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CS Update

November 1, 2011

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TAX LAW UPDATE

- ALL INDUSTRY RATES OF DUTY DRAWBACK, 2011-12 (*CBEC dated 31.10.2011*)

PREVIOUS ISSUES OF CS UPDATE ARE AVAILABLE AT THE FOLLOWING LINK:

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

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FROM ICS





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MEMORANDUM OF UNDERSTANDING WITH MAICSA

A Memorandum of Understanding was entered into between the MALAYSIAN INSTITUTE OF CHARTERED SECRETARIES AND ADMINISTRATOR (MAICSA) and THE INSTITUTE OF COMPANY SECRETARIES OF INDIA (ICSI) at the 39th National Convention of Company Secretaries at Agra on October 14, 2011.

The important highlights of the MOU are:

- It will help students and members of both institutes to –
 - Attend training programmes organized by other Institutes.
 - Visit offices and work places of members of other Institutes.
 - Attend organized visits to professional places of interest e.g. companies, stock exchanges, securities commissions.
- Both Institutes also agree to –
 - Exchange course materials, case studies, research publications.
 - Undertake joint research projects which are mutually beneficial.

The MOU is available at the following link :

<http://www.icsi.edu/WebModules/LinksOfWeeks/MAICSA.pdf>



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6th INTERNATIONAL PROFESSIONAL DEVELOPMENT FELLOWSHIP PROGRAMME-2011

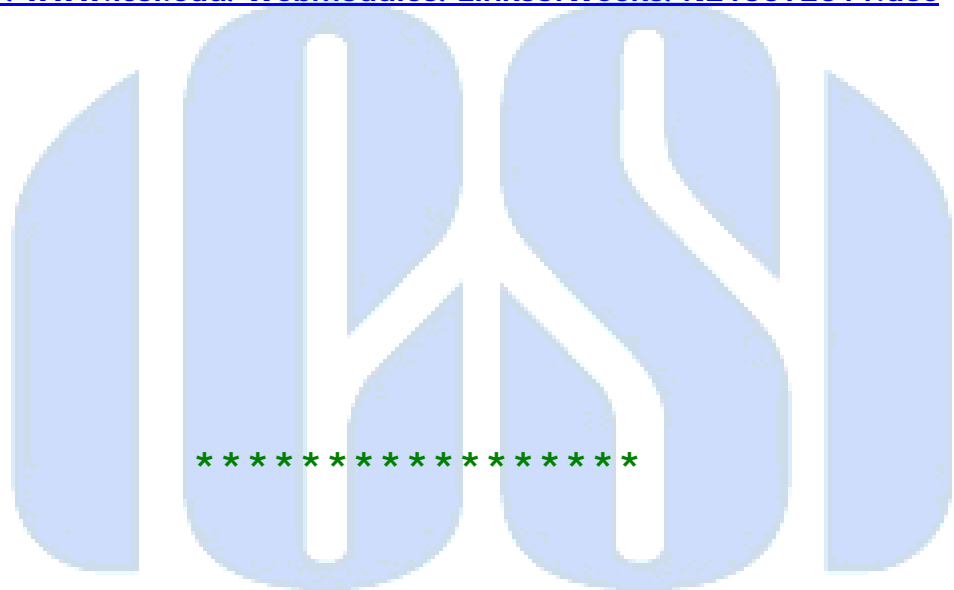
Details can be accessed at:

For AUSTRALIA (18TH -27TH NOVEMBER 2011)

<http://www.icsi.edu/Webmodules/LinksofWeeks/6InFellowship.doc>

For Optional Tour to Newzeland thereafter (27th - 2nd December, 2011)

<http://www.icsi.edu/Webmodules/LinksofWeeks/NZ15092011.doc>





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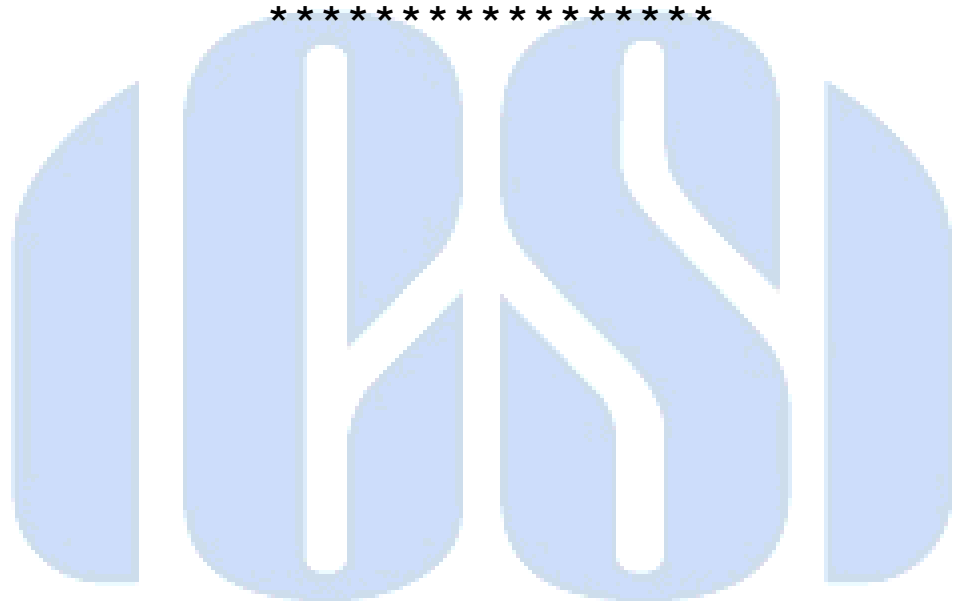
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RE-OPENING THE REGISTRATION PROCESS OF CERTIFIED FACILITATION CENTERS

Details can be accessed at:

<http://www.icsi.edu:8888/cfc/cfc.aspx>





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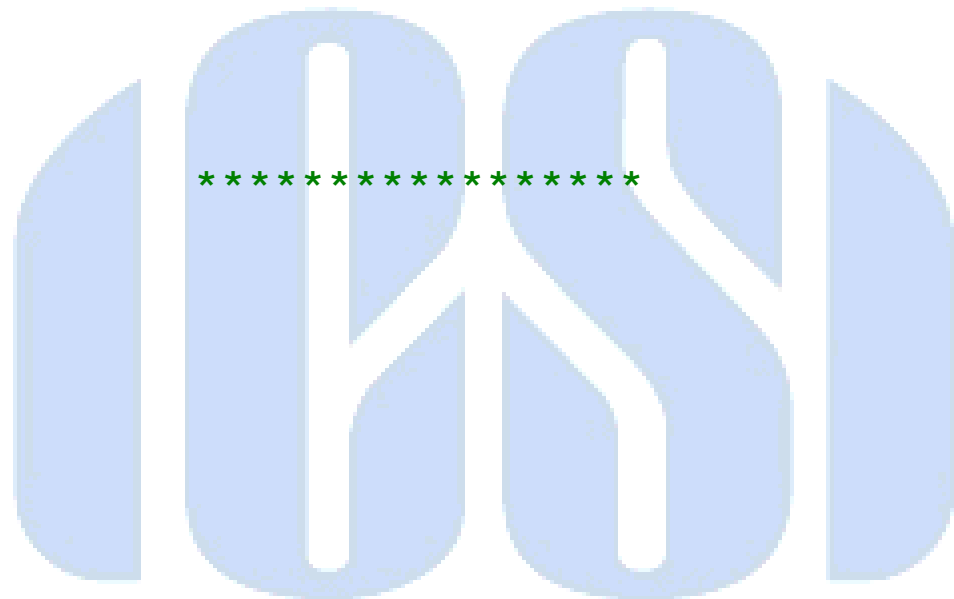
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RECORDING OF WEBCAST ON XBRL ARRANGED BY ICSI

Details can be accessed at:

<http://www.streamonweb.com/ICSI/archivals>





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CG & CSR : WATCH

The Institute has always been in the frontline to promote good corporate governance and it has been the constant endeavour of the Institute to raise awareness among the members and students in Corporate Governance arena. This watch gives an update of the latest happenings in the area of Corporate Governance and Corporate Social Responsibility.

NEW DEVELOPMENTS

1. FRC announces changes to UK Corporate Governance Code --- 11 October 2011

On the basis of responses to the views sought by The Financial Reporting Council (FRC) on whether the UK Corporate Governance Code should be revised as recommended by Lord Davies of Abersoch in his review of the gender diversity of the boards of UK-listed companies published in February 2011, FRC has announced its decision to amend the UK Corporate Governance Code to strengthen the principle on boardroom diversity which was first introduced into the Code in June 2010.

These amendments will require listed companies to report annually on their boardroom diversity policy, including gender, and on any measurable objectives that the board has set for implementing the policy and the progress it had made in achieving the objectives. The FRC will also update the Code to include the diversity of the board, including gender, as one of the factors to be considered when evaluating its effectiveness.

The current revised Code, which came into effect in June 2010, included for the first time a principle recognising the value of diversity in the boardroom, which states that, "The search for board candidates should be conducted, and appointments made, on merit, against objective criteria and will due regard for the benefits of diversity on the board, including gender".

The new provisions on diversity will apply to financial years beginning on or after 1 October 2012. However, the FRC strongly encourages all companies voluntarily to apply and report on the diversity additions to the code with immediate effect.

Detailed code can be accessed at:
<http://www.frc.org.uk/>

2. Global Reporting Initiative (GRI) – G4 Guidelines

The Global Reporting Initiative (GRI) drives sustainability reporting by all organizations. GRI produces a comprehensive Sustainability Reporting Framework that is widely used around the world to enable greater organizational transparency. The Framework, including the Reporting Guidelines, sets out the Principles and Indicators that organizations can use to measure and report their economic, environmental, and social performance. GRI is committed to continuously improving and increasing the use of the Guidelines, which are freely available to the public.

The launch of the fourth generation of GRI's Guidelines – G4 – is planned for 2013. The G4 Guidelines will be developed using the international multi-stakeholder consultation.



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These guidelines are expected to address requirements for sustainability data, and enable reporters to provide relevant information to various stakeholder groups. It is also expected to improve on content in the current Guidelines – G3 and G3.1 – with strengthened technical definitions and improved clarity, helping reporters, information users and assurance providers.

Earlier this year, GRI invited the public to submit suggestions to a 'Call for sustainability reporting topics.' GRI had gone through these perspectives and designed a new online survey for broader public consultation.

The first Public Comment Period for G4 Survey is now open.

Public comment helps ensure that GRI's Guidelines are consensus-based and reflect the broadest possible stakeholder input. The first G4 Public Comment Period is an online survey. It runs for 90 days and closes on 24 November 2011.

The survey seeks crucial feedback on issues like:

- the principal reasons for sustainability reporting
- report formats
- the minimum content of a GRI sustainability report
- report topics – including views on the proposals from the public 'Call for sustainability reporting topics' in May
- general experiences with sustainability reporting

Open Public Comment Periods, diverse expert Working Groups and GRI's approval procedures will ensure that G4's guidance is consensus-based and reflects the broadest possible stakeholder input.

The **details** can be accessed at:

<http://www.globalreporting.org/CurrentPriorities/G4Developments/GetInvolved/GetInvolved.htm>

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GREEN IDEA

Planting a Tree Few Benefits



100% Pure Air.

New improved climate.

Absorbs pollution.

Creates a space in concrete jungle for green rest.

Something Good:

Plastic Ban -- In a major environment-friendly move, the Delhi government will impose a blanket ban on usage and manufacturing of plastic bags in the next two months and those violating it could face imprisonment up to five years and fine of up to Rs 1 lakh or both. The ban is being imposed under the Environment (Protection) Act, 1986 under which storage as well as sale of plastic bags will also be considered an offence.



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The government has issued a draft notification seeking suggestions as well as objections, if any, to the move from the stakeholders till November 20, 2011 following which a final notification will be issued imposing the ban.

According to the draft notification, no person including shopkeepers, vendors, wholesalers, retailers and hawkers will be allowed to sell, store or use plastic carry bags for supply of any goods.

To Remember:

- November 1- World Vegan Day
- November 16- International Day for Tolerance
- November 20- Universal Children's Day
- November 25- International Day for the Elimination of Violence against Women

Quote of the Month

"Be a yardstick of quality. Some people aren't used to an environment where excellence is expected."

Steve Jobs

Forthcoming Events

Asian Corporate Governance Forum --- ACGA will hold its 11th Annual Conference, the "Asian Business Dialogue on Corporate Governance 2011", at the Grand Hyatt Shenzhen, China on November 1-2, 2011

Feedback & Suggestions

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

Disclaimer:

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



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MCA UPDATE





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COMPANIES (DEMATERIALIZATION OF CERTIFICATES) RULES, 2011

No 17/143/2011-CL.V
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi
Dated: 28.10.2011

All the Regional Directors,
All the Registrar of Companies
All stakeholders

Subject : Companies (Dematerialization of Certificates) Rules, 2011

Sir,

The Ministry of Corporate Affairs was considering the proposal to issue Companies (Dematerialization of Certificates) Rules, 2011 and comments /Recommendations were invited by the Ministry latest by 30th June, 2011 vide letter of even number dated 06.06.2011.

The matter was examined by this Ministry in consultation of Law Ministry and it has been decided to withdrawal of draft of Dematerialization of Certificates Rules, 2011.

Yours faithfully,


(J.N. Tikku)
Joint Director

Copy to:-

E-Governance Cell: - with a request to place the aforesaid letter in the website of MCA.



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REGISTRATION OF COMPANIES AND LLPS WITH OBJECTIVE TO DO BUSINESS OF ARCHITECT

No. 17/165/2011-CL-V (Pt.)
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi
Dated: 10.10.2011.

To
All the Regional Directors,
All the Registrar of Companies/Registrar of LLPs

Subject:- Registration of Companies or LLPs which have one of their objectives to do business of architect


Sir,

I am directed to say that a number of representations have been received in the Ministry to the effect that the Registrar of Companies and the Registrar of LLPs are incorporating the companies and LLPs in contravention to the provisions of the Architect Act, 1972 that the Council of Architect (CoA). In terms of Sections 36 and 37 of the Architects Act, 1972 as well as Rules and Regulations framed thereunder only an architect registered with the Council of Architecture or a firm of Architects (a partnership firm under the Partnership Act, 1932, comprising of all registered architects) can represent itself as an architect or use the title and style of architect of practicing the profession of an Architect in India with the exception of a landscape architect and naval architect. The matter is under examination in consultation with the Department of Legal Affairs.

Pending finalization of view of the Central Government on the subject it is hereby directed incorporation of companies/LLPs where one of the objects of such entities is to carry on the business of architect be not proceeded with till further order.

This issues with the approval of CAM

Yours faithfully,


(Seema Rath) 10/10/2011
Assistant Director



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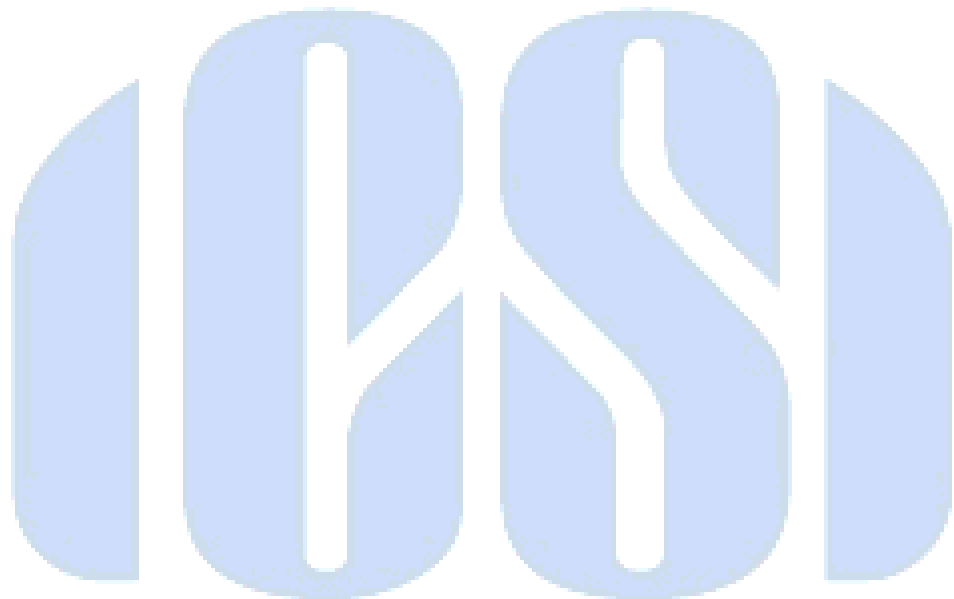
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THE COMPANIES (CENTRAL GOVERNMENT'S) GENERAL RULES AND FORMS (AMENDMENT) RULES, 2011

Details can be accessed at:

http://mca.gov.in/Ministry/notification/pdf/notification_23AC_23ACA_XBRL.pdf





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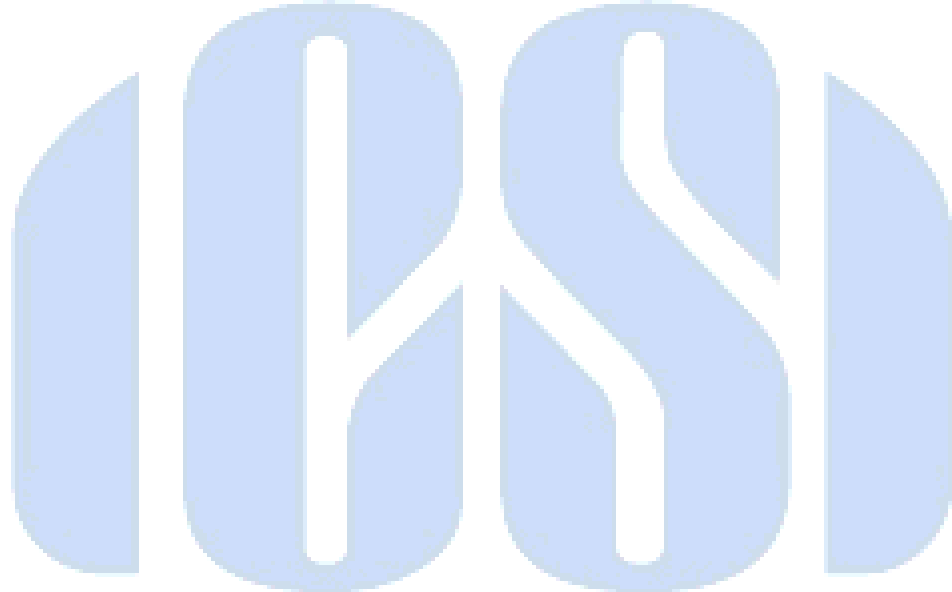
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THE COMPANIES (FILING OF DOCUMENTS AND FORMS IN EXTENSIBLE BUSINESS REPORTING LANGUAGE) RULES, 2011

Details can be accessed at:

http://mca.gov.in/Ministry/notification/pdf/notification_XBRL_rules.pdf





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ALLOTMENT OF DIRECTOR'S IDENTIFICATION NUMBER (DIN) UNDER COMPANIES ACT, 1956

General Circular No. 66/2011

No 2/1/2011-CL.V
Government of India
Ministry of Corporate Affairs

5th floor, „A“ Wing, Shastri Bhawan,
Dr. R. P. Road, New Delhi
Dated the 4th Oct, 2011

To

All Regional Directors
All Registrar of Companies.

Sub: Allotment of Director's Identification Number (DIN) under Companies Act, 1956

Sir,

In continuation of General Circular No. 32/2011 dated 31.05.2011 on the subject cited matter, I am directed to say that the time for filing DIN-4 by DIN holders for furnishing the PAN and to update PAN details has been extended till **15.12.2011**.

Yours faithfully,

-Sd/-
(Monika Gupta)
Assistant Director

Copy to:

1. ICAI/ICWAI/ICSI/All Chamber of Commerce with a request to give wide publicity to their members.
2. DIN Cell to issue message through e-mail and SMS to all existing DIN holders who have not furnished their PAN earlier at the time of obtaining DIN to furnish their PAN by filing DIN-4 e-form by 15.12.2011 to avoid penal action.

Copy for information to:

1. PS to CAM and PS to MOS
2. PPS to Secretary, Additional Secretary, Joint Secretaries



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COMPANY LAW SETTLEMENT SCHEME, 2011

General Circular No. 65/2011

**F. No. 2/11/2011-CL V
Government of India
Ministry of Corporate Affairs**

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi,
Dated the 4th Oct, 2011

To
All Regional Director,
All Registrars of Companies.

Subject: Company Law Settlement Scheme, 2011

Sir,

In continuation of the Ministry's General Circulars No. 59/2011 dated 05.08.2011 and No. 60/2011 dated 10.08.2011 on the subject cited above, it is stated that the said scheme has been extended upto **15th December, 2011**.

2. All the terms and conditions of the General Circulars No. 59/2011 dated 05.08.2011 and No. 60/2011 dated 10.08.2011 will remain the same.

Yours faithfully,

-Sd/-
(Monika Gupta)
Assistant Director

Copy to:

1. All concerned
2. PS to CAM and PS to MOS
3. PPS to Secretary, Additional Secretary, Joint Secretaries





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COMPANY LAW BOARD (AMENDMENT) REGULATIONS, 2011

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99

भारत का राजपत्र The Gazette of India



सत्यमेव जयते

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 509]

नई दिल्ली, शुक्रवार, सितम्बर 16, 2011/भाद्र 25, 1933

No. 509]

NEW DELHI, FRIDAY, SEPTEMBER 16, 2011/BHADRA 25, 1933

कम्पनी विधि बोर्ड

अधिसूचना

नई दिल्ली, 15 सितम्बर, 2011

सा.का.नि. 682(अ).—कम्पनी विधि बोर्ड, कम्पनी अधिनियम, 1956 (1956 का 1) की धारा 10ख की उप-धारा (4ख) और उप-धारा (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कम्पनी विधि बोर्ड विनियम, 1991 का और संशोधन करने के लिए निम्नलिखित विनियम बनाता है, अर्थात् :—

1. (1) इन विनियमों का संक्षिप्त नाम कम्पनी विधि बोर्ड (संशोधन) विनियम, 2011¹ है।

(2) ये राजपत्र में इनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. कम्पनी विधि बोर्ड विनियम, 1991 के विनियम 29 के उप-विनियम 4 के परन्तुक के पश्चात् निम्नलिखित परन्तुक अंतःस्थापित किया जाएगा, अर्थात् :—

“परन्तु यह और कि भारत से बाहर निवासी किसी विदेशी पक्षकार पर किसी आदेश की तामील, पर्याप्त तामील समझी जाएगी यदि उसकी एक प्रति ऐसे पक्षकार के भारत में निवासी प्राधिकृत प्रतिनिधि (प्रतिनिधियों) पर, जहां वह ऐसे प्रतिनिधि (प्रतिनिधियों) के द्वारा उपसंजात होता है, उसके (उनके) अंतिम ज्ञात पते पर परिदत्त या निविदत्त या डाक से भेजी जाती है।”

[फा. सं. 10/36/2001—सीएलबी]

कम्पनी विधि बोर्ड के आदेशानुसार,

पी. के. मल्होत्रा, सचिव

टिप्पण :—मूल विनियम संख्यांक सा.का.नि. 291(अ), तारीख 31 मई, 1991 द्वारा प्रकाशित किए गए थे और अंतिम संशोधन संख्यांक सा.का.नि. 185(अ), तारीख 17 मार्च, 2008 द्वारा किया गया।

3454 GI/2011

COMPANY LAW BOARD

NOTIFICATION

New Delhi, the 15th September, 2011

G.S.R. 682(E).—In exercise of the powers conferred by sub-section (4B) and sub-section (6) of Section 10E of the Companies Act, 1956 (1 of 1956), the Company Law Board hereby makes the following regulations further to amend the Company Law Board Regulations, 1991, namely:—

1. (1) These regulations may be called the Company Law Board (Amendment) Regulations, 2011.

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

2. In the Company Law Board Regulations, 1991 after the proviso to sub-regulation (4), of regulation 29 the following Proviso shall be inserted, namely:—

“Provided further that service of an order on a foreign party resident outside India shall be deemed to be sufficiently served if a copy thereof is delivered or tendered or sent by post at the last known address of such party's authorised representative(s) resident in India, where he appears by such representative(s).”

[F. No. 10/36/2001-CLB]

By Order of the Company Law Board,

P. K. MALHOTRA, Secy.

Note :—The Principal regulations were published vide number G.S.R. 291(E), dated 31st May, 1991 and were last amended vide number G.S.R. 185(E), dated 17th March, 2008.



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RBI UPDATE





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UCBS -REVISION IN LIMITS OF HOUSING LOANS AND REPAYMENT PERIOD

RBI/2011-12/238

UBD.BPD.(PCB). Cir.No.7/09.22.010/2011-12

October 31, 2011

The Chief Executive Officer,
All Primary (Urban) Co-operative Banks.

Dear Sir / Madam,

Revision in Limits of Housing Loans and Repayment Period - Second Quarter Review of Monetary Policy 2011-12

Please refer to [Circular UBD.PCB.Cir.No.42/09.09.001/08-09 dated May 15, 2008](#) on Revision of Individual Housing Loan Limits and para 4(iii) of Circular UBD.P&O.108/UB.31-88/89 dated April 5, 1989 issued to the Registrar of Co-operative Societies, specifying the maximum permissible repayment period of housing loans granted by UCBs.

2. As announced in the [Second Quarter Review of the Monetary Policy 2011-12](#) (para 89 - extract appended), it has been decided to permit Tier-I UCBs to extend individual housing loans upto a maximum of ` 30 lakh per beneficiary of a dwelling unit and Tier II UCBs to extend individual housing loans up to a maximum of ` 70.00 lakh per beneficiary of a dwelling unit subject to extant prudential exposure limits.

3. It has also been decided to enhance the maximum repayment period of housing loans granted by UCBs (including the period of moratorium or repayment holiday) from the present period of 15 years to 20 years.

4. All other instructions regarding grant of housing loans by UCBs remain unchanged.

Yours faithfully

(A. Udgata)
Chief General Manager- in- Charge



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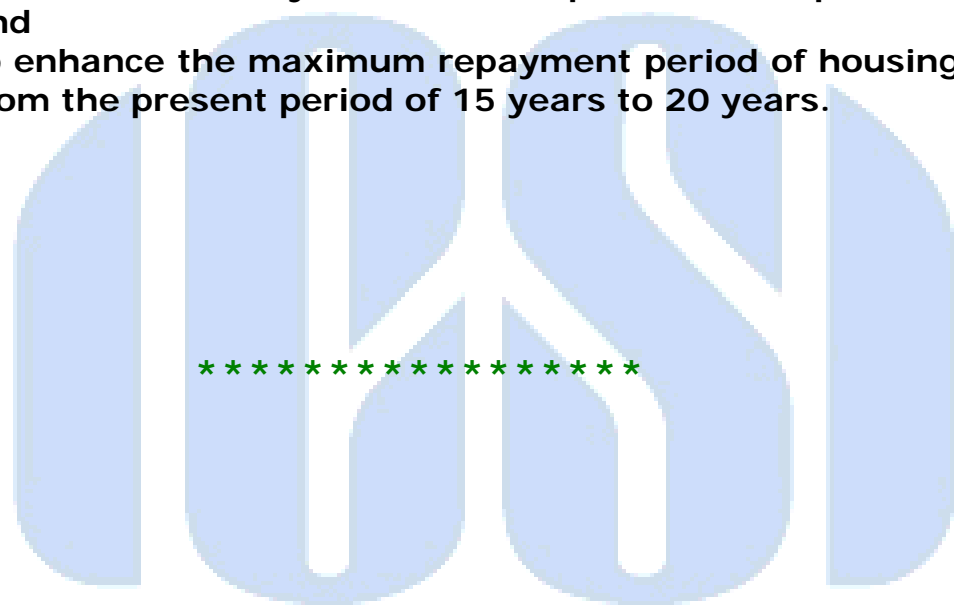
Extract of Second Quarter Review of Monetary Policy 2011-12

Urban Co-operative Banks

Enhancement of Limit and Repayment Period of Housing Loan

89. Based on the representations received from the urban co-operative banks (UCBs) and their associations, it is felt that there is a need to increase the maximum permissible limit of individual housing loans that can be granted by the UCBs, as also to increase the maximum repayment period for such loans. It is, therefore, proposed:

- to increase the individual housing loan limit from ` 25 lakh to ` 30 lakh for Tier I UCBs and from ` 50 lakh to ` 70 lakh for Tier II UCBs, subject to extant prudential exposure limits; and
- to enhance the maximum repayment period of housing loans from the present period of 15 years to 20 years.





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MEMORANDUM OF INSTRUCTIONS GOVERNING MONEY CHANGING ACTIVITIES- LOCATION OF FOREX COUNTERS IN INTERNATIONAL AIRPORTS IN INDIA

RBI/2011-12/234

A.P. (DIR Series) Circular No. 38

October 25, 2011

To,

All Authorised Persons in Foreign Exchange

Madam/ Sir,

Memorandum of Instructions governing money changing activities- Location of Forex Counters in International Airports in India

Attention of Authorised Persons is invited to the Memorandum of Instructions governing money changing activities, issued vide [A. P. \(DIR Series\) Circular No. 57 \[A.P. \(FL/RL Series\) Circular No. 04\] dated March 9, 2009](#).

2. On a review relating to compliance of the Foreign Exchange Counters (full-fledged branches/ extension counters) opened by Authorised Dealer Category-I banks, Authorised Dealers Category-II and Full Fledged Money Changers beyond the Domestic Tariff Area in international airports in India, it has been decided as under :

(a) Foreign Exchange Counters in the arrival halls in international airports in India shall ideally be established after the Customs Desk (Green Channel/Red Channel). However, Foreign Exchange Counters may also be established between the Immigration Desk and the Customs Desk in international airports in India, subject to the condition that these counters shall only purchase Foreign currency and sell Indian Rupees (INR) and 'Encashment Certificates'; shall invariably be issued by the money changers to the customers.

(b) Similarly, Foreign Exchange Counters in the departure halls in international airports in India shall be established only before the Customs Desk or the Immigration Desk, whichever comes first. Putting up suitable display at these counters, reminding the passengers that the area is the last point for non-residents to possess Indian Rupees (INR) may be followed up with the Airport Authorities.



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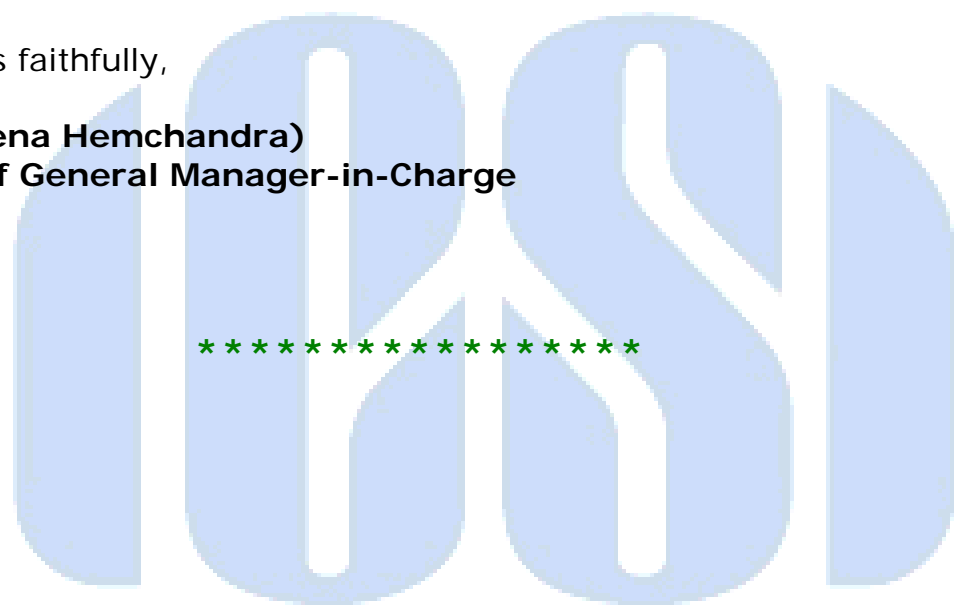
3. The Foreign Exchange Counters of Authorised Dealers Category-I banks, Authorised Dealers Category-II and Full Fledged Money Changers, not conforming to the above, should be relocated in accordance with the above instructions, latest by **December 31, 2011**.

4. Authorised Persons may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this Circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act *ibid*.

Yours faithfully,

(Meena Hemchandra)
Chief General Manager-in-Charge







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SEBI UPDATE





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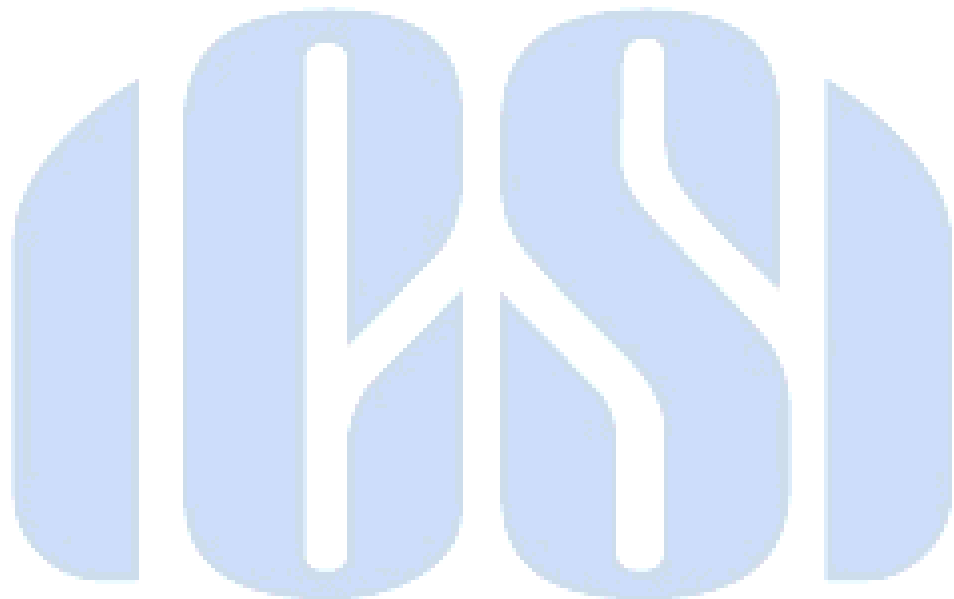
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'IN-PERSON' VERIFICATION (IPV) OF CLIENTS BY SUBSIDIARIES OF STOCK EXCHANGES, ACTING AS STOCK BROKERS

Details can be accessed at:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1319537087985.pdf





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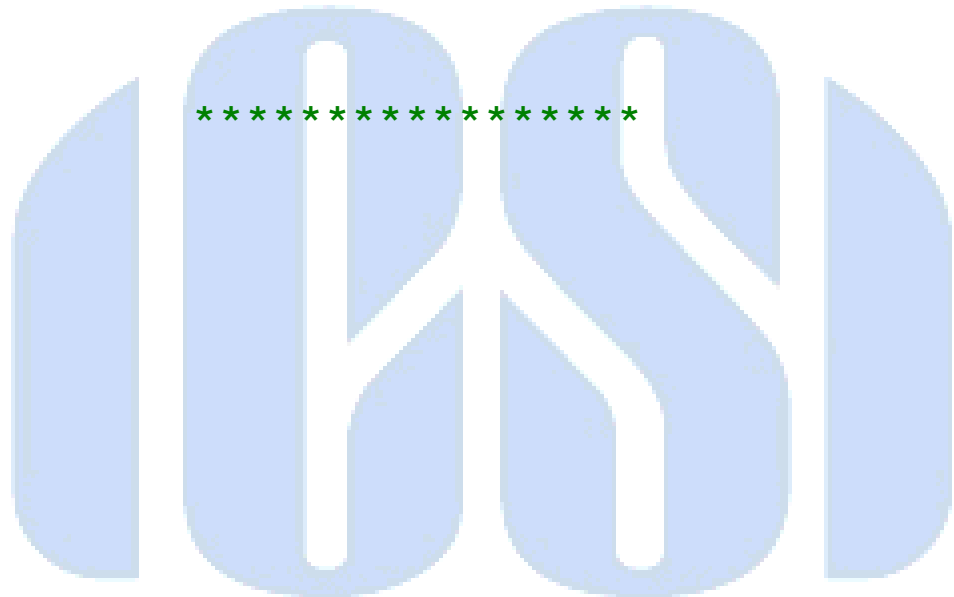
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REPORTING FORMAT UNDER REGULATION 11 OF SECURITIES CONTRACTS (REGULATION) (MANNER OF INCREASING AND MAINTAINING PUBLIC SHAREHOLDING IN RECOGNISED STOCK EXCHANGES) REGULATIONS, 2006

Details can be accessed at:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1319453578606.pdf





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CORRIGENDUM TO CIRCULAR 2 OF 2011-CONSOLIDATED FDI POLICY

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Section)

Press Release

Subject: Corrigendum to Circular 2 of 2011 – Consolidated FDI Policy.

The above mentioned Circular was issued on 30th September, 2011.

2. Para No.3.3.2.1 of the above Circular hereby stands deleted. The Circular duly corrected is available at www.dipp.nic.in.

Deepak Narain
(Deepak Narain)
Director

F.No.5(19)/2011-FC-I Dated 31, October, 2011.



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TAX LAW UPDATE





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CIRCULAR NO. - 48/2011-CUSTOMS

F.No. 609/82/2011-DBK
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

New Delhi, dated 31st October, 2011

To
All Chief Commissioners of Customs / Customs (Preventive).
All Chief Commissioners of Customs & Central Excise / Central Excise /
Authorized Representative.
All Director Generals under CBEC.
All Commissioners of Customs / Customs (Preventive).
All Commissioners of Customs & Central Excise / Central Excise /
Authorized Representative.

Subject: All Industry Rates of Duty Drawback, 2011-12 - Reg.

Sir/ Madam,

As you are aware, the All Industry Rates (AIR) of Duty Drawback 2011-12 were notified vide [Notification No. 68/2011-Cus. \(N.T.\)](#) dated 22.09.2011. These rates have come into effect on 01.10.2011. Subsequently, the Ministry has received representations on the Drawback Schedule 2011-12 from Export Promotion Councils, Trade associations and individual segments of industry. The representations broadly relate to doubts on classification of items (mainly erstwhile DEPB items) in the Schedule, duty drawback rates, value caps and other miscellaneous matters.

2. The representations have been duly examined and certain amendments / changes, wherever required, have since been carried out vide [Notification No. 75 / 2011-Cus. \(N.T.\)](#), dated 28.10.2011. The Notification may please be downloaded from CBEC website www.cbec.gov.in and perused for details.

3. Some of the major changes / amendments carried out in the above mentioned notification are discussed below.

4. Parts and components made of iron, steel or aluminium through casting or forging process which were earlier covered under various serial numbers of product group 61 (Engineering) of DEPB scheme were incorporated in Chapter 73 or 76, as the case may be, in the Drawback Schedule. Many representations were received stating that these goods merit classification more appropriately under different headings of Chapter 84 or 85 or 87, for which no specific tariff entry has been provided. To resolve this



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problem, the said entries have been appropriately replicated under headings 8487, 8548 and 8708 to enable exporters to claim drawback on such parts or components, irrespective of classification of such goods at any other four digit level in the Chapter 84 or 85 or 87 of the Schedule. In this regard a new note (3A) has been inserted in the Notes and Conditions of the Notification No. 68/2011-Cus. (N.T.) dated 22.09.2011.

5. Further, representations have also been received from the trade that certain items merit classification more appropriately under different chapter / heading, instead of the classification as has been provided in the Drawback Schedule. All such representations have been examined and wherever there was merit in the representation, it has been decided to replicate the existing entry/entries appropriately under the tariff heading as has been sought by exporters. However, while replicating these entry/entries, the existing entry/entries in the Schedule have been retained so as to avoid any disputes. Further, in all such cases where existing entries have been replicated, due care has been taken to ensure that the rates of duty drawback / value caps (wherever assigned) are the same for both the existing entries as well as the replicated entries.

6. It may be noted that the replication of entries as discussed in para 4 and 5 above and the insertion of Note 3(A) as discussed in the preceding para 4 above, is a purely transitory arrangement and with a view to resolving classification disputes.

7. In some cases, representations have been received for creating new entries as well as for making changes in drawback rates, value caps and in the description of the goods in the Drawback Schedule. All such representations have been examined and wherever the representation was found to have merit, the same has been considered and necessary changes have been carried out as reflected in the amending notification. Thus, for example, composite rate of duty drawback has been provided for all goods falling under headings 7318 and 7418; a single entry under heading 6117 and 6214 has been created for Shawls, Scarves, Stoles, Mufflers, Mantillas & Veils and appropriate value caps provided on per piece basis; Duty drawback rate has also been provided for knitted fabric having a blend of Cotton and MMF (Man Made Fibre).

8. Certain doubts have been expressed about classification of few erstwhile DEPB items in the drawback schedule wherein it has been pointed out that the classification under drawback schedule does not match with the classification as provided in the Customs Tariff. In this regard attention is invited to the para (1) of the notes and conditions of the notification No. 68/2011-Cus. (N.T.) dated 22.09.2011. It is hereby reiterated that the tariff items and descriptions of goods in the drawback schedule are aligned with the tariff items and descriptions of goods in the Customs Tariff only upto four-digit level. Hence, so long as the alignment is there at the four digit level, there should not be any difficulty for exporters to claim drawback as per the rate specified in the Drawback Schedule, notwithstanding the fact that there may be difference in the classification of the said item at six or more digit level.



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9. Doubts have been expressed regarding simultaneous availment of benefits under Advance License / Advance Authorization Scheme along with All Industry Rates of duty drawback. In this regard attention is invited to the sub para (b) of para (8) of the notes and conditions of the notification No. 68/2011-Cus. (N.T.) dated 22.09.2011. It stipulates that the All Industry Rate of drawback is not available if the goods are exported in discharge of export obligation against Advance Licence except under certain conditions. It is clarified that in general, the benefits of All Industry Rates of duty drawback and Advance Licence Scheme are not available simultaneously. However, in such cases the exporter can always avail the brand rate of duty drawback under rule 6 or rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, as the case may be and subject to the conditions stipulated therein, for the duty paid inputs used in the manufacture of export goods.

10. Representations have also been received seeking clarification on the admissibility of duty drawback on Multi Utility Vehicle (MUV) / Sport Utility Vehicle (SUV). It is clarified that MUV / SUV would, for the purpose of drawback, be classifiable under tariff item 870302 as motor cars.

11. Field formations have expressed some difficulties on the classification of Leather Garments exported under Chapter 42 of drawback schedule. The dispute is over mixed leather and fabric garments which has less than 40% of their surface area made of fabric, and whether they are classifiable under 420301, as "Articles of apparel, made of leather" or under 420302 as "Articles of apparel, made of leather in combination with other materials". In this regard attention is invited to the para (17) of the notes and conditions of the notification No. 68/2011-Cus. (N.T.) dated 22.09.2011, which defines the article of leather as any article wherein 60% or more of the outer visible surface area is of leather. It is therefore clarified that the leather garment is classifiable under tariff item 420301 as "Articles of apparel, made of leather", if 60% or more of the outer visible surface area is of leather and under tariff item 420302 as "Articles of apparel, made of leather in combination with other materials" if the area of leather is less than 60% of the outer visible surface area.

12. It may please be noted that all changes / amendments as have been carried out through the amending notification No. 75 / 2011-Cus. (N.T.), dated 28.10.2011, come into effect retrospectively from October 1, 2011. In all such cases, wherever it is required, the exporters shall be allowed to file supplementary drawback claims and these claims shall be processed accordingly.

13. Public Notices and Standing Orders for guidance of the trade and staff may be issued. Difficulties faced, if any, in implementation of the changes may be brought to the notice of the Board immediately.

Kindly acknowledge receipt of this Circular.

(Najib Shah)
Joint Secretary (Drawback)
