



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

Nagpur Branch of WIRC of ICAI

www.nagpuricai.org



## NEWSLETTER

Vol.-11/ 2013-14

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Respected Professional Colleague,

With the introduction of Companies Act 2013, roles and responsibilities of Auditor has increased manifold. Formation of NFRA has also withdrawn many of the powers of the Institute. This has resulted in increased focus on Ethic and Good Governance by our members. After this festive season we are again geared up with our professional activities like MVAT Audit, ROC Work, DTP reporting, etc. Also the branch is ready with many more programs to enable you to update your knowledge and increase interaction with the members at large.

**Past Events** – Many programs were organized in the month of November. The month started with Diwali Poojan at Branch. Apart from our regular activities like teleconferencing, lecture meet, fellowship meet, many mega events were organized during the month.

Seminar on AML and DTP was organized where Hon. CCIT Vidarbha Region **Shri A K Shrivastava** guided our members over the departments perspective and promised to extend full support to our members wherever required.

National Women's Conference was formally inaugurated by **CA Jaydeep Shah**, Immediate Past President of ICAI and **CA Bhavna Doshi** former CCM. The program also witnessed presence of **Central Council Members CA Naveen Gupta and CA Prafulla Chhajed**, who addressed the participants and guided them for their future professional career.

Another National Seminar was on Companies Act which was addressed by **Central Council Member CA Nihar Jambusaria**. The program received overwhelming response from our members and our members were benefitted from the guidance of speakers.

**Ladies Special Activities** – Nagpur branch has this time organized two mega events exclusively for the female members of our profession. National Women's Conference was a great success as there was a record participation of 160 plus Lady CAs from all part of the country. Listening to the speakers like **CA Bhavna Doshi, CA Smita Gune and Ms. Shakuntala Chhangani** gave new vision and outlook to our female members. For the first time we organized Exclusive Cricket Tournament for the lady members which was also a great success. The event was also very well appreciated by the spectators.

**Guru Cool** – Our dream project Guru Cool was formally concluded this month. **Ms. Sarita Kaushik**, Bureau Chief ABP News Vidarbha, was the chief guest at the valedictory function of the program. The program started on 19<sup>th</sup> June, took 21 interactive sessions with 29 Gurus sharing their knowledge and experiences with the young professional colleagues.

**CAPL Season 5** – Signature event of the branch, Chartered Accountant Premier League (CAPL) concluded in a grand manner with 9 teams participating and lot of matches were played. Apart of entertainment, good networking was also developed amongst the fellow colleagues. I would like to put on record that extraordinary efforts were taken by my

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## VISUAL RIDES OF PAST EVENTS



Shri A.K. Shrivastava, CCIT inaugurating the half day Seminar on Anti Money Laundering & Domestic Transfer Pricing



Felicitation of Shri A.K. Shrivastava, CCIT by CA. Swapnil Agrawal, Chairman



Group photo - Dhanteras Pooja



Guru Cool - 08/11/2013 - Guru CA. Jayant Ranade



Guru Cool - 13/11/2013 - Guru CA. B.K. Agrawal



Guru Cool - 20/11/2013 -  
Guru CA. Anil Dani & Guru CA. Rajesh Loya

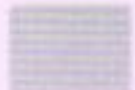


Valedictory session of Gurucool-27/11/2013  
Ms. Sarita Kaushik, Chief Guest



Guru Cool- 27/11/2013 - Guru CA. Julfesh Shah &  
Guru CA. Mahendra Kamath





colleagues in the managing committee to ensure smooth functioning of the event.

On students front also number of activities were organized like revisionary classes, test series, residential refresher course, cricket tournament, etc.

**Forthcoming Programs** – In the month of November number of programs are lined up for the members like Investor Awareness Program, Mock Tribunal, Lecture Meets, Full day Seminar on MVAT Audit, WICASA Chorus, Student Activities, study circles etc.,

**All Vidarbha Mega Seminar on Professional Enrichment** – On 13<sup>th</sup> and 14<sup>th</sup> November, 2013 we are planning to organize All Vidarbha Mega Seminar involving Other Branches and CPE chapters of Vidarbha. This will unite the Vidarbha CAs and provide them an opportunity to interact with each other to develop more professional relations. The program will focus on varied areas of practice and topics giving importance to Small and Medium Practitioners of Vidarbha.

**CPE Requirement** – With respect to correspondence received from ICAI HO, members are requested to check their CPE hours at [cpe.icaai.org](http://cpe.icaai.org) and ensure that they comply with the requirement of minimum CPE hours in the rolling period of 1st January 2011 to 31st December 2013 (2011, 2012, 2013), for any query member may write to [nagpur@icaai.org](mailto:nagpur@icaai.org).

Members are also requested to contribute to Nagpur Branch Newsletter by sending papers, suggestions, topic updates, feedback etc. at [nagpur.newsletter@gmail.com](mailto:nagpur.newsletter@gmail.com) / [nagpur@icaai.org](mailto:nagpur@icaai.org).

Wishing all the readers a Very Happy and Prosperous New Year 2014 ahead...

Thanks & Regards

Yours' in Profession

**CA Swapnil Agrawal**

Chairman

## FROM THE JOINT EDITORS



**Respected Seniors and Dear Professional Colleagues,**

For we Chartered Accountants the word responsibility holds great sense. Celebrated coach Celestine Chua quite responsibly remarks: The degree of responsibility you take for your life determines how much change you can create in it. He goes on to say: The more you take responsibility for your past and present, the more you are able to create future you seek.

Whereas till October'13 we were more concerned for completion of Income tax audits, December'2013 has now become the deadline for completion of minimum cpe hours required for the rolling period of 01<sup>st</sup> January'2011 to 31<sup>st</sup> December'2013 and for this Nagpur Branch has taken great initiative and have arranged series of seminars and study circle meetings enabling members to upgrade their knowledge level and also complete cpe requirements.

The month of November'2013 is marked by the retirement of Master Blaster Sachin Tendulkar which brought the entire nation together; we nagpurians got together and cheered for 9 teams in CAPL Season 5 which was a thorough entertainer. For the first time exclusive cricket tournament was organized for the lady members which was a great success.

The National Women's Conference was a big success with more than 160 lady Chartered Accountants participating in it.

A truly inspirational quote by our Past President – Dr A P J Abdul Kalam Azad

**"Intezaar karne walon ko utna hi milta hai jitna koshish karne wale chhod dete hain"** (write this in hindi)

Lets walk together to achieve great heights in our profession. I wish all of you a great New Year 2014 ahead.

Sincerely yours,

**CA. SAKET BAGDIA**







## Mandatory Cost Compliance and Cost Audit for Corporates

CMA Deepa Agrawal



Section 209 of the Companies Act, 1956 deals with the books of accounts to be maintained by a body corporate. Clause (d) of the section specifies that in the case of a company pertaining to any class of companies engaged in production, processing, manufacturing or mining activities, such particulars

relating to utilization of material or labour or to other items of cost as may be prescribed, if such class of companies is required by the Central Government to include such particular in the books of account.

Recently, the Government of India, Ministry of Corporate Affairs, Cost Audit Branch has published the following Notifications, Orders & Circular in connection with Cost Accounting Records & Cost Audit:

### Cost Compliance

Vide GSR No. 429 (E) dated 3rd June, 2011 prescribing The Companies (Cost Accounting Records) Rules, 2011 herein after referred to as **Common CARR** applicable to those companies meeting the below applicability conditions.

Vide G.S.R. 869(E) to 874(E) dated 7th December 2011 Industry Specific Cost Accounting Records Rules 2011 (IS-CARR) were issued for six regulated industries namely **Telecommunication, Petroleum, Electricity, Sugar, Fertilizer and Pharmaceutical industries.**

**Applicability of Cost Compliance:** These rules shall apply to every company, including a foreign company as defined under section 591 of the Act, which is engaged in the production, processing, manufacturing, or mining activities and

- wherein, the aggregate value of **net worth** as on the last date of the immediately preceding financial year **exceeds five crores** of rupees; or
- wherein the aggregate value of the **turnover** made by the company from sale or supply of all products or activities during the **immediately preceding financial year exceeds twenty crores** of rupees; or
- wherein the company's **equity or debt securities are listed** or are in the process of listing on any stock exchange, whether in India or outside India.

(1) Every company to which these rules apply, including all units and branches thereof shall, in respect of each of its financial year commencing on or after the 1st day of April, 2011, keep cost records.

(2) The cost records shall be kept on regular basis in such manner so as to make it possible to calculate per unit cost of production or cost of operations, cost of sales and margin for each of its products and activities for every financial year on monthly/quarterly/halfyearly/annual basis.

(3) The cost records shall be maintained in accordance with the generally accepted cost accounting principles and cost accounting standards issued by the Institute; to the extent these are found to be relevant and applicable. The variations, if any, shall be clearly indicated and explained.

(4) The cost records shall be maintained in such manner so as to enable the company to exercise, as far as possible, control over the various operations and costs with a view to achieve optimum economies in utilization of resources. These records shall also provide necessary data which is required to be furnished under these rules.

(5) All such cost records and cost statements, maintained under these rules shall be reconciled with the audited financial statements for the financial year specifically indicating expenses or incomes not considered in the cost records or statements so as to ensure accuracy and to reconcile the profit of all product groups with the overall profit of the company. The variations, if any, shall be clearly indicated and explained.

(6) All such cost records, cost statements and reconciliation statements, maintained under these rules, relating to a period of not less than eight financial years immediately preceding a financial year or where the company had been in existence for a period less than eight years, in respect of all the preceding years shall be kept in good order.

Thus the rule/formats based system is dispensed and principle based system is used for maintaining cost records.

**Every company to which the Common CARR applies is required to submit a compliance report** in relation to complying the above provisions, in respect of each of its financial year commencing on or after the 1st day of April, 2011, duly **certified by a cost accountant**, along with the Annexure to the Central Government, in the prescribed form.

Every company shall submit the **compliance report** to the Central Government within **180 days** from the close of the company's financial year to which the compliance report relates.

Every company to which any of the **IS-CARR** applies is







required to submit a **compliance report**, in respect of each of its financial year commencing on or after the 1st day of April, 2012

#### **Cost Audit**

To assess the productivity and regulation of price of some important industries which had direct bearing on the supply management system for the growth of Indian economy, Cost Audit was introduced through Companies act, 1965. However, administered pricing mechanisms are being dismantled in most of the places and the regulatory authority mechanism is taking its place. It is imperative that in context of an economic environment, determined by increasing competition both domestically and internationally, efficiency and economy be brought about in the operations of the manufacturing sector to catalyze and facilitate the cost competitiveness of the manufacturing sector in India. It is equally necessary to enable the industry to address issues arising in the ordinary course of trade like Transfer Pricing, Anti dumping measures, subsidies & cartel pricing. Thus the cost audit was introduced and the new rules for cost audit was brought in force.

New rules Vide G.S.R. 430 (E) dated 3rd June 2011 the Ministry of Corporate Affairs issued the **Companies (Cost Audit Report) Rules 2011** replacing the Companies (Cost Audit Report) Rules 2001.

**Applicability of Cost Audit:** 1) These rules shall apply to every company in respect of which an audit of the cost records has been ordered by the Central Government under sub-section (1) of section 233B of the Act.

2) Every company as specified in sub-rule (1) shall, within ninety days of the commencement of every financial year, file an application with the Central Government seeking prior approval for appointment of the cost auditor, through electronic mode, in the prescribed form i.e., Form 23C

3) Every cost auditor appointed under sub-rule (2) shall, within thirty days of receipt of letter of appointment, inform his appointment to the Central Government through electronic mode, in the prescribed form i.e., Form 23D

Every company shall submit the **audit report** to the Central Government within **180 days** from the close of the company's financial year to which the audit report relates.

Thus the following orders were issued :

- Order No. F. No. 52/26/CAB/-2010 dated 2<sup>nd</sup> May, 2011 for Cost Audit by all Companies covering 8 Products.
- Order No. F. No. 52/26/CAB/-2010 dated 30<sup>th</sup> June, 2011 for Cost Audit by all Companies covering 8 Products.
- Order No. F. No. 52/26/CAB/-2010 dated 24<sup>th</sup> January, 2012 for Cost Audit by all Companies covering 9 industries.

- Order No. F. No. 52/26/CAB/-2010 dated 6<sup>th</sup> November, 2012 issued a fresh Cost audit order for the companies through Central Excise Tariff Act 1985 (CETA) Headings. This cost audit order is in supersession of the Cost Audit Orders dated 2nd May 2011, 30th June 2011 and 24th January 2012.

The above mentioned order has **TWO** sections as follows

#### **Section A**

Following are the industries which are covered under this order and the conditions applicable:

- Telecommunication
- Petroleum
- Electricity,
- Sugar,
- Fertilizer
- Pharmaceutical

**Applicability :** which are engaged in the production, processing, manufacturing, or mining in the above Industries and

a) wherein, the aggregate value of **net worth** as on the last date of the immediately preceding financial year exceeds **five crores** of rupees; or

b) wherein the aggregate value of the **turnover** made by the company from sale or supply of all products or activities during the **immediately preceding financial year exceeds twenty crores** of rupees;

c) or wherein the company's **equity or debt securities are listed** or are in the process of listing on any stock exchange, whether in India or outside India.

shall gets its cost accounting records **audited by a cost auditor** in respect of financial year commencing on or after the 1st day of January 2013.

#### **Section B**

**Applicability:** Companies to which Companies (Cost Accounting Records) Rules, 2011 ie., Common CARR apply and

which are engaged in the production, processing, manufacturing, or mining in the above Industries and

a) wherein the aggregate value of the **turnover** made by the company from sale or supply of all products or activities during the immediately preceding financial year exceeds **Rs.100 crores**; or

b) or wherein the company's **equity or debt securities are listed** or are in the process of listing on any stock exchange, whether in India or outside India.

shall gets its cost accounting records **audited by a cost auditor** in respect of financial year commencing on or after the 1st day of January 2013.







**"No government can exist without taxation. This money must necessarily be levied on the people; and the grand art consists of levying so as not to oppress."**

**- Frederick the Great, 18th Century Prussian king.**

*By CA. Naresh Jakhota*



Literal vs Logical interpretation has added a lot to the controversy in various provision of the Income Tax Act-1961. One such section under the Indian Income Tax Act is section 54F.

U/s 54F of the Income Tax Act-1961, Long Term Capital Gain (LTCG) arising to an Individual or HUF on transfer of any long-term capital assets (other than the residential house property) shall be exempt if **Net sale consideration** is used for purchase/construction of a residential house property within certain prescribed time period. The exemption is with a rider that Assessee should not own more than one residential house property (other than the new house property) on the date of claiming an exemption u/s 54F.

There are the interesting verdicts which may not be in accordance with the strict interpretation of the provisions but in accordance with the spirit of the provision. Obviously, one needs to analyze the ratio of the case before arriving at any final conclusion.

#### **1. Sale Deed not a bar for claiming an exemption;**

The word "purchase" is not defined under the Act and therefore resort to the ordinary meaning as understood by a layman has to be made. Taking into consideration the letter as well as the spirit of section and the word "towards" used before the word "purchase", it seems that the said word is not used in the sense of legal transfer and so holding of a legal title within the stipulated period is not a condition precedent for claiming an exemption. If whole of the consideration is paid and possession of the house is obtained, the exemption contemplated is available. The date on which an assessee obtains the possession of the property is relevant for claiming an exemption and date of registration of agreement for purchase may not be that relevant.

- a) Balraj v. CIT [2002] 123 Taxman 290 (Delhi)
- b) CIT v. Dr. Laxmichand Naripal Nagda [1995] 78 Taxman 219 (Bom)
- c) CIT v. Beena K. Jain [1994] 75 Taxman 145 (Bom).

#### **2. Investment of borrowed funds in the capital gain deposits A/c Scheme:**

Flow of the same funds is not necessary. Even if the sale consideration is used somewhere and the borrowed money is used for the purpose of investment, still the exemption would be admissible. Co-relation or direct nexus of the inflow and outflow may not be relevant for determining the exemption claim. Even if the payment is done by someone else on behalf of the assessee, the claim could be admissible. The word "purchase" should be taken in its ordinary meaning of

buying for a price or equivalent of price, by payment in kind or adjustment towards an old debt or for monetary consideration.

- a) Sunil Sachdeva v Asstt CIT (2013) 56SOT321 (DEL 'G' Trib)
- b) Muneer Khan v. ITO (2010) 41SOT 504 (Hyd Trib)
- c) CIT v. Kanta Devi Saraf, 125 Taxman 215 (Cal.)
- d) Bombay housing corporation vs Asst CIT (2002) 81 IDT 545 (Mum trib)
- e) J.V Krishna Rao v. DY, CIT (2013) 49 (II) ITCL 129 (Hyd 'A' Trib)
- f) CIT vs V.R. Desai (2011) 37 (I) ITCL 29 (Ker-HC)
- g) Ajit Vaswanit v. CIT [2001] 117 Taxman 123 (Delhi) (Mag.)
- h) Smt Sri Lakshmi (IT Appeal No 18697 (Hyd of 2011))
- i) Prema P Shah Vs ITO (2006) 100 ITD 60 (Mum trib)
- j) Sita Jain vs Asst CIT ((2011) 39 II ITCL 499 (DEL 'E' Trib)
- k) Milan Sharad Ruparel v Asst CIT (2009) 28 (II) ITCL 362 (Mum trib)
- l) CIT v. T.N. Aravinda Reddy [1979] 2 Taxman 541(SC).

#### **3. Completion of construction within a period of 3 Years**

**is not necessary:** If the investment of net sale consideration is done by the assessee, exemption would be admissible even if the construction is not completed. Interestingly, exemption could not be denied even if the house is completed even after a period of 3 years. It would be sufficient compliance with the spirit of section 54F if the assessee has invested the net sale consideration within a period of 3 years for construction purpose.

If the substantial amount is paid in terms of purchase agreement within the stipulated period, the exemption under section 54 is available even if the possession is handed over after the stipulated period. Construction may be commenced before the transfer of long-term capital asset.

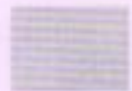
- a) Usha Vaid v ITO (2012) 53 SOT 385 (Asr- Trib)
- b) CIT v. R.L. Sood [2000] 108 Taxman 227 (Delhi)
- c) CIT v. J.R. Subramanya Bhat [1986] 28 Taxman 578 (Kar).

**4. Cost of Land includible for Exemption:** The cost of new assets also includes cost of land. [Circular No. 667, dated October 18, 1993.]

**5. Renovation of existing house property :** Section 54F allows exemption on purchase or construction. Renovation or extension of existing house property is outside the purview of section 54F and so exemption claimed on renovation/extension was denied.







- a) Meera Jacob Vs ITO (2009) 313 ITR 411 (Ker)  
b) CIT v Pradeep Kumar (2007) 290 ITR 90 Mad

**6. Purchase or Construction of house Property in India is necessary?** There is nothing in Section 54F which suggests that the new house property should be purchased or constructed in India only. Even if the property is purchased or constructed abroad, exemption would be admissible.

- a) Vinay Mishra v Asst CIT (2012) 150 TT (Bang 'C' trib) 245

- b) Prema P. Shah v. ITO (2006) 101 TTJ (Mum Trib) 84

**7. Purchase of more than one unit usable as one composite unit:** Section 54F, like section 54, uses the word "a" residential house property. Further, section 54F denies exemption if assessee owns more than one residential house property, other than the new one, on the date of claiming an exemption [Section 54F needs to be strictly distinguished from section 54 on this front]. Section 54F further places restriction on acquisition of any other house property within a period of 3 years.

The important question: Whether the exemption would be admissible if the assessee purchased more than one residential house property for claiming an exemption u/s 54F. It has been held that if the units are capable of being as one composite unit to meet the family requirements, exemption could be admissible.

- a) ITO v. Sushila M. Jhaveri (2007) 107 ITD 327 (Mum-Trib)  
b) Asst CIT v Deepak S. Bheda (2012) 52 SOT 327 (Bang 'C' trib)

In CIT v Gita Duggal (2013) 257 CTR (Del) 208 it is held that section 54/54F requires an assessee to acquire a residential house and so long as assessee acquires a building which may have several units which can, if the need arises, be conveniently and independently used as an independent residence, requirements of section should be taken to have been satisfied.

The exemption u/s 54F is available if the assessee doesn't own more than one property on the date of acquisition of the new house property. There is an important and remarkable judgment delivered by Mumbai Tribunal in case of ITO Vs. Rasiklal N. Satra (2006) 98 ITD 335 wherein it is held that the proviso to Section 54F(1) uses the expression "owns more than one residential house" and the term "own" would include only the case where a residential house is fully and wholly owned by the assessee. The Tribunal held that it would not include a residential house owned by more than one person.

**8. Investment in the Farm House:** The preference of

second house being farm house is in vogue today. Resultantly the question whether exemption towards investment in the farm house would be admissible or not has become all the more relevant. Section 54F stipulates the purchase or construction of house property. There is no prohibition in section 54F on construction of residential house on agricultural land. CBDT Circular No. 667 DATED 18.10.1993 clarifying the scope of Section 54F also doesn't put any restriction on the construction in the farm land. [Asst CIT v Om prakash Goyal (2012) 53 SOT (JP'A' trib) 446]

**9. Demolition of the house within a period of 3 years:** Exemption u/s 54F is with a rider that the new house (against which exemption is claimed) should not be transferred within a period of 3 years. However, if the new house is demolished, exemption u/s 54F could not be denied. It is rightly concluded by the judiciary that the destruction doesn't tantamount to transfer.

- a) Vania silk mills P Ltd V CIT (1991) 191 ITR 647 (Mum)  
b) CIT V Chhaya B Parekh (2013) 51 (I) ITCL 292 (Bom-Hc)

**10. Purchase in the name of other person:** A very controversial & debatable issue indeed. In most of the cases it is held that the exemption is allowed even if the investment is done in the name of any other person. It is held that, section 54F, being a beneficial provision doesn't require the investment in the new residential property in the name of the assessee only. [CIT v Kamal Wahal (2013) 51 (I) ITCL 153 (Del Hc) (2013) 258 CTR (Del) 251]

**11. Sale of two properties & investment in one property:** Exemption can not be denied if the LTCG arises from two separate properties. Further, if all other conditions are satisfied, against investment in the new property, exemption u/s 54 & 54F can be claimed simultaneously. There is no specific bar either u/s 54 or U/s 54F or any other provision of the Act prohibiting allowance of exemption under both the section simultaneously. [Venkata Ramana Umareddy v Dy. CIT (2013) 51 (II) ITCL 467 (HYDA Trib)]

**12. Applicability of Section 50C while claiming an exemption u/s 54F:** Section 54F allows exemption on the basis of net sale consideration and not on the basis of value adopted for computing the full value consideration u/s 48. It is reasonably held that exemption is allowable with reference to sale consideration and not with reference to value determined u/s 50C. [Raj Babbar v ITO (2013) 56 SOT 1 (Mum D Trib) 444]

The fact remains:

"People who complain about taxes can be divided into two classes: men and women".

*~\*~*







## Will your Nominee get the money on your death?- Legality-Very Important Mail

CA. Atul Khemka



Will your Nominee get the money on your death?

Did you think that your nominee is the person, who will get all the money legally from your Life Insurance Policy and Mutual funds investments? Ha! That is exactly what you'd think if you aren't aware of the legal aspects. We assume a lot of things which sounds

like they're obvious, but are not true from the legal point of view. Today, we'll concentrate on nominations in financial products.

For whom are we earning? For whom are we investing? Who, do we want to leave all our wealth to, in case something happens to us? It might be your children, your spouse, parents, siblings etc., or just a subset of these. You also might want to exclude some people from your list of beneficiaries! So you think you will nominate person X in your Insurance policy, and when you are dead and gone, all the money goes to person X and he/she becomes the sole owner? You're wrong, dude! It doesn't work that way. Let's see how it actually does!

### What is a nominee?

According to law, a nominee is a trustee not the owner of the assets. In other words, he is only a caretaker of your assets. The nominee will only hold your money/asset as a trustee and will be legally bound to transfer it to the legal heirs. For most investments, a legal heir is entitled to the deceased's assets. For instance, Section 39 of the Insurance Act says the appointed nominee will be paid, though he may not be the legal heir. The nominee, in turn, is supposed to hold the proceeds in trust and the legal heir can claim the money.

A legal heir will be the one whose is mentioned in the will. However, if a will is not made, then the legal heirs of the assets are decided according to the succession laws, where the structure is predefined on who gets how much. For example, if a man during his lifetime executes a will. In the will, he mentions his wife and children as legal heirs, then after his death, his wife and children are the legal owners of his assets. It is essential that one needs to execute a will. It is the ultimate source of truth and replaces the succession law. Nominee can also be one of the legal heirs.

**Important -** Mention the Full Name, Address, age, relationship to yourself of the nominee. Do not write the

nomination in favour of "wife" and "children" as a class. Give their specific names and particulars existing at that moment. If the nominee is a minor, appoint a person who is a major as an appointee giving his full name, age, address and relationship to the nominee.

### Why is the concept of nominee?

So you might be wondering, if the nominee does not become the sole owner, why does such a concept of "nominee" exist at all? It's pretty simple. When you die, you want to make sure that the Insurance company, Mutual fund or your shares should at least get out of the companies and go to someone you trust, and who can further help, in process of passing it to your legal heirs.

Otherwise, if a person dies and hasn't nominated anyone, your legal heirs will have to go through the process of producing all kind of certificates like death certificates, proof of relation etc., not to mention that the whole process is really cumbersome! (For each legal entity! The insurance company, the mutual funds, for the shares, for the real estate...) . So, to simplify, if a nominee exists, these hassles don't happen, since the company is bound to transfer all your money or assets to the nominee. The company then goes out of scene & then, it's between nominee and legal heirs.

### Example of Nomination

Ajay was 58 years old who died recently in an accident. As his children were settled, he wanted to make sure that his wife is the sole owner of all the monetary assets. This includes his insurance policy and mutual funds. So during his lifetime, he nominated his wife as a nominee in his term insurance policy and mutual funds investments. However, after Ajay's death things didn't turn up the way he wanted. The reason being Ajay did not leave a will. Though his wife was the nominee in all his movable assets, as per the law, his wife, along with children, were the legal heirs and all of them had equal right to Ajay's assets.

**One simple step which could have saved the situation was that Ajay should have made a will** which clearly stated that only his wife was entitled to get all the money and not his children.

### IMPLICATIONS OF NOMINATION ARE DIFFERENT FOR EACH CATEGORY!!

#### Nomination in Life Insurance

A policyholder can appoint multiple nominees and can also specify their shares in the policy proceeds.







Nomination in life insurance has one limitation, as insurance policies are bought to secure your financial dependents, your first choice of nominee has to be your family members. In case you want to nominate a non-family member like a friend or third party, you will have to show/PROVE the insurance company that there is some insurable interest for the person. This happens because of a Clause called PRINCIPAL OF INSURABLE INTEREST in insurance. Note that provision of nomination in life insurance is related to Section 39 of the Insurance Act. Note that as per LIC website.

Nomination is a right conferred on the holder of a Policy of Life Assurance on his own life to appoint a person/s to receive policy moneys in the event of the policy becoming a claim by the assured's death. The Nominee does not get any other benefit except to receive the policy moneys on the death of the Life Assured. A nomination may be changed or cancelled by the life assured whenever he likes without the consent of the Nominee.

Make sure, you have a nominee for your policy for easy settlement of the claim, if you do not have any nominee mentioned in the policy, it can turn out to be a disaster for your dependents to get a claim.

#### Nomination in Mutual funds

In case of mutual funds, you can nominate up to three people, who can be registered at the time of purchasing the units. While filling in the application form, there is a provision to fill in the nomination details. Even a minor can be a nominee, provided the guardian is specified in the nomination form. You can also change nomination later by filling up a form which is available on the mutual fund company website. Nomination in mutual funds is at folio level and all units in the folio will be transferred to the nominee(s). If an investor makes a further investment in the same folio, the nomination is applicable to the new units also. A non-resident Indian can be a nominee, subject to the exchange control regulations in force from time to time.

#### Nomination in Shares

Quiz for you . Now you know what a nominee means and who actually gets the money. So if there is a husband H, with wife W and nephew N, and he has nominated his nephew N to be the nominee of his shares in demat account, who will have the legal right to own the shares after husband's death? If you answer is wife, you are wrong in this case! In case of stocks, it does not work the usual way, if a will does not exist.

In the verdict, Justice Roshan Dalvi struck down a petition filed by Harsha Nitin Kokate, who was seeking permission to sell some shares held by her late husband. The Court noted that as she was not the nominee, she had no ownership rights over the shares. Ms Kokate's lawyer had argued that as she was the heir of her husband who had

died intestate (without a will), she should have ownership rights of the shares, and be able to do anything with them as she wished. In this case, Ms Kokate's husband had nominated his nephew in favour of the shares. Justice Dalvi however noted that under the provisions of the Companies Act and the Depositories Act, Acts which govern the transfer of shares, the role of a nominee was different. A reading of Section 109(A) of the Companies Act and 9.11 of the Depositories Act makes it abundantly clear that the intent of the nomination is to vest the property in the shares which includes the ownership rights thereunder in the nominee upon nomination validly made as per the procedure prescribed, as has been done in this case."

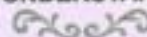
It means that if you have not written a will, anyone who has been nominated by you for your shares will be the ultimate owner of those stocks. The succession laws on inheritance will not be applicable but in case, you have made a will, that will be the source of truth.

#### Nomination in PPF

Let me give you some shock first. If you have Rs 10 lakh in your public provident fund (PPF) account and you have not nominated anyone for your PPF account, your legal heirs will get maximum of Rs1 lakh only! Yes, it's so important to have a nominee, now you get it. You can nominate one or more persons as nominee in PPF. Form F can be used to change or cancel a nomination for PPF. Also note that you cannot nominate anyone if you open an account for a minor.

Nomination in Saving/Current/FD/RD Account in Banks  
Fd's also come with nomination facility. While opening a new account, there is a column for nomination in the same form and you should fill it. You can nominate two persons with first and second option. Note that in case you have not done any nomination till now, you should request Form No DA-1 from your Bank which is used to assign a nominee in future. (Examples of ICICI Bank, HDFC Bank, Canara Bank) : in the same way to change/cancel the nomination you need to fill up Form no DA-2. Read about Corporate Fixed Deposits As per a famous case, A Bench of Justices Aftab Alam and R M Lodha in an order said that the money lying deposited in the account of the original depositor should be distributed among the claimants in accordance with the Succession Act of the respective community and the nominee cannot claim any absolute right over it. Section 452A(2)(Banking Regulation Act) merely put the nominee in the shoes of the depositor after his death and clothes him with the exclusive right to receive the money lying in the account. It gives him all the rights of the depositors so far as the depositors's account is concerned. But it by no stretch of imagination make the nominee the owner of the money lying.

**MAKE A WILL! DO YOUR NEXT KIN A HUGE FAVOUR!  
MAKE SURE YOU UNDERSTAND THE IMPLICATIONS  
OF LAWS.**







## Past Events November 2013

S. No	Date	Programme Type	Topics	Speakers	Venue	No. of Part.	CPE Hrs.
1.	01/11/2013	Fellowship Meet	Dhanteras Pooja	At the hands of Chairman CA. Swapnil Agrawal & CA. Neha Swapnil Agrawal	ICAI Bhavan	35	--
2.	08/11/2013	Lecture Meet	Gurucool- Appearance before I.T. authorities & HUF Matters	Guru- CA. Jayant Ranade	ICAI Bhavan	40	--
3.	12/11/2013	CPE Teleconference	Significance of Peer Review		ICAI Bhavan	16	2 Hrs
4.	13/11/2013	Lecture Meet	Gurucool - Opportunities apart from Practice by great visionary	Guru - CA. B.K. Agrawal	ICAI Bhavan	40	--
5.	15/11/2013	Half Day Seminar	Half Day Seminar on Anti Money Laundering & Domestic Transfer Pricing	<b>Chief Guest:</b> Shri A.K. Shrivastava, CCIT, Vidarbha <b>Speakers:</b> CA. Kailash Jogani Past Chairman Mr. Ajit Tolani, Pune	ICAI Bhavan	166	3 Hrs
6.	15/11/2013	Felicitation	Felicitation of Shri A.K. Shrivastava, CCIT Vidarbha Region	At the hands of CA. Swapnil Agrawal, Chairman	ICAI Bhavan	166	--
7.	16/11/2013	National Conference	<b>Womens' National Conference</b> 1.Capacity Building of Women CAs 2.Marketing Strategies within Ethical Framework 3. Career Strategies for Women CA 4. Work and Life Balance	<b>Chief Guest:</b> CA. Jaydeep Shah, Imm. Past President, ICAI <b>Speakers:</b> CA. Navien Gupta, CCM CA. Prafulla Chhajed, CCM CA. Nihar Jambusaria, CCM CA. Bhavana Doshi CA. Smita Gune CA. Shakuntala Chhangani	Hotel Tul Imperial	160	6Hrs
8.	16/11/2013	National Seminar	<b>National Seminar on Companies Act-2013 &amp; Recent Development in Financial Market</b> 1. Overview of Companies Act-2013, One person company, Professional opportunities for CAs in Companies Act-2013 2. Overview of Directors, other provisions in Companies Act-2013 & Recent Developments in Indian Financial Market & Professional opportunities thereof	<b>Chief Guest:</b> CA. Nihar Jambusaria, CCM <b>Speakers:</b> CA. Nihar Jambusaria, CCM CS. Nirav Gala, Mumbai	ICAI Bhavan	170	4 Hrs
9.	20/11/2013	Lecture Meet	Gurucool- Formation and Taxation of Trust How to Face Survey and Search	Guru - CA. Anil Dani Guru - CA. Rajesh Loye	ICAI Bhavan	40	--
10.	21-22-23/12/2013	CAMP	Adhaar Card Camp	<b>Chief Guest:</b> CA. Jitesh Shah, RCM	ICAI Bhavan	250	--
11.	22/11/2013	Seminar	<b>Half Day Seminar on SME Industrial growth and Advantages at Vidarbha</b>  1. Advantage Vidarbha for SME- The way Ahead and Latest developments on Industrial Policies 2. PSI 2007 vis-a-vis 2013, Advantages for MSME Units, Large Scale Units and Mega Units	<b>Chief Guest:</b> Mr. Vikas Jain, Jt. Director of Industries  <b>Speakers:</b> Mr. Vikas Jain, Jt. Director of Industries  CA. G.B.Modi, Dhule	ICAI Bhavan	191	6 Hrs







12	22/11/2013	CPE Teleconference	Accounting for Embedded Derivatives	<b>Speakers</b> CA. Nitin Gupta		35	2Hrs
13	23-24- 30/11/2013 & 01/12/2013	Cricket Tournament	CA. Premier League- Tennis Ball Tournament	<b>Chief Guest :</b> Shri Prafulla Doshi President, VIA & Vice President, VCA, Nagpur	Vasant Nagar & Ambedkar College Cricket ground	300	--
14	24/11/2013 To 26/11/2013	Educational Tour	WICASA Educational Tour		Panchmarhi	44	--
15	25-26- 27/11/2013	CAMP	Adhaar Card Camp	<b>Chief Guest:</b> CA. Jitesh Shah, RCM	ICAI Bhavan	150	--
16	27/11/2013	Lecture Meet	Gurucool Advantage- CA Profession How to Create your Brand	Guru- CA. Jitesh Shah, RCM Guru- CA. Mahendra Kamath, Past Chairman	ICAI Bhavan	40	--
17	27/11/2013	Lecture Meet	Gurucool Valedictory session	<b>Chief Guest :</b> Ms. Sarita Kaushik Bureau Chief, Vidarbha, ABP-News ABP-Majha	ICAI Bhavan	40	--
18	28/11/2013	CPE Teleconference	Standards on Auditing-700,705 & 706	<b>Speaker:</b> CA. Jayant Gokhale	ICAI Bhavan	33	2Hrs
19	29/11/2013	Seminar	<b>Half Day Seminar on Data Analytics and Continuous Monitoring-Practical Case Studies</b> 1. Identifying Fraud & Irregularities 2. Effective Audit Planning using Statistical Techniques 3. Internal Audit-Testing of Controls & Repetitive Analysis	<b>Speaker:</b> Mr. Jairam Rajshekar Mumbai	ICAI Bhavan	181	3 Hrs
20	30/11/2013	Seminar	<b>Half Day Seminar on VCES</b> 1. Voluntary Compliance Encouragement Scheme ( VCES)	<b>Speaker :</b> CA. Milind Patel, Past Chairman	ICAI Bhavan	182	2 Hrs
21	30/11/2013 & 01/12/2013	Cricket Tournament	CA. Premier League- Tennis Ball Tournament	<b>Chief Guest :</b> CA. Jaydeep Shah, Past President, ICAI	Ambedkar College Cricket ground	300	--
22	30/11/2013 & 1/12/2013	WICASA	WICASA Champions Trophy-2013	<b>Chief Guest :</b> Shri Parinay Fuke Corporator	Ram Nagar Ground & Reshimbag Ground	150	--

**Online Registration for Programme/ Seminar  
can be done at [www.nagpuricai.org](http://www.nagpuricai.org)**





**Proposed Forthcoming Events December 2013**

Date	Time	Topic	Speaker	CPE	Venue
01/12/2013	11.00 am	CAPL Final	Chief Guest : CA. Jaydeep Shah Imm. Past President, ICAI		Ambedkar College ground
01/12/2013		WICASA Champions Trophy-2013	Chief Guest: Shri Parinay Fuke, Corporator	--	Ram Nagar Ground
01/12/2013	10.30 am	WICASA CPT Mock Test		--	ICAI Bhavan
03/12/2013 to 8/12/2013	9.00 am	One Day Revisionary Classes for CPT 1. Economics 2. Accounts (Company Accounts, Joint Venture, Consignment) 3. Accounts (other part) 4. Law 5. Maths 6. Statistics	CA. Sheetal Sarda Mr. Virag Mitkary Mr. Abhijeet Bandopadhyay CA. Pinkesh Thakrani Mrs. Sonita Batra CA. Sumit Sarda	--	ICAI Bhavan
06/12/2013	4.30 pm	Half Day Seminar on NBFC	CS. Marotrao Jawanjar	2 hrs	ICAI Bhavan
07/12/2013	9.00 am	Half Day Seminar on Stock Audit	CA. Prasad Dharap	2 hrs	ICAI Bhavan
13/12/2013 & 14/12/2013	9.30 am	All Viadarbha Conclave on Professional Enrichment 1. Growth of Small & Medium Practitioners- Road Ahead  2. Overlap of VAT & Service Tax – Related Issues.  3. Service Tax – Issues arising out of Reverse Charge Mechanism  4. Auditors Role and Responsibilities under New Companies Act  5. Moving towards IFRS Converged Standards and Schedule VI  6. HUF- Taxation and Tax Planning  7. Important Issues under Wealth Tax Act & Important points to be considered under drafting of Documents	CA. Uttam Prakash Agrawal, Past President, ICAI  CA. Sunil Gabhawalla, Mumbai  CA. Naresh Sheth, Mumbai  CA. Khushroo Panthaky Mumbai CA. Yagnesh Desai  CA. Harish Motiwala, Mumbai  CA. C. N. Vaze, Mumbai	12 Hrs	Hotel Centre Point







21/12/2013	2.00 pm	Seminar on VAT Audit	Eminent faculty	6Hrs	Hotel Centre Point
22/12/2013		Branch Annual Picnic			
25/12/2013		Seminar on Direct Taxes 1. Assessment of Hawala Transactions under Direct Taxes 2. Taxation of Real Estate Transaction ( only Direct Tax Perspective) Covering section 43, CA, 56 (2) & 194 (IA) of Income Tax Act	Speakers:  1. CA. Bhupendra Shah, Mumbai 2. Eminent Faculty	6 Hrs	
28/12/2013		WICASA Youth Festival	Shri Devendra Fadnavis, MLA		South Central Zone Cultural Centre , Civil Lines Nagpur



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## VISUAL RIDE OF PAST EVENTS



Adhaar Card Camp inaugurated by CA. Julfesh Shah, RCM



Half Day Seminar on SME inaugurated by Mr. Vikas Jain, Jt. Director of Industries



Half Day Seminar on VCESCA. Milind Patel, Past Chairman- Guest Speaker



Half Day Seminar on Data Analytics- Mr. Jairam Rajshekhar- Guest Speaker

## WICASA VISUAL RIDES



Group Photographs of WICASA Cricket Tournament and Education Tour at Panchmarhi





## CAPL-2013 INSIGHTS SEASON - 5







## VISUAL RIDE OF PAST EVENTS

### NATIONAL SEMINAR ON COMPANIES ACT-2013 INSIGHTS



### NATIONAL WOMEN'S CONFERENCE INSIGHTS





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