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The Institute of Company Secretaries of India<br>WIRC Library Membership

The Institute of Company Secretaries of India

We are pleased to announce setting up of our WIRC Library

Institute:
- Computerised
- Online legal portal
- Browsing facility
- Visual aids facility
- Library guide

ICSI-WIRC Wishes Merry Christmas & Prosperous New Year
All The Best!

to CA-CPT & CS : FC / Exec. & Professional Students

We Congratulate

ALL INDIA RANKERS

Bharat Bhardwaj
CA Final - May, 2012

Susha Monge
IPCC - November, 2011

Komal Chokhani

Mohd. Nasty

Neha Rathore
PCC - May, 2012

Susha Parashar
IPCC - May, 2012

C.S. EXE. JUNE-2012

Alpeesh Shah

Neha D’Souza

Ayushi Bagri

C.A. FINAL & IPCC-2011-12

C.S.F.C. JUNE-2011

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- Junagadh
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- Kolhapur
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- Mandi
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- Mr. Prakash Monani - 09320095956

FRANCHISEE INVITED FOR REMAINING PLACES
Dear All,

“Quality is not an act, it is a habit.” - Aristotle.

I am sure you would have gone through BSE Circular dated 26th November, 2012, on SME listing certification by practising company secretaries. This is the result of the vision of and persistent persuasion with the capital market authorities by our central leadership. Personally I am of the belief that, SME certification is a big opportunity to us and am sure, we will avail fullest of this opportunity and at the same time rise up to the expectations of capital markets.

ICSI-WIRC has been organising its professional development programs with defined objectives and identified purpose, including that of capacity building of members for emerging opportunities. Pro-actively, ICSI-WIRC organised several sessions on SME listing during the year much before the BSE announcement about SME listing certification. ICSI-WIRC is organising another high-profile program on SME listing on 27th December at Aurangabad alongwith ASSOCHAM, CMIA (Chamber of Marathwada Industries & Agriculture) and BSE. Such programs should add immense value to the professional development initiatives of ICSI-WIRC.

The sentiments at ICSI-WIRO are on roller coaster ride much before the X-mas and new-year celebrations. And this is because of multifarious initiatives getting rolled out one after the other. It lends me deep sense of pride and privilege to share that ICSI-WIRC pioneered several unprecedented activities and completed yet another successful month witnessing various new initiatives. Let me present some of the highlights of major developments at ICSI-WIRC since my last communiqué.

✔ **Revival of WIRO Library** : It provides me immense satisfaction sharing the completion of this long-pending project through revival of WIRO library. With the help of a special committee, we added several features including the following to our library:

- Latest books, ICSI and WIRC publications
- Online legal portals, viz Taxmann and Legal Pundits
- Legal journals including Company Cases, SCL etc.
- Magazines including Chartered Secretary, FOCUS, M&A Critique, Economist etc.
- Dailies, annual reports, MSOP project reports and program backgrounders
- Computers, ‘take note’ facility and borrow facility

While the formal inauguration of the revived library is slated later this month, meanwhile we have opened the membership scheme for our members and students. A nominal annual fee of Rs. 200 is fixed (minimum prescribed under the ICSI Regulations) to encourage wider section of members to avail of this useful facility.

✔ **Students’ Conference jointly with Goa and Surat Chapter** : In the series of students’ conferences being organised across the region, ICSI-WIRC organised three more such conference at Goa, Surat and Mumbai. Through this confluence of Knowledge with sense of career opportunities, WIRC students received most valuable tips on important topics like ‘How to Succeed in Exams’, “Career as a Company Secretary” and the like.

✔ **ICSI-WIRC Investor Awareness Quarter** : I am pleased to share that we had successfully organised, jointly with MCA and BSE, more than fifty investor awareness programmes in various parts of Maharashtra and Goa including remote areas. No-one, in my view, would have attempted such a mammoth task of organising large number of such programs, that too in remote areas.
I thank all those members and volunteers who are helping WIRO accomplishing this mammoth task of organising 100 such programs in a short span of 3 months, as desired by MCA. This initiative of ICSI-WIRC has brought laurels to our Profession.

✓ **1st-ever Inter-region Sports Meet**: ICSI-WIRC organised the first-ever inter-region sports meet where the other regions across the nation participated. One of the focus areas during the year has been ‘Health, Sports & Culture’ and towards that ICSI-WIRC have pioneered and organized the first-ever Inter-Region Sports Competition where CS members & students across the country have come to enthusiastically participate in various sports like Rock climbing, Hurdle race, Disk throw, Carrom, Chess and Table Tennis. Compliments to Surat Chapter to make this project a reality.

✓ **Four Regional Councils’ Joint Program at Jalandhar, Punjab**: WIRC organised jointly with other four regional councils, a high profile program hosted by NIRC on SME at Jalandhar, on 15th December, 2012 followed by an excursion on 16th December at some of the historic places including Jaliawala Bagh at Amritsar.

✓ **ICSI-WIRC MCA Annual Cricket Match Competition**: Friends, we have been organising cricket match with MCA annually and continuing with the tradition of WIRC, this year we are organising this prestigious annual event at one of the reputed playgrounds of Mumbai, viz. Hindu Gymkhana, Marine drive. By the time you would receive this FOCUS, this event would have been organised.

✓ **Change in WIRO Manpower**: This is to inform all members that Shri Sudipto Pal, Joint Director, WIRO has been transferred to CCGRT and Shri DVNS Sarma, Assistant Director is now leading the administration at WIRO. Members may please note his email id for coordination, dvns.sarma@icsi.edu.

Besides, several high-profile programs are being organised including the ones which are tabulated here (tentative). I appeal all members to participate in large numbers and make these initiatives successful.

<table>
<thead>
<tr>
<th>Program</th>
<th>Date (Tentative)</th>
<th>Location</th>
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<tr>
<td>Seminar on SME jointly with Aurangabad Chapter, BSE and CMIA</td>
<td>27th Dec, ‘12</td>
<td>Aurangabad</td>
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<tr>
<td>1st Maharashtra State Conference</td>
<td>4th – 5th Jan, ’13</td>
<td>Sirdi</td>
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<td>1st Chatisgarh State Conference</td>
<td>6th Jan, ’13</td>
<td>Raipur</td>
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<tr>
<td>Annual Regional PCS Conference</td>
<td>9th – 10th Jan, ’13</td>
<td>Vadodara</td>
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<tr>
<td>1st Goa State Conference</td>
<td>12th – 13th Jan, ’13</td>
<td>Goa</td>
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Friends, I convey my deep condolences on the sad demise of two of our senior members who led ICSI-WIRC successfully and supported wholeheartedly, S/Shri Nalin Shah and V Sithapathy. May the departed souls rest in peace and I pray almighty to provide courage to their family members to withstand this grave situation.

Please do write at chairman.wirc@icsi.edu / cschairman.wirc@gmail.com Your suggestions and inputs would help achieve the overall objectives towards our theme of the year 2012 – “Educate, Empower & Execute”.

Best Wishes and Season’s Greetings,

Cordially – Mahavir Lunawat

December 16, 2012
Dear Readers,

**In order to succeed, your desire for success should be greater than your fear of failure.**

- Bill Cosby

As the above quote says, the success beckons to a man who desires it more than the fear of failure. Fear of failure is not an unknown phenomenon and exists to an extent in everybody; the challenge is to overcome it and remain focus on the goals and achieve it with hard work and perseverance.

There is no denying that in today’s competitive environment, everybody has to be on their toes to cater to the demanding socio corporate conditions – this norm also applies to our profession and accordingly, we have to keep ourselves up to date, identify market opportunities, foray into new ventures so that we can align ourselves with the bigger goal we have set for ourselves; if we fail to do so, we will perish in no time.

Company Secretaries, have to expand their horizon and have to take up assignments which are not limited to secretarial aspects but involves other aspects [be it taxation, FEMA, Competition law, valuation] - remember, bigger the horizon, better the chances to survive and the same will give you greater satisfaction and help you achieve your long term goal.

Many a times we resist to change so as to keep ourselves in a comfort zone which we have created by doing a particular kind of job again and again – though this theory will keep us in our comfort zone, but one has to introspect and ask oneself whether they are flexible enough to quickly adjust to changing conditions which are not in their hand; and if the answer is negative, then it’s the right time we change our attitude and prepare for the challenges.

Given the existing corporate environment, we as professionals can team up to identify and grab opportunities - concept of Multi-Speciality firms with operation across the globe which is a buzzword for today. With active participation of team members across the globe, many new opportunities can be created. We need to take ourselves out of our shelves and create a healthy working environment for our fraternity by building a strong network, a platform where knowledge can be shared, experiences can be shared, so that our profession is ready to smoothly align itself with changes and we are able to cater to the need of clients.

Happy reading!!!

CS Amit Kumar Jain

“The world has enough beautiful mountains and meadows, spectacular skies and serene lakes. It has enough lush forests, flowered fields and sandy beaches. It has plenty of stars and the promise of a new sunrise and sunset every day. What the world needs more of is people to appreciate and enjoy it.” - Michael Josephson, whatwillmatter.com
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Monthly TARIFF for advertisement in Focus

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Annual Contract: (1) Out of 12 issues you have to remit only 10 issue charges, i.e. 2 issues will be free. (2) *For Principle Sponsorship: Out of 12 issues you have to remit only 9 issue charges (i.e. 3 issues will be free) – INR 9,00,000.

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CASE LAWS AT A GLANCE

RECENT JUDGEMENTS ON COMPANY LAW

CS Ajay Kumar, Practising Company Secretary, Mumbai

1) COMPROMISE AND ARRANGEMENT

Under a scheme of arrangement, passive infrastructure assets (PIAs) of Vodafone Gujarat along with six other companies were to be transferred to Vodafone Infrastructure so that passive infrastructure business and telecommunication service business could be segregated to enable business growth and maximization of value. Scheme did not envisage share exchange or transfer nor did it involve any consideration. Company Judge denied sanction to such scheme by holding that sole object thereof was to avoid tax, stamp duty, etc. As per Company Judge scheme did not involve any consideration for transfer which disqualified scheme to be treated as demerger under section 2 (19AA) of 1961 Act. It was found that such schemes were sanctioned by other High Courts. In those cases revenue department had not raised any objection. If in its commercial wisdom, a company has decided to have a particular arrangement by which there may be even benefit of saving income-tax or other taxes, that itself cannot be a ground for coming to conclusion that sole object of framing scheme is to defraud Income-tax department. Further, on basis of judicial comity and principle of parity, no contrary view could be taken in instant scheme.

VODAFONE ESSAR GUJARAT LTD V. DEPARTMENT OF INCOME-TAX [2012] 116 SCL 256 (GUJ.)

2) ANNUAL RETURN

Petitioner filed instant petition seeking to challenge registration of cases under section 159, 162 and 220 (3). Petitioner further challenged consequential summons issued to him apart from seeking challenge order taking cognizance in aforesaid cases. Since offence alleged in complaint against petitioner was not a ‘continuous wrong’, bar to take cognizance as contemplated under section 468 (2) (b) of Code of Criminal Procedure applied to complaint lodged in instant case and, therefore, taking cognizance of such an offence after more than 11 years was clearly beyond period of limitation. SIDDHARTHA SEN. V. REGISTRAR OF COMPANIES [2012] 114 SCL 338 (ORISSA)

3) RECTIFICATION OF ORDER - NO ATTEMPT MADE TO RECTIFY WHEN BROUGHT TO NOTICE - CAN TRANSFEREE RE - AGITATE AND SEEK RECTIFICATION OF ORDER DRAWN OUT BY COURT- SECTION 391 READ WITH SECTION 11 OF ARBITRATION AND CONCILIATION ACT,1996

A mistake of court in an order that operates in rem may be corrected at the instance of any person demonstrating to be prejudicial thereby, but the right of such person may not be recognized any longer if he has stood by and allowed a previous opportunity to pass when he ought to have asserted the mistake and attempted to have rectified, particularly if such conduct has resulted in a right having accrued to any other. GLOSTER LTD V. FORT GLOSTER INDUSTRIAL LTD. [2012] 109 CLA 299 (CAL.)

4) RIGHT TO INFORMATION - DOES RTI ACT OVERRIDE SECTION 610 - SECTION 610 of COMPANY ACT 1956, READ WITH SECTIONS 2(F) (J), 3, 8, AND 9 OF RIGHT TO INFORMATION ACT, 2005.

There is nothing inconsistent between the scheme provided under section 610 and the provisions of the Right to Information Act, 2005 (‘RTI Act’) which is a general law. Merely because a different charge is collected for providing information under section 610 than that prescribed as the fee for providing information under the RTI Act does not lead to any inconsistency between the two Acts. Even otherwise, the provision of the RTI Act would not override the provisions contained in section 610 which was introduced in that special Act at the time of its enactment in the year 1956 itself. The mechanism provided for invoking the right to information under section 610 should be preserved and operated, and not destroyed by the RTI Act, the later general law- ROC V. DHARMENDRA KUMAR GARG [2012]M109 CLA 390 (DEL.)

5) WHO CAN INSPECT THE DOCUMENTS-CAN IT BE SAID THAT ONLY PERSON FILING THE DOCUMENTS IS ENTITLED TO INSPECT – SECTION 610

Section 610 enables ‘any person’ to inspect any documents kept by the registrar of Companies being documents filed or registered by him in pursuance of the Act. The obligation to file and register the documents submitted by a registered company or company seeking registration is that of the Registrar of Companies, it is incorrect to submit that only the person filing the documents is entitled to inspect the same-ROC V. DHARMENDRA KUMAR GARG [2012]M109 CLA 390 (DEL.)

“Who does not thank for little will not thank for much”. - Estonian Proverb

December, 2012
No depreciation on non-compete fees as it confers exclusive SC's interpretation of 'No concession no perquisite' in Arun Assessee can file revised return to exclude income not Double-decker ride for 'Interest on housing loan' - Deduction Broker penalized for allowing son to trade on mother's behalf WTD and member directors of Audit Committee not Petition filed by a shareholder against a company ceases Rajiv Gandhi Equity Savings Scheme, 2012 notified by ITAT goes Hi-tech; 'e-Bench' introduced to hear appeals India-UK Protocol : Treaty benefit extended to partners in UK MCA specifies cases where balance sheets are being scrutinized routinely by the Registrar - GENERAL CIRCULAR No. 37/2012, DATED 6-11-2012 India-UK Protocol : Treaty benefit extended to partners in UK firms, 'Limitation of benefits' clause introduced - PRESS RELEASE, DATED 1-11-2012 Service specific Accounting Codes restored; 120 services labelled with codes unlike to one code for negative list - CIRCULAR No. 165/16/2012-ST, DATED 20-11-2012 ITAT goes Hi-tech; 'e-Bench' introduced to hear appeals through video conferencing - CIRCULAR (NO. F.1-AD (E-BENCH)AT/2012), DATED 9-11-2012 Rajiv Gandhi Equity Savings Scheme, 2012 notified by Central Government - NOTIFICATION NO. 51/2012 DATED 23-11-2012 Transferee co. not required to initiate separate proceeding u/s 391 to 394, if parties for merger are holding and subsidiary co. - RELIANCE JAINMAGAR INFRASTRUCTURE LTD., IN RE [2012] 27 taxmann.com 228 (GJU.) Petition filed by a shareholder against a company ceases along with its shareholding in the company - ABA BUILDERS LTD. v. SMT. ANJULA NAGPAL [2012] 27 taxmann.com 154 (CAL.) WTD and member directors of Audit Committee not supposed to be ignorant of irregularities in financials - N. NARAYANAN v. ADJUDICATING OFFICER, SEBI [2012] 27 taxmann.com 103 (SAT) Broker penalized for allowing son to trade on mother's behalf without obtaining her consent - INDI INFOLINE SECURITIES LTD. v. SEBI [2012] 26 taxmann.com 222 (SAT - TRIB) Double-decker ride for 'Interest on housing loan' - Deduction both under sec. 24(b) and sec. 48 - ASSTT. CIT v. C. RAMABRAHMAN [2012] 27 taxmann.com 104 (CHENNAI - TRIB.) ITAT considered 'carbon credits' as inventory yet held income from their sale as 'capital receipts' - MY HOME POWER LTD. v. DY CIT [2012] 27 taxmann.com 27 (HYD. - ITAT) Worshipping Hindu deities isn’t a religion, trust engaged in such worship entitled for sec. 80G registration - SHIV MANDIR DEVSTTAN PANCH COMMITTEE SANSTAN v. CIT [2012] 27 taxmann.com 100 (NAG.-ITAT) Assessee can file revised return to exclude income not accrued due to subsequent cancellation of sale agreement - LOK HOUSING AND CONSTRUCTIONS LTD. v. ASSTT. CIT [2012] 27 taxmann.com 15 (MUM.-ITAT) SC's interpretation of 'No concession no perquisite' in Arun Kumar's case is for employee and not for employer for TDS computation - REGIONAL DIR. ONGC LTD. v. ASSN. OF SC. & TECH. OFFR. ONGC LTD. [2012] 27 taxmann.com 222 (SC) No depreciation on non-compete fees as it confers exclusive right 'in personam' and not against the world at large - SHARP BUSINESS SYSTEM v. CIT [2012] 27 taxmann.com 50 (DELHI) Super profit making comparables and 'notional interest' on credit period to AEs irrelevant factors for TP adjustments - UNTAS INDIA (P.) LTD. v. ASSTT. CIT [2012] 27 taxmann.com 300 (MUM.-ITAT) It is imperative to examine both external and internal comparables to determine a balanced ALP - CALIFORNIA SOFTWARE CO. LTD. v. ASSTT. CIT [2012] 27 taxmann.com 213 (CHENNAI - ITAT) Unabsorbed depreciation of earlier years brings down tax burden on long-term capital gains - SURESH INDUSTRIES (P.) LTD. v. ASSTT. CIT [2012] 27 taxmann.com 203 (MUM.-ITAT) Instructions providing technical expertise to assessee that can be used even after expiry of contract are FTS - ASSTT. CIT v. TEXTECH INTERNATIONAL (P.) LTD. [2012] 27 taxmann.com 190 (CHENNAI - ITAT) No ramifications for default in tax-deductions from payments in nature of reimbursements - MITRA LOGISTIC (P.) LTD. v. ITO [2012] 27 taxmann.com 151 (KOL.-TRIB.) Subsequent reversal of a transaction among group entities isn't colourable device, if effect carried in ledgers - CHIRANJIV CHARITABLE TRUST v. ADDITIONAL DIRECTOR OF INCOME-TAX (E), RANGE-1, NEW DELHI [2012] 27 taxmann.com 99 (DELHI - TRIB.) Indo-Swiss treaty relief extended to international shipping profits, ITAT explains meaning of ‘dealt with’- ASSTT. CIT, INT. TAXATION-(32) v. MEDITERRANEAN SHIPPING CO. [2012] 27 taxmann.com 13 (CHENNAI - ITAT) TP adjustments are regulated by Act and it can't be fettered in absence of profit earned by tax-payer's group - INTERA INFORMATION TECHNOLOGIES (INDIA) (P.) LTD. v. DEPU [2012] 27 taxmann.com 1 (DELHI - TRIB.) 'Reimbursement of expenditure' isn't loan or deposit for purpose of sec. 269SS or sec. 269T - ITO v. VIRENDRA SINGH [2012] 27 taxmann.com 37 (BOM.) Transfer of jurisdiction once ordered can't be withdrawn for the sake of administrative convenience - FIAT INDIA AUTOMOBILES LTD. v. VIRENDRA SINGH [2012] 27 taxmann.com 37 (BOM.) Doubting excess profits of EOU over non-EOU's would mean penalizing proficiency - CIT v. SCHMETZ INDIA (P.) LTD. [2012] 26 taxmann.com 336 (BOM.) Cessation of capital liability is out of clutches of tax, both under sec. 41(1) and sec. 28(bv) - CIT v. XYLON HOLDING [2012] 26 taxmann.com 333 (BOM.) Cervat credit can be taken in respect of capital goods received prior to registration - GLOBAL DIGITAL COLOR LAB v. CCE [2012] 27 taxmann.com 232 (NEW DELHI - CESTAT) Refund of penalty isn't subject to doctrine of unjust enrichment as its burden won't change hands - SHREE PERFECT SECURITY SERVICES (INDIA) (P.) LTD. v. ITO, AHD. [2012] 27 taxmann.com 205 (AHD.-CESTAT) Sum paid by lessor to tenant as incentive for property taken on lease is subject to service tax - CCE v. MIRROR GROUP PLC [2012] 26 taxmann.com 316 (ECJ) ‘Cause of delay’ not to be viewed liberally for condoning delay in filing an appeal - COMMISSIONER OF CUSTOMS v. KARAN MONOMERS P. LTD. [2012] 26 taxmann.com 341 (GJU.)
CIRCULARS AND NOTIFICATIONS

CS Piyush Bindal, Practising Company Secretary, Bhopal

MINISTRY OF CORPORATE AFFAIRS

1. FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT BY COMPANIES IN NON-XBRL FOR THE ACCOUNTING YEAR COMMENCING ON OR AFTER 01.04.2011

General Circular No. 38/2012
Source: www.mca.gov.in

In continuation of General Circular No. 30/2012 dated 28.09.2012 on the subject cited above, I am directed to say that Due date of filing of e-forms 23AC (Non-XBRL) and 23ACA (Non XBRL) as per new schedule VI (applicable for the accounting year commencing on or after 1.4.2011) has been extended upto 24.11.2012 for Companies holding AGM or whose due date for holding AGM is on or after 21.09.2012. Such companies can now file these eForms without any additional fees upto 24.11.2012 or due date of filing, whichever is later.

This has been issued with the approval of the competent authority.

SERVICE TAX

1. RESTORATION OF SERVICE SPECIFIC ACCOUNTING CODES FOR PAYMENT OF SERVICE TAX - REGARDING.

Circular No.165/16/2012-ST
Source: www.servicetax.gov.in

1. Negative List based comprehensive approach to taxation of services came into effect from the first day of July, 2012. Accounting code for the purpose of payment of service tax under the Negative List approach ["All Taxable Services" – 00441089] was prescribed vide Circular 161/12/2012 dated 6th July, 2012.

2. Subsequent to the issuance of the Circular, suggestions were received from the field formations that the service specific old accounting codes should be restored, for the purpose of statistical analysis; also it was suggested that list of descriptions of services should be provided to the taxpayers for obtaining registration. These suggestions were examined and a decision has been taken to restore the service specific accounting codes. Accordingly, a list of 120 descriptions of services for the purpose of registration and accounting codes corresponding to each description of service for payment of tax is provided in the annexure to this Circular.

3. Descriptions of taxable services given in the annexure are solely for the purpose of statistical analysis. On the advice of the office of the C & AG, a specific sub-head has been created for payment of “penalty” under various descriptions of services. Henceforth, the sub-head “other receipts” is meant only for payment of interest payable on delayed payment of service tax. Accounting Codes under the sub-head “deduct refunds” is not to be used by the taxpayers, as it is meant for use by the field formations while allowing refund of tax.

4. Registrations obtained under the positive list approach continue to be valid. New taxpayers can obtain registrations by selecting the relevant description/s from among the list of 120 descriptions of services given in the Annexure. Where registrations have been obtained under the description ‘All Taxable Services’, the taxpayer should file amendment application online in ACES and opt for relevant description/s from the list of 120 descriptions of services given in the Annexure. If any applications for amendment of ST-1 are pending with field formations, seeking the description ‘all taxable services’, such amendment may not be necessary and the officers in the field formations may provide necessary guidance to the taxpayers in this regard. Directorate General of Systems will be making necessary arrangements for display of the list of 120 descriptions of services and their corresponding Accounting Codes in Form ST-1 and Form ST-2 as may be necessary.

5. Officers in the field formations are instructed to extend necessary guidance to the tax payers regarding the selection of appropriate description of taxable service and facilitate the payment of service tax/cess due under the appropriate accounting code. Trade Notice/Public Notice may be issued to the field formations and tax payers.

CUSTOMS

1. AUTHORIZED ECONOMIC OPERATOR (AEO) PROGRAMME FOR IMPLEMENTATION – REVISED GUIDELINES.

Circular No. 28/2012-Customs
Source: www.cbic.gov.in

Attention is invited to Board’s Circular No. 37/2011-Cus. dated 23.08.2011 which gives details on the ‘Authorized Economic Operator’ (AEO) Programme. The said Circular contains the salient features of the AEO Programme including the processing, validations and certification of AEOs. It also indicated Board’s decision to initially begin a pilot before finalizing the AEO Programme for a full scale roll out. Accordingly applications were invited for participation in the Pilot AEO Programme, which has since been completed.

2. Based upon the results of the Pilots, DGICCE, the nodal agency for AEO Programme, suggested certain

“Thou hast given so much to me, Give one thing more, - a grateful heart; Not thankful when it pleaseth me, As if Thy blessings had spare days, But such a heart whose pulse may be Thy praise.” - George Herbert

December, 2012
improvements and identified certain issues requiring a review. Accordingly, Board has examined the suggestions and approved the following major changes in the AEO Programme.

(i) Inclusion of stringent requirements in regard to Business partner security, procedural security, etc.
(ii) Inclusion of authorised couriers and custodians in the AEO Programme.
(iii) Automatic disqualification on non-furnishing of the information by the applicant.
(iv) Non-requirement of the compliance records of advocates directly employed by the applicant.
(v) Outreach of AEO Programme by organizing workshops etc.
(vi) The time limit of 90 days should be reckoned from the date of furnishing of complete information.
(vii) In regard to security seals, in case it is not possible to procure and use PAS / ISO 17712 seals for

B. For Exporters

(a) AEO exporters shall be given benefits of reduced percentage of examination. At present the examination of export consignment is governed by provisions contained in the Board Circular No. 6/2002- Customs dated 23.01.2002 which stands modified for AEO exporters to the extent indicated in the table below.

Export under Drawback by AEO exporters:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Category of Exports</th>
<th>Scale of Examination</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Export consignments shipped to sensitive places viz. Dubai, Sharjah, Singapore, Hong Kong and Colombo</td>
<td>Others</td>
</tr>
<tr>
<td>(i)</td>
<td>Consignments where the amount involved is ₹ 5 lakh or less</td>
<td>10%</td>
</tr>
<tr>
<td>(ii)</td>
<td>Consignments where the amount of drawback involved is more than ₹ 5 lakh</td>
<td>25%</td>
</tr>
<tr>
<td>(iii)</td>
<td>Consignments where the FOB value is under EPCG / DEEC is ₹ 10 lakh or less</td>
<td>10%</td>
</tr>
<tr>
<td>(iv)</td>
<td>Consignments where the FOB value is under EPCG / DEEC is more than ₹ 10 lakh</td>
<td>20%</td>
</tr>
</tbody>
</table>

C. For Logistic Service Providers:


(b) AEO logistic service providers shall be given the facility of not taking permission on case to case basis in case of transit of goods. In case of international transshipped cargo (Foreign to Foreign), for the pre-sorted containers wherein cargo does not require segregation. AEO Logistics Service providers can effect ramp to ramp or tail to tail transfer of cargo without Customs escorts. Board Circular No.8/2011-Customs dated 28.01.2011 stands modified to this extent.

D. For Custodians or Terminal Operators

(a) AEO Custodians shall be given benefits of waiver of bank Guarantee required under Handling of Cargo in Customs Area Regulations 2009.

(b) AEO Custodians shall also be given the facility of extension of approval under regulation 10(2) of the Handling of cargo in Customs Area Regulation 2009 for longer period of ten years at a time.

E. For Customs House Agents:

(a) AEO Customs House Agents shall, under Regulation 11 of Customs House Agents Licensing Regulations (CHALK) 2004 be given benefit of
extended validity period of licenses granted under regulation 9 till the time they hold valid AEO authorizations.

(b) Fee for renewal of a license under sub regulation (2) of regulation 11 of CHALR, 2004 shall be exempt for AEO Custom House Agents.

F. For Warehouse Operators:

(a) AEO Warehouse Operators are accorded faster approval for new warehouses.

(b) AEO Warehouse Operator shall be given benefits of reduced bank guarantee to the extent of 5% of the duty liability in respect of individual consignments of sensitive goods to be warehoused. Board Circular No 99/95- Cus. dated 20.09.1995 shall be modified to this extent.

(c) In case of goods which are not likely to deteriorate, the warehousing period under section 61 of the Customs Act, 1962 may be extended by Commissioner of Customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such period as he may deem fit. Board Circular No. 47/2002-Cus., dated 29.7.2002 prescribes that the Chief Commissioner at a time may not grant extension to the warehousing period beyond 3 months and in certain exceptional circumstances not beyond six months. In case of AEO Warehouse Operators, the Chief Commissioner of Customs may grant extension up to a period of six months at a time. Board Circular No.47/2002-Cus. dated 29.7.2002 stands modified to this extent.

4. The revised AEO Programme is appended to this Circular.

5. Board Circular No 37/2011- Cus., dated 23.08.2011 stands superseded with issue of this circular. However the entities already certified under AEO Programme pursuant to Circular No 37/2011-Cus., dated 23.08.2011 would continue to have AEO authorization subject to their adherence to prescribed standards and guidelines issued in this regard.

6. Suitable Public Notice and Standing Orders may be issued. Further, Director General, DGICCE and Chief Commissioner of Customs are requested to give wide publicity to the Programme.

7. Difficulties, if any, may be brought to the notice of the Board immediately.
Debentures are defined under Section 2(12) of the Companies Act, 1956. Debenture includes debenture stock, bonds and any other securities of a company, whether constituting a charge on the assets of the Company or not. In other words, it is a type of loan issued by a company that may or may not be be converted into stock by the holder and, under certain circumstances, the issuer of the bond. By adding the convertibility option the issuer pays a lower interest rate on the loan compared to if there was no option to convert. These instruments are used by companies to obtain the capital they need to grow or maintain the business. There are many types of debentures. This article concentrates on the debentures issued to the non-residents. Broadly debentures can be classified in two types:

- Fully, mandatorily convertible debentures
- Partially/optionally debentures

Going forward we have discussed the difference between the fully/compulsorily convertible debentures and partially/optionally convertible debentures from the perspective of Foreign Direct Policy in India. The transaction between resident and non resident are regulated by Foreign Exchange Management Act, 1999 (FEMA) and the foreign direct investment policy.

Not only regulatory but also from taxation point of view the two type of debentures are different therefore before issuing the either fully/compulsorily convertible debentures or partially/optionally convertible debentures organization should keep in mind its objective. While in partially/optionally convertible debentures organization will have to pay interest which shall be tax deductible in case of fully/compulsorily convertible debenture although it will provide for long term capital but the pricing guidelines shall be required to be met.

It is quite common for foreign investors to take up convertible instruments in Indian companies. These instruments are issued as either preference shares or debentures to begin with and are convertible into equity shares of the Indian company at a later date. The conversion may occur in one of two ways: either at the option of the investor, or compulsorily (without any option whatsoever). Such instruments carry characteristics of multiple securities and hence take on nomenclatures such as “hybrids” and “quasi-equity”.

From a legal and regulatory (more specifically, foreign direct investment) standpoint, however, the question is whether such convertible instruments constitute debt, thereby falling within the purview of regulations governing external commercial borrowings (ECBs), or whether they constitute equity, thereby falling under the guidelines pertaining to foreign direct investment (FDI). As per the FEMA regulations and FDI policy, where fully/compulsorily convertible debentures are considered as equity, the partially/optionally convertible debentures are considered as debt. Where fully/compulsorily convertible debentures are considered as equity, the partially/optionally convertible debentures are considered as debt. As per Consolidated FDI Policy “Other types of Preference shares/Debentures i.e. non convertible, optionally convertible or partially convertible for issue of which funds have been received on or after May 1, 2007 are considered a debt. Accordingly all norms applicable for ECBs relating to eligible borrowers, recognized lenders, amount and maturity, end use stipulations etc. shall apply. Since these instruments would be denominated in rupees, the rupee interest rate will be based on the swap equivalent of London Interbank offered rate (LIBOR) plus the spread as permissible for ECBs of corresponding maturity.”

We have below discussed in detail the difference between the two types of debentures. For the ease of comparison the tabular form has been used.

### Issue of Debentures to Non Residents

<table>
<thead>
<tr>
<th>Debentures</th>
<th>Non-Convertible/Optionally Convertible Debentures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully and mandatorily Convertible Debentures</td>
<td>A type of debt security where the whole value of the debenture is convertible into equity shares.</td>
</tr>
<tr>
<td>If debentures are fully and mandatorily convertible in that case it is considered as Equity Investment.</td>
<td>A type of debt security where the whole value of the debenture is not convertible into equity shares or convertible at the issuer’s notice.</td>
</tr>
<tr>
<td>If debentures are Non-Convertible/Optionally Convertible Debentures in that case it is considered as External Commercial Borrowings.</td>
<td></td>
</tr>
</tbody>
</table>

### Regulatory framework

<table>
<thead>
<tr>
<th>Master Circular on Foreign Investment in India</th>
<th>Master Circular on External Commercial Borrowings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulation, 2000</td>
<td>Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000</td>
</tr>
<tr>
<td>Section 292(1)(b) of the Companies Act, 1956</td>
<td></td>
</tr>
</tbody>
</table>
### Companies Act, 1956 (Section 293(1)(d)) - only in case of Public Company

Public Companies (Terms of Issue of Debentures and Raising of Loans with Option to Convert such Debentures or Loans into Shares) Rules, 1977 - Applicable only in case of Public Company

### Who can Invest

- A person resident outside India (other than a citizen of Pakistan) and Entity incorporated outside India, (other than an entity incorporated in Pakistan)

### Indian Company can receive consideration by

1. Debiting the NRE / FCNR account of a person concerned maintained with an AD category I bank.
2. Through normal banking channels.
3. Conversion of royalty / lump sum / technical know how fee due for payment or conversion of ECB, shall be treated as consideration for issue of shares.
4. Conversion of import payables / pre incorporation expenses / share swap can be treated as consideration for issue of shares with the approval of FIPB.
5. Debiting to non-interest bearing Escrow account5 in Indian Rupees in India which is opened with the approval from AD Category – I bank and is maintained with the AD Category I bank on behalf of residents and non-residents towards payment of share purchase consideration.

### Maximum Permissible Amount

- Since it is considered to be FDI. Therefore the Sectoral caps prescribed under the FDI policy as applicable to it. Sectoral cap have to be seen at the time of allotment of convertible debentures only.
- The investment is allowed either under automatic route or approval route.

### Maturity Period

| No minimum or maximum conversion period provided by law. | ECB up to USD 20 million or its equivalent in a financial year – minimum average maturity period of 3 years. | ECB above USD 20 million or equivalent and up to USD 750 million or its equivalent – minimum average maturity period of 5 years. |

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*“We often take for granted the very things that most deserve our gratitude.”* - Cynthia Ozick

December, 2012
Taxation

Tax liability shall be governed by the Indian Income Tax Act, 1961. However, the countries with which India has Double taxation avoidance agreement, as per section 90(2) of the Income Tax Act, in those cases the DTAA or the Domestic Income Tax Act, 1961 whichever is more favorable to the assessee shall be applicable.

Interest shall be payable till the time the debentures are converted into shares. After conversion holder shall be entitled to receive dividend (if any). Interest is tax deductible.

Interest paid by the company is tax deductible as expense in the hands of company as per the Income Tax Act, 1961.

On any amount declared, distributed or paid by such company by way of dividend, the Dividend distribution tax shall be payable by the company under Section 115G of the Income tax Act, 1961. However, such dividend is exempt in the hands of shareholder under section 10(34) of the Income Tax Act, 1961.

End use of funding

Fully and mandatorily Convertible Debentures cannot be raised by the entity which is engaged or proposes to engage in the following activities:

(a) Business of chit fund, or
(b) Nidhi company, or
(c) Agricultural or plantation activities, or
(d) Real estate business, or construction of farm houses, or
(e) Trading in Transferable Development Rights (TDRs).

ECB proceeds cannot be used for:

• On lending;
• Investment in the capital market;
• Acquisition of a company;
• Real estate;
• Working capital;
• General corporate purposes;
• Repayment of existing Rupee loans except under the Approval route, under a scheme of ‘take-out’ finance, subject to conditions.

Pricing

The Price/ conversion formula for convertible capital instruments should be determined upfront at the time of issuance of the instruments.

Conversion price should not be less than the fair value worked out, at the time of issuance of such instruments, in accordance with the FEMA regulations.

Price for issue of Fully and mandatorily Convertible Debentures shall be:

Where the Minimum average maturity Period is 3-5 years

Listed Companies - as per SEBI (ICDR) Regulations

Minimum average maturity Period of more than 5 years -

Ø Unlisted Companies - not less than fair value of shares determined by a SEBI registered Merchant Banker or a Chartered Accountant as per the Discounted Free Cash Flow Method (DCF)

Minimum average maturity Period of more than 5 years -

LIBOR* + 500 basis points

* for the respective currency of borrowing or applicable benchmark

All-in-cost includes rate of interest, other fees and expenses in foreign currency except commitment fee, pre-payment fee, and fees payable in Indian Rupees. The payment of withholding tax in Indian Rupees is excluded for calculating the all-in-cost.
<table>
<thead>
<tr>
<th>Compliance Requirements</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) <strong>Ensure that Articles of the Company allows issue of debentures, if not then alter articles of association by passing Special Resolution</strong></td>
<td>(1) <strong>Ensure that Articles of the Company allows issue of debentures, if not then alter articles of association by passing Special Resolution</strong></td>
</tr>
<tr>
<td>(2) <strong>Drafting of Investor Agreement</strong></td>
<td>(2) <strong>Drafting of Debenture Agreement</strong></td>
</tr>
<tr>
<td>(3) <strong>Board Resolution under Section 292(1)(b) of the Companies Act, 1956</strong>*</td>
<td>(3) <strong>Board Resolution under Section 292(1)(b) of the Companies Act, 1956</strong>*</td>
</tr>
<tr>
<td>(4) <strong>In case of Public Company, borrowing should not exceed aggregate of paid-up capital and free reserve as per Section 293(1)(d)</strong></td>
<td>(4) <strong>In case of Public Company, borrowing should not exceed aggregate of paid-up capital and free reserve as per Section 293(1)(d)</strong></td>
</tr>
<tr>
<td>(5) <strong>Board Resolution for allotment of Debentures (Note : It has to be allotted within 180 days of receipt of funds)</strong></td>
<td>(5) <strong>Submit Form 83 (in duplicate) certified by CA/CS to Authorised Dealer within 7 days from the date of signing agreement to obtain Loan Registration Number from RBI</strong></td>
</tr>
<tr>
<td>(6) <strong>Issue of duly signed, stamped and sealed Debenture Certificate to Investor</strong>***</td>
<td>(6) <strong>Board Resolution for allotment of Debentures</strong></td>
</tr>
<tr>
<td>(7) <strong>Advance Reporting for receipt of funds</strong> Indian companies are required to report the details of the receipt of the amount of consideration for issue of convertible debentures, through an AD Category - I bank, together with a copy/copies of the FIRC/s evidencing the receipt of the remittance along with the KYC report as specified in the regulation on the nonresident investor from the overseas bank remitting the amount within 30 days of receipt of fund.</td>
<td>(7) <strong>Issue of duly signed, stamped and sealed Debenture Certificate to Investor</strong>***</td>
</tr>
<tr>
<td>(8) <strong>FC-GPR filing</strong> Indian companies are required to file Form FC-GPR of FEMA through AD Category I bank, not later than 30 days from the date of issue of shares.</td>
<td>(8) <strong>Updation of Register of Debentureholders</strong>****</td>
</tr>
<tr>
<td>(9) <strong>Updation of Register of Debentureholders</strong>****</td>
<td>(9) <strong>Transfer to Debenture Redemption Reserve till the date of conversion</strong></td>
</tr>
<tr>
<td>(10) <strong>Submit ECB-2 (Reporting of actual transactions of External Commercial Borrowings (ECB) under Foreign Exchange Management Act, 1999) Return certified by the designated AD bank on monthly basis so as to and Information Management (DSIM), Reserve Bank of India within seven working days from the close of month to which it relates.</strong></td>
<td></td>
</tr>
</tbody>
</table>

* As per Section 292(1)(b) of the Companies Act, 1956, the Board can exercise power of issue of Debentures in Board Meeting. Thus, the Board cannot take decision for issue of debentures through circular.

** Public limited company/ a private company which is a subsidiary of a public company cannot borrow moneys (through loan or issue of debt instrument) in case proposed borrowing together with the moneys already borrowed by the company (apart from temporary loans obtained from the company’s bankers in the ordinary course of business) exceeds aggregate of the paid-up capital of the company and its free reserves except with the consent of such public company or subsidiary in general meeting. (Section 293(1)(d) of the Companies Act, 1956)

*** Section 113 of the Companies Act, 1956 provides for issue of debenture certificate within three months from the date of allotment of debentures.

****This is one of the Statutory Register under Section 152 of the Companies Act, 1956.

Appointment of debenture trustee not mandated if conversion is happening within 18 months. Otherwise, debenture trustee is required to be appointed by a company to which SEBI regulations are applicable.

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“Gratitude is merely the secret hope of further favors.” - François Duc de La Rochefoucauld
Total number of members as on 31/08/2012 - 9331
And it is all so easy to become a member of the CSBF.
- Make an application in Form-A (available on the Institute’s Web Portal: www.icai.org/icai).
- Form-A and remittance of one time subscription amount of 17,500 can be submitted ONLINE through Institute’s Web Portal: www.icai.org. No transaction charges for online payment will be charged from the Members.
- Alternatively, send / deposit Form - A, alongwith Demand Draft payable at New Delhi or Cheque at any bank in favour of ‘Company Secretaries Benevolent Fund’ at any of the Offices of the Institute / Regional Offices / Chapters.
For further clarification/information please contact: Membership Section of the Institute at Telephone no. 45341649/ 45341647 Fax No. - 24836487
E-mail id: csbf@icai.org, membert@icai.org

EASTERN INDIA REGIONAL COUNCIL
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Phone: 22422917, 22422934, 22422954, 22422975, 22422979 Fax: 22422945, E-mail: enrol@icai.org

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WESTERN INDIA REGIONAL COUNCIL
13 Juhu Maker Chambers, 1st - 3rd Floor, Juhu, Mumbai 400041 Phone: 2244073, 2244079 Fax: 2244081, E-mail: enrol@icai.org

An Appeal

The Company Secretaries Benevolent Fund (CSBF) was instituted with an objective of extending financial assistance to its members and their families in times of distress.

In the recent past, in some of the tragic incidences, although the Institute was able to extend the financial help to the families of the members immediately, but the Institute would have been able to provide better financial assistance if the membership of CSBF had been larger. We, therefore, appeal to those Company Secretaries who have not yet become members of CSBF to apply for membership immediately. The members who are already members of CSBF are requested to donate generously for the noble cause. The donations to the fund are exempt under section 80G of the Income Tax Act, 1961. For details refer to the website: www.icai.org

N.K. Jain
SECRETARY & CEO

Benefits

Financial Assistance in the event of Death of a member of CSBF

Upto the age of 60 years
- Upto ₹20,000 in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time
- Group Life Insurance Policy for a sum of ₹2,00,000

Above the age of 60 years
- Upto ₹20,000 in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time
- Reimbursement of Medical expenses
- Upto ₹50,000

Safeguarding and caring for your well being

Companys Secretaries Benevolent Fund

Saathi Haath Badhona

ICSI has established the Company Secretaries Benevolent Fund (CSBF) in the year 1976 which seeks to create security umbrella for dependent family members

OBJECTIVE
- Benevolence
- Financial assistance to the families
- Medical assistance
- Assistance for Children Education

Nature of Fund
- Fund is a society registered with the Registrar of Societies, New Delhi under the Societies Registration Act, XXI of 1960
- Fund is managed by the Committee consisting of 12 members
- President, Vice President and Secretary of the ICSI are ex-officio members of the Managing Committee of the Fund
- The Fund is recognized under Section 80G and the Income Tax Act
- Contribution to the Fund qualify for the deduction under section 80G of the Income Tax Act, 1961

Financial position of the Fund (as on 31.03.2012)
- Corpus ₹ 6,31,24,954
- Involvements ₹ 6,27,01,316
- Total assistance provided in the year 2011-12: ₹ 21,11,481
THE GENERAL ANTI-AVOIDANCE RULES (GAAR)

*CS Rajkumar Adukia, Mumbai*

**Introduction**

General Anti Avoidance Rules (GAAR) is a set of general rules enacted so as to check tax avoidance.

Many methods are adopted by taxpayers to reduce their tax liability such as "Tax Evasion", "Tax Avoidance", "Tax Mitigation" and "Tax Planning". If the method is illegal as is the case of Tax Evasion, the taxpayer may be penalized; however in most cases the methods adopted to reduce tax liability are legal as in Tax Avoidance, and hence the tax authorities are helpless.

Tax avoidance, is by and large not defined in taxing statutes. Tax avoidance is, nevertheless, the outcome of actions taken by the assessee, none of which or no combination of which is illegal or forbidden by the law as such. It is an attempt to reduce tax liability through regulating the affairs in such a way that the taxpayer pays the minimum tax imposed by the Act as opposed to the maximum. Tax Avoidance involves the legal exploitation of tax laws to one’s own advantage and therefore it is an area of concern across the world.

Anti Avoidance rules can be classified into the following types-

a. Measures based on general principles in the law - This refers to principles which are not codified in the legislation i.e. they are non-statutory. They include a range of philosophies and approaches

b. General Anti Avoidance rules (GAAR) - It has same meaning as “anti avoidance rules based on general principles in law” except that it is codified and included in the legislation

c. Specific Anti Avoidance rules (SAAR) - These are the specific anti-avoidance rules included in the domestic tax legislation which applies to the specific situations - Controlled Foreign Corporation (CFC) rules, Thin Capitalization rules, Transfer Pricing rules, Withholding Tax, Exit Tax etc.

**International Scenario on GAAR**

GAAR is a concept which generally empowers the Revenue Authorities in a country to deny the tax benefits of transactions or arrangements, which do not have any commercial substance or consideration other than achieving the tax benefit.

Legislatures in various countries are moving towards promulgating General Anti-Avoidance Rules to address the ongoing debate between illegal evasion and 'legal' avoidance, or what is termed as 'acceptable' and 'unacceptable' avoidance of tax.

Certain countries have a GAAR equivalent (Australia, Canada, South Africa, as well as several European countries) with varying complexity, apparent effectiveness and degrees of criticism of their operation.

**A Brief on the GAAR provisions of various countries:**

1. **United Kingdom**

Currently, there are no GAAR like provisions in UK Statutes.

In December 2010 the Government asked Graham Aaronson QC to lead a study that would consider whether General Anti-Avoidance Rule (GAAR) could deter and counter tax avoidance, whilst providing certainty, retaining a tax regime that is attractive to businesses, and minimising costs for businesses and HMRC, the UK Tax Department.

The report by Graham Aaronson QC was published on 21 November 2011. UK’s 2012 Budget accepted the Report’s recommendations, converting the General Anti Avoidance Rule to General Anti Abuse Rule. The UK Government announced that there would be a year’s consultation before bringing the legislation through the 2013 Finance Bill.

2. **Australia**

In Australia, application of GAAR is determined on the basis of 8 tests or factors.

"Part-IVA: the general anti-avoidance rule for income tax" of the Income Tax Assessment Act, 1936 (ITAA 1936) is the general anti-avoidance rule for income tax. It protects the integrity of the income tax system by ensuring that arrangements that have been contrived to obtain tax benefits will fail.

Generally speaking, Part IVA will only apply to an arrangement if the answer is yes to both of the following questions:

1. Did you obtain a tax benefit from a scheme – a benefit that would not have been available if the scheme had not been entered into?

2. Having regard to the eight matters specified in Part IVA would it be objectively concluded that you or any other person entered into or carried out the scheme, or any part of it, for the sole or dominant purpose of obtaining the tax benefit?

3. **United States (US)**

There is no provision like GAAR in the US statutes. US courts have applied five main common law doctrines to deny taxpayers desired tax benefits, i.e.

(1) economic substance;

(2) substance over form;

(3) step transaction;

"Most human beings have an almost infinite capacity for taking things for granted." - Aldous Huxley
4. Canada

Subsection 245(2) of the Income-tax Act states that where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that would result from that transaction or from a series of transactions that includes that transaction.

The Canadian Supreme Court had, in the case of Copthorne Holdings Ltd. v. Canada, 2011 SCC 63 observed that the general anti-avoidance rule scheme is set out in the Act and requires that three questions be decided: (1) was there a tax benefit; (2) was the transaction giving rise to the tax benefit an avoidance transaction; and (3) was the avoidance transaction giving rise to the tax benefit abusive.

An avoidance transaction is defined in subsection 245(3) as a single transaction or one that is a part of a series of transactions where the single transaction or the series results directly or indirectly in a tax benefit, unless the transaction is carried out primarily for bona fide purposes other than to obtain the tax benefit.

"Tax benefit" is defined to mean a reduction, avoidance or deferral of tax or other amount payable or an increase in a refund of tax or other amount under the Act.

5. South Africa

GAAR was introduced in 2006. In 2006, the Income Tax Act, 1962 was amended to introduce the general anti-avoidance rule (GAAR) which applies to ‘impermissible avoidance arrangements’.

The GAAR is contained in Part IIA of Chapter III of the Income Tax Act and specifically applies to impermissible avoidance arrangements.

Four requirements have to be fulfilled in order for GAAR to apply, namely-

(i) the existence of an arrangement;
(ii) the existence of a tax benefit (that is, an arrangement resulting in a tax benefit);
(iii) the sole or main purpose of the avoidance arrangement is to obtain a tax benefit; and
(iv) the avoidance arrangement is characterized by the presence of any one or more of four tainted elements for arrangements in the context of business and any one or more of three tainted elements for arrangements in the context other than business, which renders it an impermissible avoidance arrangement.

6. China

The new EITL (Enterprise Income Tax Law) which came into effect on 1st January 2008 includes a general anti-avoidance provision - (Article 47 of the EITL).

Article 47 of the EITL provides: “If an enterprise engages in a business arrangement without bona fide commercial purposes that results in reducing its taxable revenue or taxable income, the tax bureau has the right to make adjustments based on reasonable methods.”

GAAR in India

The GAAR provisions were introduced in 2009 through the first draft of the Direct Taxes Code (DTC). Subsequently, the provisions were introduced in the DTC Bill 2010. The Parliamentary Standing Committee on Finance had discussions with stakeholders and the Government has now deferred GAAR by one year from 2012 to 2013. The guidelines could now be notified once the Expert Committee on GAAR report is commented upon and selected comments are incorporated.

India, wanted to address the issues relating to tax avoidance and evasion by bringing in General Anti-Avoidance Rules (GAAR) in addition to various transaction-specific Special Anti-Avoidance provisions.

The Indian tax laws, though providing for specific anti-avoidance measures, did not have any general anti-avoidance rules or regulations. The Courts have over the years drawn out the general parameters and principles in outlining whether a transaction or scheme would be considered as tax avoidance/tax evasion or tax planning. In light of the various judicial precedents, the tax authorities in India raise the issue of tax avoidance.

Given the uncertainties involved in such application, the proposed GAAR was introduced.

A timeline of events in the introduction of GAAR are:

12 August 2009 - GAAR was introduced for the first time in the Direct Taxes Code Bill, 2009
30 August 2010 - Some modifications in Direct Taxes Code Bill, 2010
27 February 2012 - Committee was formed by CBDT to provide recommendations for formulating guidelines to implement the GAAR provisions and to draft a circular so as to ensure that GAAR is not applied indiscriminately.

“When eating bamboo sprouts, remember the man who planted them.” - Chinese Proverb
TAX & FINANCE

THE GENERAL ANTI-AVOIDANCE RULES (GAAR)

16 March 2012 - Finance Bill 2012 proposed to introduce GAAR from 1 April 2012
28 May 2012 - GAAR was deferred till 1 April 2013 on enactment of the Finance Bill 2012
28 June 2012 - Draft GAAR Guidelines were released by Government of India
13 July 2012 - Expert Committee (EC) on GAAR was constituted under the chairmanship of Dr. Parthasarathi Shome to vet and rework the GAAR Guidelines
1 September 2012 - Report of the Expert Committee is published
1 October 2012 - Final Report submitted by the Expert Committee to the Finance Minister though not released

GAAR Provisions In Finance Act 2012
The provisions relating to GAAR appear in Chapter X-A (sections 95 to 102) of the Finance Act 2012. As proposed, GAAR can be invoked once an arrangement is declared as an “impermissible avoidance arrangement”.

ARRANGEMENT:
Applies to an impermissible avoidance arrangement and “arrangement” means any step in, or a part or whole of, any transaction, operation, scheme, agreement or understanding, whether enforceable or not, and includes the alienation of any property in such transaction, operation, scheme, agreement or understanding;

IMPERMISSIBLE AVOIDANCE ARRANGEMENT:
An impermissible avoidance arrangement means an arrangement, the main purpose or one of the main purposes of which is to obtain a tax benefit and it—
   (a) creates rights, or obligations, which are not ordinarily created between persons dealing at arm’s length;
   (b) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;
   (c) lacks commercial substance or is deemed to lack commercial substance under section 97, in whole or in part; or
   (d) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for bona fide purposes.

PRESUMPTION OF PURPOSE:
An arrangement shall be presumed to have been entered into, or carried out, for the main purpose of obtaining a tax benefit, if the main purpose of a step in, or a part of, the arrangement is to obtain a tax benefit, notwithstanding the fact that the main purpose of the whole arrangement is not to obtain a tax benefit.

ARRANGEMENT TO LACK COMMERCIAL SUBSTANCE:
1) An arrangement shall be deemed to lack commercial substance if—
   (a) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or
   (b) it involves or includes—
      (i) round trip financing;
      (ii) an accommodating party;
      (iii) elements that have effect of offsetting or cancelling each other; or
      (iv) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of funds which is the subject matter of such transaction;
   (c) it involves the location of an asset or of a transaction or of the place of residence of any party which is without any substantial commercial purpose other than obtaining a tax benefit (but for the provisions of this Chapter) for a party.

2) For the purposes of sub-section (1), round trip financing includes any arrangement in which, through a series of transactions—
   (a) funds are transferred among the parties to the arrangement; and
   (b) such transactions do not have any substantial commercial purpose other than obtaining the tax benefit (but for the provisions of this Chapter), without having any regard to—
      (A) whether or not the funds involved in the round trip financing can be traced to any funds transferred to, or received by, any party in connection with the arrangement;
      (B) the time, or sequence, in which the funds involved in the round trip financing are transferred or received; or
      (C) the means by, or manner in, or mode through, which funds involved in the round trip financing are transferred or received.

3) For the purposes of this Chapter, a party to an arrangement shall be an accommodating party, if the main purpose of the direct or indirect participation of that party in the arrangement, in whole or in part, is to obtain, directly or indirectly, a tax benefit (but for the provisions of this Chapter) for the assessee whether or not the party is a connected person in relation to any party to the arrangement.

4) The following shall not be taken into account while determining whether an arrangement lacks commercial substance or not, namely:—
   (i) the period or time for which the arrangement (including operations therein) exists;
   (ii) the fact of payment of taxes, directly or indirectly, under the arrangement;
   (iii) the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement.

CONSEQUENCE OF IMPERMISSIBLE AVOIDANCE ARRANGEMENT:
1. If an arrangement is declared to be an impermissible

“Thanks are justly due for boons unbought.” - Ovid
avoidance arrangement, then the consequences, in relation to tax, of the arrangement, including denial of tax benefit or a benefit under a tax treaty, shall be determined, in such manner as is deemed appropriate, in the circumstances of the case, including by way of but not limited to the following, namely:—

(a) disregarding, combining or recharacterising any step in, or a part or whole of, the impermissible avoidance arrangement;
(b) treating the impermissible avoidance arrangement as if it had not been entered into or carried out;
(c) disregarding any accommodating party or treating any accommodating party and any other party as one and the same person;
(d) deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount;
(e) reallocating amongst the parties to the arrangement—
   (i) any accrual, or receipt, of a capital or revenue nature; or
   (ii) any expenditure, deduction, relief or rebate;
(f) treating—
   (i) the place of residence of any party to the arrangement; or
   (ii) the situs of an asset or of a transaction, at a place other than the place of residence, location of the asset or location of the transaction as provided under the arrangement; or
(g) considering or looking through any arrangement by disregarding any corporate structure.

For the purposes of sub-section (1),—

(i) any equity may be treated as debt or vice versa;
(ii) any accrual, or receipt, of a capital nature may be treated as of revenue nature or vice versa; or
(iii) any expenditure, deduction, relief or rebate may be recharacterised.

The provisions of this Chapter shall be applied in accordance with such guidelines and subject to such conditions and the manner as may be prescribed.

For the purposes of this Chapter, in determining whether a tax benefit exists—

(i) the parties who are connected persons in relation to each other may be treated as one and the same person;
(ii) any accommodating party may be disregarded;
(iii) such accommodating party and any other party may be treated as one and the same person;
(iv) the arrangement may be considered or looked through by disregarding any corporate structure.

“In this world of sin and sorrow there is always something to be thankful for; as for me, I rejoice that I am not a Republican.” - H.L. Mencken
VI. TYPES OF SECURITISATION:

1. Asset Back Securitisation (ABS):
   ABS are securities in which investors rely on the performance of the asset that collateralize the securities. E.g. credit card receivables.
   ABS derive their cash flows from a pool of underlying assets such as:
   i. CARS = certificates for automobile receivables
   ii. CARDS = certificates for amortizing revolving debts
   iii. HELS = home equity loan securities
   In ABS, the underlying assets are collected into a pool. The Pool assets are standardized. The asset pool is placed in trust. The Claims on the cash flows generated by the asset pool are structured either Pass-through structures or Multi-class structures. Later Securities representing these claims are sold.

2. Mortgage Backed Securities (MBS):
   A mortgage loan is a loan secured by real estate. The “mortgage” is a security agreement that gives the lender the right to seize by foreclosure the property securing the loan if the borrower defaults. Mortgage loans are originated by banks and other financial firms. Once originated, a mortgage loan may be held, sold to an investor for cash, or pooled and securitized.

3. Reverse Mortgage Loans:
   Reverse mortgage loans seeks to monetize the house as an asset specifically the owners equity in the house. The scheme involves the senior citizen mortgaging the house property to a lender who then makes periodic payments to the borrowers during his life time. The Borrowers are not required to service the loan during his life time and therefore and does not make monthly repayments.

4. Collateralized debt obligations (CDOs):
   CDOs are a type of structured asset-backed security (ABS) with multiple “tranches” that are issued by special purpose entities and collateralized by debt obligations including bonds and loans.
   A collateralized bond obligation (CBO) has bonds and bond-like instruments as collateral
   A collateralized loan obligation (CLO) has loans as collateral.

VII. INDIAN SECURITISATION MARKET:

Characteristics of Securitization market in India:

- Preference for highest rated tranches.
- Investors appetite is restricted to senior tranches that carry the highest ratings – AAA
- Originators retain the junior tranches as unrated paper.
- Domination of ABS.
- The growth of MBS was hindered by the low investor appetite for longer tenor assets.
- CDOs have also not taken off as they are unattractive to the originators due to high level of credit enhancement needed.
- Absence of active secondary market for securitized debt.

Asset Back Securitisation (ABS)

The number of ABS issues increased significantly by 58% in FY2012 to 178 transactions. However, in value terms, the increase was only 19% over FY2011. The average deal size was lower at ₹146 crore in FY2012 compared to ₹193 crore in FY2011. This was on account of higher number of Microfinance transactions executed in FY2012 at 65 that was about twice the issuance in FY2011 at 34.

Commercial Vehicle (CV) / Construction Equipment (CE) loans continue to dominate ABS space

“One of these days is none of these days.” - Attributed to both Henri Tubach and H.G. Bohn
Residential Mortgage-Backed Securitisation
The number of RMBS issuances increased to 22 in FY2012 along with an increase of 53% in value terms. However, the average deal size marginally reduced to ₹ 349 crore in FY2012 from ₹ 359 crore in FY2011. RMBS segment continued to be highly concentrated with HDFC and Dewan Housing Finance, which together contributed to about 85% of all issuances.

Trends in Securitisation:
During FY2012, the securitisation market in India grew by 15% over the previous year, in value terms. The number of transactions was also 32% higher in FY2012 than in the previous fiscal. The number and volume of retail loan securitisation (both ABS and RMBS together), was the highest in FY2012 compared to previous fiscals, while the Loan Sell Off (LSO) issuance was the lowest ever.

VIII. UPDATE ON KEY REGULATORY CHANGES IMPACTING SECURITISATION:
1. Master Circular by the RBI on Lending to Priority Sector (July 2011):
In this circular, the RBI clarified that the investments made by bank in securitised assets or outright purchase by banks of any loan asset, shall be eligible for classification under the respective categories of priority sector provided the underlying loans qualified as priority sector advances prior to securitisation or sale.

2. Income tax authorities’ notice for taxation of SPVs:
   • During FY2012, the income tax authorities sent notices to trustees of several securitization transactions—which the trustees in turn passed on to the investors, i.e., mutual fund houses—as asking them to pay tax on income generated through pass through certificates (PTCs).
   • MFs filed petitions in the Bombay HC, seeking a relief from the tax claim and attachment of their accounts—given that MFs are exempt from income tax.
   • The Bombay High Court passed a stay order. Though the matter is sub-judice, the fund houses have been skeptical about investing in securitised instruments till the matter is sorted out.
   • Securitisation transactions in India basically operate on the premise that the beneficiaries of the SPV—typically a trust—will offer the income earned from the investment to tax, and thus the income should not be taxed at the level of the trust.
   • It is an important factor for determining the future of securitisation going forward.

3. Guidelines on Securitisation and Direct Assignment Transactions (May 2012)
   • The RBI has issued separate guidelines for Direct Assignment transactions.
   • Prohibits the credit enhancement for direct assignment transactions.
   • It stipulates the Minimum Holding Period (MHP) for Originators before off-loading the receivables and a Minimum Retention Requirement (MRR) through the tenure of the transaction.
   • It will impact on the issuance volumes as well as the nature of the transaction structures adopted.

4. Nair Committee report on re-examining and suggesting revision with respect to Priority Sector classification and related issues (February 2012)
The M.V. Nair Committee set up by RBI, in its report submitted in February 2012, recommended that bilateral assignment of loans and securitisation should continue to be allowed to be classified as priority sector provided the underlying asset is eligible for classification under priority sector advances. Also, it talks of clear due diligence criteria for assets acquired through NBFCs, which is a positive. Moreover, increasing the priority sector targets for foreign banks from 32% to 40% would increase the funding avenues for various entities that want to avail priority sector benefits.

Nevertheless, these benefits have to be seen in the light of—
   a) Overall cap of 5% of Adjusted net bank

“Genius is nothing but a great aptitude for patience.” - George-Louis de Buffon
credit (ANBC) on priority sector bank lending through non bank financial intermediaries—which includes portfolio buy-outs and investment in securitization instruments.

Given that several banks, particularly private sector banks have been investing in securitisation or Direct Assignment transactions to meet their PSL targets, this move would have an adverse impact on the buying appetite of banks that were exceeding the 5% cap. This in turn could adversely affect the ability of the Originating NBFCs to securitise their portfolios.

b) Proposed interest spread cap of 6% for NBFC-AFCs and 3.5% for HFCs

This recommendation is likely to have an impact on securitisation of certain asset classes like Microfinance loans and SME Loans, where the interest spread has been observed to be higher than 6%. Barring a handful of transactions, most microfinance transactions have an interest spread greater than 6% and in some cases the spread has been observed to be higher than 10% also- this is primarily due to high interest rate on the underlying loans, which is typically in the range of 22%-26%.

c) Capping of off-balance sheet exposure (of NBFCs) at 35%

This is likely to have an immediate bearing on the portfolio of 3-4 large NBFCs that have off-balance sheet exposure exceeding 35%.

d) Also, the committee’s recommendation is to continue to exclude loans against gold jewellery from priority sector advances

Hence the attractiveness of this asset class for securitisation is expected to remain low.

IX: BENEFITS

a) Benefits to Originator

- Raising fund at a cheaper rate
- Increases Borrowing Capacity
- Improves Profitability
- Diversification of credit risk
- Reduces Asset- Liability mismatch

b) Benefits to Investors

- Portfolio Diversification
- Higher yields and good liquidity
- Flexibility and Less Volatile
- Aligned as per investor needs

References:

- Securitisation: The Financial Instrument of the New Millennium by Mr. Vinod Kothari
- Securitization: The Tool of Financial Transformation - Yale ICF Working Paper by Frank J. Fabozzi and Mr. Vinod Kothari
- ICRA RATING FEATURE May 2012
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December, 2012
# COMPLIANCES FOR THE MONTH OF JANUARY

**CS Hemant V. Pandya, Practising Company Secretary, Mumbai**

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TAX RELATED COMPLIANCES</strong></td>
<td><strong>CENTRAL EXCISE ACT RELATED COMPLIANCE</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Pay excise duty on the goods removed from the factory or warehouse for the previous month</td>
<td>Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>January 5</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Pay excise duty on the goods removed from the factory or warehouse for the previous month (E-payment)</td>
<td>Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>January 6</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>3</td>
<td>Submit monthly Central Excise E.R.1 Return (E.R. 2 return for 100% EOU / units in FTZ / SEZ)</td>
<td>Rule 12 (1) / 17 (3)</td>
<td>Central Excise Rules, 2002</td>
<td>January 10</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Submit monthly return return by manufacturer of Final Product (N.A. for SSI)</td>
<td>Rule 9(7)</td>
<td>CENVAT Credit Rules, 2004</td>
<td>January 10</td>
<td>Supriadent of Central Excise</td>
</tr>
<tr>
<td>5</td>
<td>Submit return containing information of principal input for the preceding month E.R.6</td>
<td>Rule 9A</td>
<td>CENVAT Credit Rules, 2004</td>
<td>January 10</td>
<td>Supriadent of Central Excise</td>
</tr>
<tr>
<td>6</td>
<td>Submit monthly Return for avallment of CENVAT Credit for preceding month in Form No. ER.11</td>
<td>Rule 9(7) &amp; Rule 12</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>January 10</td>
<td>Supriadent of Central Excise</td>
</tr>
<tr>
<td>7</td>
<td>Submit monthly return for receipt of inputs &amp; capital goods for the preceding month in Form No. E.R.2</td>
<td>Rule 9(7) &amp; Rule 12</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>January 10</td>
<td>Supriadent of Central Excise</td>
</tr>
<tr>
<td>8</td>
<td>Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year</td>
<td>Second Proviso to Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>January 15</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>9</td>
<td>Monthly payment of excise duty for the preceding month SSI Units</td>
<td>Rule 8</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>January 15</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>10</td>
<td>Monthly payment of excise duty for the preceding month SSI Units in (E-payment)</td>
<td>Rule 8</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>January 16</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>11</td>
<td>Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year (E-payment)</td>
<td>Second Proviso to Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>January 16</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>12</td>
<td>Submit Central Excise Quarterly Retrun, Where an assessee is availing exemption under a notification based on the value of clearances in a financial year OR manufacturing processed yarn, specified ready made garments (instead of submitting monthly return)</td>
<td>Rule 12(1) provision</td>
<td>Central Excise Rules, 2002</td>
<td>January 20</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>13</td>
<td>Submit quarterly return where a manufacturer is availing exemption under a notification based on value or quantity of clearances in a financial year</td>
<td>Rule 9 (7)</td>
<td>CENVAT Credit Rules, 2004</td>
<td>January 20</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>14</td>
<td>Quarterly Return for first stage dealer and second stage dealer for the period October to December in Form No. ER -3</td>
<td>Rule 9(8)</td>
<td>Cenvat Credit Rules, 2004</td>
<td>January 20</td>
<td>Supriadent of Central Excise</td>
</tr>
</tbody>
</table>

**INCOME TAX RELATED COMPLIANCE**

<table>
<thead>
<tr>
<th>Sr. No</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Deposit TDS from salaries for the previous month in Challan No. 281</td>
<td>Section 192</td>
<td>Income Tax Act, 1961</td>
<td>January 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Deposit TDS on interest on Securities, Dividends other than dividends referred to in Section 115O, Interest other than interest on Securities, Winnings from Lotteries &amp; crossword puzzles, Winning from Horse Races</td>
<td>Section 193, Section 194 to Section 194BB</td>
<td>Income Tax Act, 1961</td>
<td>January 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
</tbody>
</table>

*“Every duty which is bidden to wait returns with seven fresh duties at its back.” - Charles Kingsley*
**DATES TO REMEMBER**

**Compliance Calendar**

1. **Deposit TDS on Contractor's Bill / Rent Advertising / Professional Service Bill deduced in the previous month**
   - Section 194C to 194H
   - Income Tax Act, 1961
   - January 7
   - Designated Bank / Income Tax Authorities

2. **Deposit TDS on payment to non-resident, Foreign company being holder of mutual fund units, Units held by an offshore fund, Income from foreign currency bond, Income of FIIs from securities**
   - Section 195, Section 196 A to 196 D
   - Income Tax Act, 1961
   - January 7
   - Designated Bank / Income Tax Authorities

3. **Payment of Tax Collected at Source**
   - Section 206
   - Income Tax Act, 1961
   - January 7
   - Designated Bank / Income Tax Authorities

4. **Payment of Securities Transaction Tax for the previous month**
   - (Challan No. ITNS 283)
   - Section 100
   - Income Tax Act, 1961
   - January 7
   - Designated Bank / Income Tax Authorities

5. **File TDS/TCS quarterly statements in Form 24Q/26Q/27Q for the months October to December**
   - Income Tax Act, 1961
   - January 15
   - Income Tax Authorities

6. **Issue Annual TDS Certificates in Form 16A to vendors (where monthly certificates not given)**
   - Section 203
   - Income Tax Act, 1961
   - January 31
   - Income Tax Authorities

7. **Banking company to furnish return of interest payment without TDS for quarter October to December**
   - in Form 27QAA
   - Section 206A(1) & Rule 31AC
   - The Finance Act, 1994 read with The Service Tax Rules, 1994
   - January 31
   - Income Tax Authorities

**FINANCE ACT & SERVICE TAX RELATED COMPLIANCE**

1. **Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7**
   - Section 68 read with Rule 6
   - The Finance Act, 1994 read with The Service Tax Rules, 1994
   - January 5
   - Service Tax Authorities

2. **Pay Service tax collected during the previous quarter by individuals, proprietors and partnership firms in G.A.R-7**
   - Section 68 read with Rule 6
   - The Finance Act, 1994 read with The Service Tax Rules, 1994
   - January 5
   - Service Tax Authorities

3. **Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7 (E-payment)**
   - Section 68 read with Rule 6
   - The Finance Act, 1994 read with The Service Tax Rules, 1994
   - January 6
   - Service Tax Authorities

**THE MAHARASHTRA STATE TAX RELATED COMPLIANCE**

1. **Submit monthly / quarterly return and payment of tax for the previous month/ quarter in Form 209 by Dealer to whom a certificate of Entitlement has been granted for availing incentives by way of exemption**
   - Rule 18
   - The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder
   - January 1
   - Sales Tax Authorities

2. **Submit monthly return and pay tax for the previous month (if tax liability during the previous year exceeds Rs. 1 Lakh)**
   - Rules 17 / 18 and 41
   - The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder
   - January 25
   - Sales Tax Authorities

3. **Submit half yearly return for the period July to December (if tax liability during previous year does not exceed Rs. 36 thousand)**
   - Rules 17 / 18 and 41
   - The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder
   - January 25
   - Sales Tax Authorities

4. **Submit quarterly return (if tax liability during the previous year exceeds Rs. 36 thousand but is upto Rs. 1 Lakh)**
   - Rules 17 / 18 and 41
   - The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder
   - January 25
   - Sales Tax Authorities

5. **Submit monthly return of Professional Tax if tax liability is Rs. 20 thousand or more in Form No. III (Return-cum-challan)**
   - Rule 11 (3) (c)
   - The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975
   - January 31
   - Profession tax Authorities

6. **Submit quarterly return if Professional tax liability of Rs.5 thousand or more but less than Rs. 20 thousand**
   - Rule 11 (3) (b)
   - The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975
   - January 31
   - Profession tax Authorities

“Anyone can do any amount of work, provided it isn’t the work he is supposed to be doing at that moment.” - Robert Benchley
<table>
<thead>
<tr>
<th>Date</th>
<th>Task Description</th>
<th>Reference/Act</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>Credit Professional Tax deducted in the previous month in Form III</td>
<td>Rule 17 The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975</td>
<td>Within 15 days of such deduction</td>
</tr>
<tr>
<td>7</td>
<td>Payment of monthly Provident Fund dues (Corporate) for previous month in prescribed challan</td>
<td>Section 418 Companies Act, 1956</td>
<td>January 15</td>
</tr>
<tr>
<td>1</td>
<td>Pay monthly Provident Fund dues (non-corporate)</td>
<td>Paragraph 38 Employees’ Provident Funds Scheme, 1952</td>
<td>January 15</td>
</tr>
<tr>
<td>2</td>
<td>File monthly return for employees leaving in form No. 10/ joining in form No. 5 during the previous month i.e. December</td>
<td>Paragraph 20(2) read with Paragraph 36(1) &amp; (2) The Employees Pension Scheme, 1995 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>January 15</td>
</tr>
<tr>
<td>3</td>
<td>File monthly return in Form no. 2(IF) of employees entitled for membership of Insurance Fund</td>
<td>Paragraph 10 The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>January 15</td>
</tr>
<tr>
<td>4</td>
<td>File monthly return in Form no. 3(IF) for members of Insurance Fund leaving service during the previous month i.e. December</td>
<td>Paragraph 10 The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>January 15</td>
</tr>
<tr>
<td>6</td>
<td>File monthly return in Form no. F4(F5) of members joining service during the month</td>
<td>Paragraph 10 The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>January 15</td>
</tr>
<tr>
<td>8</td>
<td>Notice of Change relate in respect of total number of employees qualifying for higher fees as prescribed in Schedule-II Within 15 days after the expiry of the quarter to which the changes take place and in respect of other changes in the original statement furnished within 30 days after the change has taken place in Form E</td>
<td>Rule 8 Shop &amp; Establishments Act, 1967</td>
<td>January 15 (Within 15 days after the expiry of the quarter to changes take place)</td>
</tr>
<tr>
<td>9</td>
<td>Pay ESI contribution for previous month i.e. December</td>
<td>Regulation 31 Employee State Insurance Act, 1948 Employees State Insurance (Gen) Regulations,</td>
<td>January 21</td>
</tr>
<tr>
<td>10</td>
<td>Submit monthly return of Provident Fund for the previous month in Form 12A</td>
<td>Paragraph 38 Employees’ Provident Funds Scheme, 1952</td>
<td>January 25</td>
</tr>
<tr>
<td>11</td>
<td>Submit return to the State Pollution Control Board regarding disposal of Hazardous Waste in Form 4</td>
<td>Rule 9(2) The Hazardous Waste (Management &amp; Handling) Rules, 1989</td>
<td>January 31</td>
</tr>
</tbody>
</table>

“There are a million ways to lose a work day, but not even a single way to get one back.” - Tom DeMarco and Timothy Lister
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Compliance Code</th>
<th>Authority/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 December, 2012</td>
<td>Submit return regarding auction/sale of waste used oil to the State Pollution Control Board in Form 13</td>
<td>Rule 20 (5)</td>
<td>The Hazardous Waste Management &amp; Handling Rules, 1989 January 31 State Pollution Control Board</td>
</tr>
<tr>
<td>13 January 31</td>
<td>Submit an “Annual Report” for the preceding year to the Prescribed Authority in Form 11</td>
<td>Rule 10</td>
<td>The Bio Medical Waste Management &amp; Handling Rules, 2000 Authority Prescribed by State Government under Rule 6</td>
</tr>
<tr>
<td>14 Within 10 days from the date of receiving the relevant papers</td>
<td>Submit return of declaration in Form 3 &amp; 1-A</td>
<td>Regulation 14</td>
<td>Employees State Insurance General Regulations, 1950 ESIC Authority</td>
</tr>
<tr>
<td>15 Within 15 days of receipt of application</td>
<td>Issue Notice for payment of Gratuity and Notice for Inadmissible claim in Form L&amp;M</td>
<td>Section 8</td>
<td>Payment of Gratuity Act, 1972 Applicant employee or legal heir</td>
</tr>
</tbody>
</table>

### RBI (NBFC) RELATED COMPLIANCES

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Compliance Code</th>
<th>Authority/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 January 7</td>
<td>File return of exposure of capital markets in Form NBS-6</td>
<td>Para 22</td>
<td>NBFC-D Prudential Norms Directions, 2007 RBI</td>
</tr>
<tr>
<td>2 January 7</td>
<td>File a monthly return in prescribed format (NBC-ND)</td>
<td>Circular No. DNBS (RID) CC No. 57/02.02.15/2005-06</td>
<td>Department of Non-Banking Supervision, RBI</td>
</tr>
<tr>
<td>3 January 15</td>
<td>File liquidity return in Form NBS-3 (by NBFC)</td>
<td>Para 2 &amp; 3</td>
<td>RBI (NBFC) Returns Specifications, 1997 RBI</td>
</tr>
<tr>
<td>4 January 15</td>
<td>To file a quarterly return on frauds outstanding, if any, in Form FMR-2 (NBFC)</td>
<td>Circular No. DNBS (PD) CC No. 59/03.10.42/2005-06</td>
<td>Department of Non-Banking Supervision, RBI RBI</td>
</tr>
<tr>
<td>5 January 15</td>
<td>Submit a case wise progress report on frauds involving Rs. 1 Lakh and more, if any, in Form FMR-3 (NBFC)</td>
<td>Circular No. DNBS (PD) CC No. 59/03.10.42/2005-06</td>
<td>Department of Non-Banking Supervision, RBI RBI</td>
</tr>
</tbody>
</table>

### SEBI RELATED COMPLIANCES

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Compliance Code</th>
<th>Authority/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 January 7</td>
<td>Submit a quarterly report for grievance of the beneficial owners related to depository services</td>
<td>Regulation 53B read with NSDL Circular No. NSDL/ JS/029/2003 SEBI Depositories and participants Regulations, 1996 RBI</td>
<td></td>
</tr>
<tr>
<td>2 January 7</td>
<td>Submit quarterly certificate on demat/remat of shares during the previous quarter</td>
<td>Regulation 54(5) read with NSDL Circular No. NSDL/ SC/015/99</td>
<td>SEBI (Depositories and participants) Regulations, 1996 RBI</td>
</tr>
<tr>
<td>3 January 15 (Tenative)</td>
<td>The asset management company shall submit to the trustees quarterly reports on its activities and the compliance with these regulations.</td>
<td>Regulation 25</td>
<td>SEBI (Mutual Funds) Regulations, 1996 amended 2000 Board / Stock Exchange</td>
</tr>
<tr>
<td>4 January 15 (Tenative)</td>
<td>A quarterly portfolio statement, including changes from the previous periods, for each scheme.</td>
<td>Regulation 58</td>
<td>SEBI (Mutual Funds) Regulations, 1996 amended 2000 Board / Stock Exchange</td>
</tr>
<tr>
<td>5 January 31</td>
<td>Secretarial Audit Report of reconciliation of total admitted capital with depositories and total issued and listed capital for the previous quarter</td>
<td>SEBI Circular No. DFCC/FIPPC/Cir-16/2002</td>
<td>Regulation 55 A of the SEBI (Depositories and Participants), Regulations, 1996 Stock Exchanges</td>
</tr>
<tr>
<td>6 within 2 days of receipt of intimation of allotment or acquisition of shares</td>
<td>Obtaining annual disclosure of shareholdings from Directors, Designated employees and their dependants</td>
<td>Regulation 13(3)</td>
<td>SEBI (Prohibition of Insider Trading) Regulations, 1992 Compliance Officer of the Company</td>
</tr>
<tr>
<td>7 January 31</td>
<td>Quarterly Certificate regarding paid up-listed-dematerialized share capital (Reconciliation Audit)</td>
<td>Regulation 55A</td>
<td>SEBI (Depositories &amp; Participants) Regulations, 1996 Stock Exchanges/NSEDL/CDSL</td>
</tr>
<tr>
<td>8 Upon end of the quarter</td>
<td>Furnish Internal Audit report every quarter</td>
<td>Rule10.3.1 of NSDL Bye-laws &amp; Rule 16.3.1 of CDSL Bye-laws</td>
<td>NSDL/CDSL Bye-laws NSDL/CDSL</td>
</tr>
</tbody>
</table>

### LISTING AGREEMENT RELATED COMPLIANCES

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Compliance Code</th>
<th>Authority/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 January 15</td>
<td>Submit Quarterly Corporate Governance Compliance Certificate</td>
<td>Clause 49 (V) (ii)</td>
<td>Listing Agreement January 15 Stock Exchanges</td>
</tr>
</tbody>
</table>

"Only Robinson Crusoe had everything done by Friday." - Author Unknown

December, 2012
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
<th>Clause</th>
<th>Listing Agreement</th>
<th>Timings</th>
<th>Responsible Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Submit shareholding pattern as at the end of previous quarter</td>
<td>Clause 35</td>
<td>Listing Agreement</td>
<td>January 21</td>
<td>Stock Exchanges</td>
</tr>
<tr>
<td>3</td>
<td>Intimate date of Board Meeting to consider quarterly results</td>
<td>Clause 41</td>
<td>Listing Agreement</td>
<td>7 Days in advance</td>
<td>Stock Exchanges</td>
</tr>
<tr>
<td>4</td>
<td>Issue press release about Board Meeting to consider quarterly results</td>
<td>Clause 41</td>
<td>Listing Agreement</td>
<td>Immediately on informing the Stock Exchange</td>
<td>One national newspaper and one regional newspaper</td>
</tr>
<tr>
<td>5</td>
<td>Announce Quarterly Results along with Limited Audit Review of the same by the Auditors</td>
<td>Clause 41</td>
<td>Listing Agreement</td>
<td>Within 15 minutes of closure of Board Meeting in which the results are placed</td>
<td>Stock Exchanges</td>
</tr>
<tr>
<td>6</td>
<td>Publish Quarterly Results</td>
<td>Clause 41</td>
<td>Listing Agreement</td>
<td>Within 48 hours of the conclusion of the Board Meeting</td>
<td>One English newspaper and one regional newspaper</td>
</tr>
<tr>
<td>7</td>
<td>Submit half yearly Compliance Certificate from the Company Secretary</td>
<td>Clause 47 (c)</td>
<td>Listing Agreement</td>
<td>Within 24 hours of receipt of the certificate by the Company</td>
<td>Stock Exchanges</td>
</tr>
<tr>
<td>8</td>
<td>Submit 3 copies of quarterly results signed by the Managing Director and newspaper cuttings of quarterly results</td>
<td>Clause 31 (c)</td>
<td>Listing Agreement</td>
<td>Promptly on publishing quarterly results in newspaper</td>
<td>Stock Exchanges</td>
</tr>
<tr>
<td>9</td>
<td>Submit shareholding pattern, annual Corporate Governance Report, Quarterly Results, Half yearly financial statements, Statement of action taken against the company by any regulatory agency and full version of annual report (P.S. that Company need not submit these reports on EDIFAR if this clause is complied)</td>
<td>Clause 52</td>
<td>Listing Agreement</td>
<td>Within such time as specified by SEBI</td>
<td>SEBI Corporate Filing and Dissemination System (CFDS), viz., <a href="http://www.corpfiling.co.in">www.corpfiling.co.in</a></td>
</tr>
</tbody>
</table>

Though all precautions have been taken in compiling this calendar, WIRC of ICSI should not be held responsible in case of any discrepancy. In case of doubt, please refer to relevant law/rules.

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**SAY CHEESE !!!**

**Smile Please**

*Why you and the boss are totally different*

- When you take a long time, you’re slow.
- When your boss takes a long time, he’s thorough.
- When you don’t do it, you’re lazy.
- When your boss doesn’t do it, he’s too busy.
- When you make a mistake, you’re an idiot.
- When your boss makes a mistake, he’s only human.
- When doing something without being told, you’re overstepping your authority.
- When your boss does the same thing, that’s initiative.
- When you take a stand, you’re being bull-headed.
- When your boss does it, he’s being firm.
- When you overlooked a rule of etiquette, you’re being rude.
- When your boss skips a few rules, he’s being original.
- When you please your boss, you’re apple polishing.
- When your boss pleases his boss, he’s being co-operative.
- When you’re out of the office, you’re wandering around.
- When your boss is out of the office, he’s on business.
- When you’re on a day off sick, you’re always sick.
- When your boss is a day off sick, he must be very ill.
- When you apply for leave, you must be going for an interview.
- When your boss applies for leave, it’s because he’s overworked.

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**GOOD BYE 2012**  
**WELCOME 2013**

“Time does not change us. It just unfolds us.” – Max Frisch
ICSI – WIRC’S ANDHERI STUDY CIRCLE MEETING
Date: 25th November 2012
Venue: Andheri, Mumbai
Topics: Meeting on Effective Appearing before SAT, SEBI, CLB, RD
Chief Guest / Speakers: Dr. S.K. Jain, Practising Company Secretary
Delegates: 44 participants

ICSI – WIRC’S SEMINAR ON LOAN DOCUMENTATION
Date: 24th November, 2012
Venue: WIRC premises, Mumbai
Topics: Seminar on Loan Documentation
Chief Guest / Speakers: Shri M V Phadke, General Manager – Legal, IDBI Bank
Delegates: 44 participants

ICSI – WIRC’S DADAR STUDY CIRCLE MEETING
Date: 3rd November, 2012
Venue: Dadar
Topics: Case Studies of Investigation under FUPT & Insider Trading
Chief Guest / Speakers: Ms. Barnali Mukherji, Adj. Officer, SEBI
Delegates: 44 participants

BHAYANDER STUDY CIRCLE MEETING ON VARIOUS INVESTMENT AVENUES FOR GOLD
Date: 18th November, 2012
Venue: Reena Mehta college of commerce & management studies, Bhayander
Topics: Various Investment Avenues for Gold
Chief Guest / Speakers: Mr. Balwant Jain, Chief Finacial Officer and Company Secretary (Apna Paise Private Ltd)
Delegates: 7
Other features: CS Uma Mondal and Mr. Balwant Jain were also present at the meeting

ICSI – WIRC’S SEMINAR ON IPR, TRADEMARK & PATENT
Date: 10th November, 2012
Venue: ICSI-WIRC Premises, Nariman Point, Mumbai

“IT is an undoubted truth, that the less one has to do, the less time one finds to do it in.” - Earl of Chesterfield
NEWS & EVENTS

AURANGABAD CHAPTER OF ICSI EVENT: FULL DAY WORKSHOP

Date: 3rd November, 2012
Venue: Hotel Keys, Padampura Circle, Aurangabad
Topics: Recent Supreme Court Judgment related with issue of shares and other critical issues of Company Law
Chief Guest / Speakers: Shri Suresh Thakur Desai, Past Chairman, Shri Sanjay Kher, IPR – Lawyer, Shri Nayan Rawal, Advocate
Delegates: 30 participants
Other features: The chapter has organized Full day CS Mahesh Singhi, Secretary, CS Ashish Gupta. CS Anurag Geete, CS AR Joshi and many senior and young members and students were participated in the workshop.

AURANGABAD CHAPTER OF ICSI EVENT: FULL DAY STUDENT’S CONFERENCE

Date: 10th November, 2012
Venue: Hotel Atithi, Jalna Road, Aurangabad
Topics: Regional Student’s Conference (Full Day)
Chief Guest / Speakers: CS Dr. K.R. Chandratre, Past President of ICSI
Delegates: 65 Total participants (Members and Students) 55 were present in the programme.
Other features: The chapter has organised Full day CS Mahesh Singh, Secretary, CS Ashish Gupta. CS Anurag Geete, CS AR Joshi and many senior and young members and students were participated in the workshop.

GOA CHAPTER REGIONAL STUDENTS CONFERENCE AND INVESTOR AWARENESS PROGRAMME JOINTLY WITH WIRC

Date: 17th November, 2012
Venue: Goa State Museum Auditorium, Panaji, Goa
Topics: Student Issues and Investor Awareness
Chief Guest / Speakers: Cs Francisco Dias, CS Pravin Satardekar Jyoti Bandekar, CS Kevin Fernandes CS Sarita D’souza, CA Satya Kamath Amey Hegde, CS Kevin Fernandes
Delegates: Student Conference: Target 40 – Attendance – 26 Investor Awareness: Attendance – 36
Other features: Meritorious Students during Academic Year 2012 were Felicitated

ICSI – WIRC JOINTLY WITH NAGPUR CHAPTER & CSBF & INVESTOR AWARENESS PROGRAMME

Date: 3rd November, 2012
Venue: Gurunanak Bhavan Auditorium, Nagpur
Topics: CSBF fund Raising and Investor Awareness programme
Delegates: 250 participants

PUNE CHAPTER OF ICSI PARTICIPATION IN PUNE BUS DAY

Date: 1st November, 2012
Venue: Pune
Topics: Participation in Pune Bus Day
Chief Guest / Speakers: CS Nesar Ahmed, President ICSI
Delegates: 5+
Other features: Programme organized by Sakal Papers, Pune

PUNE CHAPTER OF ICSI SEMINAR ON PEER REVIEW & ICSI GUIDELINES

Date: 2nd November, 2012
Venue: Hotel President, Pune
Topics: Seminar On Peer Review & ICSI Guidelines
Chief Guest / Speakers: CS Umesh Ved, Central Council Member, ICSI
Delegates: 62
Other features: Two (2) PCH was allotted to members who attended this programme.

PUNE CHAPTER OF ICSI CAREER FAIR BY EDUCATION TIMES 2012

Date: 25th & 26th November, 2012
Venue: Hotel Sun n Sand, Pune
Topics: To apprise students about CS Course
Delegates: 150+
Other features: Around 200 Brochures were circulated among students/parents

“The two rules of procrastination: 1) Do it today. 2) Tomorrow will be today tomorrow.” - Author Unknown
HEALTH TIPS OF THE MONTH

Diabetes & High Blood Pressure are behind most Kidney Failure
Dr. Mita Shah & Dr. Bharat Shah, Trustees, Narmada Kidney Foundation

Diabetes & High BP are also known to many other dreadful complications besides Kidney Failure.
• Heart attack
• Paralytic attack
• Blindness
• Repeated infections
• Gangrene of hands and feet

Unfortunate reality- Despite the dreadful complications known to result from Diabetes & High B.P., the treatment is far from adequate.

What is the Solution?
1. Prevention of DM, HTN
2. Early Detection
3. Good Management of Blood Sugars & Blood Pressure

1. Prevention of Diabetes & High BP
For prevention one needs to know who are at high risk of developing Diabetes & High BP.

Who are at Risk?
• Obesity
• Positive Family History
• Smoking & Tobacco in any form
• Those who develop High Blood Sugars during stress (surgery or infections) / on some medicines (e.g. steroids)
• Ladies who get High Sugars during pregnancy.

2. Early Detection
Regular Screening is important as majority do not have any symptoms in early stage.
• All above 30 years of age- Once/ year
• High risk individuals - may require frequent screening.

3. Good Management of Blood Sugars & Blood Pressure
Good Management of both these conditions will help prevent complications.

Our Observation at Narmada Kidney Foundation
We work hard to create awareness about prevention of Kidney disease. We regularly visit societies & corporate offices to educate members about DM and HTN. The educational talk is followed by a check of Body mass index (BMI), BP and random blood sugar. Total Data of 1100 people have been analyzed so far & following is our observation.
• 74 % were found overweight & obese
• 23 % were found Diabetic
• 38 % were found Hypertensive

Amongst Diabetics –
• 15 % of diabetics were unaware (Newly detected)
• 85 % were aware of having diabetes but 37% of those had uncontrolled sugars.

Amongst Hypertensives –
• 38 % of HTN were unaware (Newly detected)
• 62 % were aware of having HTN but 40% of those had uncontrolled BP.

Top 5 advantages of Prevention of Diabetes & High B.P.
1. Feeling of Wellbeing
2. Low risk for developing Chronic Kidney Disease (CKD)
3. Low risk for developing Heart Disease.
4. Low Risk of Developing Paralysis
5. Can keep your Organs Healthy to be able to gift or Pledge to Donate after Death.

Top 5 advantages of Prevention of Chronic Kidney Disease
1. Feeling of Wellbeing
2. You can avoid frequent Hospitalizations & associated Expenses
3. You can eventually avoid expensive treatment in the form of dialysis/ Kidney Transplantation.
4. No Need to look for a Kidney Donor
5. Healthy Kidneys can be Gifted or Pledged to Donate after Death

(Organ Donor Cards are available at Foundation office / foundation website)

For More Information prevention of kidney disease, kidney related illnesses & organ donation visit www.namadakidney.org, or call 022 28254147
Dr. Mita Shah & Dr. Bharat Shah
Trustees, Narmada Kidney Foundation
Diabetes Kidney Clinic
Anil Clinic (Andheri -East) & Global Hospital (Parel )

“I’ve been looking over the list of spring chores I made up last fall, and darned if they aren’t fall chores, after all.” - Robert Brault, www.roberthraul.com

December, 2012
Teamwork – Master Key To Success  

CS Amar Kakaria, Company Secretary

Teamwork is the ability to work as a group toward a common vision, even if that vision becomes extremely blurry. It is often said that Teamwork helps to divide the task, but multiplies success manifold. In today’s competitive scenario, we shall find numerous instances where everyone is expected to work as a member of a team. While it is possible that we may be good at working proficiently as an individual, it helps significantly if we are aware of attributes that are applicable while working in a team.

Teamwork is defined in Webster’s New World Dictionary as “a joint action by a group of people, in which each person subordinates his or her individual interests and opinions to the unity and efficiency of the group.” Following 12 key attributes can keep us better-equipped for working as a valuable member of a team and we shall be able to get our share of appreciation by standing out amongst all team members.

1) Actively participate
Good team players are active participants. They come prepared for team meetings and listen and speak up in discussions. They are fully engaged in the work of the team and do not sit passively on the sidelines. Team members who function as active participants take the initiative to help make things happen; and they volunteer for assignments.

2) Listen attentively
Attentive listening is a very evident requirement, but surprisingly very few people actually practice it. Teams need members who can absorb, understand and consider ideas and points of view from other members. For effective communication and problem solving, team members need the discipline to listen first and speak thereafter so that it can result into a meaningful and productive dialogue.

3) Communicate constructively
Teams need members who speak up and express their thoughts and ideas concisely and precisely. As a team member, he does not shy away from making a point but makes it in the best possible way — in a positive, productive and respectful manner.

4) Demonstrate reliability
Every team member is usually assigned a task and he needs to perform accordingly. Co-members usually count on a reliable team member who gets work done and displays the required effort to meet timelines. Consistency is critical – we need to be the one who will deliver good performance all the time, not just some of the time.

5) Share openly and willingly
Good team players share. They are willing to share information, knowledge and experience. They take initiatives to keep other team members informed. Good team players are also active in informally sharing the information. They keep other team members in the loop with information and expertise that helps to get the job done and prevents negative surprises.

6) Maintain transparency
Every team has to go through series of activities for getting positive outcome in which different members would be getting involved at different stages. Hence, it is necessary to have transparency among the members which will reduce confusion at a later date.

7) Exhibit flexibility
Teams often deal with changing conditions — and often create changes themselves. Good team players adapt to ever-changing situations and does not hold rigidly to a point of view and argue it to a point of pain, especially when the team needs to move forward to make a decision or get something important done.

8) Co-operate and offer to help
Co-operation is the act of working with others and acting together to accomplish a job. Effective team players work this way by second nature. Good team players, despite differences with other team members, find out ways to work together to solve problems. They respond to requests for assistance and take initiatives to get the work done.

9) Show commitment to the team
Strong team players care about their work, the team, and the team’s work. They show up every time with care and commitment up front. They want to give their best effort and they would like other team members to do the same.

10) Work as a problem-solver
Every team is subject to different problems. Sometimes, it appears that is the whole reason why a team is created — to address problems. Good team players are willing to deal with all kinds of problems in a solution-oriented manner. They are perceived to be problem-solvers who shall constantly look for innovative solutions. Team players get problems out in the open for discussion and then collaborate with others to find solutions and devise action plans accordingly.

11) Treat fellow members with respect
Team players treat fellow members with courtesy and consideration — not just some of the time but always. They show high level of understanding, and provide necessary support to other team members to get the job done without placing any conditions. Good team players also have a sense of humor and know how to have fun, but they do not have fun at someone else’s account. In a nutshell, effective team players deal with other members in a professional manner.

12) Open for 360 Degree feedback
Every team member can give and receive feedback from his fellow colleagues while doing the work. Such feedback helps to improve own working standards and also highlight scope for improvement to other team members which can directly have positive impact on the functioning of the team.

People who are very effective team players usually get noticed as able ‘Man-Managers’. Such people are chosen for coveted assignments since they have the valuable ability of being able to work well with others and deliver desired results to the organisation. Such persons also tend to rise up the corporate ladder faster than their peers. Hence, it is recommended to regularly practise ‘Teamwork’ by every professional and enjoy growth.

Henry Ford had aptly quoted, “Coming together is a beginning. Keeping together is progress. Working together is success.”

“The time to begin most things is ten years ago.” - Mignon McLaughlin, The Second Neurotic’s Notebook, 1966
"Eventually, time takes care of everything. The trouble with procrastination is that people give up on it too soon." - Robert Brault, www.roberbrault.com
OBITUARIES

“FOCUS” deeply regrets to record the sad demise of the following members:

Shri Nalin Shah, Fellow Member of the Institute from Mumbai. He was Chairman of ICSI-WIRC in the year 1986. May the Almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

Shri V. Sithapathy, Fellow Member of the Institute from Mumbai. He was Regional Council Member of Western Region Council from the year 2004 to 2006. May the Almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed soul rest in peace.

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Website: www.valuationsekhri.com
E-mail: corpassistance@yahoo.co.in, ansekhri@hotmail.com

“How can a society that exists on instant mashed potatoes, packaged cake mixes, frozen dinners, and instant cameras teach patience to its young?” - Paul Sweeney
MISCELLANEOUS

REQUIRED
COMPANY SECRETARY

A Closely held Public Limited Company is desirous of appointing a Company Secretary and invites applications from prospective candidates. The candidate should be a Member of the Institute of Company Secretaries of India, preferably possessing experience of 4 - 5 years in related areas. Remuneration package will be commensurate with experience. Interested candidates may apply to:

Contact:
Post Box No.: 4824
The Institute of Company Secretaries of India
Western India Regional Council (WIRC)
13, Jolly Maker Chamber No. 2,
1st Floor, Nariman Point,
MUMBAI 400 021

REQUIRED URGENTLY QUALIFIED COMPANY SECRETARY

for a Private Limited Company having paid up capital of 6 crore.
Knowledge of Companies Act, 1956, Accounts, etc. is necessary. Fluency in English language is preferable.

Age 25 to 30 years.

Apply RUNGATA RAYON TEX PVT. LTD.
Regd. Off: 306, Kakad Market, 3rd Floor
306 Kalbadevi Raod, Mumbai – 400002

Apply with Bio-data and expected Salary.

“There’s nothing to match curling up with a good book when there’s a repair job to be done around the house.” - Joe Ryan

LITOLIER GROUP

REQUIRED
COMPANY SECRETARY (2)

Qualified Company Secretary & associate member of ICSL (Candidate with additional qualification like LLB / CA will be preferred).

Good command over English language & good drafting ability, along with Competence in Corporate Laws & Procedures, Minimum 2 to 3 year’s experience.

Salary: As per the Industry Standards.

Email your CV TO: rgghone@litoliergroup.com

THE INSTITUTE OF
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Standing by every Act of Parliament

ICSI-WIRC FOCUS

LITOLIER

 Highlights:
1. Match from 2:00 pm onwards on 19th dec 2012
2. Opportunity for CS Female Members/Students also to be part of ICSI-WIRC Female Cricket Team
3. Opportunities to play with MCA Officials and seniors (office of RD, RDC, CLB and CR)
4. Participation fee-free (sports man spirit)

Limited Over Cricket Match
Between Team ICSI-WIRC XI Vs. MCA XI
19 December, 2012

ALL MEMBERS/STUDENTS OF ICSM ARE WELCOME TO CHEER UP.

"There’s nothing to match curling up with a good book when there’s a repair job to be done around the house." - Joe Ryan

December, 2012

ECGC is a Central Public Sector Enterprise, providing export credit insurance to exporters/banks and having branches all over India, with an annual income of about Rs. 1200 crores. The company urgently requires a qualified Company Secretary at its Head Office in Mumbai.

Qualification, Experience & Age Limit: The ideal candidate besides being an ACS/FCS, will have additional qualifications in law, have good drafting skills and at least five years' post-qualification experience in handling corporate secretarial/legal matters. The upper age limit shall be 50 years as of 31 October 2012.

Emoluments: The position is in Senior Management Cadre in the Scale Rs. 41660-1200(3)-45260-1350(2)-47960. In addition to Basic pay, monthly emoluments shall include DA, HRA and CCA. (Starting gross monthly pay currently is around Rs. 70,000). Other benefits include company-provided vehicle, gratuity, EPF, LTC, medical reimbursement, meal subsidy etc. as applicable to the officers of the Corporation, subject to Corporation's terms and conditions. Residential accommodation could be considered.

Career Prospects: Those who are exceptionally good may have opportunity to move to higher positions in general management.

Interested candidates may apply in the prescribed format, to the Deputy General Manager (HRD), ECGC of India Limited, Dalamal House, Ground Floor, Nariman Point, Mumbai - 400021 together with self-attested copies of all relevant certificates, so as to reach us by not later than January 04, 2013. Format may be downloaded from the website www.ecgc.in.
We are pleased to announce revival of our WIRC Library

Join ICSI-WIRC’s new Library Membership and avail its ‘never-before’ numerous benefits at nominal fee

**Infrastructure:**
- Computers
- Online legal portals
- Borrowing facility
- ‘Take notes’ facility
- Librarian guide

**Fees**
(Fixed by Executive Committee of ICSI-WIRC as per Regulation 102 of the Company Secretaries Regulation, 1982).

For Members: - Security Deposit (Refundable) ₹ 2500/- and Annual Fees of ₹ 200/-

For Students: - Security Deposit (Refundable) ₹ 500/- and Annual Fees ₹ 200/-

Free for WIRC PMS Members

Contact: Bharat Kumar Rathod, Mob: 9930567728
E-mail: bharatkumar.rathod@icsi.edu, wiro@icsi.edu

**Atractive features:**
- Latest array of books
- Online legal portals - Taxmann, Legal Pundits
- Journals - Company Cases, SCL etc.
- Magazines - Chartered Secretary, Focus
  M&A Critique, Economist etc.
- Dailies
- Bare Acts
- Program Backgrounders
- Project Reports
- Annual Reports

**Mahavir Lunawat**
Chairman

**Hitesh Buch**
Vice Chairman

**Ragini Chokshi**
Secretary

**Ashish Garg**
Treasurer

**Educate, Empower and Execute**

“Time is but the stream I go a-fishing in.” - Henry David Thoreau
Dear Friends

SMEs are poised to become the next big thing in the Indian markets given that they produce nearly half of the manufactured output and also are the largest employers of workforce in India. The Government and regulators have also recognized this fact and introduced various policy measures to help SMEs grow including activation of SME listing platform. The organising partners do believe that SME listing offers numerous benefits from commercial, business, tax and corporate governance perspectives, and the same should be widely disseminated and discussed. This Seminar would provide a platform for interacting with SME entrepreneurs, their key executives and practitioners associated with SMEs and generate fruitful discussion.

Program Agenda

- Detail understanding of SME listing process
- Discussion on benefits of SME listing
- Regulatory and industry perspective on SME Listing

Speakers

Shri Ashish Chauhan, MD & CEO, Bombay Stock Exchange and Other Eminent Speakers will address the participants.

Advance information may be conveyed at

ICSI-WIRC Office at 13 Jolly Maker
Chambers No.2, First Floor, Nariman Point,
Mumbai – 400021
Tel No.: 22047569 / 22047580
Email: archana.sawant@icsi.edu / bharatkumar.rathod@icsi.edu

Chamber of Marathwada Industries and Agriculture
Bajaj Bhavan, P-2, MIDC Area,
Station Road, Aurangabad (MS) - 431 005,India
info@cmia-aurangabad.com

ICSI-WIRC Aurangabad Chapter
FR-9, 1st Floor, Kuber Avenue –B Rana Nagar, Beside Seven Hills Flyover,
Jalan Road, Aurangabad - 431005
Tel No.: 0240 2451124
Email: aurangabad@icsi.edu

Rush your entries as the seats are limited

Mahavir Lunawat
Chairman, ICSI-WIRC

Sunil Raithatha
President – CMIA

Mahesh Singhi
Chairman Aurangabad Chapter

Our Sponsors

ICSI-WIRC jointly with Aurangabad Chapter, BSE and CMIA
announce
Full Day Seminar
on
“SME Listing : Opportunity”
27th December, 2012 at Aurangabad
Hotel Ajanta Ambassador, Jalna Road, Near CIDCO BUS Stand, Aurangabad.

Concessional Delegate Fee ₹ 900
(Including Seminar Kit and Food)

4 Credit Hours for ICSI Members & 8 PDP

Free for ICSI-WIRC PMS Members

“Time has a way of demonstrating that the most stubborn are the most intelligent.”
- Yevgeny Yevtushenko
MAHARASHTRA STATE CONFERENCE
OF WESTERN INDIA REGIONAL COUNCIL OF ICSI
HOSTED BY PUNE CHAPTER
At SHIRDI

THEME
“BUSINESS GOVERNANCE & SUSTAINABILITY”
Days & Dates: (Friday & Saturday) 4th January 2013 & 5th January 2013
Venue: Hotel ST LAURN (The Spiritual Resort) S. No. 5/19, Rui-Shi Road, Shirdi - 423109
Timings: 4th January 2013 – 11:00 am to 6:00 pm. & 5th January 2013 - 9:00 am to 4:30 pm

Speakers:
Eminent faculties with comprehensive exposure to the practical aspects of the topics will address & interact with the participants.

Delegate Fees – NON-RESIDENTIAL BASIS – Rs. 1800 (Service Tax extra @ 12.36%)
(Inclusive of Lunch and Conference facilities only on both days)

Delegate Fees – RESIDENTIAL BASIS (Service Tax extra @ 12.36%)

<table>
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<th>Double Occupancy</th>
<th>Triple Occupancy</th>
<th>Member with Accompanying Spouse (On double sharing)</th>
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<tr>
<td>Rs. 4500/-</td>
<td>Rs. 3800/-</td>
<td>Rs. 8000/- (For Member &amp; Spouse)</td>
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“Time has been transformed, and we have changed; it has advanced and set us in motion; it has unveiled its face, inspiring us with bewilderment and exhilaration.” - Khalil Gibran
It is the philosophy of ‘print what you can think’ that has made SAP one of the leading print solutions provider in India today.

SAP is a Mumbai based comprehensive print solutions company offering content management, pre-press, press, post-press & logistics management. The infrastructure set up is spread over 65000 sq. ft. with 6 web fed and 5 offset machines.

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SAP is one of the leading players in printing of Annual Reports and IPO stationery printing. Annual Report is like an Annual Examination for Company Secretaries. Endless late night sitting with Auditors, ensuring timely availability of information and planning for AGM to timely dispatch of the Annual Reports.

SAP is an end-to-end solutions provider for Annual Report that makes us their best friend. Our efforts and experience enables you to be rest assured in the comfort that you have a partner who will surely take care of the deliverables.

We have printed Annual Reports for more than 200 companies and we serve more than 40% of the Nifty Fifty Companies for all their Corporate Actions.

We have also been consistently ranked among top 3 print companies by PRIME DATABASE for IPO stationery printing.
First Inter Region Sports Competition of Company Secretaries hosted by ICSI-WIRC in association with Surat Chapter

CS Umesh Ved, Central Council Member, CS Mahavir Lunawat, Chairman-WIRC, CS Rajeev Bajaj, Chairman-NIRC, CS Ranjit Kanodia, Chairman, ERC, CS Hitesh Buch, Vice Chairman-WIRC, CS Ashish Garg, Treasurer-WIRC, CS Jitendra Bhagat, Chairman-Surat Chapter, CS Ranjit Kejriwal, Secretary, Surat Chapter & Program Coordinator and others on the occasion of 1st ever sports meet pioneered and hosted by ICSI-WIRC in association with Surat Chapter. The two-day program featured sports - indoor & outdoor, magic show and prize distribution.
ICSI - WIRC Photo Gallery

41st Anniversary Day Celebrations

CS S.N. Ananthasubramanian
CS B. Narasimhan
CS Atul Mehta,
CS Mahavir Lunawat

P.K. Malhotra,
Presiding Officer, SAT
SMA Millath,
RD, MCA (West)
Ashish Chauhan,
MD & CEO, BSE
S.P. Tulsian,
Investment Adviser

CS Ragini Chokshi
CS Prakash Pandya
CS Hitesh Buch
CS Hitesh Kothari
CS Sanjay Gupta

Special Moments for WIRC - Mentors Graced the Occasion

CS R. Ramachandran,
Past President, ICSI
CS Keyoor M. Bakshi,
Past President, ICSI
CS P. Vaidhyanathan,
Past Chairman, WIRC

CS Pramod Shah,
Past Chairman, WIRC
CS Suresh Thakur Desai,
Past Chairman, WIRC
CS S.N. Ananthasubramanian,
Past Chairman, WIRC
CS Atul Mehta,
Past Chairman, WIRC

Cultural Evening
WIRC thanks its Active Members / Volunteers
ICSI-WIRC Photo Gallery

ICSI-WIRC CSBF Evening hosted by Nagpur Chapter on
3rd November 2012 at Nagpur

ICSI-WIRC Study Circle Meetings

Bhayander Study Circle Meetings on
Disclosure of Related Party Transaction
held on 21.10.2012

14th October, 2012 meeting of
Kandivali Study Circle

Various Investment Avenues for
Gold held on 18.11.2012

14th October, 2012 meeting of
Kandivali Study Circle

ICSI-WIRC Study Circle Meetings

CS Mahavir Lunawat addressing the audiences
about the fund raising.

CS Tushar Pahade, CS Rohit Jain,
CS Mahavir Lunawat, CS Pradip Channe

CS Tushar Pahade, CS Pinkush Jaiswal,
CS Mahavir Lunawat, CS Pradip Channe

CS M.M. Purohit, CS Uma Mondal and
CA Vijay Joshi

CS Uma Mondal and CS Balwant Jain

CS Jatin Popat and CA Jinesh Bhagdev

Chapters Programs

Participation in Bus Day on 1.11.2012 (Pune Chapters)

Aurangabad chapter organised full day workshop on Recent
Supreme Court Judgment related with issue of shares and other
critical issues of Company Law held on 3.11.2012

President addressing the
Press Conference on 2.11.2012, at Pune

Students Regional Conference and Investor Awareness Programme.
held by Goa on November 17, 2012

CS Sanjay Sachdev, CS Mahesh Singh, Dr. K.R. Chandatre,
CS Ashish Gupta and CS P.C. Agrawal.

CS S Bhat, CS K Fernandes,
CS A Gaonkar
Jointly with

AND

DECLARES

INVESTOR AWARENESS QUARTER
(11TH OCTOBER 2012 – 11TH JANUARY 2013)
SERIES OF INVESTOR AWARENESS PROGRAMMES
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† From January 2013

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