



'ICSI House', 22 Institutional Area, Lodi Road, New Delhi-110003, India.
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CS Update

March 07, 2011

CONTENTS

FROM ICSI

- RELAXATION OF TIME TO COMPLETE REQUIRED PROGRAMME CREDIT HOURS FOR THE BLOCK OF THREE YEARS ENDING 31.12.2010
- PMQ COURSE IN CORP GOV-ENHANCEMENT OF FEES
- INSTITUTE'S NEW PUBLICATIONS
- MEMORANDUM OF UNDERSTANDING BETWEEN ICSI AND CHARTERED INSTITUTE FOR SECURITIES & INVESTMENT (CISI)

MCA UPDATE

- DIN PROCESS – SIMPLIFIED – REG.[MCA/04.03.2011]
- SCHEDULE VI OF THE COMPANIES ACT, 1956(REVISED)[MCA/01/03. 2011]
- INDIAN ACCOUNTING STANDARDS CONVERGED WITH IFRS[MCA/25.02.2011]
- MCA GENERAL CIRCULAR No: 3/2011 DATED: 21ST FEBRUARY ON CLARIFICATION IN RESPECT OF CIRCULAR NO. 2/2011 DATED 8TH FEBRUARY, 2011 REGARDING DIRECTION UNDER SECTION 212(8) OF THE COMPANIES ACT, 1956
- NEW FEATURE INCLUDED IN E-FORMS ON THE LLP PORTAL [WWW.LLP.GOV.IN/22/02/2011].
- LLP SHALL MANDATORILY FILE FORM 3 AND FORM 4 WITHIN 30 DAYS OF INCORPORATION & FORM 7 SHALL BE DIGITALLY SIGNED BY APPLICANT'S OWN DSC[WWW.LLP.GOV.IN/22/02/2011].
- MCA NOTIFICATIONS ON GENERAL EXEMPTIONS U/S 211 AND APPLICABILITY OF SCH. XIII IN CASE OF UNLISTED COMPANIES
- EXEMPTION UNDER SECTION 211 OF COMPANIES ACT 1956[MCA NOTIFICATION/DATE: 08/02, 2011]
- EASY EXIT SCHEME, 2011[M C A/ DATE: FEBRUARY 03, 2011]



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RBI UPDATE

- > SCHEME FOR COLLECTION OF DUES OF (I) CENTRAL BOARD OF DIRECT TAXES (II) CENTRAL BOARD OF EXCISE AND CUSTOMS (III) DEPARTMENTALISED MINISTRIES ACCOUNT - REPORTING AND ACCOUNTING OF MARCH TRANSACTIONS - SPECIAL ARRANGEMENTS - FINANCIAL YEAR 2010-2011 [RBI/03.03.2011]
- > RBI PUBLISHES STATISTICAL TABLES RELATING TO BANKS IN INDIA 1979 - 2009 (HISTORICAL DATA FOR 30 YEARS) [RBI/03.03.2011]

TAX LAW UPDATE

- > SERVICE TAX AMENDMENTS AT A GLANCE [01.03.2011]

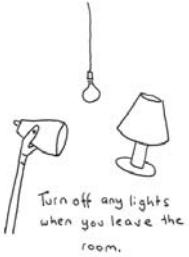
TRAI UPDATE

- > TRAI ISSUES "THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (FOURTH AMENDMENT) REGULATIONS, 2011" [TRAI/28.2. 2011]

PREVIOUS ISSUES ARE AVAILABLE AT THE FOLLOWING LINK:

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

Disclaimer: - Due care and diligence is taken in compilation of the CS Update. The Institute does not own the responsibility for any loss or damage resulting from any action taken on the basis of the contents of the CS Update. Anyone wishing to act on the basis of the contents of the CS Update is advised to do so after seeking proper professional advice.



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FROM ICS!





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COMPANY SECRETARIES IN PRACTICE

RELAXATION OF TIME TO COMPLETE REQUIRED PROGRAMME CREDIT HOURS FOR THE BLOCK OF THREE YEARS ENDING 31.12.2010

The Guidelines for Compulsory Attendance of Professional Development Programmes by Members (ICSI Guideline No. 3 of November, 2007), which were notified and came into effect from January 1, 2008 require every PCS to secure 12 Programme Credit Hours in one year or 40 Programme Credit Hours in a block of three years by attending approved learning programmes.

As per the guidelines the current block of three years which commenced from January 1, 2008 will close on December 31, 2010.

The Council of the Institute in its 197th meeting held on December 15, 2010 considered the matter and granted an opportunity to those practicing members who have not completed the mandatory programme credit hours to complete the same by attending approved learning programmes upto March 31, 2011.

The Council further decided that if a member does not complete the mandatory Programme Credit Hours till March 31, 2011 the Certificate of Practice of such member shall not be renewed.

Computation of PCH Required in block (Jan. 2008 – Dec. 2010) for Renewal of Certificate of Practice

In terms of the Guidelines for Compulsory Attendance of Professional Development Programmes for the Members each member in Practice is required to obtain certain number of Programme Credit Hours by attending approved learning programmes:

CS Update

March 07, 2011



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Computation of PCH Required in block (January 2008 – March 31, 2011 {As extended by the Council from December 31, 2008}) for Renewal of Certificate of Practice*

Date of issue of Certificate of Practice	PCH required in 2008	PCH required in 2009	PCH required in 2010	Total PCH required in the block
Before April 1, 2008	12	12	12	40**
Apr. 1, 2008 to Sep. 30, 2008	12	12	12	40**
Oct. 1, 2008 to 31 Mar., 2009	0	12	12	24
Apr. 1, 2009 to Sep. 30, 2009	0	12	12	24
Oct. 1, 2009 to 31 Mar., 2010	0	0	12	12
Apr. 1, 2010 to Sep. 30, 2010	0	0	12	12
On or After Oct.1, 2010	0	0	0	0

* No carry forward of Programme Credit Hours shall be allowed from one block of three years to another block of three years.

** Members are required to obtain twelve programme credit hours in each year or a total of 40 PCH in the entire block

The requirement of obtaining the mandatory programme credit hours is not applicable to members who are above the age of 65 years.





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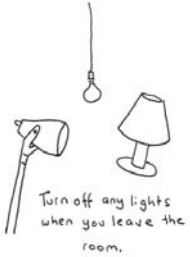
PMQ COURSE IN CORPORATE GOVERNANCE

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 NEW 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 Filing and Filing of E-Forms 23AC and 23ACA
- Establishment of Branch, Liaison & Project Offices in India
- Handbook on Mergers, Amalgamation and Takeover

e Book Store - buy Online [Journals & Publications](#)

or

Contact : Shri Harish Chander Joshi,
Admn. Officer(store),
The Institute of Company Secretaries of India,
C-37, Sector 62,
Institutional Area,
NOIDA (U.P.)

MEMORANDUM OF UNDERSTANDING BETWEEN ICSI AND CHARTERED INSTITUTE FOR SECURITIES & INVESTMENT (CISI)

February 22, 2011

Dear Member

Sub : Memorandum of Understanding between ICSI and Chartered Institute for Securities & Investment (CISI)

The Council of the Institute has a policy to build partnerships with such professional bodies, within and outside India, which re-inforce professional capacities and capabilities of Company Secretaries.

In pursuance of this policy, ICSI has executed MOU, the Institute entered into an MOU with Securities Investment Institute (SII) London on September 10, 2008 to provide opportunity to Company Secretaries to enhance their career progression in various specialized areas like capital market, commodity market, investment banking, wealth & fund management, etc..

Subsequently, the Securities & Investment Institute received Royal Charter and became the Chartered Institute for Securities & Investment (CISI) w.e.f November 01, 2009. Royal Charters are granted to bodies that work in public interest and demonstrate pre-eminence, stability and permanence in their particular field. The MOU has been renewed with CISI in January 2011.

About CISI (erstwhile SII)

Formed by the London Stock Exchange, the CISI is the leading professional body, offering progressive qualifications, training and membership for individuals in the securities and investment industry across international markets.

As the principal provider of qualifications in financial markets, CISI offers individuals the opportunity to achieve core competence and foster strong careers.

With over 48,000 examinations taken in 49 countries, CISI has established offices in China, India, Singapore and UAE.

CISI enjoys industry-wide acceptance world-over, with almost all of the top leading global banks and corporates signing up to CISI qualifications and has secured regulatory recognition for its qualification in countries like Singapore, Hong Kong, UAE and other parts of the Middle East.

As a not-for-profit membership body, CISI maintain and develop professional competence and promote the highest levels of professional behaviour and integrity.

Arrangement between the Institutes

- CISI has also recognised membership of ICSI for automatic membership of CISI at the associate level (ASI).
- Senior practitioners of ICSI in Securities and Investment industry would be entitled to apply for direct Membership of CISI (MSI).



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- Discounts/ rebates upto 30 to 50 % of International fee is offered to ICSI students and members for pursuing Certificate Programmes, International Operations Certificate
- CISI has offered certain recognitions to ICSI students who have passed the 'Executive Programme, which will facilitate their obtaining the 'International Investment Administration Qualification (IAQ)'.
 - ICSI Centre for Corporate Governance Research & Training (CCGRT) at Navi-Mumbai has been offered accreditation as a training provider (ATP) to conduct direct training for CISI exams to those wishing to obtain CISI international qualifications.
- CISI also provide its Members an opportunity to develop their competencies through :
 - Free use of the CISI CPD scheme
 - Access to free CPD seminars (local and outside India)
 - Online access to webcasts and podcasts of previous CPD events
 - Online archive of slides and transcripts of previous CPD events
 - Free use of CISI Professional Refresher
 - Free online version of the members' magazine, Securities & Investment Review
 - Free access to Infolink, the CISI's online information resource library
 - Online members' directory
 - Access to Integrity Matters, the CISI's e- learning product, focusing on ethical dilemmas facing financial services practitioners
 - A PDF of an CISI workbook of your choice on registering for membership

We are sure that MOU will provide a unique opportunity to Company Secretaries to have better access to the International Financial Markets, enhance their career progression within the industry and enhanced credibility and reputation to the profession of the Company Secretaries.

Members are advised to go through the Memorandum of Understanding and take benefit of the collaboration entered between the ICSI and CISI.

A copy of the MOU between the two Institutes is enclosed as a ready reference.

Regards

N K Jain
Secretary & CEO



THE INSTITUTE OF
Company Secretaries of India
AN INSTITUTION OF PROFESSIONAL EXCELLENCE
ESTABLISHED UNDER ACT OF PARLIAMENT

Memorandum of Understanding

between

*The Chartered Institute for
Securities & Investment (CISI)*

and

*The Institute of Company Secretaries
of India (ICSI)*



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The Chartered Institute for Securities & Investment (hereinafter also referred to as 'CISI'), having its main office at 8 Eastcheap, London EC3R 8AQ;

and

The Institute of Company Secretaries of India (hereinafter also referred to as "ICSI"), having its head office at ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110 003 , India

Hereinafter referred to as 'the parties'

1. *Hereby agree to extend their collaboration (an original MOU having been signed in September 2008) to promote the recognition and uptake of CISI qualifications and CISI Membership to ICSI students and members in India.*
2. *Qualifications collaboration*
 - 2.1 *The ICSI will offer units of CISI qualifications in capital markets, commodity markets, fund management, wealth management and investment banking as an elective both to their students studying for the ICSI qualification and to full ICSI members, as follows:*

CISI Certificates programme in:

*Securities
Derivatives
Financial Derivatives
Commodity Derivatives
International Wealth Management
International Investment Management
Risk in Financial Services
Principles of Financial Regulation*

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International Introduction to Investment Award – stand-alone award

*International Operations Certificate
(also known as IOC) global units*

(Modular exam of three units):

*International Introduction to Securities and Investment
Asset Servicing*

Exchange Traded Derivatives Administration

Global Securities Operations

Operational risk

Over-The-Counter (OTC) Derivatives administration

Risk in Financial Services

Principles of Financial Regulation

Advanced Certificates in:

Operational Risk

Global Securities Operations

CISI Diploma units:

Interpretation of Financial Statements

Fund Management

Financial Derivatives

2.2 *The CISI can offer ICSI students and members wishing to register for any of the CISI qualification units set out above a rebate, on production of a promotional booking code (that will be issued to ICSI separately), when registering for the CISI examination as follows:*

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March 07, 2011



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CISI Modules	Rebate offered to ICSI Students (on full International price)	Rebate offered to ICSI Members (on full International price)	Full International Prices (Subject to change every April)
CISI Certificates programme:			
Securities	30%	£5	£190
Derivatives	30%	£5	£190
Financial Derivatives	50%	50%	£160
Commodity Derivatives	50%	50%	£190
International Wealth Management	50%	50%	£190
International Investment Management	30%	£5	£190
Risk in Financial Services	30%	£5	£190
Principles of Financial Regulation	30%	£5	£160
International Introduction to Investment Award – stand-alone award	50%	£5	£118

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March 07, 2011



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International Operations Certificate (also known as IOC) global units (Modular exam of three units):

International Introduction to Securities and Investment	50%	£5	£118
Asset Servicing	30%	£5	£118
Exchange Traded Derivatives Administration	30%	£5	£118
Global Securities Operations	30%	£5	£118
Operational Risk	30%	£5	£118
Over-The-Counter (OTC) Derivatives administration	30%	£5	£118
Risk in Financial Services	30%	£5	£190
Principles of Financial Regulation	30%	£5	£160

Advanced Certificates in:

Operational Risk	30%	£5	£235
Global Securities Operations	30%	£5	£235

CISI Diploma units:

Interpretation of Financial Statements	30%	£5	£290 + invigilation
Fund Management	30%	£5	£290 + invigilation
Financial Derivatives	30%	£5	£290 + invigilation

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2.3 Candidates enrolling for examinations for any CISI qualifications programme in India receive as part of their examination fee:

- an electronic Workbook sent to the candidate at point of payment for the examination.
- one year's free Student Membership of CISI

2.4 CISI will update the set of Frequently Asked Questions (FAQs) that has been developed for the qualifications set out above that are to be offered as an elective to student and full ICSI members and for CISI membership.

2.5 CISI examines all of its Certificates examinations by Computer-Based Testing (CBT) because of the many benefits this brings to candidates, to firms and to the Institute. Tests are delivered at regional test centres in selected locations around the world including seven centres in India (Mumbai, Bangalore, Hyderabad, Chennai, Gurgaon, Ahmedabad and Kolkata), in partnership with Prometric, one of the world's leading providers of professional testing. CBT also allows candidates to receive their results immediately. CISI's advanced and diploma modules are written examinations and these can be taken at the British Council Centres.

3. Recognition for ICSI Qualifications

3.1 CISI will offer recognition for ICSI student who have passed the Company Secretaries 'Executive Programme' against the Introduction to Investment unit of the CISI's International Operations Certificate (also known as the IOC). ICSI students who have passed the Executive Programme including Paper 1: General and Commercial Laws and Paper 4 : Company Law and passes in two technical units of the CISI will be eligible to receive the International Operations Certificate (IOC).

3.2 In line with the CISI's Exemption Policy, detailed on the CISI website at www.cisi.org/qualifications > Booking and results > Exemptions an exemption fee of £ 10 will be payable by ICSI students who have successfully passed ICSI Executive Programme and who request an exemption against the 'Introduction to Securities & Investment unit' of the IOC™.

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3.3 ICSI students applying for the exemption will need to complete an Exemption form available on the CISI website and submit that, along with the exemption fee when booking for the technical units of the IOC examination(s) in order to achieve their CISI certification.

4. Accreditation of ICSI to offer direct training for CISI qualifications

4.1 CISI has policy of accrediting training providers (ATPs) providing high quality direct training to candidates wishing to take CISI qualifications outside the UK. CISI is the first Awarding Body in the financial services sector to introduce this process, which monitors the quality of training and values strong working relationships with its training.

4.2 CISI will offer ICSI's Centre for Corporate Governance Research and Training, complementary accreditation to run direct training for CISI exam units for ICSI students and full members and external market participants wishing to obtain an CISI International qualification. The accreditation fee of GBP2000 normally charged to training providers applying for CISI accreditation will be waived.

4.3 ATP status will be granted for an initial period of three years to provide training in accordance with the terms set out in a separate Training Provider contract detailing the qualifications for which ICSI will be training provider and subject to the CVs of the ICSI tutors delivering training for CISI qualifications being reviewed by CISI.

5. Membership

5.1 ICSI will encourage their students to apply for membership at Student level and its Associate and Fellow Members to apply for membership at Associate (ACSI) level- the first category of membership to award designatory letters and awarded to holders of CISI's benchmark qualifications such as the IOC award and Certificates programme.

5.2 CISI offers membership at ACSI level to ICSI members for which no initial joining fee will be charged. Initial membership fees are charged on a pro-rata basis dependent on the month of joining and on renewal at the International rate listed on the CISI price list at: www.cisi.org/prices

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5.3 ICSI members applying for CISI Student (not through CISI exams) & Associate membership, application will need to complete application forms and attach a copy of their ICSI certificate to the form (or for those who are still ICSI students, confirmation of registration with ICSI for their course of study).

5.4 Benefits of CISI Membership include:

- Use of designatory letters (ACSI & MCSI) according to level of Membership
- Free attendance at Continuing Professional Development (CPD) events (local and outside India)
- S&I review
- E-CPD - Webcasts and pod casts of CPD events
- Outline Professional Refresher
- Infolink
- International Regulatory Update
- Online member's directory
- Integrity at Work - e-learning tool

ICSI members will also be given a free CISI workbook in PDF form of their choice on registering for ACSI membership, which normally would cost £75 on purchase.

5.5 The process of application for membership is available on the Membership section of CISI's website at: www.cisi.org/membership

5.6 As an alternative to the traditional route to membership, senior practitioners in the securities and investment industry may also apply for status as Members of the institute. The criteria for this is made up of a combination of seniority, experience and relevant professional qualifications. Non-CISI members can also apply to be considered for MCSI status as long as they also meet the criteria. All applications are assessed on a points system

Application forms for MCSI showing the points system matrix used by CISI is attached at Appendix A to this agreement.

5.7 Each party will publicise the Membership collaboration in any publicity or membership materials produced by either party and on their respective websites. CISI will publicise the membership offering on the India page in the Global Presence section of its website.

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5.8 CISI will also offer automatic membership at ACSI level to ICSI members at the level for international membership fee renewals (currently discounted by 25% discount on the price of the UK fee and 50% on price of the annual renewal fee). There is, additionally, no initial joining fee for ICSI members.

6. Government Approval

The Ministry of Corporate Affairs, India has, in August 2010, conveyed the approval of Central Government to the Memorandum of Understanding already signed between SII (Now CISI), London and ICSI, India.

7. Intellectual Property

7.1 As part of this agreement and following the accreditation of ICSI's Centre of Corporate Governance Research and Training (CCGRT), CCGRT will be permitted to use the CISI's Accredited Training Provider logo, on any promotional materials produced to market CISI qualifications.

7.2 ICSI agrees to acknowledge the use of CISI's materials where such material is used.

8. Service of Notice

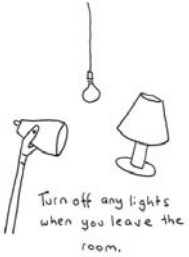
8.1 The addresses for service of Notice on either party are as detailed above.

9. Arbitration

9.1 In the event of any dispute, difference, claim or demand arising under or pursuant to or touching the MOU, the Parties shall submit to proceedings before a Conciliation Panel for amicable settlement in accordance with the 1976 - UNCITRAL (United Nations Commission on International Trade Law) Arbitration Rules and if not satisfactorily resolved in conciliation, then the matter shall be referred to an Arbitral Tribunal for settlement in accordance with the Rules of Arbitration of UNCITRAL. The Award made in pursuance thereof shall be final and binding on the parties. The seat of conciliation or arbitration shall be in India.

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10. *Jurisdiction*

All disputes arising out of this MOU are subject to the Jurisdiction of Court in New Delhi, India.

11. *Review and Termination*

11.1 *This agreement will be reviewed, as agreed by both parties, every two years.*

11.2 *Where either party wishes to terminate the agreement, at least three months notice is given by either party.*

Collaboration extension (executed January 2011, w.r.e.f. 10th day of September 2010):

*For and on behalf of
The Chartered Institute for
Securities & Investment*

*(Simon Culhane)
Chief Executive Officer*

*For and on behalf of
The Institute of
Company Secretaries of India*

*(N K Jain)
Secretary & Chief Executive Officer*

*Witness: J Taylor -
EXECUTIVE CISI*

Witness Director, ICSE

Date: 31 Jan 2011

Date:

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Appendix A

MCSI by experience (International Applicants) - Points system

<i>Eligibility criteria</i>	<i>Points Awarded</i>	<i>Actual Points</i>
<i>Job Role :</i>		
<i>Evidence of Senior Management Role, or</i>	5	
<i>Evidence of Middle Management Role</i>	3	
<i>Experience :</i>		
<i>15 years + relevant industry experience or</i>	5	
<i>10 years + relevant industry experience</i>	3	
<i>Relevant Qualification :</i>		
<i>Degree level Qualification, or</i>	2	
<i>Other relevant local qualification</i>	2	
<i>Actively demonstrated presently or in the past support of the SII (i.e. committee work, speaking at SII events, exam writer, etc.)</i>	1	

Points system used by CISI :

11 points or above Normally acceptable - formal ratification through Membership Committee

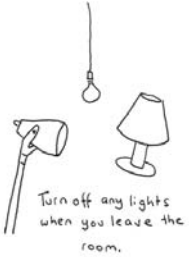
9 to 10 points Borderline case - referred to local advisory board for decision

8 points or below Not acceptable but offered ACSI if they meet requirements

There is an alternative route to MCSI for CISI Diploma achievers and members of other recognised professional bodies.

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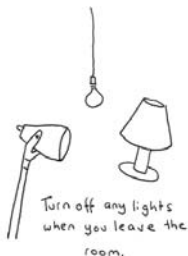
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DIN PROCESS – SIMPLIFIED – REG.

General Circular No.5/2011
F.No.2/1/2011 CL.V
Government of India
Ministry of Corporate Affairs,

Shastri Bhawan,
5th Floor, 'A' Wing,
Dr.Rajendra Prasad Road
New Delhi.
Dated : 04.03.2011

To
All Regional Directors,
All Registrars of Companies,
All Official Liquidators.

SUBJECT; DIN PROCESS – SIMPLIFIED – REG.

Sir,

I am directed to inform that the Ministry's has re-examined the process of allotment of Directors Identification Number (DIN) to be obtained u/s 266B of the Companies Act, 1956. The present process is cumbersome and time consuming. Representations have been received in the Ministry that the documents required to be submitted should be simple to prove the existence/residence of a person, who intend to become a director of a company.

The Ministry has constituted a Group to examine the business process re-engineering under MCA-21. In order to speed up and simplify the process to obtain a DIN, the below mentioned procedure have been recommended.

1. Application for DIN will be made on **eForm** ; **No physical submission of documents shall be accepted** and for this purpose Scanned documents along with verification by the applicant will be attached with the eForm. **Only online fee payment** will be allowed i.e. No challan payment
2. **The application can also be submitted online by the applicant himself using his DSC.**
3. DIN 1 eForm can be **digitally signed by the professional who shall also confirm that he has verified the particulars of the Applicant given in the application.**

CS Update

March 07, 2011

4. Where the DIN 1 is verified by the professional, the DIN will be approved by the system immediately online.

5. In other cases the DIN cell will examine the application and same shall be disposed of within one or two days.

6. Companies (Directors Identification Number) Rules, 2006 are being amended on the above lines.

7. Penal action against the applicant and professional certifying the DIN application in case of false information / certification as per provisions of section 628 of the Act will be taken in addition to action for professional misconduct and revocation of DIN, allotted on false information

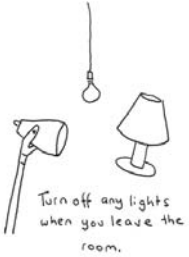
8. The above procedures is expected to enable allotment of DIN on the **same day**.

9. The above procedures applies to filing of DIN 4 intimating changes in particulars of Directors.

A notification to notify the aforesaid procedure is being issued. After issue of necessary notification, the applicant/professionals/DIN Cell are advised to follow the notified procedures for allotment of DIN.

**Yours faithfully,
(Monika Gupta)
Assistant Director (Inspection)
Tele :23387263**

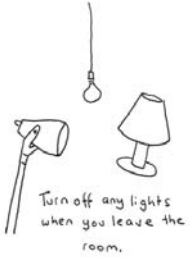
Copy to: DIN Cell, MCA, PDIL Bhawan, Sector-1, Noida.



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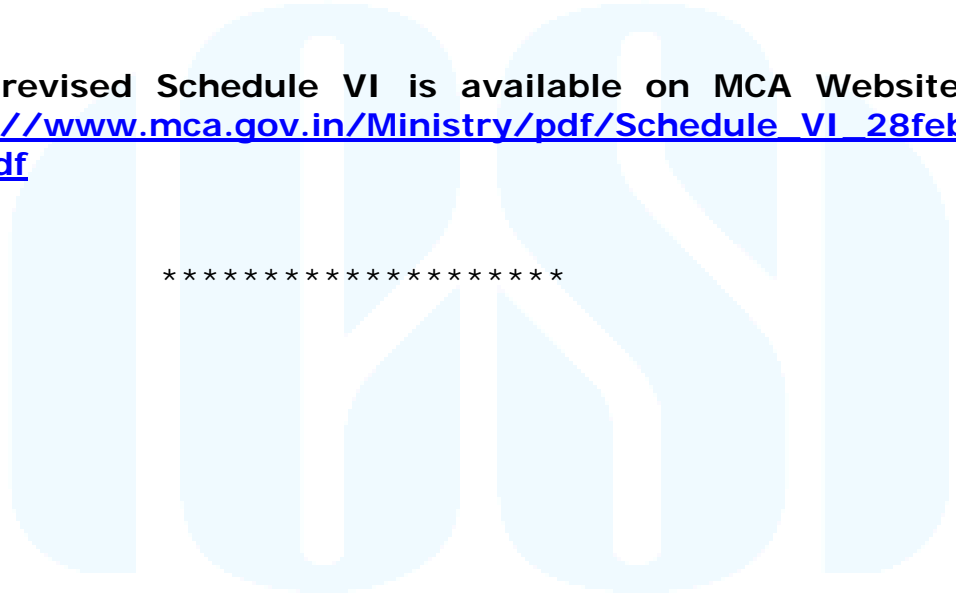
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SCHEDULE VI OF THE COMPANIES ACT, 1956(REVISED)

The revised Schedule VI has been framed as per the Existing non-converged Indian Accounting Standards notified under the Companies (Accounting Standards), Rules, 2006. This will apply to all the companies uniformly for the financial statements to be prepared for the financial year 2010 – 11 and onwards. This revised Schedules VI is not relevant to the converged Indian Accounting Standards.

The revised Schedule VI is available on MCA Website at http://www.mca.gov.in/Ministry/pdf/Schedule_VI_28feb2011.pdf





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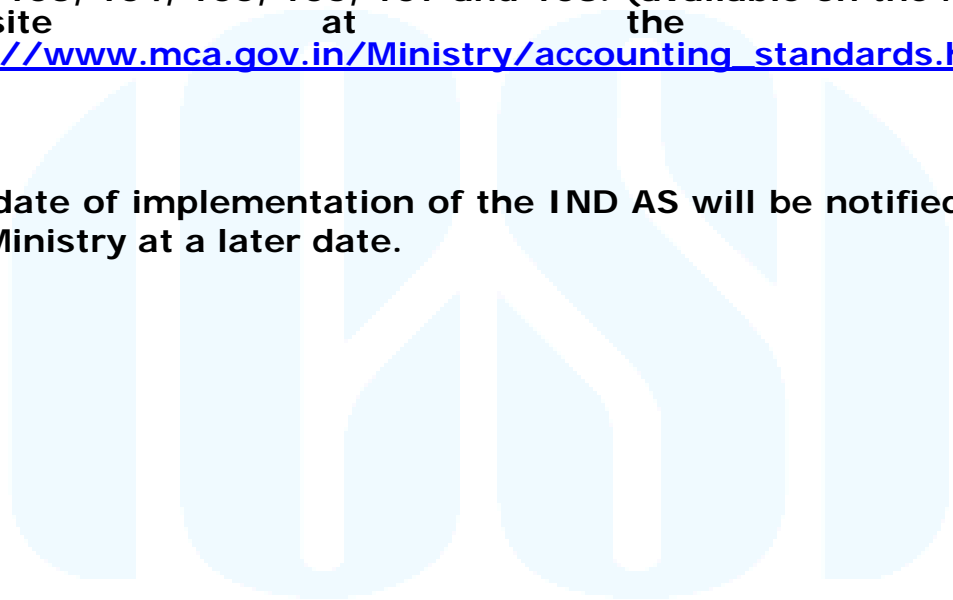


INDIAN ACCOUNTING STANDARDS CONVERGED WITH IFRS

The Ministry of Corporate Affairs has notified convergence of 35 Indian Accounting Standards with International Financial Reporting Standards (henceforth called IND AS) on February 25, 2011.

These are: IND ASs 1, 2, 7, 8, 10, 11, 12, 16, 17, 18, 19, 20, 21, 23, 24, 27, 28, 29, 31, 32, 33, 34, 36, 37, 38, 39, 40, 101, 102, 103, 104, 105, 106, 107 and 108. (available on the MCA website at the link http://www.mca.gov.in/Ministry/accounting_standards.htm)

The date of implementation of the IND AS will be notified by the Ministry at a later date.





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MCA GENERAL CIRCULAR No: 3/2011 DATED: 21ST FEBRUARY ON CLARIFICATION IN RESPECT OF CIRCULAR NO. 2/2011 DATED 8TH FEBRUARY, 2011 REGARDING DIRECTION UNDER SECTION 212(8) OF THE COMPANIES ACT, 1956

General Circular No: 3/2011

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

th
5 floor, 'A' Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi - 110001

st
Dated: 21 February, 2011

To
All Regional Directors
All Registrar of Companies

th
Subject: Clarification in respect of Circular No. 2/2011 dated 8 February, 2011 regarding direction under Section 212(8) of the Companies Act, 1956.

Sir,

It is clarified that this Ministry Circular No. 2/2011 dated 8th February, 2011 shall be effective in respect of balance sheet and profit and loss accounts prepared regarding the financial year ending on or after the 31st March, 2011.

Yours faithfully

(Jaikant Singh)
Director

General Circular No: 2 /2011

No: 51/12/2007-CL-III
Government of India
Ministry of Corporate Affairs



To

All Regional Directors
All Registrar of Companies

Subject: Direction under Section 212(8) of the Companies Act, 1956.

Sir,

It has been noticed that a large number of companies are approaching the Ministry for exemption under Section 212(8) of the Companies Act, 1956. The matter was examined in the context of the globalizing Indian economy, the increased number of subsidiaries, and the introduction of accounting standards on consolidated financial statements. It has been decided to grant a general exemption provided certain conditions are fulfilled.

The Central Government hereby directs that provisions of Section 212 shall not apply in relation to subsidiaries of those companies which fulfil the following conditions:-

- (i) The Board of Directors of the Company has by resolution given consent for not attaching the balance sheet of the subsidiary concerned;
- (ii) The company shall present in the annual report, the consolidated financial statements of holding company and all subsidiaries duly audited by its statutory auditors;
- (iii) The consolidated financial statement shall be prepared in strict compliance with applicable Accounting Standards and, where applicable, Listing Agreement as prescribed by the Security and Exchange Board of India;
- (iv) The company shall disclose in the consolidated balance sheet the following information in aggregate for each subsidiary including subsidiaries of subsidiaries:-
 - (a) capital
 - (b) reserves
 - (c) total assets
 - (d) total liabilities
 - (e) details of investment (except in case of investment in the subsidiaries)
 - (f) turnover
 - (g) profit before taxation
 - (h) provision for taxation
 - (i) profit after taxation
 - (j) proposed dividend;
- (v) The holding company shall undertake in its annual report that annual accounts of the subsidiary companies and the related detailed information shall be made available to shareholders of the holding and subsidiary companies seeking such information at any point of time. The annual accounts of the subsidiary companies shall also be kept for inspection by any shareholders in the head office of the holding company and of the subsidiary companies concerned and a note to the above effect will be included in the annual report of the holding company. The holding company shall furnish a hard copy of details of accounts of subsidiaries to any shareholder on demand;



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CS Update

March 07, 2011

(vi) The holding as well as subsidiary companies in question shall regularly file such data to the various regulatory and Government authorities as may be required by them;

(vii) The company shall give Indian rupee equivalent of the figures given in foreign currency appearing in the accounts of the subsidiary companies along with exchange rate as on closing day of the financial year;

Yours faithfully

(Jaikant Singh)

Director

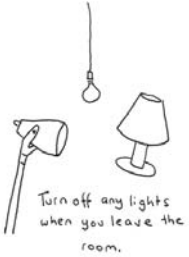


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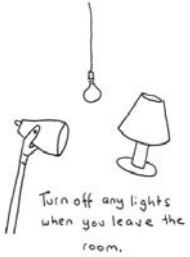


NEW FEATURE INCLUDED IN E-FORMS ON THE LLP PORTAL.

The new feature of downloadable e-forms has been made available on the LLP Portal. Users may now download the e-forms required to be filed and upload the same once filled at their end.

Users are requested to download [Acrobat PDF reader ver. 9.0](#) and above, so as to continue filing forms in the LLP System. Users are also advised to go through the instructions kit for each form before filing any e-form. Any user, who wishes to do any modifications in the e-form once signed before uploading the same in the LLP Portal, is requested to clear the signatures and then make the required modifications and later re-sign the e-form before upload. Users may save the uploaded e-form at their end for future needs like resubmission etc. The same e-form needs to be modified in case of resubmission requested by the LLP Office, for any missing information or change in any information in the uploaded e-form. For more information please contact LLP Helpdesk on 66336666 or mail us at llpsupport-mca@nic.in

SOURCE: www.llp.gov.in/22/02/2011



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LLP SHALL MANDATORILY FILE FORM 3 AND FORM 4 WITHIN 30 DAYS OF INCORPORATION & FORM 7 SHALL BE DIGITALLY SIGNED BY APPLICANT'S OWN DSC.

1) Every LLP shall mandatorily file Form 3 and Form 4 within 30 days of incorporation failing which Rs.100/- per day will be charged as additional fees on each Form.

2) Form 7 shall be digitally signed by applicant's own DSC. The DSC of other partners and professionals should not be used while applying Form 7.

SOURCE: www.llp.gov.in /22/02/2011



MCA NOTIFICATIONS ON GENERAL EXEMPTIONS U/S 211 AND APPLICABILITY OF SCH. XIII IN CASE OF UNLISTED COMPANIES

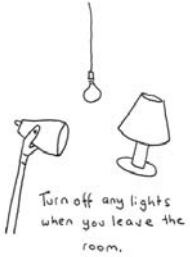
The Ministry of Corporate Affairs has issued notifications on. "General Exemptions under Section 211" and "Applicability of Schedule XIII in regard to Managerial Remuneration in case of unlisted companies". The Ministry has also given directions under Section 212 of the Companies Act, 1956 vide its general circular no. 1/2011. The gist of the same is produced below for your information and reference:

(i) General Exemption under Section 211 of the Companies Act, 1956

Section 211 of the Companies Act, 1956 requires that the balance sheet and profit and loss account of a company shall be in the form set out in Part I of Schedule VI or in such other form as may be approved by the Central Government either generally or in any particular case. So far, these exemptions were being given on a case-by-case basis with certain conditions. The MCA has decided to give general exemption specifying the categories of companies that will be exempted from certain disclosures. Details under PIB Report dated 8th February, 2011 available at the link <http://pib.nic.in/newsite/erelease.aspx?relid=69672>

(ii) Directions under Section 212 of the Companies Act, 1956

Section 212 of the Companies Act, 1956 requires holding companies to attach with their balance sheet a copy of the balance sheet, profit and loss account etc. of each of its subsidiaries. The Ministry has been granting permission not to attach the account of subsidiaries



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CS Update

March 07, 2011

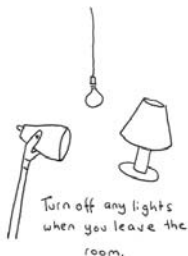
on case-by-case basis on the basis of certain conditions which are intended to protect the interests of investors. The Ministry has vide its general circular no. 1/2011 decided that the permission may be granted on a general basis wherever the Board of Directors of the holding company gives its consent and the conditions prescribed by the Ministry are complied with.. Details are available at the link

http://mca.gov.in/Ministry/pdf/Circular_08feb2011.pdf

(iii) Schedule XIII of the Companies Act, 1956 being amended – Unlisted companies shall not require Government approval for managerial remuneration where they have no profits

Schedule XIII of the Companies Act is being amended to provide that unlisted companies (which are not subsidiaries of listed companies) shall not require Government approval for managerial remuneration in cases where they have no profits/inadequate profits, provided they meet the other conditions stipulated in the Schedule. Details available at the link

<http://pib.nic.in/newsite/erelease.aspx?relid=69674>



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EXEMPTION UNDER SECTION 211 OF COMPANIES ACT 1956 [MCA NOTIFICATION/DATE: 08/02, 2011]

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB SECTION (ii) of dated the 8th February, 2011]

Government of India
Ministry of Corporate Affairs
NOTIFICATION

New Delhi; the 8th February, 2011

S.O. 300 (E). – In exercise of the powers conferred by sub-section (3) of section 211 of the Companies Act, 1956 (1 of 1956), the Central Government, being of the opinion that it is necessary to grant exemption in the public interest, hereby exempts Public Financial Institutions as specified under section 4A of the Companies Act, 1956 from disclosing Investments as required under paragraph (1) of Note (1) of Part-I of Schedule VI in their balance sheet subject to fulfillment of the following conditions, namely:-

- (i) the Public Financial Institutions shall make the complete disclosures about investments in the balance sheet in respect of the following, namely: -
 - (a) immovable property;
 - (b) capital of Partnership firms;
 - (c) all unquoted investments and;
 - (d) investments in subsidiary companies.
- (ii) the Public Financial Institutions shall disclose the total value of quoted investments in each of the following respective categories, namely:-
 - (a) Government and trusts securities;
 - (b) shares;
 - (c) debentures;
 - (d) bonds; and

CS Update

March 07, 2011

(c) other securities.

(iii) in each of the above categories referred to in sub-paragraphs (i) and (ii), investments where value exceeds two percent of total value in each category or one crore rupees, whichever is lower, shall be disclosed fully provided that where disclosures do not result in disclosure of at least fifty percent of total value of investment in a particular category, additional disclosure of investments in descending order of value shall be made so that specific disclosures account for at least fifty percent of the total value of investments in that category;

(iv) the Public Financial Institutions shall also give an undertaking to the effect that as and when any of the shareholders ask for specific particulars the same shall be provided;

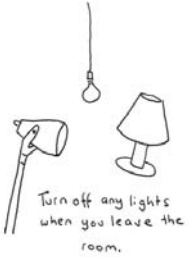
(v) all unquoted investments shall be separately shown;

(vi) the company shall undertake to file with any other authorities, whenever necessary, all the relevant particulars as may be required by the Government or other regulatory bodies;

(vii) the Investments in subsidiary companies or in any company such that it becomes a subsidiary, shall be fully disclosed.

2. This notification shall be applicable in respect of balance sheet and profit and loss accounts prepared in respect of the financial year ending on or after the 31st March, 2011.

[F. No. 51/12/2007-CL.III]
(Dr. T.V. Somanathan)
Joint Secretary



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EASY EXIT SCHEME, 2011

February 7, 2011

Dear Professional Colleagues,

The Ministry of Corporate Affairs had introduced the Easy Exit Scheme, 2011 under Section 560 of the Companies Act, 1956 to give an opportunity to defunct companies, for getting their names struck off the Register of Companies. The scheme was originally in operation from 1st January, 2011 to 31st January, 2011

The MCA has vide its General Circular No. 1/2011 dated 3rd Feb, 2011 extended the Scheme for a further period of three months i.e. upto 30th April, 2011.

Copy of the General Circular No. 1/2011 dated 03.02.2011 is appended below for your ready reference. The same may be downloaded from the MCA website at the link http://www.mca.gov.in/Ministry/pdf/Circular_EES2011_03feb2011.pdf

Regards,

Yours sincerely,

CS N K Jain
Secretary & CEO



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General Circular No. 1/2011

F. No. 2/7/2010-CL V
Government of India
Ministry of Corporate Affairs

th
5 Floor, 'A' Wing, Shastri Bhavan,
Dr. R.P. Road , New Delhi
rd

Dated the 3 Feb, 2011

To
All Regional Director,
All Registrar of Companies.

Subject: Easy Exit Scheme , 2011

Sir,

In continuation to this Ministry's earlier circular no. 6/2010 dated 03.12.2010 on the subject cited above, it has been decided to extend th the Scheme for another three months i.e. upto 30 April, 2011.

2. All the terms of circular no. 6/2010 dated 03.12.2010 will remain the same.

Yours faithfully,

(Monika Gupta)
Assistant Director





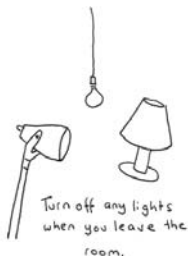
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RBI UPDATE





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SCHEME FOR COLLECTION OF DUES OF (I) CENTRAL BOARD OF DIRECT TAXES (II) CENTRAL BOARD OF EXCISE AND CUSTOMS (III) DEPARTMENTALISED MINISTRIES ACCOUNT - REPORTING AND ACCOUNTING OF MARCH TRANSACTIONS - SPECIAL ARRANGEMENTS - FINANCIAL YEAR 2010-2011 [RBI/03.03.2011]

RBI/2010-11/414

DGBA.GAD.No.H.6002/42.01.029/2010-11

March 3, 2011

The Chairman & Managing Director/ The Managing Director / The Chief Executive Officers All Agency Banks

Dear Sir / Madam,

Scheme for Collection of Dues of (i) Central Board of Direct Taxes (ii) Central Board of Excise and Customs (iii) Departmentalised Ministries Account - Reporting and Accounting of March Transactions - Special Arrangements - Financial Year 2010-2011

Please refer to [Circular DGBA.GAD.No.H.7083/42.01.029/2009-10 dated March 4, 2010](#) advising the procedure to be followed for reporting and accounting of collection of Direct Taxes (CBDT) and Indirect Taxes (CBEC) and transactions of Departmentalised Ministries at the Receiving/Nodal/Focal Point branches of your bank for the Financial Year 2009-10.

2. The Government of India has decided that the date of closure of Residual Transactions for the month of March 2011 be fixed as April 15, 2011 (Friday) for the Financial Year 2010-11.

3. In view of the ensuing closing of Government Accounts for the financial year 2010-11, you may please reiterate the instructions to your branches regarding introduction of **special messenger arrangements** at your receiving branches (situated locally) from the second fortnight of March 2011. Receiving branches not situated locally should also adopt **special arrangements** such as **courier service** etc. from the second fortnight of March 2011 for passing on challans/scrolls etc. to the Nodal/Focal Point branches so that all payments and collections made on behalf of Government towards the end of March are **accounted for in the same financial year**. The branches may also be instructed to take all necessary steps to ensure that the arrears, if any, are cleared before March 15, 2011.

4. As regards reporting of March 2011 transactions by Nodal/Focal Point branches in April, the branches may be advised to follow the procedure as outlined in the [Annex](#). To sum up, the Nodal/Focal Point branches will be required to prepare separate sets of scrolls, one pertaining to March Residual Transactions and another for April Transactions during the **first 15 days** of April 2011. The

CS Update

March 07, 2011

Nodal/Focal Point branches should also ensure that the accounts for all transactions (revenues/tax collections/ payments) are effected at the receiving branches upto March 31, 2011 in the accounts for the current financial year itself and are **not** mixed up with the transactions of April 2011. Also, while reporting transactions pertaining to March 2011 upto April 15, 2011, the transactions of April 2011 should not be mixed up with "March Residual Transactions".

5. The procedure now followed for reporting and accounting of transactions of Non-Civil Ministries viz. Defence, Posts, Railways and Telecommunications (which was revised with effect from October 1, 1993), is similar to the procedure for reporting and accounting of transactions of Departmentalised Ministries. The special arrangements for reporting March transactions by receiving branches to Nodal/Focal Point branches and the procedure for reporting March 2011 transactions in April 2011 by Nodal/Focal Point branches as indicated in paragraphs 3 and 4 above are also applicable to the reporting of transactions of Non-Civil Ministries. The branches of your bank handling the Non-Civil Ministries transactions, if any, may, therefore, be advised to follow the above procedure.

6. We shall be glad if you will please issue necessary instructions in the matter to your branches concerned immediately.

Yours faithfully

(G. C. Biswal)

Deputy General Manager

Encl: As above

ANNEXURE

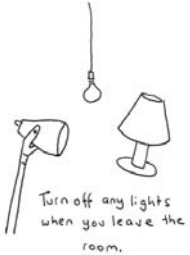
Enclosure to DGBA Circular No.RBI/2010-11/
dated March 3, 2011

Reporting of March Transactions

Beginning from April 1, 2011, the Nodal/Focal Point branches will segregate on a daily basis all scrolls/challans pertaining to March 2011 received from the receiving branches concerned and prepare separate main scrolls for:

- a. scrolls for transactions of March 2011 or earlier period (i.e. effected during the previous financial year 2010-11) and
- b. scrolls pertaining to current transactions (i.e. those effected from April 1, 2011 onwards).

2. The main scrolls for March 2011 transactions prepared from April 1 to April 15, 2011 are to be **distinctly marked as March Residual - 1, March Residual - 2**



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CS Update

March 07, 2011

and so on upto April 15, 2011. In other words, serial number should be allotted in consecutive order for each main scroll of March 2011 transactions sent from April 1 to April 15, 2011. These scrolls alongwith the copies of daily summary of Receipts and Payments prepared separately for March 2011 transactions will be forwarded to the Departmental Officials concerned (i.e. Zonal Accounts Officers/Pay and Accounts Officers and Designated Officers) in the usual way. The Nodal/Focal Point branches will also be required to report the above transactions to the Link Cell through separate Daily Memos. These advices must be sent by telegrams/FAX to enable the Link Cell of each bank at Nagpur, to make daily settlement with Reserve Bank of India, Central Accounts Section (CAS) Nagpur. On receipt of advices (Memo/Telegrams/FAX) from the Nodal/Focal Point branches, the Link Cell should segregate the advices for the March Residual transactions and forward them separately to Reserve Bank of India, CAS, Nagpur for being processed on the computer. This procedure should continue upto and inclusive of April 15, 2011 only. All transactions reported thereafter by the receiving branches will be reported and accounted for in the usual manner in the accounts of the month of report irrespective of the date of transaction. Following the special arrangements for March 2011 transactions, it is necessary for the Nodal/Focal Point branches to prepare two sets of DMS to be submitted to Zonal Accounts Officers/Pay and Accounts Officers for March 2011 transactions - one for transactions upto March 31, 2011 and another for March Residual Transactions adjusted by Nodal/Focal Point branches with Reserve Bank of India, Central Accounts Section, Nagpur, during April 1 to April 15, 2011.

Since the Nodal/Focal Point branch will also be reporting the April 2011 transactions pertaining to year 2011-2012 in addition to March Residual transactions, monthly statement for April transactions should be compiled and furnished to Zonal Accounts Officers/Pay and Accounts Officers in the usual way. In order to distinguish the April 2011 (year 2011 - 2012) and March Residual Transactions, the statement pertaining to March Residual Transactions should be clearly marked as "**March Residual Account**".

Note : As advised in our circular GA.NB.No.376/42.01.001/95-96 dated May 22, 1996 all the cheques/amounts realized on or before March 31, 2011 should be treated as transactions relating to the current financial year as "March 2011 or March Residual Transactions", the reporting of which may take place during the month of April (upto April 15, 2011). But if any cheque is tendered on or before March 31, 2011 and realized on or after April 1, 2011, it will be treated as transaction for the next financial year as "April Transactions". Accordingly, the banks will prepare separate scrolls for March 2011 and April 2011 (year 2011 - 2012) transactions.



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RBI PUBLISHES STATISTICAL TABLES RELATING TO BANKS IN INDIA 1979 – 2009 (HISTORICAL DATA FOR 30 YEARS) [RBI/03.03.2011]



Date : 03 Mar 2011

RBI publishes Statistical Tables Relating to Banks in India 1979 – 2009 (Historical Data for 30 years)

The Reserve Bank of India, has released a publication titled "[Statistical Tables Relating to Banks in India 1979 – 2009 \(Historical Data for 30 years\)](#)".

The publication provides historical banking data as published in various issues of the Reserve Bank's annual publication titled "Statistical Tables Relating to Banks in India". The publication also covers data available in "Annual Accounts of Scheduled Commercial Banks (including Regional Rural Banks) 1979-2004" and "Statistical Tables Relating to Banks in India 1979 - 2007" published in 2004-05 and 2007-08, respectively.

The publication has five sections:

- Bank-wise annual accounts data
- Bank-wise ratios on major banking indicators based on annual accounts data
- Bank group-wise annual accounts data
- Bank group-wise ratios on major banking indicators based on annual accounts data
- Major items of bank group-wise Section 42(2) data of the Reserve Bank of India Act, 1934

and provides:

- Bank-wise data on annual accounts (balance sheet and profit and loss accounts) of all scheduled commercial banks including Regional Rural Banks from 1979 to 2008-09
- Bank group-wise data on final Form 'A' returns data (under Section 42(2) of the Reserve Bank of India Act, 1934) of all scheduled commercial banks (including Regional Rural Banks) from the fortnight ended January 9, 1981 to the fortnight ended March 27, 2009
- Bank-wise data on some financial ratios from 1995-96 to 2008-09
- Bank-wise data on number of employees from 1979 to 2009 as provided by the Indian Banks' Association

The publication available only in CD-ROM format, allows users to extract data in a user-friendly query format which can be exported to Microsoft Excel worksheet.

The data published in this CD-ROM are also made available through Internet at <http://www.rbi.org.in> in Microsoft Excel format.

The publication is priced at Rs.300/- (normal) and Rs.350/- (inclusive of postage) for inland and US \$ 25 (inclusive of registered airmail) and US \$ 60 (inclusive of courier charges) for abroad.



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CS Update

March 07, 2011

Copies of the CD ROMs can be obtained from the Director, Division of Reports and Knowledge Dissemination, Department of Economic Policy and Research, Reserve Bank of India, Amar Building, Ground Floor, P. M. Road, Mumbai-400001. Cheques / Drafts should be drawn in favour of the "Reserve Bank of India", payable at Mumbai.

Ajit Prasad
Assistant General Manager

Press Release : 2010-2011/1258



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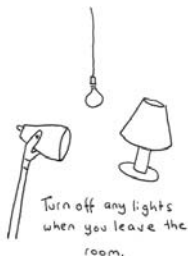
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TAX LAW UPDATE





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SERVICE TAX AMENDMENTS AT A GLANCE

1. Authorized Service Station's Services [section 65(105)(zo)]

The existing service is being substituted with a new definition to cover:

- (a) Services provided by any person *i.e.* whether authorized service station or otherwise;
- (b) All motor vehicles, other than vehicles used for goods transport and three-wheeler auto-rickshaws; and
- (c) Repair, re-conditioning or restoration - which are already taxable - and services of decoration and any other related services.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

2. Banking and other Financial Services: Money changing services [section 65(105)(zm and zzk)]:

There is no change in the scope of the levy of these services. However, the following changes have been made in the actual collection of tax:

(a) A new rule 2B has been introduced in the Service tax (Determination of Value) Rules, 2006 prescribing the value of the service in terms of section 67 of the Act. The value shall be as follows:

- (i) The difference between the buying rate or the selling rate, as the case may be, and the RBI reference rate for that currency for that day multiplied by units of currency exchanged;
- (ii) If RBI reference rate is not available the value shall be 1% of the value of money exchanged in Indian rupees; and
- (iii) When both the currencies are not Indian rupees, 1% of the lesser of the amounts receivable if the two currencies are converted at RBI reference rate.

(b) The rate of composition under rule 6(7B) of Service Tax Rules has been lowered from 0.25% to 0.1% of the gross amount of money exchanged. However, the proviso relating to paying tax on billed charges has been deleted. Thus now the assessee will have the option to pay tax @0.1% of gross amount exchanged or else at standard rate on the value of service in terms of rule 2B, as mentioned above.

(With effect from 1-4-2011)

3. Business Exhibition Services

Exemption is being given to services rendered to an exhibitor participating in an exhibition held outside India (Notification No. 5/ST-2011).

(With effect from 1-3-2011)

4. Business Support Service [section 65(105) (zzzq)]:

The scope of the service is being expanded to include operational or administrative assistance of any kind. The scope will cover all support activities for others on a contract or fee, that are on going business support functions that businesses and organizations commonly do for themselves but sometimes find it economical or otherwise worthwhile to outsource.

The words "operational and administrative assistance" have wide connotation and can include certain services already taxed under any other head of more specific description. The correct classification will continue to be governed by section 65A.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

5. Cenvat Credit Rules, 2004

The changes in Cenvat Credit Rules are guided, *inter alia*, by the following considerations:

(a) Describe the scope of eligible inputs and input services more clearly so as to minimize disputes in their interpretations;

(b) Eliminate distortions and areas of tax avoidance arising from differential treatment of goods and services used for similar purposes;

(c) Provide a practical scheme for the segregation of Cenvat credits used in respect of final products and output services where they are partially exempted with condition that no such credits shall be taken; and

(d) Liberalize the provisions in certain areas to meet the legitimate demands of business;

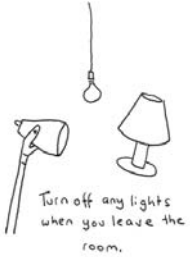
Details of important changes made in Cenvat Credit Rules, 2004 that impact service tax are given in the following paragraphs.

A. Input

"Input" has been defined to include, *inter alia*, all goods used in a factory by the manufacturer and goods used for providing any output service.

Goods that shall not constitute input have been specifically excluded. These shall include, besides petroleum items, any goods used for construction of a civil structure (by a manufacturer as well as a service provider) excepting when they are used in the provision of any of the specified construction services. Thus, goods used by a sub-contractor for rendering services of construction to the main contractor shall constitute input.

Exclusions also cover goods such as food items, goods used in a guest house, residential colony, club or a recreational facility or a clinical establishment which are primarily meant for the personal use or consumption of the employees. When any of these goods are used directly in the manufacture of final products or provision of a service they will constitute input.



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Goods which have no relationship whatsoever with the manufacture have also been excluded.

B. Input Service

The distinction between goods and services is diminishing and many goods can be received as services. Accordingly the definition of "input service" has been aligned with the definition of "input" so that goods that do not constitute "input" do not qualify as "input service". Thus a service relating to construction of civil structure will not constitute "input service" unless it is provided by a sub-contractor to the main contractor.

Similarly services relating to motor vehicle *i.e.* rent-a-cab, use of tangible goods, insurance or repair of vehicle shall not constitute an "input service" except in respect of output services where credit on motor vehicle is permitted as "capital goods".

On the same lines, a service meant primarily for the personal use or consumption of employees will not constitute an input service. A list of specific services has also been given by way of example in the definition. Most of these services constitute a part of the cost-to-company package of the employee and are provided either free of charge or on concessional basis to company employees.

Expression "activities relating to business" has been deleted and business exhibition and legal services added in the list of services.

C. Obligation of manufacturer and provider of services

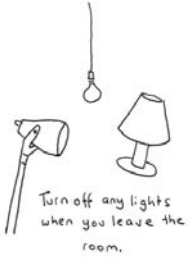
Definition of exempted goods shall include such excisable goods as are covered by the notification relating to concessional duty with the condition that no credit of input and input service shall be availed. This amendment shall come into effect on 1-3-2011.

Similarly the definition of exempted services shall include taxable services which are partially exempted with the condition that no credit of input and input service shall be availed. Moreover it has been clarified that exempted service will include trading service.

Option to maintain separate accounts only in respect of inputs (and not together with input services) has also been given so that allocation as per formula given in rule 6(3A) is done only insofar as credits on input services are concerned.

The amount payable under rule 6(3)(i) in respect of services has been reduced from 6% to 5%. Moreover in the case of exempted services (that are partially taxed with no facility of credits) this amount shall be 5% of the exempted value of the service. Thus if the exemption on a certain service is 60%, the amount required to be paid shall be 3% (60×5%) of the full value of the service. In case of exempt goods, amount payable will be reduced by the amount paid at the concessional rate.

For the purpose of applying the formula under rule 6(3A) the value of trading service as well as value of services covered by composition schemes has been defined. The value of trading service shall be the difference between the sale price and purchase price of goods. The value in respect of services covered by a composition scheme will be tax amount divided by the rate of service tax applicable under section 66, read with any general exemption. As the prevalent rate is 10% the value shall be ten times the amount of service paid or payable.



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A substantial part of the income of a bank or a life insurance company is from investments or by way of interest in which a number of inputs and input services are used. There have been difficulties in ascertaining the amount of credit flowing into earning these amounts. Thus a banking company or a financial institution, including NBFC, providing banking and financial services are being obligated to pay an amount equal to 50% of the credit availed. In case of services relating to life insurance or management of ULIPs such amount will be equal to 20% of credit availed. Other options of payment of amount under rule 6 shall not be available for these taxpayers.

Consequent to the introduction of the proportionate allocation and its rationalization now, rule 6(5) that allows full credit of 17 specified services has been deleted.

New sub-rule (6A) has been added to allow provision of services without payment of service tax to a unit in SEZ or to a developer in SEZ for their authorized operations, without requirement of reversal of any CENVAT credit on this account. This will help in tax-free receipt of services by units and developers in SEZs.

(Most of the Cenvat changes will come into effect from 1-4-2011 except a few that will be effective from 1-3-2011.)

D. Addition of Services under section 66A in rule 3

Service tax leviable under section 66A has been added in the list of eligible credits under rule 3 w.e.f. 18-4-2006 by a retrospective amendment in the Bill. This was already clarified by circular F. NO.345/1/2008-TRU, dated 27-6-2008 but has now been done by law to settle the disputes arising due to audit objections. It shall come into force on the enactment of the Finance Bill.

6. Club or Association [section 65(105)(zzze)]

Services provided by a club or association to its members are already subjected to tax since 2005. When a member avails the facilities for his guest, he is already covered by the existing definition as the services are paid for by the member and not by the guest. However, a number of clubs or associations allow non-members to use their facilities in their own capacity for a separate charge. Clubs also entertain members of other affiliated clubs. Such services are proposed to be brought within the revised definition.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

Exemptions with retrospective effect have been given by the Finance Bill, 2011 to an association or chamber representing commerce or industry in respect of membership fee under the 'Club or Association Service' for the period from 16-6-2005 to 31-3-2008; and

(With effect from the date of enactment of the Finance Bill, 2011)

7. Commercial Training or Coaching Service [section 65(105)(zcc)]:

The levy in its present form keeps outside its purview unrecognized education which is imparted by an institute that issues any certificate or diploma or degree or any educational qualification recognized by law. Thus two identical courses may be treated differently merely because one of the institutes also conducts another



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course that is recognized by law. This anomaly is proposed to be corrected by subjecting all such unrecognized education to tax.

In the Finance Bill the definition of 'commercial training coaching centre' has been amended. Suitable exemption will be given after the enactment of the Finance bill to pre-school coaching and training and to coaching or training relating to educational qualifications that are recognized by law.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

8. Export of Services Rules, 2005

Globally the taxation of services across different taxing jurisdictions is increasingly moving towards destination-based levy in respect of B2B services while origin-based levy is largely applicable to B2C services. In tune with this practice, certain services are being rearranged as follows:

(i) Service provided by builders [section 65(105)(zzzzu)] is being added to sub-rule (1)(i) and will thus be considered as exported, subject to compliance with other conditions, if the immovable property is situated outside India.

(ii) Rail travel agent [section 65(105)(zz)] and health check-up or preventive care [section 65(105)(zzzzz)] are being added to sub-rule (1)(ii) and will thus be considered as exported, subject to compliance with other conditions, when they are performed outside India; and

(iii) Services of credit rating agency [section 65(105)(x)], market research agency [section 65(105)(y)], technical testing and analysis [section 65(105)(zzh)], transport of goods by air [section 65(105)(zzn)], goods transport agency [section 65(105)(zzp)], opinion poll [section 65(105)(zzs)] and transport of goods by rail [section 65(105)(zzzp)] are being deleted from sub-rule (1)(ii) and thus the additional condition of performance outside India will stand removed. Thus they will be considered as exported, subject to compliance with the relevant conditions, if the recipient is located abroad.

(With effect from 1-4-2011)

9. General Insurance Service

Exemption has been given to the taxable service of general insurance when provided under "Rashtriya Swasthya Bima Yojana" (Notification No. 7/ST-2011).

(With effect from 1-3-2011)

10. Health services [section 65(105)(zzzzz)]:

The existing service is being substituted with a new description as follows:

(a) Services provided by a clinical establishment having the facility of central air-conditioning in whole or any part of the establishment and more than 25 beds for in-patient treatment at any time of the year;

(b) Services provided by a clinical establishment in relation to diagnostic tests of any kind or investigative services with the help of a laboratory or medical equipment; and



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(c) Service provided by doctors, who are not employees, from the premises of a clinical establishment.

The head will not cover an establishment under the ownership or control of government or a local authority including Primary Health Centre and ESIC hospital. Autonomous medical institutes set-up by the government by a special Act of parliament are also outside the levy.

Only such doctors will be covered who provide services from the specified premises of a clinical establishment in a capacity other than as employee of such establishment.

Finance Minister has announced 50% exemption from the value of this service. The exemption notification will be issued when the new levy is enacted.

Parliament has already passed the Clinical Establishment (Registration and Regulation) Bill, 2010. The Act will apply to such States as have given their consent for the same. The Act prescribes registration of all Clinical Establishments and maintenance of prescribed records and other reporting requirements. These can be referred to the extent they are relevant for the purpose of this levy.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

11. Hotels, Short-term accommodation (New Service)

Short-term accommodation is provided by hotels, inns, guest houses, clubs and others and at camp-sites. This service is proposed to be taxed where the continuous period of stay is less than 3 months.

Actual levy will be restricted to accommodation with declared tariff of Rs. 1,000 per day or higher by an exemption notification. Once this requirement is met, tax will be chargeable irrespective of the fact that actually the amount charged from a particular customer is less than Rs. 1,000. The tax will also be charged on the gross amount paid or payable for the value of the service.

Finance Minister has announced 50% abatement from the value of service. Details of the exemption will be announced at the time when the levy is operationalized after the enactment of the Finance Bill.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

12. Legal Professionals [section 65(105)(zzzm)]

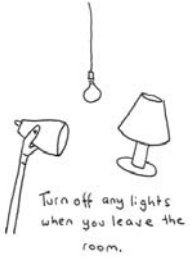
The scope of the existing service is being expanded to include:

(i) Services of advice, consultancy or assistance provided by a business entity to individuals as well;

(ii) Representational services provided by any person to a business entity; and

(iii) Services provided by arbitrators to business entities.

Services provided by individuals to other individual will remain outside the levy.



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(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

13. Life Insurance business [section 65(105)(zx)]

Life insurance companies provide services relating to risk cover and managing investment for the policy holders. The former is already subjected to service tax. The latter is now being brought into the tax net. Similar services rendered by way of ULIP are already subject to service tax since 2008.

When the entire premium is only for risk cover the same shall continue to be taxed even in the revised definition. However in the case of other schemes, a significant portion of the premium is used towards investment, while the rest is allocated towards various overheads and mortality. IRDA in its circular Ref: IRDA/ACT/CIR/VIP/171/2010, dated November 21, 2010 has made it mandatory for the insurance companies to share this break-up with the policy holders in the case of "Variable Insurance Policies" under the heads: premium received, deductions towards mortality, commission and expenses, interest added and closing balance. Thus amounts relating to deductions for mortality, commission and expenses are not available for investment. After the enactment of the new levy, it is proposed to amend the Service Tax Rules to give the option to pay tax at the standard rate on that portion of the premium that has not been invested and is so indicated in any of the documents given to the policy holder. Where the break-up is not indicated in any document issued to the policy holder, option will be given to pay tax @ 1.5% of the gross amount of premium.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

14. Payment of Service tax

When an invoice has been issued or a payment received for a service which is not subsequently provided, the assessee may take the credit of the service tax earlier paid when the amount has been refunded by him to the recipient or by the issue of credit note, as the case may be.

The amount stated in rule 6(4B)(iii) of the Service Tax Rules for adjustment of excess amount paid by an assessee is being enhanced to Rs. 2 lakhs.

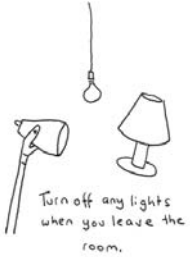
A new sub-rule (6A) has been introduced in rule 6 to provide that if an amount of service tax has been self-assessed but not paid, the same shall be recoverable alongwith interest under section 87 of the Act. Thus, there shall be no need to resort to the requirements of section 73 for the recovery of such self-assessed amounts.

□ See also 'Point of Taxation Rules, 2011'.

(With effect from 1-4-2011)

15. Penal Provisions

The maximum penalty for delay in filing of return under section 70 is proposed to be increased from Rs. 2,000 to Rs. 20,000. However, the existing rate of penalty is being retained under rule 7C of the Service Tax Rules, 1994. The maximum penalty is presently reached after a delay of 40 days. The new limit will impact only those who delay filing of return for longer durations.



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CS Update

March 07, 2011

The provisions of section 73(1A) and both the provisos of section 73(2) are proposed for deletion. As a result, the benefit of reduced penalty shall not be available in cases of fraud, mis-statement, suppression, collusion, etc., in the ordinary course. However, revised benefit will be available under the new sub-section (4A) of section 73 in situations where the true and complete account of transactions is otherwise available in the specified records and the assessee during the course of audit, verification or investigation pays the tax dues, together with interest and the reduced penalty. It is clarified that the assessee can also avail this benefit on his own also. The extent of penalty is being further reduced to 1% per month of the tax amount for the duration of default, with an upper ceiling of 25% of the tax amount.

Interest rate for delayed payment of service tax is being increased to 18% per annum, effective 1-4-2011 (Notification 15/2011-ST). A concession of 3% has been proposed in the Bill for taxpayers whose turnover during any of the years covered in the notice or the preceding financial year is below Rs. 60 lakh.

Penalty for failure to pay tax under section 76 is being halved.

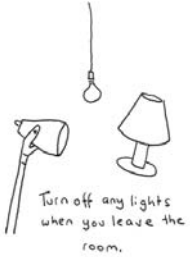
The maximum penalty under section 77 for contravention of various provisions is proposed to be increased from Rs. 5000 to Rs. 10000. However, the daily rate of penalty, wherever applicable, is being retained.

Penalty under section 78 is being altered from upto twice the amount of tax to an amount equal to the tax. Moreover, in situations where the taxpayer has captured the true and complete information in the specified records, penalty shall be 50% of the tax amount. The latter penalty (only) shall be further reduced to 25% if the tax dues are paid within a period of one month together with interest and reduced penalty. For assessees with turnover upto Rs. 60 lakh the period of one month shall be increased to ninety days.

Section 80 is being amended by substituting section 78 with the words "proviso to section 78" and thus the power to waive penalty shall be available only in cases where the information is captured properly in the specified records.

The revised position relating to penalties and their mitigation or waiver is summed up in the following table (portion in italics being the changes):

Situation	Position in records	Penalty Provision	& Mitigation	Complete Waiver
No fraud, suppression etc.	Captured	1% of tax or Rs. 100 per day upto 50% of tax amount: Section 76	Totally mitigated if tax and interest paid before issue of notice: Section 73(3)	On showing reasonable cause under section 80
Cases of fraud, suppression etc.	Captured true & complete position in records	50% of tax amount: Proviso to section 78	(a) 1% per month; max of 25% if all dues paid before notice: Section 73(4A);	
			(b) 25% of tax if all dues paid within 30 days (90 days for small assessees): Provisos to section 78	do-
	Not captured	Equal amount: Section 78	No mitigation at all	Not possible



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~~Power to issue search warrant under section 82 is proposed at the level of Joint Commissioner and the execution of search warrant at the level of Superintendent.~~

Provisions relating to prosecution are proposed to be re-introduced and shall apply in the following situations:

(i) Provision of service without issue of invoice;

(ii) Availment and utilization of Cenvat credit without actual receipt of inputs or input services;

(iii) Maintaining false books of account or failure to supply any information or submitting false information;

(iv) Non-payment of amount collected as service tax for a period of more than six months.

There shall be no power of arrest and the prosecution can be launched only with the approval of Chief Commissioner.

(With effect from the date of enactment of the Finance Bill, 2011)

16. Point of Taxation Rules, 2011

Point of Taxation Rules, 2011 have been framed *vide* notification 18/2011-ST and made effective from 1-4-2011. These rules determine the point in time when the services shall be deemed to be provided. The general rule will be that the time of provision of service will be the earliest of the following dates:

- i. Date on which service is provided or to be provided
- ii. Date of invoice
- iii. Date of payment

Consequential changes have also been made in the Service Tax Rules, 1994 to alter the payment of service tax from receipt of payment to provision of service and also to permit adjustment of tax when service is not finally provided.

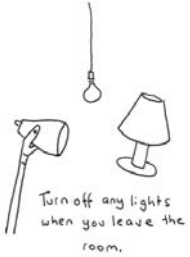
A new rule 5B has been introduced in Service Tax Rules to provide that the applicable rate of tax shall be the rate prevailing at the time when the services are deemed to have been provided.

(With effect from 1-4-2011)

17. Restaurant, Services provided by (New service)

Services provided by a restaurant

Restaurants provide a number of services normally in combination with the meal and/or beverage for a consolidated charge. These services relate to the use of restaurant space and furniture, air-conditioning, well-trained waiters, linen, cutlery and crockery, music, live or otherwise, or a dance floor. The customer also has the benefit of personalized service by indicating his preference for certain ingredients *e.g.* salt, chillies, onion, garlic or oil. The extent and quality of services available in a restaurant is directly reflected in the margin charged over the direct costs. It is



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thus not uncommon to notice even packaged products being sold at prices far in excess of the MRP.

In certain restaurants the owners get into revenue-sharing arrangements with another person, who takes the responsibility of preparation of food, with his own materials and ingredients, while the owner takes responsibility for making the space available, its decoration, furniture, cutlery, crockery and music etc. The total bill, which is composite, is shared between the two parties in terms of the contract. Here the consideration for services provided by the restaurants is more clearly demarcated.

Another arrangement is whereby the restaurant separates a certain portion of the bill as service charge. This amount is meant to be shared amongst the staff who attend the customers. Though this amount is exclusively for the services it does not represent the full of value of all services rendered by the restaurants.

The new levy is directed at services provided by high-end restaurants that are air-conditioned and have license to serve liquor. Such restaurants provide conditions and ambience in a manner that service provided may assume predominance over the food in many situations. It should not be confused with mere sale of food at any eating house, where such services are materially absent or so minimal that it will be difficult to establish that any service in any meaningful way is being provided.

It is not necessary that the facility of air-conditioning is available round the year. If the facility is available at any time during the financial year the conditions for the levy shall be met.

The levy is intended to be confined to the value of services contained in the composite contract and shall not cover either the meal portion in the composite contract or mere sale of food by way of pick-up or home delivery, as also goods sold at MRP. Finance Minister has announced in his Budget speech 70% abatement on this service, which is, *inter alia*, meant to separate such portion of the bill as relates to the deemed sale of meals and beverages. The relevant notification will be issued when the levy is operationalized after the enactment of the Finance Bill.

(With effect from a date to be notified after the enactment of the Finance Bill, 2011)

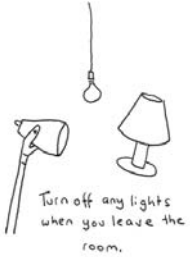
18. SEZ Refunds

Notification No. 17/2011-ST has been issued superseding notification 9/2009-ST, dated 3-3-2009. The new notification has the following unique features:

(a) Criteria for the determination of "wholly consumed" services have been laid down in the notification, borrowing from the Export of Services Rules, 2005. It has also been specified that all services received by an entity in a SEZ, which does not have any other DTA operations, will constitute "wholly consumed" services.

(b) No service tax is required to be paid *ab initio* if the same are meant to be "wholly consumed" within SEZ, including services liable to tax on reverse charge basis under section 66A.

(c) Refund of the remaining services *i.e.* which are not wholly consumed shall be available on *pro rata* basis *i.e.* ratio of SEZ turnover to total turnover.



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(d) Suitable rule has been introduced in Cenvat Credit Rules, 2004 to waive the requirements of rule 6 in case of services provided, without payment of tax, to a SEZ unit for its authorized operations.

(With effect from 1-3-2011)

19. Small scale sector

Finance minister has announced in his budget speech that individual and sole proprietor assesseees with a turnover upto Rs. 60 lakhs shall not be subject to audit.

Interest rate for all assesseees (including firms and corporates) upto a turnover of Rs. 60 lakhs shall be 3% less than the prescribed rate.

The period for making the payment in order to avail the benefit of reduced penalty under the second proviso to section 78 shall be 90 days for assesseees mentioned above.

20. Taxation of Services (Provided from Outside India and Received in India) Rules, 2006

Corresponding changes, as indicated in respect of Export of Services Rules, 2005, have been carried out by way of rearrangement of the stated services under respective sub-clauses of rule 3 of the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.

The changes will, *inter alia*, make certain services taxable if the recipient of the service is located in India even when the service is performed outside India. In order to avoid inconvenience in respect of certain services, exemption has been granted *vide* notification 8/2011-ST to services of transportation of goods by air or road or rail provided to a person located in India when the goods are transported from a place outside India to a destination outside India. Exemption has also been given *vide* notification 9/2011-ST to the transportation of goods by air service to the extent air freight is included in the customs value of goods in order to avoid taxing this service twice.

(With effect from 1-4-2011)

21. Tour operator

Exemptions with retrospective effect have been given by the Finance Bill, 2011, to inter-State or intra-State transportation of passengers, in a vehicle bearing contract carriage and tourist vehicle permit for the period from 1-4-2000 to 6-7-2009.

(With effect from the date of enactment of the Finance Bill, 2011)

22. Transport of coastal goods

An exemption of 25% from the taxable value is being provided in respect of services rendered in relation to "transport of coastal goods" and goods transported through "national waterways" or "inland water" (Notification No.16/ST-2011).

(With effect from 1-3-2011)

23. Transport of Passengers by air service



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Notification 26/2010-ST, dated 22-6-2010 is being amended by Notification 4/2011-ST and the service tax applicable in respect of 'Transport of passengers by air service' is being revised as follows:

- (a) Domestic (economy) : From Rs.100 to Rs.150
- (b) International (economy) : From Rs.500 to Rs.750
- (c) Domestic (other than economy) : Standard rate of 10%

(With effect from 1-4-2011)

24. Valuation : Service Tax (Determination of Value) Rules, 2006

A new rule 2B has been inserted *vide* Notification 2/2011-ST to prescribe the value of service rendered in relation to money changing. (See 'Banking Service'). This amendment shall come into force on 1-4-2011.

An *Explanation* has been added after rule 5(1) of the Service Tax (Determination of Value) Rules, 2006 clarifying that for the purpose of telecommunication service [Section 65(105)(zzzx)] the value shall be the gross amount paid by the person to whom the service is provided by the telegraph authority. Thus in case of service provided by way of recharge coupons or prepaid cards or the like, the value shall be the gross amount charged from the subscriber or the ultimate user of the service and not the amount paid by the distributor or any such intermediary to the telegraph authority. This amendment shall come into force on 1-3-2011.

25. Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007

A new sub-rule (2A) is being added in rule 3 in the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 *vide* Notification 1/2011-ST so as to restrict the Cenvat credit to 40% of the tax paid on services relating to erection, commissioning & installation; commercial or industrial construction and construction of residential complex, in case tax has been paid on full value of the service after availing Cenvat credit on inputs *i.e.* without availing exemption Notification 1/2006-ST, dated 1-3-2006. This has been done to ensure that the credit on inputs is not availed of indirectly while availing of the composition scheme.

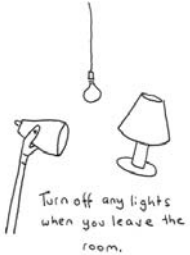
(With effect from 1-4-2011)

Exemption from service tax is being provided to works contract service rendered within a port, or other port or airport in specified areas (Notification Nos. 10 & 11/ST-2011).

(With effect from 1-3-2011)

Exemption from service tax is being provided to 'Works contract service' when rendered for the construction of residential complexes or completion and finishing services of a new complex under Jawaharlal Nehru Urban Renewable Mission (JNURM) and "Rajiv Awaas Yojana" (Notification No. 6/ST-2011).

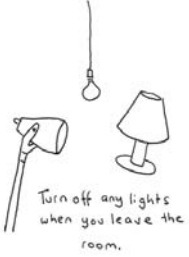
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TRAI UPDATE





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TRAI ISSUES "THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (FOURTH AMENDMENT) REGULATIONS, 2011" [TRAI/28.2. 2011]

Information note to the Press

(Press Release No. 12/2011)

TELECOM REGULATORY AUTHORITY OF INDIA

For Immediate release

Date: 28th February , 2011

TRAI issues "The Telecom Commercial Communications Customer Preference (Fourth Amendment) Regulations, 2011"

New Delhi, 28th February, 2011 – The Telecom Regulatory Authority of India (TRAI) today issued "**The Telecom Commercial Communications Customer Preference (Fourth Amendment) Regulations, 2011**". The Telecom Regulatory Authority of India (TRAI) had issued "The Telecom Commercial Communications Customer Preference Regulations, 2010" on 1st December 2010. As per the provisions of regulations, the telemarketer's registration has started from 15th January, 2011 and Customer preference registrations has started from 10th February 2011. Other operational provisions were required to be implemented from 1st March, 2011.

"The Telecom Commercial Communication Customer Preference Regulations, 2010" provides allocation of separate number series for telemarketers in schedule-III. DoT has communicated a fresh numbering series beginning with the number '140' on 31st January, 2011. This new number series allocated by DoT are only for mobile services of the licenses and levels for fixed network was to be allocated by DoT after resolving the issue of CLI for telemarketing operations using fixed line network. However, the number series for fixed network are still not allocated by DoT. The matter has been taken up on urgent basis to allocate number series to telemarketers for fixed network. Access Providers have indicated that it will not be possible to provide all the resources to call centres from mobile networks only due to high traffic originated from such call centres. It is expected that number series for telemarketing activities from fixed network will be allocated by DoT shortly. This new series will be required to be implemented by all Access Providers before allocation of resources to telemarketer. For this purpose time will be required by Access Providers to change the configuration in their system and test the new series. Accordingly, relevant clauses of The Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) dated the 1st December, 2010 have been amended to change the date of implementation of

CS Update

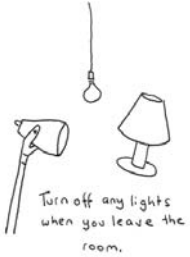
March 07, 2011

operationalization of the 'Telecom Commercial Communications Customer Preference Regulations, 2010' from 21st March, 2011. Details of these amendments are given on TRAI website <http://www.trai.gov.in>.

Contact Details in case of any clarifications

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