



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

Nagpur Branch of WIRC of ICAI



I request all of you to join hands in this initiative of "Vaartalaap" as this is our platform to share and learn from each other, various best practices being followed by all of us.



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Chairman's Communiqué

The great general elections of Indian democracy are over and with this election, it appears that India's electoral dynamics are changing and the country appears to be at a pivotal point of its democratic history. Shifting electoral dynamics such as the high proportion of youth voters, higher literacy, increasing voting power in urban areas and rising aspirations have resulted in a widespread demand for change, leading to the election of a stable government for the next five years. The most important and indeed landmark takeaway for me in the general election 2014 is not just the advent of the social media, but a far more fundamental development. The Indian voter has realised that democracy is not just about elections, or going from election to election, but also the period of governance between elections. With stable government in place, I am sure the much awaited economic reforms will take place and chartered accountants will play an important role in this by suggesting and assisting the new government to frame policies for overall economic growth.

The month of May witnessed members of Nagpur Branch joining in meetings of various committees of Nagpur Branch of ICAI and suggesting and shouldering activities of

branch with the managing committee. During the month, Nagpur Branch had organised Half day seminar on Do's & Don'ts – Real Estate Transactions – Professional's Perspective and Half day seminar on LBT. A Mega Seminar on Companies Act, 2013 was organised in which learned speakers analyzed some of the key provisions and also shared certain action steps and challenges associated with the implementation of the provisions of the Companies Act, 2013. Seminar on E-filing of Returns under various Acts was organised exclusively for FCA members & was very well attended & appreciated by members.

I am happy to inform you that Nagpur Branch has started a redesigned and redefined study circle 'Vaartalaap'. The concept is designed keeping in mind two way communications in a structured but informal way, in which many important practical issues faced by us in our day to day practice will be dealt with by expert speakers. The topics would be need based and emphasis would be on group discussion, to resolve our day to day practical issues, in the presence of a team of experts. I request all of you to join hands in this initiative of "Vaartalaap" as this is our platform to share and learn various best practices being followed by all of us. Please note that this format of redesigned study circle will be followed throughout the year.



IMPRESSIONS



CA. J.S. Uberoi- Chief Guest inaugurating Seminar on E- filing Returns Under various Act



CA. Narayan Demble - Chief Guest inaugurating the Seminar on Real Estate Transactions



Shri Milind Meshram, Asst. Municipal Commissioner LBT Inaugurating Half Day Seminar on LBT



Shri Rakesh Tiwari, ROC , Chhatisgarh inaugurating the Seminar on Companies Act-2013



Audience of VAARTALAAP- Study Circle Redefined



VAARTALLAP- Study Circle Redefined

CHAIRMAN'S COMMUNIQUÉ CONT...



In coming months, keeping in line with the aim of imparting knowledge, Nagpur Branch will be organising refresher courses under various acts. The main objective of organising this programme is to provide specialised and updated knowledge and help members to have an overview of the provisions of the laws. The faculty for the course will be experts in the field of respective taxes to provide the members an in-depth technical as well as practical knowledge. This refresher course will help members in enabling practice in respective fields. I appeal to all

the members to take maximum benefit of the same. I sign off with this beautiful quote but from an unknown author
Read something, no one else is reading
Think something; no one is else is thinking,
Do something, no one else is doing &
Success will be yours!!!!

Yours in Profession
CA. Ashwini Agrawal



JOINT EDITOR'S MESSAGE



It's been a hot & humid summer and everyone is waiting for rain gods to smile over us. Instead of going indoors, Nagpur Branch managed to bring lot of members to the Branch by its innovative programs. The Chairman's new initiative is a unique concept

"Vaartalaap" which is a redefined study circle which will serve as a great platform to discuss and resolve queries on practical issues faced by members. The first study circle was a hit and the active participation of the members has given confidence to the Branch to think out of the box for more such ideas.

Striving towards its goal of "Profess to Prosper", the Branch has already implemented the chairman's vision of empowering the members by sending Minimum Recommended Fee card to its members.

We have tried to cover certain topics which are not regularly encountered by members and such articles will be handy ready reckoner for all of us. NRI Taxation is one such topic covered in this issue. Also, to make life simpler for members we are incorporating a Tax Calendar and the recent proposed changes as per Maharashtra Budget.

Happy Reading,

Yours in profession,
CA. Tushar Singhvi.



The last month was sizzling hot and temperature was on the top of the meters, Inspite of such a hot environment Nagpur branch organized number of very good programmes and as well members showed their enthusiasm by participating in large numbers. The chairman's innovative program "VARTALAP" is a new concept of redefining and redeveloping the study circle, where members has a good opportunity to discuss the related issues and updates ourselves. The very first program of vartalap got an overwhelming response from members which has boosted managing committee to come up with some new and innovative programs in future.

In this issue we have a good article on NRI taxation which is not a regular topic of reading & I hope it will give a good idea to deal the subject. We have also covered the brief of recently presented Maharashtra Budget. Remembering a Due dates is key task for our members and to make it easy we are giving a Tax calendar which will help members to finish the tasks before due dates.

With Warm Regards
CA. Ashish N. Agrawal





INCOME TAX UPDATES : COMPILED BY CA. TUSHAR SINGHVI



1. **CIT, Kol-III v. Baljit Securities (P.) Ltd. (2014) 44 taxmann.com 481 (Calcutta)**
In terms of sub-section (1) of section 73, assessee, a share broker is entitled to set off loss incurred in transactions of derivatives and day trading of shares against its profits and gains from purchase and sale of shares on delivery basis.
2. **Rajeev Kumar Agarwal vs. ACIT (ITAT Agra)**
No s. 40(a)(ia) disallowance for failure to deduct TDS on payment if payee has offered amount to tax. Second Proviso to s. 40(a)(ia) inserted by Finance Act 2013 w.e.f. 1.4.2013 should be treated as curative and to have retrospective effect from 1.4.2005.
3. **Rakesh Kumar Gupta vs. UOI (Allahabad High Court)**
Assessee cannot be denied credit for TDS on the ground of Form 26AS mismatch because he is not at fault. Non-grant of TDS credit causes harassment, inconvenience & makes the assessee feel cheated. Dept to pay interest + costs of Rs. 25,000.
4. **Kushalbhai Ratanbhai Rohit vs. State of Gujarat (Supreme Court)**
Despite pronouncement of verdict in open court & signing of draft judgment, Judge entitled to alter verdict until judgment is signed & sealed.
5. **CIT vs. Bharat Bijlee Ltd (Bombay High Court)**
S. 50B applies only to a "sale" for a "monetary consideration" and not to a case of "exchange" of the undertaking for shares under a s. 391/394 scheme of arrangement. The definition of the term "slump sale" in s. 2(42C) means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sale. A "sale" meant a transfer for a monetary consideration and that an "exchange" would not amount to a "sale".
6. **Kostub Investment Ltd. V. CIT (Delhi High Court)**
Where expenditure on higher education of employee had an intimate and direct connection with assessee's business, it would be deductible, even though such an employee was son of a director.
7. **Sumit Aggarwal V. DY. CIT (Chandigarh - Trib.)**
An option is available to the resident-assessee to file return of income either under the Indian tax laws or under the treaty. If assessee files the return of global income in India, the Revenue is bound to give effect to such return. Therefore, losses from house property located abroad was to be included in the income of resident-assessee.
8. **Binjusaria Properties (P.) LTD. V. ACIT (Hyderabad - Trib.)**
While the assessee had fulfilled its part of the obligation under the development agreement, developer had not done anything to discharge the obligations cast on it under the development agreement, thus, capital gains could not be brought to tax in the year in which development agreement was signed by assessee.
9. **Ram Prakash Miyan Bazaz v. Deputy Commissioner of Income-tax (Jaipur - Trib.)**
Booking of two residential houses before the date of transfer would not provide ownership rights to assessee, thus, he could not be deemed to be owning two residential houses on date of transfer
10. **Commissioner of Income-tax v. Corrttech Energy (P.) Ltd. (Gujarat High Court)**
Where assessee has not sought any income exemption, there cannot be any expense there against to be disallowed u/s 14A.



Online Registration for Programme / Seminar can be done at
www.nagpuricai.org



- Goods destroyed by flood are eligible for input tax credit; however, if such dealer is compensated by Insurance company with respect to loss sustained, to that extent Assessee shall not be entitled to input tax credit-State of Gujarat v S A Himani Distributors (P) Ltd. 2014)43 taxmann.com 358 (Gujarat)
- Where assessee was carrying goods in a vehicle through State of Rajasthan and Authorized Officer on checking of goods having found that column of "invoice number & date" of declaration form No. ST-18A accompanied with goods was not filled in and left blank imposed penalty under section 78(5) of Rajasthan Sales Tax Act, 1994 upon Assessee, imposition of penalty was not justified. - Assistant Commercial Tax Officer, Ward-II, Circle-B, Alwar v. REBI Casting (P) Ltd 2014)44 taxmann.com 122 (Rajasthan)
- Where assessee purchased cars from manufacturer and sold same to local customers at sale price which included cost of warranty and further it supplied spare parts to customers free of cost covered by warranty and returned defective parts to manufacturer and thereupon manufacturer issued credit notes to assessee reimbursing it for cost of parts so supplied, consideration paid by manufacturer to assessee by way of credit notes represented sale price of spare parts which were replaced and was liable to tax - State of Karnataka v. Cauvery Motors (P.) Ltd. (2014) (Karnataka High Court)
- When, with a view to recover dues, assessee-bank/NBFC sold vehicles owned by borrowers on default in repayment of loan, assessee acted as 'agent' of borrowed and fell within definition of 'dealer' and was liable to VAT - Tata Motors Finance Ltd V. Assistant Commissioner Of Sales Tax (High Court Of Calcutta)
- Where Assessing Officer levied penalty upon assessee under section 10(b) of Central Sales Tax Act, 1956 on ground that it had purchased machinery against 'C' form which was not included in its central sales tax registration certificate, in absence of any finding that there was mensrea on part of assessee to deliberately violate statutory provisions or its conduct was of contumacious nature, levy of penalty was not justified - Shoetek Agencies v. State of Tamil Nadu (2014) 44 taxmann.com 456 (Madras)



Congratulations

LIST OF CO-OPTION FOR WIRC COMMITTEES - 2014-15

Name of Member

1. CA. Satish Sarda
2. CA. Abhijit Kelkar

Committee

- Hostel Committee
 Professional Development Committee



ANALYSIS OF ARREST AND BAIL PROVISIONS UNDER SERVICE TAX: COMPILED BY - CA. SAMEER AGRAWAL



Provision for arrest have been introduced in Service Tax law w.e.f. 10th May, 2013. However whether a person can be arrested after 10-05-2013 for an offence committed before the insertion of power to arrest is a debatable issue. The brief provisions of the relevant sections are as follows:

- The Commissioner of Central Excise by issuing an order, can authorise any Central Excise officer to arrest a person.
- If the offence is of collecting an amount as service tax exceeding Rs.50 Lakhs and not paying it to Central Government within 6 months, offence would be cognizable and non-bailable and the punishment can be imprisonment upto seven years. If offence is of (a) knowingly evading service tax (b) availing and utilising Cenvat credit without receipt of taxable service or excisable goods or (c) Maintaining false books of account or failure to supply information or supplying false information, the offence is non-cognizable and bailable [section 90(2) of Finance Act, 1994].
- The Arrest provisions come into play only if the amount involved exceeds Rs. 50 lakhs [section 90(1) of Finance Act, 1994]. In case of non-bailable offences, the bail can be granted by Magistrate at his discretion [section 91(2) of Finance Act]. In case of bailable offences, the bail is required to be granted by Assistant/Deputy Commissioner of Central Excise [section 91(3) of Finance Act, 1994].

As stated above the power to arrest was introduced w.e.f.10-05-2013 by inserting Section 91. There was no power to arrest an assessee prior to 10-05-2013. The following two cases of Hon'ble High Courts would throw light on an issue whether arrest can be made for offences committed prior to 10-05-2013 but were continuing after 10-05-2013.

Sudip Das [(2014) 44 Taxmann.com 48 (Calcutta)]:

The Department arrested the assessee under section 89(1)(d)(ii), read with sections 90 and 91, as amended/introduced by Finance Act, 2013, for non-payment of service tax exceeding Rs. 50 lakhs collected from customers for the period from 2008 to 2012. The Assessee argued that: (a) offence arose between 2008 to 2012; (b) it was bailable as per law then in force; (c) cognizability and non-bailability introduced vide

Finance Act, 2013 was prospective from 10-5-2013 and not retrospective in view of articles 20 and 21 of Constitution; and (d) therefore, assessee was eligible for bail. The Department argued that offence was continuing one and alive; therefore, amended provisions were applicable. It was held by the Hon'ble High Court that the department could not satisfy whether strictly custodial detention was necessary for interrogation or not. Though offence was alive till now but it is equally correct that when it was originated, offence was bailable. Further, amendment vide Finance Act, 2013 was not retrospective effect. Therefore, question of bailability and non-bailability almost comes to a point of merger, benefit of which should be extended to accused person. Hence, bail was granted subject to certain conditions with further direction that the trial court shall not be influenced by present judgment.

Kandrarameshbabu Naidu v/s Superintendent (AE) Service Tax, Mumbai-II [(2014) 43 taxmann.com 448 (Bombay)]:

The Assessee (director) was arrested on 22-1-2014 under section 89(1)(d)(ii), read with sections 90 and 91 for non-payment of service tax of Rs. 2.44 crores by his company despite having collected same from customers. The Assessee argued that: (a) said offence had become cognizable vide Finance Act, 2013 only on 10-5-2013; (b) amended provisions could not be applied retrospectively for dues pertaining to prior period; and (c) dues for period on or after 10-5-2013 were only Rs. 5 lakhs i.e., not exceeding Rs. 50 lakhs, therefore, assessee was to be granted bail. The Department argued that: (a) in balance sheet dated 31-3-2013, liability to pay tax was admitted; (b) non-payment of outstanding dues was a continuing offence; therefore, amended provisions were applicable. It was held by the Hon'ble High Court that it being a continuing offence, entire outstanding/arrears as on 10-5-2013 was to be taken into consideration while calculating limit of Rs. 50 lakhs under section 89(1)(d)/(ii). Since, as on 10-5-2013, there was huge outstanding beyond Rs. 50 Lakhs and said amount continued to be outstanding even at time of arrest, assessee could not be granted bail, more so, when investigation was still ongoing and assessee's payment plan was not agreed to by department.





The theme of Nagpur Branch for the year 2014-15 is “Profess to Prosper”. One of the main focus areas of this year's team will be to help members command value for their work, which they deserve. We strongly believe unless we prosper and flourish, the profession will not thrive. In that pursuit, we will be coming up with personal experiences and views of the Past Chairmen as to how the professional colleagues should value, deliver and communicate their services.

CA. ANIRUDHA SHENWAI

1. Your Opinion as to what ails our Fraternity vis-a-vis the fees charged by CA's for their work?

In my view, there are various factors that contribute to the present state of affairs. Some of them are listed below.

- Relatively longer gestation period.
- Fierce competition.
- Fear of losing client.
- Lack of understanding of client for responsibility being shouldered by CAs for audit/attest function.
- Different perception by CA & client for the 'valuation' of advice.

2. Should the fees be charged as per the cost involved in delivering the services or the value generated for the client?

The traditional time for service-pricing model looks at Service, Cost, Price and Client (in terms of their type, size, complexity, risk etc.) and excludes any judgment of value delivered. Time based model helps recover the cost but one may end up undercharging the client. Traditional time based pricing may devalue the services one is providing.

The Value Pricing model looks at Client, Value, Price, Cost and Service. Value Pricing, whereby prices are set primarily but not exclusively, on the value perceived or estimated, to the client could be an alternative. Value Pricing, is not without its problems. Value is from the client's perspective which is difficult to determine.

There is no 'Golden Rule' that fees should be charged as per cost involved or value generated. It can be a combination of both cost involved and value generated. It would depend upon facts and circumstances of each case.

3. How the Valuation / Costing of our work should be done? What factors should be taken into account?

For efficient and timely delivery of quality services, the following resources are required.

- Type and Number of Employees
- Skill Level of Employees
- Ongoing Professional Development & Training
- Information resources, manuals, publications, subscriptions
- Software Programs
- Development of Skill Support Networks
- Infrastructure

The cost of these resources should be considered while billing the client.

4. How the value of our Service offering should be

communicated to the client? How should he be convinced to pay not only as per time involved but also considering the value of advice & risks involved?

There should be a proper client management system in force. The client must be aware that he is approaching CA for a clearly pre defined scope of work. Impress upon him that for timely quality execution, the fees that he is required to pay. Client should be properly guided for the costs involved, quality of service, value of advice and risk associated. At the same time, client should be discouraged to approach CA casually to seek opinion over phone, e mail etc.

5. Should some part of Audit Fees or any other work be taken in Advance?

For Audit /Attest function, in my view, fees need not be taken in advance. It can be billed and collected after completion of assignment and/or periodically. For consultation work, depending upon nature of work, part of the fees and some amount to cover the expenses, if any for the work, may be taken in advance.

6. How to discourage the client from Bargaining of the quoted fees?

As mentioned earlier, there should be a proper client system in force. ICAI has already recommended scale of fees chargeable for the work done by the members of the Institute. Periodically ICAI keeps on revising it. Educate the client that fees sought to be charged are well within the model of recommended fees. This should dissuade the client from bargaining.

7. How can we bring in the system of charging for Consultations?

We must bear in mind that when we are being consulted not only our knowledge, expertise is sought but our professional time is being encroached upon. We must realize that if we do not put the system of charging for consultation, we will have caused more harm than good. Client may have an appetite for seeking valuable advice but we must remember the famous saying – “There's no such thing as free lunch”. Make it clear to the client and either he'll stop consulting or you would have put in place the proper system of charging for your consultation.

As CAs, we must be comfortable with our need to make money and should always remember that 'Making a living from Profession is not Unethical'.





EXPERIENCE CORNER PAST CHAIRMAN SHARE THEIR EXPERIENCE



CA. KAVITA LOYA

1. Your Opinion as to what ails our Fraternity vis-a-vis the fees charged by CA's for their work?

- Informing the client before starting the assignment secondly timely billing and recovery

2. Should the fees be charged as per the cost involved in delivering the services or the value generated for the client?

- Professional charges should be on the basis of cost and time involved in delivering the services.

3. How the Valuation / Costing of our work should be done? What factors should be taken into account?

- The factors to be considered for charging the professional fees are time taken, expertise knowledge and efforts required, timely delivery of services and other reimbursement of expenses.

4. How the value of our Service offering should be communicated to the client? How should he be convinced to pay not only as per time involved but also considering the value of advice & risks involved?

- By holding formal meeting with a clients on regular basis and updating them about the assignment. Good Communication with client is the only way.

5. Should some part of Audit Fees or any other work be taken in Advance?

- Depending upon the client

6. How to discourage the client from Bargaining of the quoted fees?

- First we have to get convinced that we are charging the most reasonable amount. If such is the case there would be no scope for bargaining.

7. How can we bring in the system of charging for Consultations?

- By billing them immediately.



Congratulations



CA. Manjit Singh Parihar

On being nominated as
Secretary, Coal Mines Officers's Association,
WCL H. Q. Branch.

**Members are requested to pay Annual Membership fees
of Nagpur Branch of WIRC of ICAI for the year 2014**

You can pay online at nagpuricai.org

PROPOSED BUDGETARY CHANGES IN MAHARASHTRA VAT AND ALLIED LAWS CONTRIBUTED BY CA. RITESH PANPALIYA



Finance Minister Mr Ajit Pawar has presented the additional budget of Maharashtra State on 05th June 2014. Following are the important proposals. The exact text of the amendment and notification has not yet been made available and the below mentioned provisions are subject to change.

1. **Minimum Turnover limit for registration:** - Turnover limit for registration under the MVAT Act is proposed to increase from 5 Lacs to 10 Lacs.
2. **Concession in late fees:-**
 - a) Late fees of Rs 2000 instead of Rs 5000 for a delay in filing of return upto one month from the due date.
 - b) All pending return as on 1st April 2014 can be filed along with payment of full tax and interest by paying late fee of Rs 1000 only.
3. **Composition scheme for retailers:** -Retailer having turnover less than 50 lacs will have the option to pay 1% composition amount on total turnover or 1.5 % on taxable turnover.
4. **Levy of penalty:**
 - a) Wherever penalty is leviable the same shall not exceed the tax amount but shall not be less than 25% of the tax amount.
 - b) Penalty may be imposed while passing assessment order in respect of cases where assessment is done after eight years.
 - c) The provision for permission of immediately superior officer for levy of penalty is being deleted.
5. **Concession in additional interest:** Whenever the additional tax liability on account of audit or investigation proceeding is less than 10% of the tax paid with returns, then the additional interest shall not be payable. This shall also apply where the additional tax liability is on account of non production of declarations.
6. **Turnover Limit for vat audit report:**
 - a) Turnover limit for compulsory audit report is enhanced to 1 crore from 60 lacs from the year 2013-14.
 - b) Liquor dealer are now required to file audit report only if the turnover crosses one crore. Earlier all liquor dealer were subject to audit irrespective of the turnover.
 - c) The turnover of sales shall include value of goods transferred to other states otherwise than by way of sales.

- d) The period of one month allowed for filing of audit report beyond due date due to circumstances beyond control of dealer is proposed to be deleted.

7. **Stay provision w.r.t declaration under Central Sales Tax Act:** -If the appeal is filed beyond two year from the end of the assessment year, no stay shall be granted without full payment of tax due on account of declaration under Central Sales Tax Act which is not received. Also where appeal is filed before the end of two years and the wanting declaration/certificates are not filed before the end of two years, from the end of assessment year, the stay granted, if any, to such amount shall be vacated. This will apply to appeal filed from 1st July 2014
8. **Tax collection-** Provision for tax collected at source in respect of other minor mineral is proposed.
9. **Technical amendments:-**
 - a) Intimation of business audit results is now made mandatory.
 - b) Application to cancel ex-parte order will have to be disposed-off within three months, failing which the said assessment will be deemed to be cancelled after three months from the end of the month in which application is received.
 - c) Provision of application by dealer to the Commissioner for issuing directions to the assessing authority is proposed to be deleted.
 - d) Technical amendment in respect of separate assessment for different types of return filed by the dealer, reference to Package Scheme of Incentive 2013 to be made in the definition of identification certificate proposed.
 - e) Deletion of lapsed post of Sr. Deputy Commissioner of Sales Tax from Section 10 is proposed.

Tax Concession.

1. Reduction of rate of vat on cotton to 2% from 5%
2. Roasted gram and Dalwa is exempt. Earlier it was taxed at 5%
3. The rate of tax on notified capital goods sold to department of any State or Central Government is reduced to 5% from 12.5%
4. Sale of Spares of aeroplane is exempt from tax
5. Interstate sales of unbranded unmanufactured tobacco sold against C form is now exempt from tax
6. Goods of tool, alloy and special steel falling under sub entry (x) to (xv) of clause (iv) of Section 14 of CST Act will bear the same rate of tax as declared



goods with retrospective effect from 01st April 2005.

This will give relief to 'stainless steel wire' dealers affected by the Bansal Wire Industries judgement by Hon'ble Supreme Court.

7. The sale/ lease of copyrights of films for exhibition in theatres is exempt from tax for the period 01st April 2005 to 30th April 2011.

Professional Tax

1. **Enhancement in Professional Tax Limit:** The minimum salary limit is enhanced to Rs 7500 from Rs 5000.
2. **Late fee exemption:-** Proposal to reduce or exempt late fee payable for delay in filing of returns under Profession Tax Act for class of employers under certain circumstances.
3. Proposal to exempt mentally retarded person from professional tax.

Luxury Tax

1. Tariff upto Rs 1000 is exempt from Luxury Tax. Tariff exceeding Rs 1000 but upto Rs 1500 is to be taxed at 4%. Tariff exceeding Rs 1500 would be

taxed at 10%.

2. Proposal to exempt the eligible hotels in B and C Zone under the Tourism Policy 2006 from Luxury Tax. Proportionate exemption is also available in case of expansion provided there is increased capacity.

3. Yashada' which provide training to officers and employee of the state government is exempted from luxury tax

Sugarcane Purchase Tax

1. Proposal to exempt sugarcane purchase tax for the year 2013-14
2. Empowering Sugarcane Purchase Tax officers for recovery of dues as arrears of land revenue are proposed.

Maharashtra Stamp Duty Act.

A cap of Rs 10 lacs on duty on agreement for deposit of title deed, pawn, pledge or hypothecation is proposed.



NOTICE OF 36TH ANNUAL GENERAL MEETING

Dear Members,

Notice is hereby given that the 36th Annual General Meeting of the Members of the Nagpur Branch of Western India Regional Council of The Institute of Chartered Accountants of India will be held at 10.00 a.m. at ICAI Bhawan, Dhantoli, Nagpur on Saturday 5th July, 2014 to transact the following business :

1. To receive 36th Annual Report from the Managing Committee of the Nagpur Branch.
2. To adopt Audited Accounts of the Nagpur Branch for the year ended on 31st March, 2014 together with Audit Report thereon.
3. To transact any other business with the permission of the chair.

Date : 2nd June 2014

By order of the Managing Committee
CA. Swapnil Ghate
Secretary

Note :

1. The aforesaid documents have been hosted on the website on Nagpur Branch of WIRC. The Institute of Chartered Accountants of India (www.nagpuricai.org).
2. Members desirous of having hardcopy of the aforesaid documents may write with their ICAI Membership Number to The Chairman, Nagpur Branch of WIRC of ICAI, 20/1 ICAI Bhawan, Dhantoli, Nagpur.



Q) Who is NRI as per Income Tax Act?

A) Residential status of an individual or HUF or a company is of great importance in Indian Income Tax Act as the liability to pay tax in India does not depend on the nationality or domicile of the

Tax payer but on his residential status. Residential Status is determined on the basis of physical presence i.e. the number of days of stay in India in any year.

An individual is resident if any of the following conditions are satisfied:

(i) he stayed in India for 182 days or more during the previous year, or

(ii) he stayed in India for 365 days or more during the four preceding years and stays in India for at least 60 days. 182 days in case of an Indian citizen or a person of Indian Origin coming on a visit to India or 182 days in case of an Indian citizen going abroad for an employment during the previous year. Otherwise he is Non Resident.

Hindu Undivided Family (HUF) or firm or other Association of persons is resident of India except in cases where the control and management of its affairs is wholly situated outside India in the previous year.

A company is resident in India if it is an Indian company, or during the previous year, the control and management is situated wholly in India.

Q) Does NRI need to file Income Tax Return for AY 2014-15?

A) NRI need to file return provided taxable income in India during the Assessment Year 2014-2015 was above the basic exemption limit of Rs 2 lakh OR has earned short-term or long-term capital gains from sale of certain investments and assets, even if the gains are less than the basic exemption limit. For NRIs, certain short term or long term capital gains from sale of investments or assets are taxed even if the total income is below the basic exemption limit. There is an exception: If your taxable income consisted only of investment income (interest) and/or capital gains income and if tax has been deducted at source from such income, you do not have to file your tax returns.

B) Central Board of Direct Taxes (CBDT) in India issued a notification which has made it mandatory for individuals who have annual gross total income in excess of Rs 5 lakh to file their returns online from Assessment Year 2014-

2015. This applies to all individuals including non resident Indians.

Q) NRI liable to pay advance tax for Assessment Year 2014-2015?

A) As per the Income Tax Act, Individual must pay advance tax in three instalments during the year in case the tax payable is likely to be Rs 10,000 or more after considering TDS deduction. In case of default interest is generally 1 percent per month for the default amount and extends till the date of payment. Therefore, NRIs should evaluate if they were liable to pay advance tax and whether the same was paid in time.

Q) What is last date to file Income Tax Return for NRI? What if NRI does not have any tax payable?

A) The last date to file returns for the financial year Assessment Year 2014-2015 is July 31st 2014. However, if NRI does not have any tax payable (that is all tax has been deducted at source), you can still file tax return by 31st March 2015 without any penalties.

Q) What if NRI do not file return till 31 March 2015?

A) If tax returns not filed even by the 31st of March 2015, assessee may be charged a penalty of Rs 5,000 for every year of delay or sometimes may not be able to file your returns at all after 2016.

Q) What all income is exempt for NRI?

A) Dividends from equity shares and equity mutual funds is tax free in India. Interest received on the NRE account and FCNR account is tax free. Long term capital gains on equity shares and equity mutual funds (provided you pay securities transaction tax at time of sale). Further, If NRI has given a property on rent; He can claim an ad hoc deduction of 30% of net annual value as repairs and maintenance expenses in addition to claiming a deduction on mortgage interest.

Health insurance premium in India for himself or his dependents, NRI can claim a deduction under section 80D. If the health insurance is taken for spouse and dependent children, can claim a deduction of Rs 15,000 per annum. An additional Rs 15,000 is available as deduction on insurance premium paid on behalf of your parents. If either of parents are over the age of 65, the additional deduction will be Rs 20,000 instead of Rs 15,000.

Contributions to an approved charity can claim a deduction under section 80G. Investments such as PPF, life insurance premiums, etc. can be claimed as deduction under section 80C up to a total of Rs 1 lakh.

Q) NRI has deposited Rs. 1 crore in a non-resident ordinary (NRO) account in the form of fixed deposit. Can



NRI transfer the amount from NRO to a non-residential external (NRE) account? What is the ceiling for transfer from NRO to NRE during a year?

A) An NRI can transfer / remit out of the NRO account subject to production of documentary evidence in support of acquisition by the remitter and an undertaking by the remitter along with a certificate by a Chartered Accountant in Form 15CA and 15CB.

As per regulations, NRI are permitted to transfer a maximum of \$1 million per financial year to NRE account. The transfer will be subject to payment of applicable taxes. So far the amount being transferred to the NRE account represents balances for which tax has already paid or exempt there shouldn't be additional tax.

Q) Is NRI allowed to buy Agriculture property or Farm house in India?

A) NRIs and Persons of Indian Origin are not allowed to buy agricultural property, plantation or a farm house.

Q) What are the tax implications for an NRI looking at selling his property in India?

A) If the property is more than 3 years old, long term capital gains tax will be incurred on the sale of the property. On long term capital gains, tax is payable @ 20%. However, tax can be minimised by making alternative investments in India.

Q) Is the money received from sale of inherited property in India taxable for an NRI? Earlier it was mandatory to put it in an NRO account but now with the RBI go ahead can we transfer it to NRE account provided the tax is paid?

A) Yes, the money received from NRI is taxable in India. Sale proceeds will first be credited to NRO account. Then you have to obtain a certificate from the Chartered Accountant relating to payment of taxes after which the money would be transferred from NRO account to NRE account.

Q) If NRI has 8 year NRE FDR and if in second year he becomes resident, how NRE FDR will be treated after third year and will interest thereon be taxable?

A) For returning Indians, funds held in fixed deposits in NRE accounts, interest will be payable at the rate originally fixed, provided the deposit is held for the full term even after conversion into resident account. However, the interest earned after the status was updated to resident will be taxable.

Q) If NRI buy's a property out of NRE funds and later on sell the property and credit the proceeds to my NRO account, what are the tax implications?

A) Profits earned by selling property in India will be liable to Capital gain if the difference between the sale value of the property and its cost of purchase. Capital gains can be classified as short term (up to 36 months) or long term (more than 36 months), depending on the period for which the property is held. Short-term capital gain will be taxed at normal slab rates and long-term gain will be taxed at 20%.

If a residential property is sold after being held for more than three years and the proceeds are reinvested for purchase of a new residential property, then the capital gains will be exempt to the extent of the amount reinvested. The exemption is subject to the new property being purchased within a year before or two years from the date of sale, or if new property is being constructed within three years from the date of sale.

Q) Can an NRI returning back to India, continue to hold his foreign earnings overseas, and gradually bring the money back to India as and when required?

A) NRI can bring his earnings as per his wish. After return to India, income earned outside India will not be taxable in India provided it is received in India for two years. After the two years, worldwide income would be taxable in India.



OBITUARY

CA. Anil P Rath

Nagpur Branch deeply mourn sad demise of our member.
May the heart and soul find peace and comfort.



DUE DATE CHART OF ALL STATUTORY PAYMENT 2014-15



DUE DATE CHART OF ALL STATUTORY PAYMENT 2014-15

Month	TDS/TCS Payments	TDS/TCS Returns	Advance Tax Payment	Income Tax Return	ROC Annual Return	Excise Payment	Excise Return	Service tax Payment	Service tax Return	ESIC Payment	ESIC Return	PF Payment	PF Return	Mah VAT/CS T Entry Tax Payment	Mah VAT/CS T Entry Tax Return	Mah VAT Audit Return	P TAX Payment
April	30th	-	-	-	-	-	10th	-	25th	21st	-	15th	25th	21st for Monthly & Quarterly Return and 30th for Half Yearly	30th for Monthly & Quarterly Return and 10th for Half Yearly	-	-
May	7th	15th	-	-	-	5th/6th	10th	5th/6th	-	21st	11th	15th	25th	21st for Monthly	Monthly Return	-	20th for Monthly PTRC and 30th for PTEC
June	7th	-	15th only in case of companies	-	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly and 21st for Monthly	30th for Monthly Return	-	-
July	7th	15th	-	31st	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly and 21st for Monthly	30th for Monthly Return	-	20th
August	7th	-	-	-	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly	30th for Monthly Return	-	20th
September	7th	-	15th	30th	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly	30th for Monthly Return	-	20th
October	7th	15th	-	-	-	5th/6th	10th	5th/6th	25th	21st	-	15th	25th	21st for Monthly and 21st for Monthly	30th for Monthly Return and 10th for Half Yearly	-	20th



Month	TDS/TCS Payments	TDS/TCS Returns	Advance Tax Payment	Income Tax Return	ROC Annual Return	Excise Payment	Excise Return	Service tax Payment	Service tax Return	ESIC Payment	ESIC Return	PF Payment	PF Return	Mah VAT/CST ENTRY Tax Payment	Mah VAT/CST ENTRY Tax Return	Mah VAT Audit Return	P TAX Payment
November	7th	-	-	-	60 days from AGM	5th/6th	10th/3 0th	5th/6th	-	21st	11th	15th	25th	21st for Monthly	30th for Monthly Return	-	20th
December	7th	-	15th	-	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly	30th for Monthly Return	-	20th
January	7th	15th	-	-	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly	30th for Monthly Return	15th	20th
February	7th	-	-	-	-	5th/6th	10th	5th/6th	-	21st	-	15th	25th	21st for Monthly	30th for Monthly Return	-	20th
March	7th	-	15th/31st	-	-	5th/6th & 31st	10th	5th/6th & 31st	-	21st	-	15th	25th	21st for Monthly	30th for Monthly Return	-	31st March for PTRC Holder having liability below 50000

Notes:-

TDS for the entire month of March, 2015 needs to be deposited by 30th April 2015.

Under P Tax if annual Tax Liability exceeds Rs. 5,000/- in the preceding year then Quarterly return else Annual Return to be submitted by 31st March of every year.

Excise Return ER4 to be filed Annually for Assesses paying duty of Rs. 1 Crore or more p.a through PLA & CENVAT.

PF Annual Return is to be submitted by 25th April of every year.

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Nagpur Branch of Western India Regional Council

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