40	40
Total					50

It is evident from the illustration that when the Service Provider I is kept outside the tax chain the effective tax on the total supply goes up from 40 to 50 as the taxes paid at the previous stages are not available as tax credit at the subsequent stage.

Such exclusions also lead to distortion of economic neutrality across similar or substitute supplies e.g. road vs. rail transportation or discourage outsourcing by incentivizing self-supplies, and are thus not conducive for making the optimal choices in the economy.

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5. Challenges: Negative List of Services

5.1. Positive list has already attained a certain level of awareness and stability in administration. Introduction of negative list will take its own time to gain maturity.

5.2. It is a challenge before the law-makers to define 'service' in such a way that it does not infringe upon either the powers to tax of another legislature in a specific area or taxes such areas as are subjected to like taxes as good.

5.3. For the purpose of operationalizing the proposed negative list, certain changes will be necessary in the current service tax framework, importantly in the rules relating to import and export of services and to a lesser extent Cenvat Credit Rules, 2004, Service Tax Rules, 1994 and Point of Taxation Rules, 2011.

6. Nothing has been finalized regarding the timing for the introduction of the negative list yet. The proper timing for the launch of negative list can also be argued either way. GST will give the advantage of a wider constitutional mandate for comprehensive taxation of goods and services, so one view can be taken that concept of negative list should be introduced at the time of GST. On the other hand, it can be argued that negative list concept should be introduced independent of GST. There are advantages in moving towards negative list at an earlier time as introduction at an earlier stage will pave the way for the smooth transition to the GST and significantly ease the challenges arising out of implementing the GST. Introduction of negative list is seen as a step towards the advent of GST.

7. Negative list of services is indeed a welcome step which will bring the Indian law at par with other international taxation regimes. However, the preparatory time before introduction of negative list concept is very crucial both for the Government and all other stakeholders. Addressing various operational, administrative and other issues is the need of the hour before putting legislation in place. As far as timeline is concerned, the history will not judge us by the speed of the tax reform, the model needs to be sustainable in the long term, to find larger acceptance. Nonetheless, even if the introduction is delayed, the businesses need to start preparing from now.

FORTHCOMING PROGRAMMES

Seminar on Internal Audit & Risk Management

Date & Day	14th January, 2012 (Saturday)
Timing	09.30 AM – 05.00 PM
CPE Hrs	6 (Six) CPE Hrs.
Venue	Hotel Suryaa, New Friends Colony, Delhi.
Fee	Rs. 1500/- for Members
	Rs. 2000/- for Non Members (Corporate Delegates) Free for All Study Group Members of NIRC (2011-12)

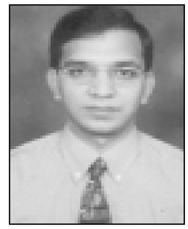
Discussion on Appellate Proceedings under Income Tax Act Organized by G-19 Bar Room of NIRC of ICAI

Date & Day	20th January, 2012 (Friday)
Timing	3.00 PM – 5.00PM
Venue	G-19 Bar Room, C.R. Building, ITO
Fee	No Fee. Limited Seats. Entry on First Cum First Serve
Speaker	CA. Sunil Arora

Member at Helms of Affairs

CA Sachin Goyal, M.N. 098654, has been co-opted as professional Director on the panel of The Sirsa Co-op Bank Limited

How to get the permission to receive foreign funds under "The Foreign Contribution (Regulation) Act, 2010"



CA. Anil Goel

How to get the permission to receive foreign funds under "The Foreign Contribution (Regulation) Act,2010"

The decades old "Foreign Contribution Regulation Act,1976" has been replaced with brand new "The Foreign Contribution (Regulation) Act,2010. This Act of Parliament has receive the assent of the President of India on 26th September,2010 & come into force with effect from 1st May,2011. The new Act has been drafted after considering the shortcomings existed in the old act and suggestions given by the public. This article covers the procedures & rules on how to get the permission to receive funds from Foreign sources.

NGO can receive the funds from foreign sources, only if it has registration under FCRA Act or it has obtained prior permission to receive foreign funds.

However all the association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force. It means that for registration of all the registered organization under FCRA, 1976 is valid till 30th April, 2016.

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Registration (Section 11) :-

A person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution when such person obtains a certificate of registration from the Central Government:

If any association is not registered under FCRA, it can accept any foreign contribution only after obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose & sources for which it is obtained.

Application for Registration :-

(1) An application by a person for grant of certificate shall be made electronically online in Form FC-3 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the association together with the required documents. The hard copy of the on-line application shall reach the Central Government within thirty days of the submission of the on-line application, failing which the request of the person shall be deemed to have ceased. Any person whose request has ceased may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application. A person seeking registration shall be required to open an exclusive bank account to receive the foreign contribution. An application made for the grant of the registration shall be accompanied by a fee of 2000/- (Two Thousand only), which shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in Section 12(4) are satisfied (as mentioned below), it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate, as the case may be, subject to such terms and conditions as may be prescribed. However in case the Central Government does not grant certificate, within the said period of ninety days, it shall communicate the reasons therefore to the applicant

Provided further that a person shall not be eligible for grant of certificate, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

The FCRA certificate shall be valid for a period of five years.

Application for Prior permission :-

(1) An application for obtaining prior permission, shall be made to the Central Government to receive foreign contribution in electronically on-line Form FC-4 and shall be followed by forwarding the hard copy of the on-line

application duly signed by the Chief Functionary of the Association together with the required documents.

- The hard copy of the on-line application shall reach the Central Government within thirty days of filing of the on-line application, failing which the request of the person shall be deemed to have ceased.
- Any person whose request has ceased may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application.
- A person seeking prior permission under this rule shall be required to open an exclusive bank account for the receipt of foreign contribution.
- No person shall prefer a second application for registration or prior permission within a period of six months after submitting an application either for the grant of prior permission for the same project or for registration.
- An application made for the grant of prior permission shall be accompanied by a fee of Rs.1000/- (One Thousand only), which shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section 12(4) are satisfied (as mentioned below), it may ordinarily within ninety days from the date of receipt of application under sub-section (1), grant him prior permission, subject to such terms and conditions as may be prescribed. However in case the Central Government does not grant, within the said period of ninety days, prior permission, it shall communicate the reasons therefore to the applicant

Provided further that a person shall not be eligible for prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

The prior permission shall be valid for the specific purpose and specific amount of foreign contribution proposed to be received.

Conditions for Registration/prior permission Section 12(4) :-

The following shall be the conditions—

(a) the person making an application for registration or grant of prior permission under section 12(1),—

(i) is not ficitious or benami;

(ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

(iv) has not been found guilty or diversion or mis-utilisation of its funds;

(v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;

(vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;

(vii) has not contravened any of the provisions of this Act;

(viii) has not been prohibited from accepting foreign contribution;

(b) the person making an application for registration under section 12(1) has undertaken reasonable activity in its chosen filed for the benefit of the society for which the foreign contribution is proposed to be utilised;

(c) the person making an application for giving prior permission under section 12(1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;

(d) in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;

(e) in case the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

(f) the acceptance of foreign contribution by the person referred to in section 12(1) is not likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) the security, strategic, scientific or economic interest of the State; or

(iii) the public interest; or

(iv) freedom or fairness of election to any Legislature; or

(v) friendly relation with any foreign State; or

(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;

(g) the acceptance of foreign contribution referred to in sub-section (1),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefore and furnish a copy thereof to the applicant. Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005.

Renewal of certificate :-

Every person who has been granted a certificate shall have such certificate renewed within six months before the expiry of the period of the certificate. Application for renewal of the certificate shall be made to the Central Government in Form FC-5, six months before the date of expiry of the certificate of registration. However A person implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration. The application shall be accompanied by a fee of Rs. 500/-, which will be paid thru a Demand Draft/ Banker's Cheque in favour of " Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

If the validity of the certificate of registration of a person has ceased in accordance with the provisions of these rules, a fresh application for the grant of a certificate of registration may be made by the person to the Central Government as per the provisions of rule 9. This application will be treated as the application for new registration, not for renewal of certificate.

In case a person provides sufficient grounds, in writing, explaining the reasons for not submitting the certificate of registration for renewal within the stipulated time, his application may be accepted for consideration along with the requisite fee, but not later than four months after the expiry of the original certificate of registration. It means that in any case application for renewal can not be made after the expiry of four months after the expiry of registration certificate.

The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years. However in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefore to the applicant.

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made there under.

The Author is a member of the Institute. He can be reached at ca.anilgoel@gmail.com

Congratulations

Team NIRC Congratulate CA Parveen Kumar on Winning the Full Marathon (42 Kms.) in December 2011 in Gurgaon organized by 'Running and Living Group, Gurgaon'.

ANNOUNCEMENT

General Amnesty for Retrospective Restoration of Names FROM REGISTER OF MEMBERS And Certificate of Practice

Date: 03.01.2012

With a view to mitigating the hardships being faced by such members whose names stand removed as on date due to non-payment of membership fee, the Council has decided to give them an opportunity by way of General Amnesty for restoration of their names retrospectively.

Continuation of membership entitles to designate as 'CA' and benefits alike monthly Journal of the Institute , newsletters of Regional Councils & Branches of the Institute, participation in the conferences, seminars and other programmes organized by the Institute, Regional Councils and/or Branches at concessional rates; regular update of programs being organized and initiatives taken for the benefit of the profession and members; emerging professional opportunities, practice area development, publications of the Institute.

This is an excellent opportunity to get your name restored with retrospective effect by submitting your application in Form 9 on or before 31st March, 2012 alongwith the outstanding fee for the intervening period of name removal and restoration fee submitted. Details of General Amnesty Scheme are given below in hosted on nirc-icai.org

Extension of Common Proficiency Course (CPC) registration

date upto 5th April, 2012

In view of the closure of banks on account of yearly closing on 31st March, 2012, the last date for registration for Common Proficiency Course (CPC) shall be 5th April, 2012 for being eligible to appear in the Common Proficiency Test (CPT) to be held in June, 2012.

Accordingly, students can submit the application form for registration for CPC upto 5th April, 2012 for the June,

Chess Tournament

Chess Tournament of NIRC of ICAI will be held on 22nd January 2012 (Sunday) at ICAI Bhawan Vishwas Nagar, Delhi. The Fee is Rs. 100/- per member participant which can be paid by way of Cash/Cheque in favour of 'NIRC of ICAI'

ANNOUNCEMENT

Commencement of Certificate Course on Indirect Taxes at Delhi

Next batch of Certificate Course on Indirect taxes is starting tentatively from first week of February, 2012 at Delhi.

Eligibility : Members of ICAI

Course Duration : 12 days

Faculty : Eminent experts of the field and erudite speakers drawn from all over the country will share their knowledge and wisdom with the participants of this Certificate Course.

Fees for the Course : Rs. 20,000 [Including fees for the immediate examination to be held after completion of the Course]

Certificate : A certificate will be awarded to the members on successful completion of course and passing the examination.

CPE Hours : 70 Hours (50 Structured and 20 Unstructured)

Registration : Members desirous of attending the said Course may convey their interest and send the duly filled Registration Form along with the demand draft for Rs.20,000/- towards the prescribed fee at the earliest to the Secretary, Indirect Taxes Committee, The Institute of Chartered Accountants of India, ICAI Bhawan, 4th Floor, Research Block, A-29, Sector 62, Noida - 201 309, Uttar Pradesh OR may contact at 0120-3045906 and send mail at **ccidt@icai.org**

Demand Draft should be made in favor of 'The Secretary, The Institute of Chartered Accountants of India' payable at New Delhi. Alternatively, members may register by making online payment of the prescribed fees of Rs.20,000/- at ICAI website and sending the hard copy of the duly filled registration form to the address mentioned above.

The Course Director CA. Pankaj Tyagee, [Mobile No.9811902889, Email at pankajtyagee@ gmail.com] and Course Coordinator CA. Man Mohan Khemka, [Mobile No.9810064427, Email at manmohankhemka@samynk.com] can also be contacted for details of the course.

PLEASE VISIT: www.icai.org for further information

Note: The commencement of certification course is subject to the minimum number of participants as prescribed by the Committee. It may be noted that due to limitation of seats, the registration will be on 'first come first serve' basis.

REGIONAL COUNCIL ACTIVITIES

Date	Programme/Topics	Chief Guest/Guest Speakers
3rd December, 2011	Career Counseling of S.L.S. D.A.V. Public School, Mausam Vihar, Delhi.	
	To make student aware about CA Courses, i.e. CPT, Orientation Programme, IPCC & CA Final, GMCS.	CA Rajiv Soni.
	Vote of Thanks	The Principal, S.L.S.D.A.V Public School
10th December, 2011	Seminar on Stress Management Jointly With North Campus CPE Study Circle of NIRC, Oberois Restaurant, Ashok Vihar, Phase-III, Delhi-110052.	
	Stress Management for CAs	CA. Prakash Agarwal
	Stress Management for CAs - Practical Tips to Control and Remedies	CA. Atul Chawla
	Vote of Thanks	
17th December, 2011	Seminar on Taxation & S. Vaidyanath Iyer Memorial Lecture on Personality Development at Hotel EROS, Nehru Place, New Delhi.	
	Calling of the Digntaries on the DIAS	CA. Deen Dayal Agrawal Executive Member, NIRC of ICAI
	Critical Issues ion Assessment & Reassessment Proceedings Taxation of Builders Collaboration & Development Agreements	CA. Kapil Goel CA. Sunil Arora
	Vote of Thanks	CA. Tarun Arora Chartered Accountant
	Calling of the Digntaries on the DIAS	CA. (Dr.) Durga Das Agrawal Member, NIRC of ICAI
	Advantage Corporate Grooming and Personality Wellness	Sh. Suneel Keswani Leading Motivational Trainer Dr. Bhavna Barmi Leading Clinical Psychologist & Corporate Trainer
	Vote of Thanks	CA. Hans Raj Chugh Member, NIRC of ICAI
17th & 18th December, 2011	Sub Regional Conference of NIRC at Chandigarh.	
18th December, 2011	Marathon – Running from ICAI(ITO) to India Gate	
18th December, 2011	Cricket Match-Semi Final At Daulat Ram College Cricket Ground, Delhi University	
20th December, 2011	Blood Donation Camp at ICAI Bhawan, Vishwas Nagar.	
21st December, 2011	Sub Regional Conference of NIRC at Jammu.	
22nd December, 2011	Tree Plantation between Karkardooma Court to Vishwas Nagar Office.	
22nd December, 2011	Donation at Blind School/Orphanage/Old-age home	
22nd December, 2011	Seminar on Stress Management, Well Being & Art of Living on ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi	
	Calling of the Digntaries on the DIAS	
	Lecture on Stress Management Well Being & Art of Living Yoga & Stress Management	H.H.S.A.R. Prasanna Venkatachariar Chaturvedi Ji Yogacharya Surakshit Goswami Ji
23rd December, 2011	Diamond Jubilee Conference on International Taxation, WTO & FEMA on NCUI Auditorium, Khelgoan Marg, New Delhi	
	Calling of the Digntaries on the DIAS	CA. Sanjay Kumar Agrawal Secretary, NIRC of ICAI
	Address by Chairman Technical Session	CA. Charanjot Singh Nanda Central Council Member, ICAI
	Technical Session : I - Critical Issues in FDI	Sh. Akash Gupt Executive Director, PWC
	Vote of Thanks	CA. Pramod Maheshwari NICASA, Chairman, NIRC of ICAI
	Calling of the Digntaries on the DIAS	CA. Gopal Kumar Kedia Treasurer, NIRC of ICAI
	Address by Chairman Technical Session	CA. Pankaj Tyagee Central Council Member, ICAI
	Technical Session : II - Overview of Facilities available to NRIs / Resident Individuals and Foreign Nationals	Sh. S. R. Mehta
	Technical Session : III -Introduction of WTO Regime & India Perspective	Sh. Amar Sinha Joint Secretary Ministry of Commerce & Industry
	Vote of Thanks	CA. Vijay Goyal, Chartered Accountant

REGIONAL COUNCIL ACTIVITIES

Date	Programme/Topics	Chief Guest/Guest Speakers
23rd December, 2011	Cultural Evening by CA Members and their families at NCUI Auditorium, Khel Gaon Marg, New Delhi.	
24th December, 2011	Diamond Jubilee Conference on International Taxation, WTO & FEMA on NCUI Auditorium, Khelgoan Marg, New Delhi	
	Calling of the Digntaries on the DIAS	
	Address by Chairman Technical Sessions	CA. Vinod Jain Central Council Member, ICAI
	Technical Session : I - Professional Opportunities for Chartered Accountants in Emerging Area (WTO)	Dr. (Mrs.) Vijaya Katti, Chairperson & Professor, Indian Institute of Foreign Trade Prof. Abhijit Das Head (Centre for WTO Studies) Indian Institute of Foreign Trade
	Address by Chairman Technical Session	Sh. R. N. Das Director General of International Taxation
	Technical Session : II - Institutionalisation of Transfer Pricing in an organization & Major Issues in Transfer Pricing Assessment	Mr. Rahul K Mitra Partner, Transfer Pricing-PWC
	Vote of Thanks	
	Calling of the Digntaries on the DIAS	
	Technical Session : III - International Tax- Future of Profession	Mr. T.P. Ostwal Renowned International Taxation Expert, Mumbai
	Technical Session : IV - Case Studies on Critical Issuis in International Taxation	Mr. T.P. Ostwal Mr. S. P. Singh Mr. Rahul K. Mitra
26th December, 2011	Vote of Thanks Sub Regional Conference of NIRC at Ludhiana.	
28th December, 2011	Sub Regional Conference of NIRC at Faridabad.	
29th & 30th December, 2011	National Convention of CA Students	
	Chief Guest	Her Highness, Smt. Rajni Abbi, Mayor, Municipal Corporation of Delhi
	Address by Chairman Technical Sessions Technical Session: I - Accounting & Auditing Session Chairman – CA. Amarjit Chopra, FCA Past President, ICAI Judge Name : 1. CA. Ravindra Kr Pawar, 2. CA. Bhawani Shankar Sharma	CA. Rajesh Sharma, FCA Chairman, NIRC 1. Accounting Standards Vs. Ind AS Vs. IFRS 2. Forensic Accounting 3. Auditing Standards Compliance in the Present Scenario
	Vote of thanks	CA. Deen Dayal Agrawal, FCA Member, NIRC
	Technical Session – II : Business Advisory Session Chairman – CA. Sanjay Kumar Agarwal, FCA Central Council Member, ICAI Judge Name : 1. CA. Sanjay Chandok 2. CA. Sunil Vashisth	1. Planning: Continuity of Business & Disaster Recovery. 2. Globalization of Capital Market 3. Future of XBRL as Reporting Language
	Vote of thanks	CA. Hans Raj Chugh, FCA Member, NIRC
	Technical Session – III : Taxation - Direct & International Session Chairman – CA. Pankaj Tyagee, FCA Central Council Member, ICAI Judge Name : 1. CA. Rajat Mohan 2. CA. S. K. Bansal	1. Contemporary issues in Business Taxation. 2. Changing Perspective of International Taxation under Direct Tax Code 3. Goods & Services Tax in India – Way Forward
	Vote of thanks	CA. Gopal Kumar Kedia, FCA Treasurer, NIRC
	Technical Session – IV : Corporate Session Chairman – CA. Vinod Jain, FCA Central Council Member, ICAI Judge Name : 1. CA. Kailash Gupta 2. CA. Milan Shrimali Vote of thanks	1. Due Diligence 2. Code of Ethics 3. Corporate Social Responsibility CA. Rajiv Goel, FCA, Member, NIRC
	Valedictory Session - CA. Amarjit Chopra, FCA Former President, ICAI	

GLIMPSES – REGIONAL COUNCIL ACTIVITIES

A view at the Marathon organised by NIRC of ICAI on 18th December, 2011 at New Delhi.

A view at the Marathon organised by NIRC of ICAI on 18th December, 2011 at New Delhi.

A view at the Marathon organised by NIRC of ICAI on 18th December, 2011 at New Delhi.

A view at the Cricket Tournament (Semi-Final) held on 18th December, 2011 at New Delhi.

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A view at the Blood Donation Camp Organize by NIRC of ICAI on 20th December, 2011 at ICAI Bhawan, Vishwas Nagar, Delhi.

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A view at the Tree Plantation Organize by NIRC of ICAI on 22nd December, 2011 at ICAI Bhawan, Vishwas Nagar, Delhi.

A view at the Tree Plantation Organize by NIRC of ICAI on 22nd December, 2011 at ICAI Bhawan, Vishwas Nagar, Delhi.

A view at the Donation given to Students of Deaf & Dump Orphanage School by Members who have Contributed for the Same.

A view at the Donation given to Students of Blind School by Members who have Contributed for the Same.

GLIMPSES – REGIONAL COUNCIL ACTIVITIES

A view at the seminar on Stress Management held on 22nd December, 2011 at ICAI Bhawan, Vishwas Nagar, Delhi.

A view at the seminar on FEMA, WTO & International Taxation held on 23-24 December, 2011 at New Delhi.

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A view at the Cultural Programme for members held on 23rd December, 2011 at NCUI Auditorium, New Delhi.

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A view at the National Convention of CA Students held on 29-30 December 2011 at auditorium of SRCC College, Delhi University, Delhi.

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A view at the Seminar on Stress Management organized by North Campus CPE Study Circle Jointly with NIRC of ICAI at Delhi.

A view at the Regional Conference of CA Students Jointly with BOS, ICAI Organized by Amritsar Branch of NIRC of ICAI at Amritsar.

A view at the Regional Conference of CA Students Jointly with BOS, ICAI Organized by Amritsar Branch of NIRC of ICAI at Amritsar.

A view at the Two Days Sub-Regional Conference on Taxation Organised by Chandigarh Branch of NIRC of ICAI at Chandigarh.

A view at the Sub-Regional Conference of Faridabad Branch of NIRC of ICAI at Faridabad.

A view at the seminar on Capacity Building, Code of Conduct, Ethics, Networking, Merger, Demerger & Accounting Standards organised by East Delhi CPE Study Circle.

A view at the Silver Jubilee Celebrations of J&K Branch of NIRC of ICAI

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R. N. I. No. 21759/71 At N.D. P.S.O., New Delhi-110002, on January 11-12, 2012