THE INSTITUTE OF
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

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Phone-(011) 41504444, 45341000, Fax-(011)24626727, Email - info@icsi.edu

CS Update

May 13, 2011

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Walk, ride a bike, or use public transportation whenever possible.

Keep vehicles well maintained. Under-inflated tires and dirty air-intake filters can significantly reduce gas mileage.

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May 13, 2011

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PREVIOUS ISSUES ARE AVAILABLE AT THE FOLLOWING LINK:

http://www.icsi.edu/Member/CSUpdate/tabid/1635/Default.aspx

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12th NATIONAL CONFERENCE OF PRACTISING COMPANY SECRETARIES

The 12th National Conference of Practicing Company Secretaries is scheduled to be hold on July 14- 15- 16, 2011 at Ooty, Tamil Nadu.

The Council of the Institute has decided to hold the 12th National Conference of Practicing Company Secretaries at Ooty, Tamil Nadu. Located in the midst of four high hills; Doddabetta, Snowdon, Elk hill and Club Hill in the Nilgiris, Ooty is a picturesque hill station that is pleasant all through the year. The time of the National Conference has very aptly been kept in July so as to enable members to escape into the verdant hills, the lust green valleys and to admire the pristine natural beauty of the hill resort of Ooty which offers the tiered souls of all ages a chance to resume their affair with Nature, to whom they truly belong. The National Conference would surely be a rejuvenating experience for one and all. So come and embrace the tranquility and solace that Ooty has to offer.

CLICK HERE TO VIEW BROCHURE: 12th National Conference of Practising Company Secretary

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CG & CSR : WATCH

The Institute has always been in the frontline to promote good corporate governance and it has been the constant endeavour of the Institute to raise awareness among the members and students in Corporate Governance arena. In this direction, the Institute has decided to carry one page in Chartered Secretary each month exclusively dedicated to Corporate Governance and Corporate Social Responsibility.

NEW DEVELOPMENTS

1. Corporate Integrity Pledge – Malaysia

In response to economic challenges, Government of Malaysia initiated the Economic Transformation Programme (ETP) - a comprehensive effort that will transform Malaysia into a high-income nation by 2020. Under ETP Malaysia will focus its economic growth efforts on 12 National Key Economic Areas (NKEAs) which will receive prioritised Government support including funding, top talent and Prime Ministerial attention.

As a part of ETP the **Corporation Integrity Pledge and Anti-Corruption Principles 2011** were launched in coalition with The Malaysian Institute of Integrity, Performance Management and Delivery Unit (PEMANDU), Bursa Malaysia, Companies Commission of Malaysia, Securities Commission Malaysia, Malaysian Anti-Corruption Commission, NKRA Corruption Monitoring and Coordinating Division and Transparency International Malaysia on 31 March 2011. The Pledge and Principles are meant to guide the corporations through areas that they can focus on to play in contributing toward anti-corruption efforts in Malaysia. This is in line with the objectives of the National Key Results Area of Fighting Corruption.

Corporate Integrity Pledge

The Corporate Integrity Pledge is a document that allows a company to make a commitment to uphold the Anti-Corruption Principles for Corporations in Malaysia. By signing the pledge, the company shall make unilateral declaration that it will not commit corrupt acts, will work toward creating a business environment that is free from corruption and will uphold the Anti-Corruption Principles for Corporations in Malaysia in the conduct of its business and in its interactions with its business partners and the Government.

The effect of pledging is twofold: first, a company will be making a clear stand of how it operates, and this will be locked down in writing – this will be guidance to the company in its business interactions, in the event if it faces the possibility of condoning any payments or other activities that would amount to corruption. Second, a company can use this Pledge to set itself apart from its peers by demonstrating to its stakeholders that its business operations do not include any hidden risks or costs that are associated with corrupt activities. By signing the pledge, the company can be listed in the register of signatories that is

maintained on the website of the **Malaysian Integrity Institute**, and can be accessed through the website of Bursa Malaysia Berhad.

The soft copy of the Pledge is available for download at the Malaysian Institute of Integrity website at: **www.iim.com.my**
Related link: **www.bursamalaysia.com**

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2. European Commission publishes Green Paper on EU corporate governance framework.

On 5 April 2011, the EU Commission launched a public consultation on possible ways forward to improve existing corporate governance mechanisms. The objective of the Green Paper is to have a broad debate on the issues raised and to allow all interested parties to see which areas the Commission has identified as relevant in the field of corporate governance. The deadline for submitting contributions in response to the consultation is 22 July 2011.

The Green Paper aims to launch a general debate on a number of issues such as:

1. Effective functioning of **board of directors** and ensuring they are composed of a mixed group of people, e.g. by enhancing gender diversity, a variety of professional backgrounds and skills as well as nationalities. Functioning of boards, in terms of availability and time commitment of directors, questions on risk management and directors' pay are also under scrutiny.
2. How to enhance **shareholders' involvement** on corporate governance issues, how to encourage them to take an interest in sustainable returns and longer term performance and also how to enhance the protection of minority shareholders. It also seeks to understand whether there is a need for shareholder identification, i.e. for a mechanism to allow issuers to see who their shareholders are, and for an improved framework for shareholder cooperation.
3. How to improve **monitoring and enforcement of the existing national corporate governance codes** (in EU countries) in order to provide investors and the public with meaningful information. Companies which don't comply with national corporate governance recommendations have to explain why they deviate from them. Too often, this doesn't occur. The Green Paper asks whether there should be detailed rules on these explanations and whether national monitoring bodies should have more say on companies' corporate governance statements.

The Green paper can be accessed at:
http://www.ecgi.org

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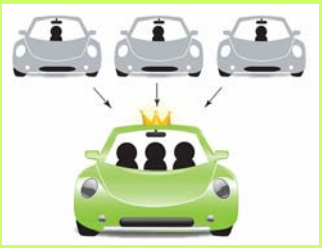
GREEN CORNER

GREEN IDEA

Say 'YES' to Car Pools



- **Reduction in Traffic congestion,**
- **Save Fuel,**
- **Save money,**
- **Stepping ahead to protect environment.**

Something Good:

'Soles with Souls'

JK Tyre has come up with a concept titled 'Soles with Souls', an innovative way to recycle old rubber in order to lower the amount of pollution and pressure on the environment. In order to showcase the potential of this recycling concept, JK Tyres worked alongwith students of the Footwear Design and Development Institute, created over 40 pairs of shoes as well as some handbags from the used tyres, which were exhibited through a ramp fashion show. This makes both business sense and works out to be rather environment friendly as well.

To Remember:

May 1 -International Labour Day
May 15 -International Day of the Family
May 31 -Anti-tobacco Day

Quote of the Month

"Establishing a corruption-free India is a major challenge. I propose a youth brigade as the solution. 'I can do it. We can do it. India will do it', should be the spirit,"------[Former President of India] Dr. APJ Abdul Kalam.

Feedback & Suggestions

Readers may give their feedback and suggestions on this page to Mrs. Alka Kapoor, Joint Director ICSI (alka.kapoor@icsi.edu)

Disclaimer:
The contents under **CG & CSR: Watch** have been collated from different sources. Readers are advised to cross check from original sources.

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* eJurix is available for non ICSI members at Rs. 40,000 p.a
* Only Corporate Law module is available for non ICSI members at Rs 10,000/- P A
* Taxes Extra on all prices mentioned
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{*} 25% discount for CS Professionals = 30,000 (eJurix) + 2,500 (ICSI-KP)
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FREQUENTLY ASKED QUESTIONS ON ICSI-USE MOU

1. What is United Stock Exchange of India?

United Stock Exchange of India Limited (USE) is India's newest stock exchange and has been promoted by 21 Indian public sector banks, private banks and corporate houses. USE is the trading platform for Currency Futures now.

2. Who can trade on currency futures?

Any Resident Indian or Company can become a member of USE and trade in the currency futures market. At present, Non Resident Indians (NRIs) and Foreign Institutional Investors (FIIs) are not permitted to trade in the futures market in India.

3. Why has ICSI partnered with USE?

ICSI-USE understand and realize the high growth potential of the Indian financial markets and has agreed to collaborate in variety of educative initiatives such as:

1. Holding and organizing seminars on financial markets and corporate governance to empower the users.
2. Creating infrastructure of knowledge based technical studies on financial markets.
3. Creating awareness about the complex financial instruments and using derivatives for effective hedging keeping accounting standards in perspective.
4. Conduct various kinds of certification programmes and literature on financial markets and corporate governance.
5. Hosting events such as simulation exercises (mock trading on exchanges), seminars, and training in financial markets to empower ICSI members and general investing public in rightfully analyzing the financial markets.
6. Conducting research and other related activities in financial markets and impact of corporate laws and Secretarial standards on financial markets.
7. Imparting and conducting special training and education programmes in financial markets.
8. Organizing short term courses on various asset classes, currency, interest rates, commodity, debt, mutual funds, and derivatives.
9. Organizing panel discussions, webcasting and presentation of experts on various aspects of financial markets and using electronic media for imparting knowledge.
10. Collaborating for joint certification of ICSI professionals on topics of professional interest.

4. What is the distinctive benefit offered by USE to ICSI Members?

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GO GREEN

Membership of United Stock Exchange of India is available free of cost to all ICSI Members for the first three months from the signing of this MOU. The MOU was signed on March 07, 2011 at New Delhi.

5. What are the different types of membership available?

There are 2 types of memberships available with USE:

TRADING MEMBERSHIP: Trading Members have the privilege of trading on one's own account as well as on the accounts of their clients but do not have the facility to clear and settle debts.

CLEARING MEMBERSHIP: Clearing Members are entitled to clear and settle trades for all trading members through the clearing corporation of USE – ICCL (a wholly owned subsidiary of Bombay Stock exchange with fully automated post trade services).

6. Who can take membership of the exchange?

Any Proprietor, Partnership or Corporate Firm fulfilling the eligibility requirements laid down by SEBI can take membership of the exchange. Following are the requirements as per SEBI guidelines.

- For Trading Membership, the member should possess a liquid net worth of 1 Crore Rupees, while for a Clearing Membership the member requires liquid net worth of 5 Crore Rupees.
- The Designated Directors should have an experience of minimum 2 years in the capital market.
- Minimum 2 NISM (series – 1) certificates

7. How can I attain NISM Certification?

There is NISM online exam for the currency segment. The member can login and register online on the website of Bombay Stock Exchange and take a slot as per his/her convenience. The link for the same is http://www.bseindia.com/training/nismregistration.asp

8. How do ICSI members register themselves as trading members of USE? (Procedural Requirements)

The procedure for becoming a Trading Member with the exchange basically involves 2 steps i.e. filling the Application form and the Commencement of Business (COB) Form.

As a first step the applicant would be required to fill in and submit the Application Forms to the Exchange. These forms can be downloaded from USE website, the link for which is http://www.useindia.com/downloads.php.

These forms would be submitted to SEBI, who would scrutinise the forms and then issue its SEBI Certificate. After this the applicant would be required to submit the Commencement of Business Forms (COB) available on USE website.

Upon Completion of this formality the applicant becomes a full fledged member.

9. What activities can I undertake on the platform?

The member can use this platform for meeting his need for all three functions i.e. for hedging, speculating and arbitraging. Spread contracts are also available on the USE platform.

10. Would I have to undertake any hidden costs?

At the time of inception to trade, Trading member is required to pay a security deposit of 1 Lakh Rupees to the exchange which is fully refundable upon surrender of the membership.

Similarly a Clearing member would have to pay security deposit of 50 Lakh Rupees which constitutes of 25 Lakhs as cash and other 25 Lakhs as non cash component. This is a non interest bearing deposit.
The software and connectivity would be provided by the exchange free of cost. Members having BSE connectivity would also be able to use it for USE software for free. As of now, there are no transaction charges on the exchange.

11. For further Information and queries please contact:

Directorate of Academics & Professional Development
Institute of Company Secretaries of India
Email: sonia.baijal@icsi.edu
Tel: 011-45341032,45341039

Membership Department
United Stock Exchange of India Ltd.
Email: membership@useindia.com
Tel: 022- 42444902

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COMPULSORY ATTENDANCE OF PROFESSIONAL DEVELOPMENT PROGRAMMES BY THE MEMBERS

The Council of the Institute at its 200th Meeting held on March 18, 2011 at New Delhi amended the Guidelines for Compulsory Attendance of Professional Development Programmes by the Members to provide as under:

1.	Next block of three years	April 01, 2011 to March 31, 2014
2.	Min. number of Programme Credit Hours (PCH) to be acquired by Members in Practice	15 PCH in each year or 50 PCH in a block of three years w.e.f April 01, 2011
3.	Min. number of PCH to be acquired by Members in Employment (i.e. members in whose name Form 32 has been filed to work as Company Secretary under the provisions of Sec. 383A of the Companies Act, 1956)	10 PCH in each year or 35 PCH in a block of three years w.e.f April 01, 2011
4.	Min. number of PCH to be acquired by Members above the age of 60 years	Presently the members of the age of 65 years are not required to obtain PCH. This age limit stands reduced to 60 years and the members above the age of 60 years shall be required to obtain 50% of the PCH required to be obtained by the members below 60 years w.e.f April 01, 2011.
5.	Members failing to obtain the mandatory PCH upto March 31, 2011	Provided with a shortfall upto 10 PCH and required to compensate by obtaining atleast 5 additional PCH on pro rata basis in the first year of the next block of three years commencing from April 01, 2011.
6.	Members who have not obtained any PCH during the block ending on March 31, 2011	Members seeking renewal of CoP to provide an explanation for non compliance with the Guidelines – to be decided on case to case basis.

7.	Carry forward of the excess PCH if the member has already completed the mandatory PCH upto December 31, 2010 and continued to attend Professional Development Programmes during January – March, 2011	The Guidelines for Compulsory Attendance of Professiona Development Programmes by the Members do not provide for carry forward of PCH from one block of three years to the other. If any member had obtained the mandatory PCH upto December 31, 2010 and continued to attend Professional Development Programmes during January – March, 2011, then in such case the PCH obtained by such member during January – March, 2011 would be treated as having been obtained in the first year of the next block commencing from April 01, 2011.

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PMQ COURSE IN CORPORATE GOVERNANCE

ENHANCEMENT OF FEES

The Council at its 197th Meeting held on December 15, 2010 felt that honorarium be paid to the Guides for dissertation and project report under PMQ Course in Corporate Governance. With a view to meet the expense on honorarium to be paid to the Guide and to meet the increased costs, the Council has decided to enhance the **fee for PMQ Course in Corporate Governance with effect from January 1, 2011** to **Rs.25,000/-** for the entire course payable as under :

Rs.12500/- payable at the time of registration for the course.

Rs.12,500/- payable after completion of Part I and before commencement of Part II

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INSTITUTE'S RECENT PUBLICATIONS

- Business @ Governance & Sustainability
- Guidance Note on Board Processes
- Independent Directors-A research Study on Corporate Practice in India
- Corporate Social Responsibility –Research Study of Corporate Practice in India
- DNA of Integrity
- Role of Company Secretaries-A New Perspective
- A Guide to Company Secretary in Practice
- Guidance Note on Related Party Transactions
- Guidance Note on Listing of Corporate Debt
- Guidance Note on Corporate Governance Certificate
- Referencer on Secretarial Audit
- Referencer on Filling and Filing of E-Forms 23AC and 23ACA
- Establishment of Branch, Liaison & Project Offices in India
- Handbook on Mergers, Amalgamation and Takeover

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Contact : Shri Harish Chander Joshi,
Admn. Officer(store),
The Institute of Company Secretaries of India,
C-37, Sector 62,
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MCA UPDATE

CS Update

May 13, 2011

FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT IN EXTENSIBLE BUSINESS REPORTING LANGUAGE (XBRL) MODE

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General Circular No. 25 /2011

Corrigendum to Circular no. 09/2011 dated 31.03.2011

17/70/2011 -CL.V
Government of India
Ministry of Corporate Affairs
5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi
Dated the 12.05.2011

To
All Regional Directors
All Registrar of Companies

Subject: Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language(XBRL) mode.

The undersigned is to draw the attention on the Circular No. 9/2011 dated 31.3.2011 of this Ministry on the subject cited above. The following errata has been noticed which is rectified as under:-

2. In the said circular for clauses (i) and (ii) of paragraph 2 under the Heading Coverage in Phase I, the following shall be substituted and read as :-

"(i) All companies listed in India and their subsidiaries, having paid up capital of Rs. 5 Crore and above or a turnover of Rs. 100 crore or above, excluding banking companies, insurance companies, power companies, Non Banking Financial Companies (NBFCs) and overseas subsidiaries of these companies."

(J.N. Tikku)
Joint Director
Tel. 011-23381295

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May 13, 2011

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General Circular No. 09/2011

17/70/2011 –CL.V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi
Dated the 31.03.2011

To

All Regional Directors
All Registrar of Companies

Subject: Filing of Balance Sheet and Profit and Loss Account in eXtensible Business Reporting Language(XBRL) mode.

It has been decided by the Ministry of Corporate Affairs to mandate certain class of companies to file balance sheets and profit and loss account for the year 2010-11 onwards by using XBRL taxonomy. The Financial Statements required to be filed in XBRL format would be based upon the Taxonomy on XBRL developed for the existing Schedule VI, as per the existing, (non converged) Accounting Standards notified under the Companies (Accounting Standards) Rules, 2006. The said Taxonomy is being hosted on the website of the Ministry at www.mca.gov.in shortly. The **Frequently Asked Questions** (FAQs) about XBRL have been framed by the Ministry and they are being annexed as Annexure I with this circular for the information and easy understanding of the stakeholders.

Coverage in Phase I

2. The following class of companies have to file the Financial Statements in XBRL Form only from the year 2010-2011 :-

(i) All companies listed in India and their subsidiaries, including overseas subsidiaries;

(ii) All companies having a paid up capital of Rs. 5 Crore and above or a Turnover of Rs 100 crore or above .

Additional Fee Exemption

3. All companies falling in Phase -I are permitted to file upto 30-09-2011 without any additional filing fee.

Training Requirement

4. Stakeholders desirous to have training on the XBRL or on taxonomy related issues, may contact the persons as mentioned in Annexure II.

(J.N. Tikku)

Joint Director
Tel: 011-23381295

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Annexure I

Frequently Asked Questions

1. What is XBRL?

XBRL is a language for the electronic communication of business and financial data which is revolutionizing business reporting around the world. It provides major benefits in the preparation, analysis and communication of business information. It offers cost savings, greater efficiency and improved accuracy and reliability to all those involved in supplying or using financial data. XBRL stands for eXtensible Business Reporting Language. It is already being put to practical use in a number of countries and implementations of XBRL are growing rapidly around the world.

2. Who developed XBRL?

XBRL is an open, royalty-free software specification developed through a process of collaboration between accountants and technologists from all over the world. Together, they formed XBRL International which is now made up of over 650 members, which includes global companies, accounting, technology, government and financial services bodies. XBRL is and will remain an open specification based on XML that is being incorporated into many accounting and analytical software tools and applications.

3. What are the advantages of XBRL?

XBRL offers major benefits at all stages of business reporting and analysis. The benefits are seen in automation, cost saving, faster, more reliable and more accurate handling of data, improved analysis and in better quality of information and decision making. XBRL enables producers and consumers of financial data to switch resources away from costly manual processes, typically involving time-consuming comparison, assembly and re-entry of data. They are able to concentrate effort on analysis, aided by software which can validate and process XBRL information. XBRL is a flexible language, which is intended to support all current aspects of reporting in different countries and industries. Its extensible nature means that it can be adjusted to meet particular business requirements, even at the individual organization level.

4. Who can benefit from using XBRL?

All types of organizations can use XBRL to save costs and improve efficiency in handling business and financial information. Because XBRL is extensible and flexible, it can be adapted to a wide variety of different requirements. All participants in the financial information supply chain can benefit, whether they are preparers, transmitters or users of business data.

5. What is the future of XBRL?

XBRL is set to become the standard way of recording, storing and transmitting business financial information. It is capable of use throughout the world, whatever the language of the country concerned, for a wide variety of business purposes. It will deliver major cost savings and gains in efficiency, improving processes in companies, governments and other organisations.

6. Does XBRL benefit the comparability of financial statements?

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XBRL benefits comparability by helping to identify data which is genuinely alike and distinguishing information which is not comparable. Computers can process this information and populate both pre defined and customised reports.

7. Does XBRL cause a change in accounting standards?

No. XBRL is simply a language for information. It must accurately reflect data reported under different standards – it does not change them.

8. What are the benefits to a company from putting its financial statements into XBRL?

XBRL increases the usability of financial statement information. The need to re-key financial data for analytical and other purposes can be eliminated. By presenting its statements in XBRL, a company can benefit investors and other stakeholders and enhance its profile. It will also meet the requirements of regulators, lenders and others consumers of financial information, who are increasingly demanding reporting in XBRL. This will improve business relations and lead to a range of benefits.

With full adoption of XBRL, companies can automate data collection. For example, data from different company divisions with different accounting systems can be assembled quickly, cheaply and efficiently. Once data is gathered in XBRL, different types of reports using varying subsets of the data can be produced with minimum effort. A company finance division, for example, could quickly and reliably generate internal management reports, financial statements for publication, tax and other regulatory filings, as well as credit reports for lenders. Not only can data handling be automated, removing time-consuming, error-prone processes, but the data can be checked by software for accuracy.

9. How does XBRL work?

XBRL makes the data readable, with the help of two documents – Taxonomy and instance document. Taxonomy defines the elements and their relationships based on the regulatory requirements. Using the taxonomy prescribed by the regulators, companies need to map their reports, and generate a valid XBRL instance document. The process of mapping means matching the concepts as reported by the company to the corresponding element in the taxonomy. In addition to assigning XBRL tag from taxonomy, information like unit of measurement, period of data, scale of reporting etc., needs to be included in the instance document.

10. How do companies create statements in XBRL?

There are a number of ways to create financial statements in XBRL:

XBRL-aware accounting software products are becoming available which will support the export of data in XBRL form. These tools allow users to map charts of accounts and other structures to XBRL tags.

Statements can be mapped into XBRL using XBRL software tools designed for this purpose

Data from accounting databases can be extracted in XBRL format. It is not strictly necessary for an accounting software vendor to use XBRL; third party products can achieve the transformation of the data to XBRL.

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Applications can transform data in particular formats into XBRL. The route which an individual company may take will depend on its requirements and the accounting software and systems it currently uses, among other factors.

11. Is India a member of XBRL International?

India is now an established jurisdiction of XBRL International. A separate company, under section 25 has been created, to manage the operations of XBRL India. The main objectives of XBRL India are

To create awareness about XBRL in India

To develop and maintain Indian Taxonomies

To help companies, adopt and implement XBRL.

For more information, visit www.xbrl.org/in

12. Which taxonomies developed for Indian reporting requirements? Where can I find the taxonomies?

Taxonomies for Indian companies are developed based on the requirements of

Schedule VI of Companies Act,

Accounting Standards, issued by ICAI

SEBI Listing requirements.

Taxonomies for Manufacturing and service sector (referred as Commercial and Industrial, or C&I) and Banking sector, is acknowledged by XBRL International. These taxonomies are available at http://www.xbrl.org/in/

13. Where can I find more information about XBRL?

Please visit www.xbrl.org . Also Ministry of Corporate Affairs would be shortly developing its webpage on XBRL with list of contact persons for training purposes.

14. What are XBRL Documents?

An XBRL document comprises the taxonomy and the instance document. Taxonomy contains description and classification of business & financial terms, while the instance document is made up of the actual facts and figures. Taxonomy and Instance document together make up the XBRL documents.

15. What is Taxonomy?

Taxonomy can be referred as an electronic dictionary of the reporting concepts. Taxonomy consists of all the data definitions, the basic XBRL properties and the interrelationships amongst the concepts. It includes terms such as net income, EPS, cash, etc. Each term has specific attributes that help define it, including label and definition and potentially references. Taxonomies may represent hundreds or even thousands of individual business reporting concepts, mathematical and definitional relationships among them, along with text labels in multiple languages, references to authoritative literature, and information about how to display each concept to a user.

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16. What is meant by extending taxonomy?

Taxonomy is extended to accommodate items/relationship specific to the owner of the information. Taxonomy extension therefore can be

a) Modification in the existing relationships

b) Addition of new elements in the taxonomy

c) Combination both a & b

17. Are Taxonomies based on any standards?

Yes, taxonomies are based on the regulatory requirements and standards which are to be followed by the companies. Accordingly, depending on the requirements of every country, there can be country-specific taxonomies.

18. What is an Instance document?

An XBRL instance document is a business report in an electronic format created according to the rules of XBRL. It contains facts that are defined by the elements in the taxonomy it refers to, together with their values and an explanation of the context in which they are placed. XBRL Instances contain the reported data with their values and "contexts". Instance document must be linked to at least one taxonomy, which defines the contexts, labels or references.

Thus, in order to concluded the usage and explain the XBRL technology which leads to more information exchanges that can be effectively automated by use. This one standard approach leads to the best interest of the company or more so for the international business interests globally that warrant the accuracy of all the financial data for the end users and early collaborative decisions by the companies or those whose interst is involved for acquisition/ rights etc.

Annexure II

(i) Smt. Nirupama Kotru, Director
Ministry of Corporate affairs
5th Floor, 'A' Wing, Shastri Bhavan,
Dr.R.P. Road, New Delhi
Contact No. 011-23384470
Email: nirupama.kotru@mca.gov.in

(ii) Dr. Avinash Chandra, Technical Director
The Institute of Chartered Accountants of India,
'ICAI Bhawan', Post Box No. 7100,
Indraprastha Marg, New Delhi-110002.
Contact No. 011-3011456, 30110427
Email: avinash@icai.org

(iii) Shri Pankaj Srivastava, Joint Director
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5th Floor, 'A' Wing, Shastri Bhavan,
Dr.R.P. Road, New Delhi
Contact No. 011-23384657
Email : pankaj.srivastava@nic.in

iss.pankaj@gmail.com

(iv) Dr. Surinder Pal,
Secretary, Committee on Members in Industry (CMII),
The Institute of Chartered Accountants of India,
'ICAI Bhawan', Indraprastha Marg, New Delhi-110002.
Contact No. 011-30110450

(v) Mr. N.K. Bansal, Secretary,
Continuing Professional Education (CPE),
The Institute of Chartered Accountants of India,
'ICAI Bhawan', Indraprastha Marg, New Delhi-110002.
Contact No. 0120-3045957

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CS Update

May 13, 2011

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"COMPETITION COMMISSION OF INDIA (PROCEDURE IN REGARD TO THE TRANSACTION OF BUSINESS RELATING TO COMBINATION) REGULATION 2011"

Click here to view:
http://cci.gov.in/images/media/Regulations/CombinationRegulation110511.pdf

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COMPANIES (AMENDMENT) REGULATIONS, 2011

[TO BE PUBLISHED IN THE GAZETTE OF INDIA , EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]
GOVERNTMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
Notification

New Delhi, the 9th May, 2011

G.S.R.- (E): - In exercise of the powers conferred by sub-sections (1),(2),(5) and (8) of section 25 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following regulations further to amend the Companies Regulations, 1956, namely:-

1. (1) These regulations may be called the Companies (Amendment) Regulations, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies Regulations, 1956 (herein after referred to as the said regulations), in Part B, in regulation 3, 5, 7, 9 and 14, for the word "Regional Director", the word "Registrar of Companies" shall be substituted.

3. In the said regulations, after Part F, in Annexure-III and Annexure-IV, for the word "Regional Director", the word "Registrar of Companies" shall be substituted.

4. In the said regulations, regulation 11, 12 & Annexure-II shall be omitted.

[F.No. 5/7/2011- CL.V]

J.N. Tikku,
Joint Director

Foot Note: The Principal regulations were published in the Gazette of India vide S.R.O. No. 432B dated 18.2.1956 and last amended vide GSR No. 304 (E) dated 06.04.2011.

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CLARIFICATION REGARDING EFFECTIVE DATE OF COMPANIES (PARTICULARS OF EMPLOYEES) AMENDMENT RULES, 2011

General Circular No. 23/2011

No 2/29/1998-CL.V
Government of India
Ministry of Corporate Affairs
5th floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi
Date: 03.05.2011

To

All Regional Directors
All Registrar of Companies

Sub: Clarification regarding effective date of Companies (Particulars of Employees) Amendment Rules, 2011 – reg

Sir,

The Ministry had notified Companies (Particulars of Employees) Amendment Rules, 2011 vide GSR 289 (E) dated 31.03.2011 raising the limit of employee's salary to be disclosed in Directors Report.

2. In this regard, it is clarified that the said notification shall be applicable to all Director's Reports under section 217 of the Companies Act, 1956 approved by the Board of Directors on or after 1.4.2011, irrespective of the accounting year of the annual account, being approved by the Board.

Yours faithfully,

Monika 9/5/11

(Monika Gupta)
Assistant Director

Copy to: All concerned

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CLARIFICATION IN RESPECT OF GENERAL CIRCULAR NO: 2 /2011 DATED 8TH FEBRUARY, 2011

General Circular No: 22/2011

No: 5/12/2007-CL-III
Government of India
Ministry of Corporate Affairs

5thfloor, `A' Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi-110 001.
Dated: 2ndMay, 2011

To

All Regional Directors
All Registrars of Companies

Subject: Clarification in respect of General Circular No: 2 /2011 dated 8thFebruary, 2011

Sir,

It has been observed that certain companies are seeking clarification in respect of circular No. 2/11 dated 8.2.2011 issued by the Ministry in respect of exemption u/s 212 (8) of the Companies Act, 1956. The point raised is in respect of applicability of condition No. (ii) of the circular, requesting the Ministry to delete the condition in respect of unlisted companies as this condition is applicable to listed companies as per SEBI guidelines.

2. The Ministry is aware of the limited scope of the SEBI Rule. However, the decision has been taken to ensure transparency in those cases where balance sheets of subsidiaries are not attached.

3. In this regard, it is clarified that companies which desire to take benefit of exemption allowed under this circular would have to fulfill the conditions stipulated therein even if they are unlisted.

Yours faithfully

(Rita Dogra)
Under Secretary to the Govt. of India.

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GREEN INITIATIVE IN THE CORPORATE GOVERNANCE- APPROVAL OF MINISTRY OF CORPORATE AFFAIRS FOR APPOINTMENT OF AGENCY FOR PROVIDING ELECTRONIC PLATFORM FOR ELECTRONIC VOTING UNDER THE COMPANIES ACT,1956.

Circular No.21/2011

No 17/95/2011/CL.V
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi
Dated: 02.05.2011

All the Regional Directors,
All the Registrar of Companies

Subject: Green Initiative in the Corporate Governance -- Approval of Ministry of Corporate Affairs for appointment of agency for providing electronic platform for electronic voting under the Companies Act, 1956.

Sir,

The Ministry of Corporate Affairs has taken a "Green Initiative in the Corporate Governance" by allowing paperless compliances by the Companies after considering sections 2, 4, 5, and 81 of the Information Technology Act, 2000 for legal validity of compliances under Companies Act, 1956 through electronic mode.

Section 192A of the Companies Act, 1956 read with Companies (Passing of the Resolution by Postal Ballot) Rules, 2001 already recognizes voting by electronic mode for postal ballot. Some of the listed company have already started using electronic platform of certain agencies for providing and supervising the electronic platform for electronic voting.

In order to have secured electronic platform for capturing accurate electronic voting processes, It is hereby clarified that the agency appointed for providing and supervising electronic platform for electronic voting shall be an agency duly approved by the Ministry of Corporate Affairs.

It is further clarified that for the above purpose, National Securities Depository Limited (NSDL) and Central Depository Services (India) Ltd (CDSL) are being are being approved by the Ministry of Corporate Affairs subject to the condition that they obtain a certificate from Standardization Testing and Quality Certification (STQC) Directorate, Department of Information Technology, Ministry of Communications & IT, Govt. of India, Electronics Niketan, 6 CGO Complex, New Delhi - 110 003, INDIA. Once they obtain the same and inform the Ministry, they will be authorized to undertake these activities.

Yours faithfully,

(Kamna Sharma)
Assistant Director

Copy to: All concerned

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CS Update

May 13, 2011

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E-FORM NO.32- INTIMATION TO ROC REGARDING PARTICULARS OF APPOINTMENT OF DIRECTORS ETC AND CHANGES THEREIN IN THE COMPANY PURSUANT TO SECTION 303(2) OF THE COMPANIES ACT,1956- FILING OF CONFLICTING RETURN BY CONTESTING PARTIES.

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General Circular No. 20/2011

No 17/135/2011-CL.V
Government of India
Ministry of Corporate Affairs
5th floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi
Dated: 02.05.2011

To

All Regional Directors
All Registrar of Companies

Sub : E-Form No. 32 – Intimation to Registrar of Companies regarding particulars of appointment of Directors etc and changes therein in the company pursuant to section 303 (2) of the Companies Act, 1956 – filing of conflicting return by contesting parties.

Sir,

The Ministry had earlier clarified vide Circular dated 04.05.1993 that it is neither desirable nor possible for the Registrar to sit in judgment to ascertain the rightful claims of the Directors in case of a dispute and it is for the parties concerned to settle their disputes by approaching the court. In case conflicting documents are filed by the contesting group of Directors, Registrar may take the document on record, if the same are otherwise in order by informing the parties concerned, (contesting group of Directors), in writing, that the documents have been taken on records without prejudice to the rights of the parties to settle the dispute in the court of competent authority.

2. In order to cut timelines and bring more transparency in the working of office of Registrar of Companies, the Form 32 will also be taken on records under Straight Through Process (STP) mode i.e., the information given in the e-form 32 is being taken on file maintained by the Registrar of Companies through electronic mode on the basis of statement of correctness given by the filing company and further verification by the practicing professional i.e., Chartered Accountants, Cost Accountants and Company Secretaries.

3. The above instructions are being hereby revised to the extent that all particulars filed by the companies in e-form 32 are being placed on records of the Registrar of Companies through the STP process as filed by the company and verified by the practicing professional, without prejudice to the rights of the parties to settle the dispute, if any, in a court of competent jurisdiction.

Yours faithfully,

(Monika Gupta)
Assistant Director

Copy to: All concerned

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MARKING A COMPANY AS HAVING MANAGEMENT DISPUTE BY REGISTRAR OF COMPANIES UNDER MCA-21 SYSTEM.

General Circular No. 19/2011

No 17/135/2011-CL.V
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi
Dated: 02.05.2011

To

All Regional Directors
All Registrar of Companies

Sub: Marking a company as having management dispute by Registrar of Companies under MCA-21 system.

Sir,

In the present electronic MCA-21 system, there is a facility with the Registrar of Companies to mark a company "marked as having management dispute" on the basis of complaints received in his office. This marking creates an alert and the documents are not approved and remain in the registry as work in process till it is demarked by the Registrar. In order to bring uniformity of practices by all Registrar of Companies it is clarified that the Registrar of Companies shall use this facility as under: --

(i) The Registrar of Companies shall mark a company as having management dispute in only those cases where the court or Company Law Board has directed to maintain the status-quo with reference to any e-forms including status of Directors in the company or

(ii) The Court or Company Law Board has granted any injunction or stay in taking the document on record and Registrar of Companies is a party in such court cases and/or the directions have been issued to the Registrar of Companies.

(iii) In other matter, where the Registrar of Companies in not a party and such orders have been passed and has not been served to the Registrar of Companies, it is for the parties to comply to such orders and in case of non-compliances, the law shall take its own course.

Yours faithfully,

(Monika Gupta)
Assistant Director

Copy to: All concerned

CS Update

May 13, 2011

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SEBI UPDATE

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REPORTING OF OFFSHORE DERIVATIVE INSTRUMENTS (ODIS)/ PARTICIPATORY NOTES (PNS) ACTIVITY

CIRCULAR

CIR/IMD/FIIC/6/2011 May 12, 2011

To

All Foreign Institutional Investors through their designated Custodians of Securities

Dear Sir/Madam,

Sub: Reporting of Offshore Derivative Instruments(ODIs)/ Participatory Notes(PNs) activity

1. Please refer to SEBI Circular No. CIR/IMD/FIIC/1/2011 dated January 17, 2011 related to the new reporting format of ODIs/PNs activity.

2. Subsequently, SEBI received representations from a number of FIIs seeking various clarifications on the new reporting format. While these clarifications sought by the FIIs are being addressed by SEBI, it has been decided to defer the implementation of the new reporting format.

3. It has now been decided that the first such monthly report shall be submitted for the month of July, 2011 before 7th August, 2011, subject to the condition that the additional undertaking shall be implemented from the reporting month of April 2011 onwards. The old reporting format continues till the reporting month of June 2011.

4. This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

5. This circular is available on our website http://www.sebi.gov.in.

Yours faithfully,
S. Ravindran
Chief General Manager
+91-22-26449340
ravindran@sebi.gov.in

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CS Update

May 13, 2011

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DIPP UPDATE

CS Update

May 13, 2011

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APPROVAL FOR FDI IN LIMITED LIABILITY PARTNERSHIP FIRMS

The Cabinet Committee on Economic Affairs on May 11, 2011 approved the proposal to amend the policy on allowing Foreign Direct Investment (FDI) in Limited Liability Partnership (LLP) firms.

The FDI in LLPs will be implemented in a calibrated manner, beginning with the 'open' sectors where monitoring is not required, subject to the following conditions:

(a) LLPs with FDI will be allowed, through the Government approval route, in those sectors/activities where 100% FDI is allowed, through the automatic route and there are no FDI-linked performance related conditions.

(b) LLPs with FDI will not be allowed to operate in agricultural/plantation activity, print media or real estate business.

(c) LLPs with FDI will not be eligible to make any downstream investments.

There are also further following conditions relating to funding, ownership and management of LLPS:

I. Funding of LLPs:

(a) An Indian company, having FDI, will be permitted to make downstream investment in LLPs only if both the company, as well as the LLP are operating in sectors where 100% FDI is allowed, through the automatic route and there are no FDI-linked performance related conditions.

(b) Foreign Capital participation in the capital structure of the LLPs will be allowed only by way of cash considerations, received by inward remittance, through normal banking channels, or by debit to NRE/FCNR account of the person concerned, maintained with an authorized dealer/authorized bank; and

(c) Foreign Institutional Investors (Flls) and Foreign Venture Capital Investors (FVCIs) will not be permitted to invest in LLPs. LLPs will also not be permitted to avail External Commercial Borrowings (ECBs.)

II. Ownership and management of LLPs:

(a) For the purpose of determination of the designated partners in respect of LLPs with FDI, the term "resident in India" would have the meaning, as defined for "person resident in India", under Section 2(v) (i) (A) & (B) of the Foreign Exchange Management Act, 1999; (b) In case the LLP has a body corporate as a designated partner, the body corporate should only be a company registered under the Companies Act and not any other body, such as an LLP or a trust.

III. Conversion of a company with FDI into an LLP will be allowed only if the above stipulations are met and with the prior approval of FIPB/Government.

IV. The designated partners will be responsible for compliance with the above conditions and liable for all penalties imposed on the LLP for their contravention.

Presently, FDI is allowed in Indian companies. It is allowed in a firm or a proprietary concern, subject to certain conditions. FDI in a trust is also allowed with prior Government approval, provided it is a Venture Capital Fund (VCF).

The CCEA's approval will benefit the Indian economy by attracting greater FDI, creating employment and bringing in international best practices and latest technologies in the country.

The Limited Liability Partnership Act, 2008 (LLP Act) was notified in April, 2009. With the passage of this Act, a new hybrid entity, incorporating the features of a body corporate and a partnership, can now be formed for the purpose of undertaking business in India.

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CS Update

May 13, 2011

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TAX LAW UPDATE

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PROSECUTION PROVISION IN FINANCE ACT, 1994

F. No. 354/45/2011-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Tax Research Unit)
******

New Delhi dated the 12th May, 2011.

To

Chief Commissioners of Central Excise and Service Tax (All),
Director General (Service Tax),
Director General (Central Excise Intelligence),
Director General (Audit),
Commissioners of Service Tax (All),
Commissioners of Central Excise and Service Tax (All).

Madam/Sir,

Subject: Prosecution provision in Finance Act, 1994 – regarding.

With the enactment of Finance Act, 2011 (No.8 of 2011), Section 89 which provides for prosecution of specified offences involving service tax, becomes a part of Chapter V of Finance Act, 1994.

2. Prosecution provision was introduced this year, in Chapter V of Finance Act, 1994, as part of a compliance philosophy involving rationalization of penal provisions. Encouraging voluntary compliance and introduction of penalties based on the gravity of offences are some important principles which guide the changes made this year, in the penal provisions governing service tax. While minor technical omissions or commissions have been made punishable with simple penal measures, prosecution is meant to contain and tackle certain specified serious violations. Accordingly, it is imperative for the field formations, in particular the sanctioning authority, to implement the prosecution provision keeping in view the overall compliance philosophy. Since the objective of the prosecution provision is mainly to develop a holistic compliance culture among the tax payers, it is expected that the instructions will be followed in letter and spirit.

3. In the following paragraphs, some important aspects of the prosecution provision are explained, to guide the field formations:

4. Clause (a) of section 89(1) of Finance Act, 1994, is meant to apply, inter alia, where services have been provided without issuance of invoice in accordance with the prescribed provisions. In terms of rule 4A of the Service Tax Rules, 1994, invoice is required to be issued inter-alia within 14 days from the date of completion of the taxable service. Here, it should be noted

that the emphasis in the prosecution provision is on the non-issuance of invoice within the prescribed period rather than non-mention of the technical details in the invoice that have no bearing on the determination of tax liability.

5. In the case of services where the recipient is liable to pay tax on reverse charge basis, similar obligation has been cast on the service recipient, though the invoices are issued by the service provider. It is clarified that the date of provision of service shall be determined in terms of Point of Taxation Rules, 2011. In the case of persons liable to pay tax on reverse charge basis, the date of provision of service shall be the date of payment except in the case of associated enterprises receiving services from abroad where the date shall be earlier of the date of credit in the books of accounts or the date of payment. It is at this stage that the transaction must be accounted for. Thus the service receiver, liable to pay tax on reverse charge basis is required to ensure that the invoice is available at the time the payment is made or at least received within 14 days thereafter and in the case of associated enterprises, invoice should be available with the service receiver at the time of credit in the books of accounts or the date of payment towards the service received.

6. Further, invoice mentioned in section 89(1) will include a bill or as the case may be a challan, in accordance with the Service Tax Rules, 1994. Invoice, bill, or as the case may be, challan, shall also include "any document" specified in respect of certain taxable services, in the provisos to Rule 4A and Rule 4B of Service Tax Rules, 1994.

7. Clause (b) of section 89(1) of Finance Act, 1994, refers to the availment and utilization of the credit of taxes paid without actual receipt of taxable service or excisable goods. It may be noted that in order to constitute an offence under this clause the taxpayer must both avail as well as utilize the credit without having actually received the goods or the service. The clause is not meant to apply to situations where an invoice has been issued for a service yet to be provided on which due tax has been paid. It is only meant for such invoices that are typically known as "fake" where the tax has not been paid at the so called service provider's end or where the provider stated in the invoice is non-existent. It will also cover situations where the value of the service stated in the invoice and/or tax thereon have been altered with a view to avail Cenvat credit in excess of the amount originally stated. While calculating the monetary limit for the purpose of launching prosecution, the value shall be the amount availed as credit in excess of the amount originally stated in the invoice.

8. Clause (c) of section 89(1) of Finance Act, 1994, is based on similar provision in the central excise law. It should be noted that the offence in relation to maintenance of false books of accounts or failure to supply the required information or supplying of false information, should be in material particulars have a bearing on the tax liability. Mere expression of opinions shall not be covered by the said clause. Supplying false information, in response to summons, will also be covered under this provision.

9. Clause (d) of section 89(1) of Finance Act, 1994, will apply only when the amount has been collected as service tax. It is not meant to apply to mere non-payment of service tax when due. This provision would be attracted when the amount was reflected in the invoices as service tax, service receiver has already made the payment and the period of six months has elapsed from the date on which the service provider was required to pay the tax to the Central Government. Where the service receiver has made part payment, the service provider will be punishable to the extent he has failed to deposit the tax due to the Government.

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10. Certain sections of the Central Excise Act, 1944, have been made applicable to service tax by section 83 of Finance Act, 1994. Section 9AA of the Central Excise Act provides that where an offence has been committed by a company, in addition to the company, every person who was in charge of the company and responsible for conduct of the business, at the time when offence was committed, can be deemed guilty of an offence and can be proceeded against. A person so charged, however has an option to establish that offence was committed without his knowledge or he had exercised all due diligence to prevent the commission of offence.

11. Section 9C of Central Excise Act, 1944, which is made applicable to Finance Act, 1994, provides that in any prosecution for an offence, existence of culpable mental state shall be presumed by the court. Therefore each offence described in section 89(1) of the Finance Act, 1994, has an inherent *mens rea*. Delinquency by the defaulter of service tax itself establishes his 'guilt'. If the accused claims that he did not have guilty mind, it is for him to prove the same beyond reasonable doubt. Thus "burden of proof regarding non existence of 'mens rea' is on the accused".

12. It may be noted that in terms of section 89(3) of Finance Act, 1994, the following grounds are not considered special and adequate reasons for awarding reduced imprisonment:

(i) the fact that the accused has been convicted for the first time for an offence under Finance Act, 1994;

(ii) the fact that in any proceeding under the said Act, other than prosecution, the accused has been ordered to pay a penalty or any other action has been taken against him for the same act which constitutes the offence;

(iii) the fact that the accused was not the principal offender and was acting merely as a secondary party in the commission of offence;

(iv) the age of the accused.

On the above grounds, sanctioning authority cannot refrain from launching prosecution against an offender.

13. Sanction for prosecution has to be accorded by the Chief Commissioner of Central Excise, in terms of the section 89(4) of the Finance Act, 1994. In accordance with Notification 3/2004-ST dated 11th March 2004, Director General of Central Excise Intelligence (DGCEI), can exercise the power of Chief Commissioner of Central Excise, throughout India.

14. Board has decided that monetary limit for prosecution will be Rupees Ten Lakh in the case of offences specified in section 89(1) of Finance Act, 1994, to ensure better utilization of manpower, time and resources of the field formations. Therefore, where an offence specified in section 89(1), involves an amount of less than Rupees Ten Lakh, such case need not be considered for launching prosecution. However the monetary limit will not apply in the case of repeat offence.

15. Provisions relating to prosecution are to be exercised with due diligence, caution and responsibility after carefully weighing all the facts on record. Prosecution should not be launched merely on matters of technicalities. Evidence regarding the specified offence should be beyond reasonable doubt, to obtain conviction. The sanctioning authority should record detailed reasons for its decision to sanction or not to sanction prosecution, on file.

16. Prosecution proceedings in a court of law are to be generally initiated after departmental adjudication of an offence has been completed, although there is no legal bar against launch of prosecution before

adjudication. Generally, the adjudicator should indicate whether a case is fit for prosecution, though this is not a necessary pre-condition. To launch prosecution against top management of the company, sufficient and clear evidence to show their direct involvement in the offence is required. Once prosecution is sanctioned, complaint should be filed in the appropriate court immediately. If the complaint could not be filed for any reason, the matter should be immediately reported to the authority that sanctioned the prosecution.

17. Instructions and guidelines issued by the Central Board of Excise and Customs (CBEC) from time to time, regarding prosecution under Central Excise law, will also be applicable to service tax, to the extent they are harmonious with the provisions of Finance Act, 1994 and instructions contained in this Circular for carrying out prosecution under service tax law.

18. Field formations may be instructed accordingly.

19. Please acknowledge the receipt of the Circular. Hindi Version to follow.

(J. M. Kennedy)
Director, TRU
Tel: 011-23092634

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Keep vehicles well maintained. Under-inflated tires and dirty air-intake filters can significantly reduce gas mileage.

GO GREEN

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SHORT TERM ACCOMMODATION SERVICE AND RESTAURANT SERVICE-

Circular No. 139/8/2011-TRU

F.No.334/81/2011-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Tax Research Unit

New Delhi, the 10th May 2011

To
Chief Commissioners of Central Excise and Customs (All),
Director General (Service Tax),
Director General (Central Excise Intelligence),
Director General (Audit),
Commissioners of Service Tax (All)
Commissioners of Central Excise (All)
Commissioners of Central Excise and Customs (All).

Madam/Sir,

Subject: Short Term Accommodation Service and Restaurant Service- clarification -regarding

Since the levy of service tax on the two new services relating to services provided by specified restaurants and by way of short-term hotel accommodation came into force with effect from 1st May 2011, a number of queries have been raised by the potential tax payers.

2.These are addressed as follows:

Short Term Accommodation Service:

Sl. No	Queries	Clarification
1.	What is the relevance of declared tariff? Is the tax required to be paid on declared tariff or actual amount charged?	"Declared tariff" includes charges for all amenities provided in the unit of accommodation like furniture, air-conditioner, refrigerators etc., but does not include any discount offered on the published charges for such unit. The relevance of 'declared tariff' is in determining the liability to pay service tax as far as short term accommodation is concerned. However, the actual tax will be liable to be paid on the amount charged i.e. declared tariff minus any discount offered. Thus if the declared tariff is Rs 1100/-, but actual room rent charged is Rs 800/-, tax will be required to be paid @ 5% on Rs 800/-.
2.	Is it possible to levy separate tariff for the	It is possible to levy separate tariff for the same accommodation in respect of a class of customers which

	same accommodation in respect of corporate/privileged customers and other normal customers?	can be recognized as a distinct class on an intelligible criterion. However, it is not applicable for a single or few corporate entities.
3.	Is the declared tariff supposed to include cost of meals or beverages?	Where the declared tariff includes the cost of food or beverages, Service Tax will be charged on the total value of declared tariff. But where the bill is separately raised for food or beverages, and the amount is charged in the bill, such amount is not considered as part of declared tariff.
4.	What is the position relating to off-season prices? Will they be considered as declared tariff?	When the declared tariff is revised as per the tourist season, the liability to pay Service Tax shall be only on the declared tariff for the accommodation where the published/printed tariff is above Rupees 1000/-. However, the revision in tariff should be made uniformly applicable to all customers and declared when such change takes place.
5.	Is the luxury tax imposed by States required to be included for the purpose of determining either the declared tariff or the actual room rent?	For the purpose of service tax luxury tax has to be excluded from the taxable value.

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Services Provided by Restaurants:

1.	If there are more than one restaurants belonging to the same entity in a complex, out of which only one or more satisfy both the criteria relating to air-conditioning and licence to serve liquor, will the other restaurant(s) be also liable to pay Service Tax?	Service Tax is leviable on the service provide by a restaurant which satisfies two conditions: (i) it should have the facility of air conditioning in any part of the establishment and (ii) it should have license to serve alcoholic beverages. Within the same entity, if there are more than one restaurant, which are clearly demarcated and separately named, the ones which satisfy both the criteria is only liable to service tax.
2.	Will the services provided by taxable restaurant in other parts of the hotel e.g. swimming pool, or an open area attached to a restaurant be also liable to Service Tax?	The taxable services provided by a restaurant in other parts of the hotel e.g. swimming pool, or an open area attached to the restaurant are also liable to Service Tax as these areas become extensions of the restaurant.
3.	Is the serving of food and/or beverages by way of room service liable to service tax?	When the food is served in the room, service tax cannot be charged under the restaurant service as the service is not provided in the premises of the air-conditioned restaurant with a licence to serve liquor. Also, the same cannot be charged under the Short Term Accommodation head if the bill for the food will be raised separately and it does not form part of the declared tariff.

4.	Is the value added tax imposed by States required to be included for the purpose of service tax?	For the purpose of service tax, State Value Added Tax (VAT) has to be excluded from the taxable value.

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Trade Notice/Public Notice may be issued to the field formations and taxpayers.

4. Please acknowledge receipt of this Circular. Hindi version follows.

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Director (TRU)
Tel: 011-23092634

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