Message from the Chairman, Board of Studies

Dear Student,

Recent past has been good for Indian Economy. However, the matter that is bothering the policy makers is the upsurge in the inflation rates. The Monetary tightening of economy is being pursued to control the inflation. The central bank of our country – Reserve Bank of India has increased CRR to 6.25 % and Repo rate to 7.75 %. This hike is aimed towards reducing liquidity in the economy. The inflation that is hovering more than 6 % needs to be brought down.

Another significant factor is the falling value of dollar. At the time of writing this letter the rupee has appreciated to less than 42 rupees against the US currency. Exporters, especially those who have not hedged themselves will face reduction in their inflows. On the other hand imports will get cheaper. The cost of importing crude will also go down. If the benefit is passed to the general public in form of reduction in petrol prices, the inflation will also be favourably impacted.

Examinations

The May examinations are round the corner. My best wishes to all the students who are appearing in them. In the recent examinations pass percentages have shown a healthy rising trend. I wish in this examination still larger number of students pass. This is possible as I find that the students are putting a lot of hard work these days. I am sure you are studying, assimilating, practising and revising well in advance for the examination.

Now I will suggest a few things about the actual appearing in the examination.

♦ Read all instructions and follow them.
♦ Keep backup of extra pen, rulers, erasures, etc.
♦ Give a quick reading to the question paper. Write answers to the questions where you have sound knowledge. Skip the questions with which you are not comfortable. Comeback to them later.
♦ Avoid time wasters. In the hall you will have only enough time to write answers. Unnecessary thinking or looking here and there will waste your time.
♦ Have confidence in yourself. If you are not confident you will be taking examinations half-heartedly.

(Continued on Page 4......)
SAFA Students’ Exchange Programme
ICAI students with President ICAP

Standing L to R: Ahtasham Ansari, Nikhil Naikawadi, S. Sankaranarayanan, Namrata Shah, Sumit Dhanuka, Moiz Ahmad (Executive Director, ICAP), Subal Jalan, Mainak Banerjee, Vinay Garg, Nikhil Bagrodia, Richa Modi
Sitting L to R: Nidhi Agrawal, L. Wickremesinghe (Council Member, ICASL), Nasim Hyder (President, ICAP), Vivek Agarwal, Siddharth

Joint Seminar

A view of Joint Seminar organised by the BOS jointly with University Business School, Panjab University, Chandigarh

Ahmedabad Students’ Conference

CA. Durgesh Buch, Chairman, Ahmedabad Branch of WICASA addressing the participants. Others seen in picture (L to R): CA. Girish Ahuja, CA. Parag Rawal, Chairman, Ahmedabad Branch of WIRC, Jyoti Maru, Vice-chairman, Ahmedabad branch of WICASA

A section of participants
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### Invitation to Write Articles

Members, academicians, students and others may send their original articles for inclusion in this newsletter. Typically the length of articles should be between 2000 to 4000 words. **Articles written by the students are encouraged.** Every year best articles that are written by students are awarded cash prize and a certificate at the annual function of the Institute.

All correspondence in this regard should be done at **Board of Studies, ICAI, C-1, Sector – 1, Noida 201301.** Please write your complete name, complete address and the membership/registration number in your correspondence. Also send a copy of recent passport size photograph.

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**Message from the Chairman, Board of Studies**

(...Continued from page 1)

♦ Do not bother what other students are doing. If somebody has taken extra sheets that does not mean that he will perform better. Keep on concentrating on your own work without worrying what others are doing.

**All India Conference and National Convention**

While some of you are appearing in the examinations, we are deeply engrossed in planning student activities directed towards providing additional inputs and in turn wholesome education. I am glad to share with you that 20th All India CA Students’ Conference is scheduled in Ahmedabad on 23rd and 24th June, 2007. This conference will be followed by 4th National Convention for CA Students in Baroda on 6th and 7th July, 2007. Both these programmes will cover contemporary issues that are of interest to our students. Immediately after the examinations students should start planning to participate as paper writers, speakers or as participants. The details will be hosted on the website of the Institute. Presenting paper is a good opportunity for you to hone up your oratory skills. Many students suffer from stage fright. The best way to overcome it is to plunge into it. You should gear up yourself to present papers in these programmes. I advise you to select a suitable topic from the announcement and submit papers within the prescribed time frame.

**Elocution and Quiz Contest**

We are also planning to conduct a series of elocution and quiz contests during the year. Presently, these are being planned at branch level. Regional and all India level will follow immediately afterwards. The contests will be conducted in a three tier manner. The winners of branch level competition will participate at regional level. All India contest will be held amongst the winners of regional level. The details regarding the schedule of the contests will be included in the website from time to time. These contests will have double benefit. First, the knowledge and skills will be updated and tested in a comprehensive manner. Second, these contests will help you in your overall development. So do not leave this opportunity and participate in large numbers.

**Update Yourself**

Internet offers a useful mechanism to reach the students in a timely manner. For the benefit of the students who are not able to acquire publications such as Suggested Answers, Revision Test Papers, Model Test Papers we are regularly hosting them on the website of the Institute. Also a lot of changes have taken place in past. Many of the students have not updated themselves or are still not clear about them. Students also rely on the grapevine. Grapevine often feeds them with partial or incorrect information. Students should make a habit of regularly visiting website to get information. They should also read announcements in regular manner at least once every week. They are available in the ‘Board of Studies Announcements’ under students section on www.icai.org.

**Point to ponder**

Recently I read a quote with a deep meaning that I would like to share with you – ‘Throw out an alarming alarm clock. If the ring is loud and strident, you’re waking up to instant stress. You shouldn’t be bullied out of bed, just reminded that it’s time to start your day.’ The quote is not merely about waking up in the morning. It is waking up to how we deal with situations in our lives. There are two kinds of people. One kind will take the challenges of life in lackadaisical manner. These are the people who will delay things to the last minute, for example their study efforts. When things will become unmanageable the alarm bell will sound, but then it would be too late. The other kind will be proactive. They will plan their future tasks and adhere to what they plan. They will meticulously follow their plans. There are also others who are somewhere in the midst of two kinds. Ultimately, the people who are towards the second kind succeed in their lives. So do not wait for alarm bells to ring, act now.

With best wishes,

Yours truly,

CA. Jaydeep Narendra Shah
International Taxation

Ankur B. Nishar

International Taxation is concerned with taxation of cross border transaction in goods, services, transfer of technology and capital. It defines the right and obligations of non-residents in the host country.

It may be noted that while in the home country, tax is an obligation in host country it is a cost.

Most countries follow residence-based system of taxation. A residence-based system taxes the worldwide income of the residents of that country. When a resident of that country (residence country) ventures out to another country (source country) and earns income in source country, the source country would charge tax on the income earned within its jurisdiction. The residence country would again tax the income taxed in source country since a person who is resident within residence country’s jurisdiction has earned that income. This gives rise to what is commonly known as ‘doubly taxed income’.

Country of residence is the place where taxpayer has close nexus whereas source country is the place where income has close economic connection.

Broadly there are two types of Double Taxation:

♦ **Juridical Double Taxation**
In juridical double taxation a person is taxed in more than one jurisdiction on the same income i.e. same person is taxed twice. For example, an American company, which earns royalty from an Indian company would be subject to tax on the income in India because the income arises in India and in USA because it is resident there. Imposition of comparable taxes in two (or more) states on the same taxpayer

♦ **Economic Double Taxation**:
When the same income is getting taxed in the hands of two different taxpayers it is referred to as Economic Double Taxation. This may happen either in the same jurisdiction or in two different jurisdictions.

A DTAA would normally relieve only the juridical double taxation and not economic double taxation.

**Methods of eliminating Double Taxation:**
Countries which have entered into DTAA, eliminate double taxation by any of the following methods:

♦ **Exemption Method**
The income arising in the source country is exempted by the country of residence. As a result, the income arising in the source country is taxed only in the source country. Such Income is thus taxed only once.

♦ **Credit Method**
The home country gives credit for the tax paid in the host country (source country) on the income arising in the host country. Credit is given at the rate of tax prevailing in the home country (country of residence) or the rate of tax paid in the host country, whichever is lower.

Double taxation is harmful for movement of capital, technology and people. Principle of avoidance of Double Taxation is to share the revenues between two countries. Each country gets its share of tax revenues and the bilateral and multilateral trade grows. Trade flourishes when there is free flow of goods and services. Overall tax collection increases and both countries tend to benefit. **Prosperity comes not by levy of tax; it comes by trade, commerce and cross border investments.**

In order to achieve tax efficiency, international taxation tackles with the situation of mitigating the double taxation (both in home country and host country) by means of **Double Taxation Avoidance Agreements**. Therefore, the countries enter into bilateral agreement to avoid Double Taxation.

A Double Taxation Avoidance Agreement (DTAA) is an agreement entered into between two countries for avoidance of double taxation on the same income in the hands of the same person.

Double Taxation Avoidance Agreements (D.T.A.A) are entered into after protracted negotiations. Methods are evolved to ensure that double taxation is mitigated by exempting the income already taxed or by giving credit for the tax paid by the business entity in the host country. As a result the business entity effectively pays tax only once.

**Objectives of DTAA**

♦ To allocate fiscal jurisdictions so as to eliminate double taxation.
♦ To provide certainty to the taxpayer.
♦ To prevent tax evasion through exchange of information.
♦ To promote trade, business and investment between the two countries
♦ To eliminate discrimination in taxation between the subjects of the two countries.
♦ To share the tax revenue.
♦ To assist in tax collection.

The author is a student of ICAI. (Registration number: WRO 0210774).
Types of D.T.A.A

♦ Comprehensive DTAA: A comprehensive DTAA would normally deal with all the possible sources of income.

♦ Limited DTAA: A limited DTAA would deal with only certain sources of income.

Relief for double taxation can be claimed only in case of ‘doubly taxed income’. Hence, it is imperative that the income should have been taxed in both the countries. Accordingly, if the income is exempt in one of the countries, double taxation relief in respect thereof may not be available.

Each Double Taxation Avoidance Agreement is a code by itself. DTAA is effective because the parties to Agreement are committed to honour the Agreement.

Treaties are governed by the Vienna Convention, a time honoured convention which has its own Rules of interpretation. It presupposes that each and every Treaty partner honours it.

Vienna Convention on Law of Treaties 1969 defines treaty as:

“An international agreement concluded between states in written form and governed by international law, whether embodied in single instrument and whatever its particular designation.”

In the Indian context, the provisions of the Treaty prevail over the provisions of the domestic law. In case of any conflict between the provisions of the Income Tax Act and the provisions of the DTAA, the provisions of the Treaty shall prevail (Section 90(2) of the Income Tax Act, 1961).

One important point to be noted here is that Tax Treaties specify general taxing principles to avoid double taxation, while the domestic law seeks to impose tax in specific circumstances.

Static v/s Ambulatory approach to a Treaty Interpretation

The ‘Ambulatory approach’ provides that one looks to the meaning that the term had at the time of application of a Treaty. ‘Static approach’ looks at the meaning at the time the Treaty was signed.

Accordingly, where a treaty refers to the provisions of the domestic law of contracting states for assigning meaning to a particular term, and subsequently the domestic law is changed then question arises for assigning meaning for that term. Whether the treaty intends to assign the meaning, which was prevailing in the Domestic law of the contracting state at the date of signing the treaty (static interpretation) or the meaning on the date of application of the treaty (an ambulatory interpretation)? However an ambulatory approach cannot be applied where there is radical amendment in the domestic law thereby changing the sum and substance of the term.

A ‘Model’ provides a framework for drafting a particular agreement. Model Tax Conventions lay down the criteria on which the bilateral treaties are to be negotiated and finally concluded. They are the road map to the direction and the contents of the Double Tax Avoidance Agreements. Deviations, if any are incorporated in the bilateral agreement by the contracting states. The contracting states go by peculiar nature of international transactions and negotiate the treaties so as to share the revenues as also to avoid the leakage of legitimate revenues. If one follows the structure of a model, all the significant points necessary to negotiate a treaty are covered. Necessary compromise is made and balance struck to achieve harmony in arriving at bilateral agreements. Model Tax conventions are internationally recognised and used as a base for negotiating treaties. They are also used for exchange of information and dispute resolution.

Models concern themselves with following aspects:

♦ The extent of the right of the contracting states to tax.

♦ Imposing liability to tax in one country while granting exemption in the other.

♦ Granting exemption from tax in either or both the countries.

♦ Deeming geographical source provisions for particular categories of income to be in one country rather than the other.

♦ Imposing liability to tax in the country in which income is deemed to arise.

Each Model contains a set of Articles as explained in the structure of a Model Tax Treaty. There is a commentary on each Article. The commentary explains the contents of the Article and helps in correct interpretation of the Article of a DTAA.

Double Tax Avoidance Agreements are based on four basic models namely:

♦ OECD (Organisation of Economic Co-operation and Development) Model

OECD Model tax convention emphasises that the income arising anywhere to its Residents is to be taxed in the Residence State. Income may accrue in another country (State of source) but will be taxed in the state of Residence of the Recipient. It gives priority of taxation to the residence State over that of the State of source.

♦ U.N Model

OECD Model was regarded as furthering in the interests of developed countries as the emphasis of sharing revenue was in favour of the State of residence.

The U.N. Model is primarily based on the OECD Model in its framework, design & contents but the emphasis is on the ‘SOURCE’ Principle.
The U.N. Model gives primary right of taxation to the country where income arises by providing an automatic mechanism to withhold tax at source especially from income by way of royalty, interest and dividend. Taxing powers on such income are retained by the domestic countries (Host Countries).

It gives more weight to the Source Principle.

♦ U.S Model

U.S Model serves as a model to negotiate treaty with USA. It is also based on the OECD Model. It adapts the conditions peculiar to the US.

♦ Andean Model

This Model is adopted by member states of Andean Group namely Bolivia, Chile, Ecuador, Columbia, Peru & Venezuela. The Model follows the Source principle.

These DTAA Models have lead to development of international tax law.

Thus, DTAA is an attempt at uniform understanding and implementation of bilateral tax agreements between two sovereign nations. Treaties are meant to allocate the tax claims between two nations. Treaty is to be interpreted and applied consistently by both the countries involved.

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**Students’ Newsletter**

**The Chartered Accountant Student**

**Distribution policy**

**Eligibility to receive newsletters without being charged separately**

Students will be getting the newsletter without separately being charged as per the following guidelines:

1. Students of Professional Education (Course – I) who have not taken transition to Common Proficiency Test for a period of one year.
2. Students of Professional Education (Course – II) who have not taken transition to Professional Competence Course and joined articleship under the new scheme for a period of one year.
3. Students registering for Professional Competence Course and joined articleship will be getting Newsletter for a period of 42 months.
4. Students registering for Final Course under the old scheme will be getting newsletter for a period of 36 months.

The above categories of the students need not pay any amount separately along with fees. **Students registering for the Common Proficiency Test will not be sent any Newsletter. However, if they desire they may subscribe.**

For subscribing the newsletter, the student may download the subscription form from the website of the Institute.

**Non Receipt of Newsletter**

We are dispatching students’ newsletters through the post office every month. The newsletters are dispatched on 26, 27 and 28 of previous month. Some newsletters are returned to us on account of different reasons concerning addresses. A small number of students also send complaints relating to non-receipt of newsletters to whom we send replacement copies.

In case of change in address, students should write to the concerned Regional Office. Students should also check their mailing address that are printed in the newsletter. In case, there is any correction or the PIN Code (Postal Index Code) is either missing or incorrect, students should inform the concerned Regional Office giving full particulars of address along with correct PIN Code. Please note that PIN Code is a critical component in the addresses.

This would enable us to ensure smooth and prompt delivery of the Newsletter.

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All correspondence for issues relating to the newsletter should be done at:

**The Director of Studies**

**Board of Studies.**

**The Institute of Chartered Accountants of India, C-1, Sector – 1, Noida 201301.**

Please mention your full name, complete address registration number in all your correspondence.
The Finance Act, 2005 has introduced a new levy, namely, Fringe Benefit Tax (FBT) on the value of certain Fringe Benefits which are mentioned under section 115WB. The FBT is made part of Income-tax Act. The income-tax is levied on the income. However, FBT is levied on the expenditure. FBT is treated as additional income-tax.

Income-tax is paid in advance during the financial year in respect of the estimated total income of the assessee which would be chargeable to tax for the relevant assessment year and it is paid on proportionate basis. [Section 209(1)(a)]. However, in case of FBT, the advance tax is paid during the financial year for the expenditure which has been incurred in a particular quarter. [Section 115W(2)]. It means advance income-tax is paid on estimated basis but advance FBT is paid on actual basis. If advance income-tax scheme is also known as ‘Pay as you earn’ Scheme, then, advance FBT scheme can also be known as ‘Pay as you incur’ scheme.

After the introduction of FBT, there is a need to modify the system of accounting to make it FBT compliant.

**Timely Recording of Expenditures**

Before the implementation of FBT there was only a cut-off date for booking of any expenditure in the books of accounts i.e. 31st March. Therefore, any expense which should have been recorded in the books of accounts in first quarter, second quarter or in third quarter may be recorded in the last quarter of the year or vice-versa. But now, when the provisions of FBT are applicable there are four cut-off dates to record expenditure i.e. 30th June, 30th September, 31st December and 31st March of the financial year. FBT is payable on expenses incurred in any quarter, therefore, expenses have to be recorded in the books of accounts in the quarter in which they are incurred. However, there is an exception i.e. Depreciation on Motor Car which is generally recorded in the books on 31st March of the year but for the purpose of calculation of advance FBT, it is taken on a pro-rata basis.

**Proper Heads of Expenditures**

The Act states that fringe benefit would be deemed to have been provided if any expenditure is incurred for the purpose mentioned in section 115WB. What is important is the purpose for which the expenditure is incurred. The head of account to which the said expenditure is debited, rightly or wrongly is not important for computing the value of fringe benefit.

We have to determine the amount of expenditure subject to FBT by adopting the test of proximate purpose even though the head of account debited in the books of accounts is different. But if the proper heads of expenditure according to FBT are not determined, it is possible that some difficulties might be faced in identifying or classifying the expenditure and in valuation of fringe benefits. Because there are some expenses for which value of fringe benefit is taken at 50% and for some expenses same is taken 20% or 5%. There is a possibility that an expense, for which value of fringe benefit should have been taken at 20%, may be taken at 50% due to improper classification. Therefore, it is essential that the expenditure should be recorded under the appropriate head of account to which it belongs.

In determination of the head of expenditure, there would be certain items of expenditure which could be looked at from different perspectives and the appropriate head of expenditure would be determined in accordance with the approach and policy adopted in this regard.

For example: expenditure on providing woollen clothes, helmets or safety shoes to employees may be intended to provide an amenity to employees. Another possibility is that the expenditure is incurred primarily with the objective of reducing potential expenditure /loss arising from injury or illness. The accounting head to be debited for recording such expenditure could be staff welfare or kit expenses. If it is only for staff welfare, it will be liable to FBT but if it is for safety purpose, it will not be liable to FBT.

As per generally accepted accounting principles and practices, whichever is the policy adopted, so long as it reflects the substance of transaction, the same should be accepted for the purpose of determining the appropriate head of expenditure for forming an opinion whether the same falls within the category of fringe benefits or not.

Section 145 of the Act permits only cash or mercantile method of accounting. The recognition of items of expenditure would have to be in accordance with either of these methods regularly followed by the assessee. In addition to any expenditure incurred, any payment not debited to the Profit & Loss Account but made for the prescribed purposes will also attract FBT. For example, depreciation on motor car, as per the provisions of the Income-tax Act, in case such depreciation has not been debited to the Profit & Loss Account.

We should have to determine the expenditure attributable to any head by applying the test of proximate purpose and we need to take the basis of such allocation, keeping in mind the concept of materiality.
Now, let us take some examples to understand how we can allocate the appropriate account head to the expenditure after taking into consideration the above principles:

- **Expenditure on motor car i.e. repairing and maintaining** should be accounted for under a separate head because expenditure on the running, repair and maintenance of delivery/display vans, trucks/lorries, ambulance and tractor vehicles is not liable to FBT.

- **Salary given to the driver of motor car** should be distinguished from “Salary A/c” and accounted for under “Repair, Running and Maintenance of Motor cars”.

- **Interest on loan for motor car** should be excluded from other finance charges and shown under “Repair, Running and Maintenance of Motor cars”.

- We will have to segregate the total conveyance, tour and travel expenditure under separate heads such as Conveyance Expenditure, Hotel Expenditure, Telephone Expenditure, Travelling Expenditure because FBT on Tour & Travelling Expenditure is 5% and on Conveyance Expenditure it is 20%.

- The expenditure on meeting/get together of employees and their family members on the occasion of any festival like ‘Diwali’ or ‘New Year’ is an expense on festival celebration and such expenditure has to be distinguished from expenditure incurred on meeting/get together of employees and their families on non-festival occasions as the same is liable to FBT under the head “Entertainment” or “Employee Welfare”.

- **Expenses incurred for payment made to a club for residing in the club** should be distinguished from expenses incurred on “Use of any other club facilities (50%)” and should be included under the head “Boarding and Lodging facilities (20%)”.

- The accounting policy should be properly framed so as to clearly distinguish the sales promotion expenses from the selling expenses as selling expenses are not liable to FBT.

- **Free or subsidized transport provided to employees for journeys from their residence to the place of work or such place of work to the place of residence** is in lieu of conveyance / transportation allowance, and is not liable to FBT. Therefore, it should be excluded from the other conveyance expenses.

- **Rent paid for maintaining a guest house** should be excluded from other Rental Expenditure.

- **In case of expenditure on guest house which is used both for training and for other purposes**, a proper allocation of expenses relating to training is to be made as the same is not liable to FBT.

- **Expenditure incurred on Gift or on Sales Promotion** should be properly identified and accounted for separately as fringe benefit value on gift expense is 50% and on sales promotion is 20%.

- **Specified advertisement expenses should be excluded from sales promotion expenses.**

### Reimbursement of Expenditures

Where a company incurs expenditure on travelling, hotel etc. wholly and exclusively for executing an assignment of its client and the client reimburses the employer for such expenditure, since such expenditure is incurred by the employer and not by the client, the employer is liable to FBT in respect of such expenditure and the client will not be liable to FBT.

Expenditure incurred by a professional like a lawyer or auditor on conveyance, tour and travel, and reimbursed by the client, is not liable to FBT in the hands of the client because such reimbursement of expenditure is essentially a component of professional fee paid by the client to the lawyer or auditor.

Reimbursement of these types of expenditure should be credited separately in the profit and loss account and should not be deducted from the expenditure.

### Capitalisation and Amortization of Expenditure

In a case where the expenses are capitalized and amortized over a period, FBT is payable in the year in which the expenditure is incurred irrespective of whether the expense is capitalized or not. However, the same expenditure will not be liable to FBT again in the year in which it is amortized and charged to profit.

In the year of amortization, such amortized expense should be shown under a separate head and should not be shown under the normal head of that expenditure.

For example: A heavy travelling expenditure is incurred, say, Rs. 250000 in the year 2006-07. This expenditure is to be amortized in next 5 years. In the year of 2006-07, 1/5 of total expenditure i.e. Rs. 50000 only will be debited to P&L Account but FBT will be payable on total of Rs. 250000 in the same year. Each 1/5 portion of such expenditure, which is to be debited in next 5 years respectively, should be shown under a separate head such as “Travelling Exp. Written-off” and should not be debited under the normal head of that expenditure i.e. “Travelling Expenditure”.

### Is Capital Expenditure Liable to FBT?

FBT is accounting neutral. What is relevant is the incurring of expenditure for the proximate purposes referred to in section 115WB(2), irrespective of the fact of said expenditure being accounted under any different head or even capitalized or received as a reimbursement.

In some circumstances, there are some expenses which are specifically attributable to construction of the project or to the acquisition of fixed asset or bringing to its working condition.
which may be included as part of the cost of construction project or as a part of the cost of the fixed asset. Such specified expenditure is recorded directly in the Balance Sheet instead of recording it in the revenue account. If such specified expenditure are incurred for the proximate purposes mentioned in sub-section (2) of section 115WB, then it will be liable to FBT.

Therefore, there is a requirement to redesign the head of that expenditure under Fixed Asset e.g. a travelling expenditure is incurred for the acquisition of fixed asset, such expenditure is to be included in the cost of fixed asset but for the purpose of FBT, it should be shown separately under the head fixed assets such as “Travelling Expenditure for Fixed Assets” and for the purpose of depreciation is will be added in the cost of fixed asset.

However, a contrary view is expressed in answer to Q. No. 89 of the Circular No. 8/2005 dated 29th August, 2005. This reply suggests that no FBT is payable on any capital expenditure which is eligible for depreciation u/s 32 of Income-tax Act, 1961. However, in the instant case such travelling expenditure component is eligible for depreciation (because of capitalisation) but it is also liable to FBT.

**Whether Expenditure Includes Payment of VAT, Service Tax?**

Generally, taxes on expenses are not debited to different heads but form part of expenses e.g. service tax on telephone expenses or audit fees, or travelling expenses, excise duty on inputs or VAT on purchase. However, when set-off is available regarding payment of say service tax, it may be debited to account such as “Cenvat Receivable” or some other name. Naturally, in such case “expenditure” gets reduced to this extent.

For the purpose of valuation of fringe benefits, the above view also should be considered and FBT may payable only on that expenditure which is actually incurred. Hence, the taxes paid for which set-off is available should not be liable to FBT.

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**Students' Exchange Programme/Foreign Delegation**

For holistic development of our students and to expose them to diverse situations ICAI conducts students’ exchange programme under the aegis of SAFA. In this regard a visit was made by the students of our Institute to Karachi during March 14 -21, 2007. The visit was organised by the Institute of Chartered Accountants of Pakistan (ICAP).

The ICAI student delegation consisted of:

- Mr. Ahtasham Ansari (N. Delhi),
- Mr. Mainak Banerjee (Kolkata),
- Ms. Namrata Shah (Mumbai),
- Ms. Nidhi Agarwal (Nagpur),
- Mr. Nikhil Bagrodia (Kolkata),
- Mr. Nikhil Naikawadi (Pune),
- Ms. Richa Modi (Kolkata),
- Mr. S. Shankar Narayanan (Trivendrum),
- Mr. Siddharth, Group Leader (Allahabad),
- Mr. Subal Jalan (N-Delhi),
- Mr. Sumit Kr. Dhanuka (Kolkata),
- Mr. Vinay Garg (Faridabad),
- Mr. Vivek Agarwal (Noida).

Prior to the visit the students assembled in New Delhi and met CA. Sunil Talati, President, CA. Jaydeep Narendra Shah, Chairman, BOS and other members of Council. They were also briefed the import of the programme in their lives and what is expected of them. The programme begin with landing at Jinnah International Airport where the students were received by Mr. Raheel & Mr. Amit Kumar, student representatives of ICAP. They were later welcomed by Mr. Shaikh Md. Fahim, Dy. Manager ICAP.

During the programme the students visited School of Business Studies, an affiliated Institute of ICAP for providing two year compulsory theoretical education under the ICAP curriculum. There the students were briefed about the course structure & other training programmes. Students had a meeting with the Mr. Nasim Hyder, President ICAP and other council members of ICAP and visited their various facilities. In the programme they also participated in the First All Pakistan CA Students’ Conference. In the third technical session on Risk Management of conference Mr. Siddharth presented a paper on Enterprise Risk Management under the COSO framework. Before the presentation a brief and focused introduction of ICAI was delivered by Ms. Nidhi Agarwal. With the presentation the students managed to establish a mark at the conference. Ms. Namrata Shah & Mr. Vivek Agarwal also participated in the Panel discussion of IES 8 on Competence requirements for Audit Professionals along with a student from ICAN and ICASL. They intellectually answered the queries of students of ICAP. The session was chaired by Syed Fahim Ul Hasan, partner A.F. Ferguson & Co., Chartered Accountants.

The students also visited different firms of Chartered Accountants. They made Industrial visits to Unilever’s Karachi Tea Factory and Al-Karam Textile Mills P. Ltd. the largest Textile mill of Pakistan. The whole trip was highly informative and the students learned a lot by their interactions including with the students of Pakistan, Sri Lanka and Nepal.
Constitution is the supreme law. Thus the union and state governments as well as their respective organs derive their authority from the constitution. The power of interpretation is vested in the judiciary and judiciary is empowered to declare any action ultra vires, if such action violates the provision of the constitution.

So, an attempt has been made to extract all those fundamental things from constitution that assist to build up the conceptual understanding about the formation and broad framework of laws.

Few questions that are generally raised in the mind as one starts going through the provision of the laws:
- Is only the parliament competent for the formation of laws?
- What if any court exercises its power beyond the authority or unnecessarily delays the case that creates problem to plaintiff?
- Can constitution be amended?
- What if parliament is not in session and there is urgency of the laws to be enforced?
- Can all laws be amended with retrospective effect?
- What if government itself passes an order or does an act that violates the fundamental right of a person?
- Is supreme court a court of ordinary original jurisdiction in all matters and between all parties?
- Is the central government empowered enough to interfere in any laws or ordinance formulated or issued by the state within it’s own jurisdiction?
- Can all the fundamental rights be exercised by both the citizens and non-citizens?

Constitution of India

Background

The constitution of India, which came into force on January 26, 1950, is the second largest constitution in the world containing 395 articles (divided into 22 parts) and 12 schedules. It deals with the right of citizens and the principles to be followed by the state in the governance of the country. It has declared nation as sovereign, socialist, secular and democratic republic nation. It is responsible to secure all its citizens’ justice, liberty, equality and fraternity. Indian federalism is different from the world in certain context like mode of formation, citizenship, position of states, residuary power etc.

There are certain fundamental rights contained in part III of constitution like liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of individual.

Article 19 provides that fundamental rights are available to the people of India against the state and can be enforced through judiciary. For enforceability, power is conferred to Supreme Court and High Court. Article 358 provides for suspension of article 19 during emergency. Right of equality is conferred by the constitution, which ensures to secure all citizens’ justice, liberty, equality of status and opportunity and to promote among them all fraternity. However in certain cases, the distinction is made between Indian citizen and outsiders. For example, Article 15 deals with prohibition of discrimination on ground of religion, race, caste, sex or place of birth. This is available only to citizens of India.

‘Directive Principle of State Policy’ is contained in part IV of the constitution. These are the guidelines for the future government to lead the country. They are declared as fundamental in the governance of the country and state shall keep in mind these principles while enacting laws.

Ordonnance Making Power

In its seventh schedule, The Indian Constitution provides a scheme of the distribution of legislative powers into (a) Union List (b) State List (c) Concurrent List.

Parliament has exclusive power to make laws with respect to any matters enumerated in List I (i.e. Union List). The legislature of a state has exclusive power to make laws with respect to any matter enumerated in List II (i.e. State List). Both the parliament and state legislative has power to make laws with respect to any of the matters enumerated in List III (i.e. Concurrent List).

However article 249 confers powers on parliament to legislative with respect to matter in the state list when the subject matter becomes the matter of national concern. Further, article 250 provides that parliament shall, while a proclamation of emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any matters enumerated in the State List. Article 254(1) provides that if any provision of law made by legislature of a state is repugnant to any provision of a law made by a parliament, the law made by parliament shall prevail and to the extent of repugnancy, be void on behalf of the law made by legislature.

When the parliament is not in session and there is an urgency of the immediate action, then the President may promulgate an ordinance, which shall have same force and effect as an act of parliament (Article 123). While exercising the power, the President has to act with the aid and advice of council of ministers. Finally, every ordinance made by the President must be presented before both the houses and it ceases to operate at the expiration of six weeks after the assembly of both the houses.

Similarly, article 213 provides power of a governor to promulgate ordinance during recess of state legislature. Further more the ordinance shall cease to operate at the expiration of six weeks from the reassembly of the legislature.

The Judiciary

Supreme Court

Supreme court is the highest court consisting of chief justice of India and not more than 25 judges. It exercises three kinds of jurisdiction— (1) Original (2) Appellate and (3) Advisory or Consulitative. Article 131 provides that Supreme Court of India shall have the original jurisdiction in any dispute:
- Between the government of India and one or more states.
- Between the government of India and any state or states on one side and one or more other states on the other.
- Between two or more states.
Article 132 empowers the Supreme Court to hear appeals, which involves the interpretation of constitution.

An appeal shall lie to the Supreme Court from any judgment decree or final order in civil proceedings under article 134A.

- If the case involves substantial question of law; and
- In the opinion of High Court the said question need to be declared by Supreme Court.

Article 134 provides that an appeal shall lie to the Supreme court from any judgment, final order or sentence in a criminal proceedings of a High Court, if the High Court:

- Has on an appeal reversed an order of acquittal of an accused person and sentenced him to death; or
- Has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or
- Certifies under article 134A that the case is fit for appeal to Supreme Court.

Article 136 provides, that Supreme Court, may in its discretion, grant special leave to appeal from any judgment in any cause made by any court or tribunal in the territory of India.

Article 137 provides that Supreme Court shall have power to review any judgment made by it.

**High Court**

High Court comes next below Supreme Court. Article 225 provides for the jurisdiction of, and the law administered in any High Court shall be the same as immediately before the commencement of the constitution. They shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

**Types of Writs**

There are five kinds of writs that can be issued by Supreme Court or High Court.

- **Writ of Certiorari**
  This writ can be issued by superior court and be directed to the judge of an inferior court or to the officer of an inferior body exercising quasi-judicial acts. It requires that the record of processing in some cause or matter pending before such inferior court or body be transmitted to the superior court. The underlying objective of the writ is to ensure that the applicant will have more sure and speedy justice. Thus if the inferior court or the inferior body is acting in excess or want of jurisdiction, and is exercising judicial or quasi judicial functions, the aggrieved party may pray for certiorari.

- **Writ of Habeaus Corpus**
  This is a remedy available when a person is deprived of personal liberty or detained wrongfully. It is in the nature of an order calling upon the person who has detained another to produce the latter before the court in order to let the court know on what ground he has been confined.

- **Writ of Mandamus**
  It is a judicial remedy in the form of an order from a superior court to any government, court, corporation or public authority to do or forbear from doing some specific act which that body is obliged under the law to do or refrain from doing as the case may be. A writ will be issued to compel restoration of a person to an office or franchise of which he has been wrongfully detained, provided such office is of public nature.

- **Writ of Prohibition**
  It is issued by a superior court, directing an inferior court, forbidding it to continue proceeding:
  - With jurisdiction in excess of its jurisdiction; or
  - With exercise of jurisdiction when it does not have one; or
  - With contravention of some law.

It orders the immediate stoppage of the trial of the case in the lower court. If any judge proceeds with the case in spite of the writ, contempt of court proceedings can be started against the person concerned.

- **Writ of Quo-Warranto**
  It is an order in the nature of an injunction restraining a person from acting in public office, to which he is not entitled. So, it can be issued against that person only who is occupying a public office or at least if the duties attached to the office are of public nature.

**Protection against Ex-Post Facto Laws**

Article 20(1) of the constitution provides certain safeguards to the person accused of crimes:

- A person can only be convicted of an offence if the act charged against him was an offence under the law in force at the time of the commission of the act. If an act is not an offence at the date of commission, no future laws can make it an offence.
- No person shall be subjected to a penalty greater than that, which might have been inflicted under the law in force at the time of commission of offence.

However the protection is available only against retrospective criminal legislation. This is not available for the civil liability. That is a reason, retrospective amendment in taxation, very much seen now days don’t attract article 20(1). Further this protection is available only for the substantive law and not for procedural law. Similarly an increase in any fine or charge for an Act, which is not an offence under the law, is not protected by article 20.

**Notes:**

- Parliament is competent to amend any part of the constitution including fundamental rights subject to a rider that parliament couldn’t alter the basic structure of the constitution [Ke Savanand Bharti V State of Kerala AIR, SC]
- So far as a particular law is inconsistent with fundamental rights to the extent of such inconsistency, it will be void. But such law doesn’t become void-ab-initio. If such shadow is removed, the law begins to operate from the date of such approval [Doctrine of Eclipse].
- Article 301provides the general rule that trade, commerce and intercourse through out the territory of India shall be free. However there are certain exceptions, which are given in article 302 to 304.
- The effect of the constitution (46th amendment) Act. 1982 is that in the effect of taxation on the consignment / Dispatch of good in the course of inter state Trade or commerce, expressly comes within the purview of the legislative competent of parliament.
- No person can be prosecuted and punished for the same offence more than once. [Article 20]
- A person accused of any offence cannot be compelled to be a witness against himself. [Article 20- protection against Self-incrimination].
- The law become invalid only to the extent to which it is inconsistent with fundamental rights i.e. if after separating the invalid part, the valid part is capable of giving effect to the legislature’s intent, then only it will survive else it will be declared as invalid.
The Securities and Exchange Board of India (SEBI) has amended the Disclosure and Investor Protection Guidelines (“DIP Guidelines”) to permit listed companies to raise funds from the domestic market by making private placement of Securities with Qualified Institutional Buyers (QIBs). The process will be called Qualified Institutional Placement (QIP) and the securities so issued would constitute the fully paid-up capital of the company. The regulations for the QIPs are very similar to the Regulation D offerings (Rule 144A) under US Securities Act of 1933. The new regime has been introduced in the form of Chapter XIII A of the SEBI (Disclosures and Investor Protection) Guidelines, 2000 (“DIP Guidelines”) on May 8, 2006.

SEBI, in its release introducing the QIPs, has stated that it wanted Indian companies to use the QIP route to raise capital rather than raising funds through the American Depository Receipt (“ADR”) or the Global Depository Receipt (“GDR”) or the Foreign Currency Convertible Bond (“FCCB”) routes. In the current market scenario, a lot of Indian companies are raising funds through the issuances of ADRs, GDRs or FCCBs. Simply put, QIPs are basically the issue of “specified securities” by Indian companies to Qualified Institutional Buyers. The Amendment defines the specified securities as equity shares, fully convertible debentures, partly convertible debentures or any securities other than warrants, which are convertible into or exchangeable with equity shares at a later date.

The norm is intended to encourage Indian companies to raise funds from domestic markets rather than through the Global Depository Issues (GDR) and Foreign Currency Convertible Bond (FCCB) route, thus reducing the incidents of what is commonly referred to as export capital.

These guidelines are intended to make Indian Market more competitive and efficient.1

How Does ADR and GDR work

American Deposit Receipts (ADRs) and Global Depository Receipts (GDRs) garnered nearly Rs 8,800 crore in 2005 against about Rs 2,800 crore, in 2004.2 This amount is clearly very critical to the growth of the industry in India and therefore clearly required. We need to analyse how does this work.

Depository Receipts are basically negotiable instruments denominated in U.S dollar representing a non-US company’s publically-traded local currency equity shares. They are created when the local currency shares of an Indian Company are delivered to the overseas depository bank’s domestic custodian bank, against which, the depository issues Depository Receipts in U.S. Dollars. Each depository receipt may represent one or more underlying shares. Through these issues, several companies in Indian have been able to tap the global equity market to raise foreign currency funds by way of Equity. The Depository receipts may be traded on an exchange or over the counter market.

Qualified Institutional Placement

Ankita Srivastava & Alok Shankar

Depository Receipts can either be GDRs, which are usually listed on a European Stock exchange, or American Depository Receipts (“ADR”), which are listed on an U.S stock exchange.

GDRs/ADRs

A GDR/ADR means any instrument in the form of a depository receipt or certificate (by whatever name it is called) created by a Depository outside India and issued to non-resident investors against the issue of ordinary shares of the Issuer Company. The issue of GDRs/ADRs are governed by the provisions of the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993.

Salient features of GDRs/ADRs

♦ Track-record : The Issuer Company seeking permission for raising foreign funds by issue of GDRs/ADRs would be required to have a consistent track record of good performance (financial or otherwise) for a period of at least three years. However, Issuer companies making GDR/ADR issues to fund export projects or infrastructure projects (in sectors such as power, oil exploration, telecommunication, railways, etc.) need not have a past track record of financial performance.

♦ GDRs/ADRs : A GDR or ADR may evidence one or more Global Depository Shares (“GDS”) or American Depository Shares (“ADS”) respectively and each GDR or ADR represents one underlying share of the Issuer Company.

♦ Underlying shares : The underlying shares are issued by the Issuer Company to the Depository (who is the registered owner of the shares), in whose name the shares are registered. It is the Depository which subsequently issues the GDRs/ADRs to the Underwriters for the final placement with the investors, whereas, the physical possession of the equity shares is entrusted to the Custodian, who is an agent of the Depository.

♦ Denomination : GDRs/ADRs are denominated in dollars or in some other freely convertible foreign currency and gives its holder the right to get equity shares of the Issuer Company against the GDR/ADR as per the terms of the offer. The underlying equity shares are however, denominated in Rupees. This removes the exchange risk for the Issuer Company.

♦ Listing : It is issued abroad and is listed and traded on a foreign stock exchange. GDRs are listed on the Luxembourg Stock Exchange. London Stock Exchange or on the over-the-counter market in London. Indian GDRs are usually listed on the Luxembourg Stock Exchange because of the minimum of formalities for listing and admission as well as relatively lower listing fees. ADRs are listed on the New York Stock Exchange (the “NYSE”), or on the American Stock Exchange (the “AMEX”), or quoted in the National Association of

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Securities Dealers Automated Quotation System (the “NASDAQ”) in the U.S.

13 Indian Companies have issued ADRs till date out of which nine are listed on NYSE and four are listed on NASDAQ. India leads South Korea and Taiwan in ADR trading volumes. 1

♦ Settlement: GDRs/ADRs are usually settled on a book entry basis through the system of Euroclear or Cedel in Europe and the Depository Trust Company in the U.S.

♦ Lock-in: There is no lock-in-period for the GDRs/ADRs issued.

♦ Dividend: The dividend paid by the Issuer Company is in Rupees only, but the Depository converts these Rupees and pays the dividend (after withholding tax) to the ultimate investor, in U.S. dollars. Thus, there will be no exchange rate risk for the Issuer Company.

♦ Voting: GDR/ADR holders are not entitled to any voting rights, so the Issuer Company need not fear about losing management control. GDRs/ADRs are not shares. Therefore, GDR/ADR holders are not the Issuer Company’s shareholders. Only Issuer Company’s shareholders (members) are entitled to attend and vote at general meetings in terms of section 87 of the Companies Act, 1956 (the “Companies Act”). Since the underlying shares are held by the Depository, the Depository is entitled to vote at the general meetings of the Issuer Company. Till redemption, the GDRs/ADRs do not carry any voting rights. However, once redemption takes place the holder of the underlying shares has the right to vote with regard to such shareholding.

♦ Transfer: GDRs/ADRs may be purchased, possessed, and are freely transferable by the non-resident (within the meaning of section 2(q) the Foreign Exchange Regulation Act, 1973 (the “FERA”) subject to the provisions of that Act). GDRs/ADRs are freely tradable in the overseas market like any other dollar denominated security. The record of ownership in India does not change with every transfer of GDRs/ADRs and as such, the Issuer Company is in no position to control the registration of transfers.

♦ Redemption and sale: The GDR/ADR holder has an option to redeem the GDRs/ADRs into the equity shares underlying it. In the case of redemption, the Depository will request the Custodian to get the corresponding underlying shares released in favour of the non-resident investor. A copy of the same will be sent to the Issuer Company for information and record. The shares will then be handed over to the non-resident directly and such person will become a member of the Issuer Company and its name will be entered in the Register of Members of the Issuer Company. If an investor desires to sell the shares represented by the GDR/ADR held by him/her, he/she can request the Depository who will forward the same to the Custodian to release and sell such shares and remit the sales proceeds to the investor.

♦ Listing of underlying shares: Once redemption takes place, the underlying shares are listed and traded on a domestic stock exchange. The underlying shares are denominated in Indian currency only.

Advantages to Investors

♦ GDRs/ADRs are designated in foreign currency, which is more acceptable to global investors.

♦ Global investors/holders of GDRs/ADRs do not need to be registered with the Securities and Exchange Board of India (the “SEBI”).

♦ The identity of GDR/ADR holders is kept confidential since they are freely transferable.

♦ Quick settlement of GDRs/ADRs due to the existence of international systems like, Euroclear and Cedel in Europe and the Depository Trust Company in the U.S.

Advantages to the Issuer Company

♦ The Issuer Company collects the issue proceeds in foreign currency and is thus able to utilize the same for meeting the foreign exchange component of project cost, repayment of foreign currency loans, etc.

♦ Large amounts can be raised in the global market without much of a problem.

♦ The issue proceeds may be retained outside India and used for “approved end-uses” (which have been relaxed further), as and when the Issuer Company requires. The “approved end-uses” are detailed below:
  – Financing the import of capital goods;
  – Domestic purchase of capital goods, including, purchase of plant, equipment, and buildings and investments in software development;
  – Prepayment or scheduled repayment of earlier external borrowings;
QIP: Procedure and the Regulatory issues

The amendment to DIP Guidelines shall apply to any issue of equity shares / fully convertible debentures (FCDs) / partly convertible debentures (PCDs) or any securities other than warrants, which are convertible into or exchangeable with equity shares at a later date (specified security) made to Qualified Institutional Buyers (QIBs), by a listed company which fulfills the following conditions:

- Its equity shares of the same class are listed on a stock exchange having nationwide trading terminals; and
- It is in compliance with the prescribed minimum public shareholding requirements of the listing agreement.

Securities have to be issued on the basis of a placement document. The placement document shall contain all material information, including the information specified in Schedule XXIA of the SEBI (Disclosure and Investor Protection) Guidelines, 2000. The placement document shall be a private document provided to select investors, through serially numbered copies.

The placement document shall also be placed on the website of the concerned stock exchange and of the issuer with a disclaimer to the effect that it is in connection with an issue to QIBs under XIIIA of DIP Guidelines and that no offer is being made to the public or to any other category of investors. A copy of the placement document has also to be filed with SEBI within 30 days of the allotment of specified securities.

Allotment of securities issued pursuant to this method has to be completed within twelve months from the date of passing of the resolution in terms of sub-section (1A) of Section 81 of the Companies Act, 1956. The resolution Chapter shall also specify the relevant date on the basis of which price of the resultant shares as specified shall be determined. The placements made pursuant to authority of the same shareholders’ resolution shall be separated by at least six months between each placement.

Investors

Only QIBs shall be eligible for allotment of specified securities issued pursuant to this amendment. Minimum of 10 per cent of specified securities issued shall be allotted to mutual funds.

If no mutual fund is agreeable to take up the minimum portion then, such minimum portion or part thereof may be allotted to other QIBs. No allotment shall be made under this chapter, either directly or indirectly, to any QIB being a promoter or any person related to promoter/s.

QIB who has all or any of the following rights shall also be deemed to be a person related to promoter/s:

- Rights under a shareholders’ agreement or voting agreement entered into with promoters or persons related to the promoters;
- Veto rights; or
- Right to appoint any nominee director on the board of the issuer.

Provided that a QIB who does not hold any shares in the issuer and who has acquired the aforesaid rights in the capacity of a lender shall not be deemed to be a person related to promoter/s. No investor is allowed to withdraw bids after the closure of issue. The term “QIBs” has the same meaning as assigned to it in clause 2.2.2B(v).

Number of Allottees

The minimum number of allottees for each placement of specified securities made pursuant to this Chapter shall not be less than:

- Two, where the issue size is less than or equal to Rs. 250 crores;
- Five, where the issue size is greater than Rs. 250 crores.

Provided that no single allottee shall be allotted more than 50% of the issue size.

Provided further that QIBs belonging to the same group or those who are under common control shall be deemed to be a single allottee for the purpose of this clause.

Pricing

An issue of specified securities made under this Chapter shall be made at a price not less than the higher of the following:

The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date; and

The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the two weeks preceding the relevant date.

The prices considered for determination of issue price of specified securities shall be subject to appropriate adjustments if the issuer company:

- Makes an issue of shares by way of capitalization of profits or reserves (other than by way of a dividend on shares);
- Makes an issue of shares on rights basis;
- Consolidates its outstanding shares into a smaller number of shares;
- Divides its outstanding shares (including by way of stock split);
- Re-classifies any of its shares into other securities of the company;
- Is involved in such other similar events or circumstances, which in the opinion of the concerned Stock Exchange, requires adjustments.

The weekly high and low of the prices has to be considered on the stock exchange, which is recognised by SEBI and in which the equity shares of the issuer of the same class are listed and in which the highest trading volume in such shares has been recorded during the six months immediately preceding the relevant date. However the aggregate of the proposed placement and all previous placements made in the same financial year pursuant to this Chapter shall not exceed five times the net worth of the issuer as per the audited balance sheet of the previous financial year.

Specified securities allotted pursuant to this Chapter shall not be sold by QIB for a period of one year from the date of allotment, except on a recognized stock exchange.

The board has clarified that any sale by way of a bulk or block transaction in accordance with the procedures prescribed by the Board and the stock exchange, shall also be treated as a sale on a recognized stock exchange.

Issues with respect to Convertibles

The two issues that arise concerning convertibles are those of pricing and ‘relevant date’.

Where securities which are convertible into or exchangeable with equity shares at a later date are issued, the issuer shall determine the price of the resultant shares in the same manner as for the pricing of the other securities as mentioned above.

The relevant date for the above purpose may, at the option of the issuer, be either the one referred in Explanation (a) to clause 13A.3.1...
or a day thirty days prior to the date on which the holder of the securities which are convertible into or exchangeable with equity shares at a later date becomes entitled to apply for the said shares.

Obligations of Merchant Bankers

Any issue and allotment of specified securities shall be managed by Merchant Banker(s) registered with SEBI.

The merchant banker shall exercise due diligence and shall furnish to each stock exchange on which the same class of shares or other securities are listed, a due diligence certificate stating that the issue is being made after complying with the requirements, along with the application made for seeking in-principle approval for listing of the specified securities.

Issuer Certification

The issuer shall furnish a copy of the placement document to each stock exchange on which the same class of shares or other securities are listed. The issuer shall also furnish to each stock exchange on which the same class of shares or other securities are listed, a certificate stating that the issue is being made pursuant to Chapter XIII A and complies with its requirements, along with the application made for seeking in-principle approval for listing of the specified securities.

The issuer shall also furnish to each stock exchange on which the same class of shares or other securities are listed, the documents, undertakings, etc. if any, specified in the listing agreement for the purpose of seeking in-principle approval and final permission from Stock Exchanges for listing of the specified securities.

The SEBI has clarified that Chapter XIII of the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 shall not apply to placement to QIP.

Comparative Analysis of Depository Receipts and QIP

The option of raising finance now available to companies are more than one now: a) Public issue of securities, b) Issue of ADRs and GDRs, c) Placement with QIBs and d) Raising finance from existing shareholder.

The public issue of security is a lengthy process and has regulatory aspects, which are time consuming and there is an obvious element of uncertainty of subscription, and pricing. ADRs and GDRs are commonly called as export of capital, and therefore should always be last option, and the fact that only 13 Indian companies have issued ADRs till date, it clearly shows that they are not too sure about the resultant change in voting pattern once these are redeemed, and the existing shareholders may not be interested/ willing to invest further. Therefore, these amendments have allowed a more efficient and shorter method to raise finance from select investors and without following the long process for public issues. The relaxing of this regulatory framework has also come at the time when the Indian economy is all set to integrate itself with the other parts of the globe and thus fuelling competition to the never before level and thus raising finance would have been a big hassle. The new norms give the much-needed easier option to raise finance.

The absence of any lock-in for equity issued adds the further liquidity to the market and thus not discouraging investors to invest in the issue. The investors thus have the option to quit any time, and this comes with the added safeguard for public money in form of compulsory allotment to Mutual fund and also the aspect of not allowing more than 50% to a single allottee.

QIP has strategic advantages over both ADRs/GDRs and IPOs. Some of them have been mentioned above and thus this option would certainly be as is evident from the initial reaction of corporation that “QIP norms will help prevent flight of capital” “QIP norms will also help improve trading volumes”. The biggest advantage that corporate are now looking forward to is to raise finance more quickly.

The most important factor for any capital market to be good and robust is the free float or trading volume, which happens in the market. So instead of having two markets with divided free floats there will now be consolidated trading volumes in one market which will be very robust, healthy, quick, fast to execute and good for everyone. As the industry puts, if people went for ADRs/GDRs to attract newer investors and now with this norm in place there would be much greater consolidation here, thus making the industry more robust.

The indications are clear that the capital market in India would be made more efficient and more competitive.

Conclusion

As far as the impact on listed companies is concerned, they would welcome this amendment as it may provide an alternative to the ADR, GDR or FCCB route. It would also prove to be a speedier manner of raising funds, as the placement would be made to a set of informed investors. This decreases the number of disclosures and procedural stipulations as compared to the public issue process. This mechanism would complement the existing public issue and preferential issue mechanisms.

The main advantages as mentioned above are preventing export of capital, consolidation of Indian market and most importantly raising finance without much delay and more predictability.

Therefore, in conclusion, it is definitely a commendable move by the SEBI and it remains to be seen whether or not QIPs become the preferred route for India Inc. to raise funds in order to fuel its increasing demands for capital.

Footnotes

1. http://www.taxlawsonline.com
4. Schedule XXIA: Disclosures in Placement Document
5. 85 (1A) Notwithstanding anything contained in sub-section (1), the further shares aforesaid may be offered to any persons whether or not those persons include the persons referred to in clause (a) of sub-section (1) in any manner whatsoever - (a) if a special resolution to that effect is passed by the company in general meeting, or
6. The relevant date has been explained as the day, which is thirty days prior to the date on which, the meeting of general body of shareholders is held, in terms of sub-section (1A) of Section 81 of the Companies Act, 1956 or other applicable provision to consider the proposed issue.
7. Any securities other than warrants, which are convertible into or exchangeable with equity shares at a later date.
8. “Qualified Institutional Buyer” shall mean: (a). Public financial institution as defined in section 4A of the Companies Act, 1956;
(b). Scheduled commercial banks; (c). Mutual funds; (d). Foreign institutional investor registered with SEBI; (e). Multilateral and bilateral development financial institutions; (f). Venture capital funds registered with SEBI; (g). Foreign venture capital investors registered with SEBI; (h). State industrial development corporations; (i) Insurance companies registered with the Insurance Regulatory and Development Authority (IRDA); (j). Provident funds with minimum corpus of Rs. 25 crores; (k). Pension funds with minimum corpus of Rs. 25 crores)

A R T I C L E

9 ‘QIBs belonging to the same group’ shall derive meaning from the concept of ‘companies under the same group’ as provided in sub-section (11) of Section 372 of the Companies Act, 1956

10 “Control” shall have the same meaning as is assigned to it by clause (c) of Regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997

11 13A.1.3.1 Nothing contained in Chapter XIII shall apply to an issue of specified securities made pursuant to this Chapter.

Memorandum of Understanding with Indira Gandhi National Open University

In the present era it is difficult for organizations to unilaterally function and serve their purposes. They have to associate themselves with others to accomplish the objectives. Pooling of resources help in synergistic gains. In recent past, especially after the launch of the new scheme, the Board of Studies of the Institute has been planning to find ways and means to assist students to pursue graduation and post graduation courses. It was felt that the students have to repetitively study same or similar subjects in graduation and post graduation.

No doubt after preparing for the examinations of the Institute that are of very high standards, passing papers of graduation and post graduation is somewhat simpler. However, students still have to study and pass them. For the benefit of the students, the institute has signed a memorandum of understanding (MOU) with Indira Gandhi National Open University (IGNOU) on 12th of March, 2007. By this understanding duplication in study of subjects can be avoided in the special graduation and post graduation programmes that shall be launched by IGNOU in english and hindi. This will in turn help in better time management for the chartered accountancy students. The course that shall be started are as follows:

♦ B. Com.: The MOU recognizes the subjects studied in the entry level course of chartered accountancy, and subjects of study in the first stage of chartered accountancy course, of education and training of the ICAI, as well practical training component. IGNOU shall launch a specialized B.Com course majoring in Accountancy and Finance for the students of chartered accountancy course by which exemption be granted in specified common subjects. A student shall be awarded B.Com. degree on qualifying professional competence examination, subjects of study in

For details the students should refer to ICAI-IGNOU Memorandum of Understanding included in the April, 2007 issue of the Newsletter. The students may also visit the website for the same and FAQ’s.

B. Com. course of IGNOU and completion of 3 years of practical training. In their B. Com students need to only appear and pass the following courses of IGNOU:

1. Foundation Course in English-1
2. Foundation Course in English-2
   OR
3. Foundation Course in Hindi-1
4. Foundation Course in Hindi-2
5. English for Practical Purposes
   OR
6. Prayojan Mulak Hindi
7. Foundation Course in Humanities and Social Sciences
   OR
8. Foundation Course in Science and Technology

M. Com.: MOU also recognizes the subjects that student study in the chartered accountancy final stage and accordingly the IGNOU shall launch a special master programme in commerce majoring in Finance and Taxation for the benefit of students who are undergoing CA Final Course or who have already qualified CA Final examination. A student who completes study modules of IGNOU shall be awarded M.Com. degree on qualifying final stage of chartered accountancy examination and as well as subjects of study in the special M.Com. course of IGNOU. In their M. Com. students need to study and pass the following courses of IGNOU:

1. Organisation Theory and Behaviour
2. Research Methodology and Statistical Analysis
3. Business Environment
4. Marketing Management
5. International Business Finance

The Board of Studies is also in advanced stage of discussion with Netaji Subhas Open University, Kolkata by which the University will offer special course to the Chartered Accountancy students granting exemptions in subjects studied in Professional Competence Course. The details will be hosted shortly.

May, 2007
SEZ – Special Economic Zones

Introduction

♦ A new Special Economic Zone (SEZ) scheme was introduced in the Export & Import Policy in 1/4/2000. A comprehensive legislation on SEZs was passed only in 2005 which came into effect in February, 2006.
♦ The main purpose of SEZ is to encourage exports and inflow of foreign exchange.
♦ SEZ treated as separate from DTA (Domestic tariff Area)
♦ FTZ (Free Trade Zone) or EPZ (Export Processing Zones) are same as SEZ but they have almost been scrapped.
♦ Government of India introduced SEZ on style similar to SEZs in China.
♦ To start with SEZs in India were set up w.e.f. 01/11/2000 at Kandala, Santa Cruz, Cochin and Surat.

Setting up a New SEZ

♦ Application along with project report, promoter details and other prescribed details need to be submitted to the Chief Secretary of State who after his verification forwards the same to the Dept of Commerce, Govt. of India.
♦ The Board of Approval (BOA) consists of 19 members and 1/3 of total member form quorum and is bound by Central Government direction.
♦ Developer of SEZ is then granted a letter of approval u/s 3(10) of SEZ Act by Central Government.
♦ Central government has appointed a Development commission for SEZ to guide the entrepreneurs.
♦ Minimum area requirement for SEZ’s:-
  – Multi – product = 1000 hectares
  – Multi - Services = 100 hectares
  – Sector specific = 100 hectares but certain sectors like IT, Gems and Jewellery, Biotech, Non-conventional energy etc. have been allowed to be set up with an area of 10 hectares but with different built up area requirements.

Setting up a Unit in SEZ or Offshore Banking Unit (OBU)

♦ Project proposal in the prescribed format is to be submitted to the Development Commissioner of the SEZ.
♦ Permission and approval to set up a unit in SEZ is given by central government and state government at same place under single window clearance.
♦ After the proposal is approved letter of approval will be issued by development commission and it shall remain valid for 5 year.
♦ Free trade and warehousing zones have been introduced vide chapter 7A of foreign trade policy w.e.f. 1-9-2004 these zones are available near port, airport and dry port.
♦ OBU and international financial service center can also be set up in SEZ if the permissions as per banking regulation Act, 1949 have been obtained.
♦ Recycling activity not permitted in SEZ.

Exemption from Taxes for Supplies to SEZ from DTA

♦ DTA units supplies to SEZ’s exempt from excise, customs, service tax and sales tax.
♦ Supply from SEZ to DTA is treated as import by DTA units and customs duty is chargeable.
♦ SEZ units have to make an application in “I – Form” for CST exemption.

Income Tax Exemption

♦ Developer of SEZ can claim Income tax benefit u/s 80IA for any block of 10 out of 15 years.
♦ SEZ units enjoy 100% IT exemption (10AA) for first 5 years and 50% for 5 years thereafter and Reinvestment allowance to the extent of 50% of ploughed back profits for a further period of 5 years.

Foreign Exchange Provisions

♦ SEZ unit can sell to a unit operating in DTA in foreign exchange.
♦ SEZ unit can open, hold and maintain a foreign currency account with authorized dealer.
♦ Netting off of export receivables against import payments has been permitted for a SEZ unit.
♦ ECB (External Commercial Borrowing) can be raised by a SEZ unit upto $500 Million a year without any maturity restrictions, but for its own requirements and not for its other units which are out of SEZ.

Others Provisions

♦ SEZ authority will be headed by development commissioner.
♦ 100% foreign equity is permissible.
No limit on investments in SEZ.

Person who is employed in SEZ will be provided “I-Card”.

No relaxations in labour laws unlike China.

Central government can appoint any officer or agency to carry out survey of SEZ from time to time.

Managerial remuneration under companies Act upto Rs.20 lakhs p.m. does not need approval of central government.

Duty free goods to be utilized in 5 years.

Technical collaboration agreements are permitted in any industry to promote technology in Indian industry.

No license required for import.

Current State of AFFA IRS

Present Statistics and details Of Approved And Operational Sez’s Can Be Obtained at: http://sezindia.nic.in/Important_addresses.asp

Extract from Economic Survey 06-07 related to SEZ (Source: The Economic Times Dt. 28/02/07)

- The survey pointed out that acquisition of prime agriculture land could have serious implications on food security and there could be misuses of land by developers for real estate.

- Highlighting the positive aspects of SEZs survey stated that in 2005-06:-
  - Exports from functioning SEZ’s was worth Rs. 22,500 crores.
  - There are 1016 units in operation in these SEZs providing direct employment to over 1.79 lakh people.
  - Private investment in these SEZs is to the tune of Rs.3,163 crore.

- Survey added that by end of 2009 all the 63 notified SEZs shall become fully operational and total investments will touch Rs.58,459 crore which would create 8.9 lakh jobs.

- Formal Approvals – 237 SEZ’s and In-principal Approvals – 164 SEZ’s.

As per FICCI sources, any fresh approval to set up an SEZ would be given only after the government finalizes the national rehabilitation policy aimed at providing compensation and employment to families who would be displaced by the setting up of SEZs. There might also be a provision whereby developers of SEZ would be required to file a Social Impact Assessment Report with the government.

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Do More Than......

Do More Than Exist... Live
Do More Than Touch... Feel
Do More Than Look... Observe
Do More Than Read... Absorb
Do More Than Hear... Listen
Do More Than Listen... Understand
Do More Than Say... Commit
Do More Than Give... Contribute
Do More Than Write... Create
Do More Than Think... Image
Do More Than Sleep... Dream
Do More Than Receive... Compile
Do More Than Inform... Communicate
Do More Than Participate... Win

-- Ganpat Kumar

(The author is student of ICAI.)
Other significant amendments

♦ Additional Commissioner of income-tax and Additional Director of income-tax are proposed to be included within the scope of definition of “Assessing Officer”.

♦ Assessee to be given an opportunity of being heard before issuing directions for special audit under section 142(2A). Further, the expenses of special audit to be determined by the Chief Commissioner or Commissioner in accordance with the prescribed guidelines. The expenses so determined have to be paid by the Central Government.

♦ New section 153D to be inserted to provide that assessment or reassessment of search cases in respect of each assessment year referred to in section 153A(b) or the assessment year referred to in 153B(1)(b) shall not be made by an Assessing Officer below the rank of Joint Commissioner without the previous approval of the Joint Commissioner.

♦ New section 292C to be inserted to extend the presumption (i.e. presumption of ownership of documents, books of accounts or any other valuable assets found in the possession of a person during the course of search as belonging to that person) to any proceeding under the Act, including assessment, appeal, penalty, prosecution etc.

♦ New Explanation 5A is proposed to be inserted in section 271(1) which would be applicable in respect of searches conducted on or after 1st June, 2007. The proposed Explanation provides that where an assessee is found to be the owner of any -
  - undisclosed income or asset; or
  - income based on any entry in the books of account or documents

and claims that such assets or entry represents his income for any previous year which has ended before the date of the search and the due date for filing of the return has expired and return has not been filed, such income would be deemed to be concealed income, even if such income is declared in the return of income filed on or after the date of search.

♦ New Section 271AAA is proposed to be inserted to provide for imposition of penalty @ 10% of undisclosed income found as a result of search initiated under section 132 on or after 1.6.2007. Undisclosed income means income not recorded in the books of account or expenditure recorded but not actually incurred. This section proposes to cover the previous year for which the due date of filing the return has not expired on the date of search. However, immunity from penalty would be available if disclosure is made under section 132(4), the manner of earning is substantiated and tax is paid.

♦ The order of the Transfer Pricing Officer determining the arm’s length price of an international transaction is proposed to be made binding on the Assessing Officer and the Assessing Officer would be required to pass an assessment order in conformity with the arm’s length price determined by the Transfer Pricing Officer. Consequently, the time limit for completion of assessment/re-assessment where a reference is made to the Transfer Pricing Officer under section 92CA(1) is proposed to be increased by 12 months i.e.
  - from 21 months to 33 months in case of assessment under section 143/144;
  - from 9 to 21 months from the end of the financial year in which notice under section 148 is served, in case of assessment or reassessment under section 147; and
  - from 21 to 33 months from the end of the financial year in which the last of the authorizations for search under section 132 or requisition under section 132A was executed, in case of search assessment under section 153B(1).

♦ In order to provide sufficient time to the Assessing Officer to complete assessment in a case where reference is made to the Transfer Pricing Officer, new sub-section (3A) is proposed to be inserted in section 92CA to provide for determination of arm’s length price of international transactions by the Transfer Pricing Officer at least 60 days before the expiry of the time limit for making an order of assessment by the Assessing Officer.

♦ The existing provisions relating to settlement of cases by the Settlement Commission is proposed to be amended to restrict the cases eligible to appear before the Settlement Commission.

The author is Senior Education Officer, ICAI.
Commission. It is proposed to provide that from 1.6.2007, an assessee can make an application to the Commission only during the pendency of the proceedings before the Assessing Officer. Henceforth, application cannot be made to the Settlement Commission where -

- notice for assessment/reassessment under section 147 has been issued under section 148.
- search has been initiated under section 132 or requisition has been made under section 132A followed by assessments under section 153A/153B.
- fresh assessment has been directed on account of the original assessment being set aside by the Commissioner(Appeals)/Appellate Tribunal under sections 263/264/254.

Therefore, no such proceedings, except original assessment proceedings, should be pending at the time of making an application to the Settlement Commission.

Further, the additional amount of income-tax offered should exceed Rs. 3 lakhs and the additional tax offered and interest thereon should be paid before filing the application and proof of payment should be attached with the application.

These are the substantive and procedural changes proposed in the income-tax law by the Union Budget 2007-08, which can be viewed as a forerunner to the proposed Income-tax Code to be tabled in the Parliament this year. The new Income-tax Bill is eagerly awaited in anticipation of a simple and easy to understand Income-tax law.

Service Tax Proposals in Budget 2007-08: An Overview

Smita Mishra

(...Continued from April, 2007 issue of the Newsletter)

IV. AMENDMENTS IN THE SERVICE TAX RULES, 1994

♦ Service receiver to pay service tax in case of sponsorship service only if he is located in India (Effective from 01.04.2007)

Rule 2(1)(d)(vii) has been amended to the effect that service tax is required to be paid under reverse charge method in relation to sponsorship service only if the recipient of service is located in India. Therefore, if the recipient of sponsorship service is located outside India, service tax would be required to be paid by the service provider and not by the recipient.

♦ Requirement of submission of original registration certificate to the department at the time of intimation of any changes dispensed with (Effective from 01.03.2007)

While intimating any change in information furnished at the time of obtaining registration certificate, the assessee is required to submit the original registration certificate. However, this requirement has now been done away with in view of the amendment made in rule 4. As per the amended rule 4, the assessee would be required to submit only a self-certified copy of the registration certificate instead of original registration certificate while intimating any changes in the details given in the original registration certificate. Department will issue the amended registration certificate after canceling the original registration certificate issued earlier.

♦ Excess service tax paid may be self-adjusted by all assessees (Effective from 01.03.2007)

Sub-rule (4A) of rule 6 has been substituted and sub-rule (4B) inserted to provide for self-adjustment of excess service tax paid, subject to specified conditions. So far, self-adjustment of excess service tax paid was available only to the assessees who opted for centralised registration. Further, the adjustment was allowed only on account of delayed receipt of details from the branch offices. With effect from 01.03.2007, self-adjustment of excess service tax paid has been extended to all the assessees. However, such an adjustment would be subject to the following conditions:

- Self-adjustment of excess credit would not be allowed in case of reasons involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification.
- Excess amount paid and proposed to be adjusted should not exceed Rs. 50,000 for the relevant month or quarter. However, in case of assessees opting for centralized registration excess amount can be adjusted without any monetary limit provided the excess amount paid is on account of delayed receipt of details of payments from branch offices.

The author is Executive Officer, ICAI.
Adjustment can be made only in the succeeding month or quarter.

The details of self-adjustment should be intimated to the Superintendent of Central Excise within a period of 15 days from the date of adjustment.

**Provision for filing of revised return introduced**
*(Effective from 01.03.2007)*

Rule 7B has been inserted to allow an assessee to submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of 60 days from the date of submission of the return under rule 7. It has been clarified that where an assessee submits a revised return, the ‘relevant date’ for the purpose of recovery of service tax, if any, under section 73 of the Act shall be the date of submission of such revised return.

**V. SECONDARY AND HIGHER EDUCATION CESS**

A cess of 1% is proposed to be imposed on services liable to service tax. It shall be levied on the service tax payable on such services. The cess paid on input services would be available as credit for payment of cess on output services. This cess would be in addition to 2% education cess and would be used to finance secondary and higher education. Therefore, the effective rate of service tax would be 12.36%. It may be noted that this cess on taxable services would become effective from the date of the enactment of the Finance Bill, 2007.

Budget 2007-08 is in line with the promise of the UPA Government of keeping the tax rates stable and conducive to growth, compliance and investment. The increase in the gross tax revenues from 19.9% to 27.8% reflects the broadening of the tax base and efficient tax administration. The proposals in the field of service tax are a mixed bag i.e., some encouraging and some discouraging. The increase in the exemption limit of service tax was the need of the hour and has given relief to many small service providers, though it has removed 2,00,000 assessees out of the total 4,00,000 assessees. However, the Finance Minister is hopeful of recouping this revenue through the new services introduced this year. Proposals like self-adjustment of excess service tax and non submission of original registration certificate while intimating changes are also favourable.

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**An Aspiring CA Student**

Ramya Raghavan

Chartered Accountancy examinations are unpredictable. Sometimes you would be thinking, that you would clear, but the results may be negative. When you have given up hope, you see yourself staring at the computer screen, unable to believe, that you have ultimately cleared the exams. This has happened often to me.

There is no shortcut to preparing for CA exams. It should be associated with hard work, disciplined study and proper time management. Each and every study material provided by the Institute should be absorbed thoroughly. Plus one or two reference books should be gone through. Many students feel that the syllabus is very vast and so cannot be completed within the timeframe. But what I would like to suggest is that, go for those chapters initially, which are very easy to understand and not very lengthy. Once you have completed those chapters you will find that majority of your syllabus has been completed and now what remains will be within your reach and control. This not only makes you feel better, but also restores your confidence towards CA exams.

Apart from managing your studies, an aspiring CA student should also concentrate on developing his/her personality, in order to make it an attractive and a magnetic one. Developing one’s personality includes developing qualities of tact, dynamism, versatility, diplomacy, calmness (even in stressful situations), poise, gracefulfulness (even in adversity) and last but not the least, being assertive and not aggressive.

Now I would like to elaborate on some of the above qualities. Tact is, saying the right thing at the right time and right place. Since, practice makes a man perfect, tact can be achieved only through practice and patience. Versatility is something that every CA should acquire. Having a basic knowledge on all subjects helps a CA to be a good conversationalist.

Dynamism is having unlimited energy, enthusiasm, adaptability and novel ideas. Dynamism helps a CA to keep going in this ever-changing world. Being always diplomatic in your approach would help to have a win-win situation in agreements and negotiations.

Calmness indicates that you are totally in control of the situation even in stressful conditions and poise shows off your self-confidence and dignity towards any situation. Gracefulness brings out the person’s character elegantly and beautifully. Aggressive is being defensive and unfriendly, whereas, assertive brings out your ability to state facts reasonably and firmly. It is very easy to be aggressive but it requires lots of practice and patience to develop assertiveness.

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*The author is a student of ICAI. (Registration number: WRO 0150052)*
1. Additions to Accredited Institutes
Grant of Accreditation (During the period January-April, 2007)

For conducting oral Coaching classes for Common Proficiency Test (CPT)

WESTERN REGION
- Narayan Zantye College of Commerce, Post Industrial Estate, Bicholim – 403 529
- Tolani Commerce College, P.O. Box No. 27, ADIPUR (KUTCH) -370 205
- Ichalkaranji High School and Junior College, Tal. Hatkangle, Dist. Kolhapur, ICHALKARANJI – 416 115
- Rajasthani Sammelan’s Ghanshyamdas Saraf Girls’ College of Arts & Commerce, 102, Manas, Devidas Road, (Opp. St. Lawrence High School), Borivli (West), MUMBAI – 400 103
- Thakur College of Science & Commerce, Thakur Village, Kandiwali (E), MUMBAI – 400 101
- Changu Kana Thakur Arts, Commerce and Science College, NEW PANVEL

SOUTHERN REGION
- K.L.E’s S. Nijalingappa College, II Block, Rajajinagar, BANGALORE – 560 010
- Mysore Branch of SIRC of the Institute of Chartered Accountants of India, ‘ICAI Bhawan’, CA Site No. 2, Bank Employees Colony, Bogadhi, MYSORE – 570 026
- Ernakulam Branch of SIRC of the Institute of Chartered Accountants of India, 57/3146, Diwan’s Road, Ernakulam, KOCHI – 682 016
- Loyola College, Sterling Road, Nungambakkam, CHENNAI – 600 034

NORTHERN REGION
- Saheed Bhagat Singh College, Sheikh Sarai, Phase – II, NEW DELHI – 119 917
- Mahavir Institute of Educational Training and Management, C/o Mahavir Senior Model School, Opp. Nanak Piao Gurudwara, Near R.P. Bagh, G.T. Karnal Road, DELHI – 110 007
- For conducting 100 Hours Information Technology Training
- Alwar Branch of CIRC of the ICAI, Alwar, ICAI Bhawan, Behind Stadium, C.A. Lane, S.No. 8 Extension, Alwar-301001
- Trivandrum Branch of CIRC of the ICAI, P.B. No. 416, TC 41/401 Pound Road, Thuyaca, Thiruvananthapuram 695 014.
- Udaipur Branch of CIRC of the ICAI, Chartered House, ‘G’ Block, Hiran Magri, Sector 14, Udaipur 313 001
- Sahaj Solutions, Franchisee of SSI, 308, Didar Complex, 6, DLF Industrial Area, Moti Nagar, Near Metro station, Delhi-15
- Competent Institute Of Commerce, 1/15, Lalita Park, Vikas Marg, Laxmi Nagar, New Delhi-11092
- The Excel Academy, E-96 Behind Rathi Hospital,Near Kalpatru Cinema, Shastri Nagar, Jodhpur 342003
- Pinnacle Computers, F-223, Mangal Bazar Road, Laxmi Nagar, Delhi 110092
- Agrawal Educational Institute (P) Limited, 51 Vimlesh Bhawan, New Raja Ki Mandi, Near Canara Bank Loha Mandi, Agra
- Lyallpur Kalsa College(Boys), Lyallpur Kalsa College for Women, Hony Secretary, Governing Council, Kalsa College Lyallpur. In the Campus of Lyallpur Kalsa College for Women, Cantt Road, Jalandhar
- Aryan International College, 83/3 Shirin Cottage, Shastri Nagar, Ajmer 305001
- Institute of Cooperative & Corporate Management, Research and Training, 467, Sector 21, Ring Road, Indira Nagar, Lucknow 226016
- Academy of Technology & Management, 12-II & III Floor, Deep Central Market, Phase-1 Ashok Vihar, Opp Punjab National Bank, Delhi-110052

For complete list of the accredited institutes, students may refer to “Students” page on the web site www.icai.org.
ANNOUNCEMENTS

2. Revisionary Classes- NIRC

Revisionary Classes for the students pursuing and eligible to appear in the ensuing Common Proficiency Test, Professional Education (Course I), Professional Competence, Professional Education (Course II), and Final Examinations to be held in November 2007 will commence from 21st May, 2007. These Revisionary Classes will be conducted in the premises of the Northern Regional Office at “ICAI Bhawan”, 52-53-54. Vishwas Nagar, Shahdra, Delhi-110032. Timing of these Classes and the Special Classes on Income-tax and Central Sales Tax (in PE-II), and on Direct Taxes (in Final) and fee will be as under :

<table>
<thead>
<tr>
<th>Course</th>
<th>Timing</th>
<th>Fee (Rs)</th>
</tr>
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<tbody>
<tr>
<td>Final</td>
<td>7.00 AM–9.30 AM</td>
<td>Gr-I: 1000&lt;br&gt;Gr-II: 700&lt;br&gt;(except Direct Taxes)&lt;br&gt;Gr-Both: 1500&lt;br&gt;(except Direct Taxes)</td>
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<tr>
<td>PCE</td>
<td>10.00 AM–12.00 Noon</td>
<td>Gr-I: 600&lt;br&gt;Gr-II: 400&lt;br&gt;(except Income Tax)&lt;br&gt;Gr-Both: 850&lt;br&gt;(except Income Tax)</td>
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<tr>
<td>PE-II</td>
<td>12.30 PM–2.30 PM</td>
<td>Gr-I: 600&lt;br&gt;Gr-II: 400&lt;br&gt;(except Income Tax &amp; CST)&lt;br&gt;Gr-Both: 850&lt;br&gt;(except Income Tax &amp; CST)</td>
</tr>
</tbody>
</table>

* While every effort will be made to maintain these timings, the same may change in exigencies.

The duration of the revisionary classes for CPT / PE-I will be one month, and for PCE / PE-II / Final Examinations will be about three months.

Revisionary Classes will be held subject to adequate number of students registering for the same.

Fee by way of a DD drawn in favour of “NIRC of the ICAI” and payable at New Delhi only

Venue of the Special Classes – Income Tax and Direct Taxes will be announced in due course

As seats are limited, registration will be done on First-Come-First-Served basis

Those interested (and eligible to appear in the ensuing captioned examinations) may obtain the application form (free of any charge) from the office of the NIRC of the ICAI at “ICAI Bhawan”, Annex, 5th Floor, Indraprastha Marg, New Delhi-110002, and submit the same duly filled, signed and accompanied with requisite remittance

The application form can also be downloaded from the website: nirc-icai.org

For more details, you may visit us at www.nirc-icai.org or contact us at (011) 2337 0159, 3011 0495, 6536 6858

3. CPT Crash Course - EIRC

Class programme for CPT Course would commence from 1st June, 2007 for August, 2007 term of C.A. examination. The programme would include complete coverage of subject-matters with mock examinations. Lectures will be delivered by eminent faculties.

Venue: EIRC, 5th Floor Classroom, Kolkata.

Course fee: Rs.4,000 (to be paid in D.D./Pay-order favouring “Institute of Chartered Accountants of India, EIRC” payable at ‘Kolkata’).

Timing: 10 a.m. to 5 p.m. There will be 3 Classes per day of 2 hours each for continuous 45 days followed by 3 days of mock examinations (1 examination per day).

Maximum capacity 50 on first-come-first-served basis. Students should approach EIRC office (ICAI Bhawan, 7, Russell Street, Kolkata – 700 071) from 16/5/2007 for detailed announcement and registration for the course.

4. Help us to serve you better

As part of continuing exercise to provide better quality of services to the Students a study was undertaken to find out the reasons for delay in disposal of certain activities relating to the students like seeking prior permission for additional course of study and completion of articles. It was observed that the delay was largely attributed due to protracted correspondence on account of non-filling of appropriate forms like form no. 112 and form no. 108 by the students concerned.

Articled Assistants intending to pursue any additional course of study during the period of articles training are required to seek prior permission of the Institute by filling form no. 112 duly filled in signed by them, their principal and by the principal of the Institution where they intend to pursue the additional course of study. The form is required to be submitted within 30 days from the date of joining of the course.

Articled Assistants who have completed their period of training are required to get the service certificate in form no. 112 issued by the Principal duly filled in and signed in all respects and the same is required to be submitted within 30 days from the date of completion to the concerned Decentralised office for recording entries regarding completion of their articles training.

If there is delay in submission of the appropriate forms like form no. 112 and 108 they are required to apply for condonation of delay giving reasons and also paying the fees for condonation which varied according to the duration of delay. The process of condonation takes time which in turn leads to avoidable delay in completing the activities like grant of permission to study, noting completion of articles etc. The students are therefore advised in their own interest to submit all required forms to the Institute office duly filled in and signed within the time prescribed for submission of such forms.

Recent Publications of the Board of Studies

PCC Study Materials in Hindi

The Board of Studies released a full set of Study Materials of Professional Competence Course (PCC) in Hindi for the benefit of Hindi Medium students. These study materials will be available in selected Offices of the Institute on and from May 15, 2007. Students may mail to noidastores@icai.org for further details.
Information Technology Training - Online Test

100 Hours Information Technology Training Programme- Online Examination

The next online Examination for 100 Hours Information Technology Training Programme will be conducted on the last Sunday of the month i.e. 27th May, 2007 at 10.00 AM. All those students who fulfill following requirements are eligible to appear for this examination:

1. Completed minimum 100 hours of IT training.
2. Cleared two module tests
3. Submitted the project
4. Attained 90% attendance

It is reiterated that only those students who fulfill all the four aforesaid criteria are eligible to appear for the online exam. Ineligible students will not be issued ITT completion certificates even if they are allowed to appear for the online examination by their concerned training institute. Students are advised to contact their concerned accredited training institutes for further details. In case you face any difficulty regarding conduct of online examination at your training centre, please contact the concerned Regional Office. Alternatively, you can contact Mrs. Indu Arora at NOIDA office at e-mail address indu@icai.org.

Director of Studies

Endowment Fund

To encourage students to pursue graduation in Commerce ICAI creates Endowment Funds with Universities. We have created a new fund with University of Burdwan, West Bengal and Amravati University, Maharashtra for award of a Gold Medal to the topper in B.Com (Hons.) examination.

Release of New Video CDs

The Board of Studies has released Video CDs for Professional Education (Course-II)/PCC and Final Course. These Video CDs are available for sale in all offices of the Institute and may be obtained by post from the Noida Stores, ICAI Bhawan, Institute of Chartered Accountants of India, C-1, Sector-1, Noida 201301. Students may send their request to noidastores@icai.org. The cost of each Video CD is Rs. 50 (Plus Rs. 20 towards postal charges).

List of the Video CDs

1. Foreign Currency Translation (Part 1) CA. M.P. Vijay Kumar
   Advanced Accounting (Final Old Course)
   Financial Reporting (Final New Course)
2. Foreign Currency Translation (Part 2) CA. M.P. Vijay Kumar
   Advanced Accounting (Final Old Course)
   Financial Reporting (Final New Course)
3. Impairment of Assets CA. M.P. Vijay Kumar
   Advanced Accounts (Final Old Course)
   Financial Reporting (Final New Course)
   Cost Accountancy (PCC)
   Cost Management (Final Old Course)
5. Standard Costing (Part 2) Shri R.K. Srivastava
   Advanced Management Accounting (Final New Course)
   Cost Accountancy (PCC)
   Cost Management (Final Old Course)

NOTICE

Notice is hereby given that the Annual General Meeting of Members of the Northern India Chartered Accountants Students’ Association will be held on Thursday the 7th June, 2007 between 10.00 a.m. and 5.00 p.m. at 52, 53, 54, The Institute of Chartered Accountants of India, “ICAI Bhawan”, Vishwas Nagar, Shahdara, Delhi-110 032, to elect twelve members to the Managing Committee of NICASA.

CA. Rajesh Sharma
Chairman, NICASA

NOTES:

Members eligible to vote – (i) Every student who is a member of the Students’ Association on the 1st day of April 2007 shall be entitled to vote provided he continues to be a member on the date of election. He should have his identity card issued by ICAI to participate in AGM and cast his vote.

(ii) Every student who fulfils the requirement at (i) above shall be eligible to stand for election to the Managing Committee of the Students’ Association to which he belongs provided the un-expired period of training is not less than 12 months as on 18th Jan, 2007.

Any person desiring to stand for election shall submit a nomination to the Chairman, NICASA duly signed by the candidate and by the proposer and seconder, both of whom shall be persons entitled to vote in the election. Each nomination shall be accompanied by a fee of Rs. 10 which will not be refundable under any circumstances.

Important Dates Relating to Elections of Members To Northern India Chartered Accountants Students’ Association

1. The last date and time of receipt of nominations : 21.5.2007
2. Date of scrutiny of nomination received : 22.5.2007
3. The last date and time for withdrawal of nominations : 24.5.2007
4. Display (on the notice board) of list of valid nominations (after withdrawal, if any) : 24.5.2007
5. Poll (if required and by secret ballot) (10.00 a.m. to 5.00 p.m.) : 7.6.2007
6. Counting of votes and declaration of result : 8.6.2007

Information Technology Training - Online Test

100 Hours Information Technology Training Programme- Online Examination

The next online Examination for 100 Hours Information Technology Training Programme will be conducted on the last Sunday of the month i.e. 27th May, 2007 at 10.00 AM. All those students who fulfill following requirements are eligible to appear for this examination:

1. Completed minimum 100 hours of IT training,
2. Cleared two module tests
3. Submitted the project
4. Attained 90% attendance

It is reiterated that only those students who fulfill all the four aforesaid criteria are eligible to appear for the online exam. Ineligible students will not be issued ITT completion certificates even if they are allowed to appear for the online examination by their concerned training institute. Students are advised to contact their concerned accredited training institutes for further details. In case you face any difficulty regarding conduct of online examination at your training centre, please contact the concerned Regional Office. Alternatively, you can contact Mrs. Indu Arora at NOIDA office at e-mail address indu@icai.org.

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   Advanced Management Accounting (Final New Course)
   Cost Accountancy (PCC)
   Cost Management (Final Old Course)
Forthcoming Conference and Convention

20th All India CA Students’ Conference
Date: June 23 & 24, 2007
Hosted by Ahmedabad Branch of WIRC of the ICAI

4th National Convention for CA Students
Date: July 6 & 7, 2007
Venue: C. C. Mehta Auditorium, M. S. University Campus, Baroda
Contact Persons: CA. Ashok Thakkar, Mobile: 09825048551
CA. Rahul Parikh, Mobile: 09825329995
Hosted by: Baroda branch of WICASA, jointly with
Baroda branch of WIRC of the ICAI
Details to be announced on the website shortly

Appeal to Create Endowment Funds

Invitation to individuals, trusts, societies and others to create endowments to award scholarships.

The Institute of Chartered Accountants of India grants liberally scholarships to meritorious and needy students. Scholarships are also awarded with external participation under different endowment schemes. Individuals and organizations can create endowments by contributing a minimum sum of rupees one lakh only. Returns from the Corpus will be used to grant monthly scholarship. Extend your helping hands to meritorious students to become Chartered Accountants.

Interested persons may write to:

Director of Studies
ICAI Bhawan, The Institute of Chartered Accountants of India
C-1, Sector-1, Noida 201 301  (0120) 3989398, E-mail: psdos@icai.org
The Board of Studies has come out with “Students Guide to Accounting Standard 28: Impairment of Assets”, which is a new booklet published in the Professional Development Series. This series is intended for helping the students to develop their personality and also to hone their professional skills. This publication would further aid the accountants to enhance the quality of professional work rendered by them.

**The booklet covers:**
- Implications of AS 28
- Impairment flow charts
- Practical issues
- International pronouncements and guidelines
- Relevant extracts of the standard from annual reports
- Views of expert advisory committee

This booklet the “Audit Documentation”, which is published by the Board of Studies in the Self Development Series, is aimed at enabling the students to develop their personality and improve their professional skills. This booklet will enable the student in understanding audit procedures and applications of audit procedures during the course of their practical training.

**The booklet covers:**
- Engagement
- Audit Planning
- Execution of Plan
- Review of Working Papers
- Conclusion and Reporting
- Documentation Tools
- Special Considerations like Documentation on Tax Audit, Audit of Small Entities, Transfer Pricing Audit
- Case Study
- Frequently asked Questions regarding Audit Documentation

These publications would be of great value addition to the students of Final Course.

These publications are available for sale in all Offices of the Institute and may be obtained by post from the Noida Stores, ICAI Bhawan, Institute of Chartered Accountants of India, C-1, Sector-1, Noida 201301. Students may send their request to noidastores@icai.org

Price: Rs. 25 (each book), Postage: Rs 29 (through courier)
Contact Us

We receive letters and emails from the students on various issues. For speedy disposal of queries students should write only to the concerned office. The details of various offices are given below:

For general queries that are administrative in nature such as registration, including its delay, Eligibility Certificates, Test Papers, ITT Completion Certificate and so on student should contact the respective region:

1. Additional Director of Studies
   Western India Regional Council, The Institute of Chartered Accountants of India, ICAI BHAWAN, 27, Cuffe Parade, Colaba, Mumbai – 400 005
   Phone: 022-39893989  Fax: 022-39802953
   e-mail: wro@icai.org

2. Deputy Secretary
   Southern India Regional Council, The Institute of Chartered Accountants of India, ICAI BHAWAN, 122, M.G. Road, Post Box 3314, Nungambakkam, Chennai – 600 034
   Phone: 044-39893989  Fax: 044-30210355
   e-mail: sro@icai.org

3. Deputy Secretary
   Eastern India Regional Council, The Institute of Chartered Accountants of India, ICAI BHAWAN, 7, Anandi Lal Poddar Sarani, Russel Street, Kolkata – 700 071
   Phone: 033-39893989  Fax: 033-30211145
   e-mail: ero@icai.org

4. Deputy Secretary
   Central India Regional Council, The Institute of Chartered Accountants of India, ICAI BHAWAN, Post Box 314, 16/77B Civil Lines, Behind Reserve Bank of India, Kanpur (U.P.) – 208 001
   Phone: 0512-39893990  Fax: 0512-30210613, 3021174
   e-mail: cro@icai.org

5. Deputy Secretary
   Northern Regional Office, The Institute of Chartered Accountants of India, ICAI BHAWAN, 52-53-54, Institutional Area, Vishwas Nagar, Shahdara, Near Karkardooma Court, Delhi – 110 032
   Phone: 011-39893990, 30210613  Fax: 011-30210680
   e-mail: nro@icai.org

For Queries related to academics and grievances
   Director of Studies
   The Institute of Chartered Accountants of India
   ICAI BHAWAN, C-1, Sector – 1, Noida – 201 301
   Phone: 0120-39893989  Fax: 0120-3054842
   e-mail: dos@icai.org,

Students may also note other email addresses
   ♦ Academic Difficulty in Subjects guidance@icai.org
   ♦ General Grievances bosnoida@icai.org
   ♦ General Management and Communication Skills gmcscourse@icai.org
   ♦ Compulsory Computer Training/ Introduction to Technology cctnoida@icai.org
   ♦ Non receipt of Newsletter casnewsletter@icai.org
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   ♦ Publications noidastores@icai.org

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New Delhi - 110 002.