

The Institute of Chartered Accountants of India (Set up by an Act of Parliament)



**E-NEWSLETTER
NOVEMBER - 2017**



Gandhidham Branch of WIRC of ICAI

2017

**Strategic leader
Sardar Vallabhbhai
Patel**



Iron Man of India

There is something unique in this soil, which despite many obstacles has always remained the abode of great souls.

CHAIRMAN'S MESSAGE



“Failure will never overtake me if my determination to succeed is strong enough”

– Og Mandino

Dear Members,

October was the month of sparkle as the festival of lights Diwali was celebrated across the world with great fervor and enthusiasm! The month of October generally month of relaxation for the Chartered Accountants but the extension of the Tax Audit Filing date and GST Returns filing dates has created lot of extra pressure and month was more demanding than normal. The activity of the branch were also fewer because of the extended Tax Audit Season and GST Compliances.

Gandhidham Branch has successfully organized Indoor Sports Day at KDBA Gymkhana on 1st October, 2017 for Members, Family Members and Students. All the sports activities were participated in large numbers.

Friends, while reading an inspiring book “*How to Think Bigger*” authored by Martin Meadows, I came across an interesting chapter on How to Balance Professional and Family Life named “The Art of Balance.” I find it aptly useful to our profession due to all the chaos created in our professional life due to GST technical glitches, Tax Audit Compliances, ruin of Diwali Festivals, staying long hours at office and so many other reasons. The chapter is overleaf. I request members to spare few minutes and must read it for further thoughts.

ICAI is organizing International Conference on 8th & 9th December, 2017 at Hotel Sahara Star, Mumbai to update the members with Global trends and Technology which changing profession's landscape with theme of “*gyanam param balam – Knowledge is supreme power*”. There are opportunities for professional knowledge enhancement and networking. I urge members to be part of this conference. Detailed structure is overleaf.

विद्या / ज्ञान एक कामधेनु के सामान है

जो हर मौसम में अमृत प्रदान करती है!

वह विदेश में माता के सामान रक्षक एवं हितकारी होती है,

इसीलिए विद्या को एक गुप्त धन कहा जाता है !

With warm regards

CA Kartik Varaiya
Chairman,
Gandhidham Branch of WIRC of ICAI

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The Art of Balance

-From the book "How to Think Bigger" by Martin Meadows

Achieving perfect work-life balance is a popular myth that, unfortunately, applies to nobody. Your professional life will affect your personal life, and your personal life will affect your professional life.

However, while it's impossible not to take your job with you after work (and it's even more difficult if you're a professional or entrepreneur), there are ways to reduce time spent thinking about work while you're supposed to relax.

The first key to recharge more while relaxing is to enter the state of flow. Flow can happen while working on a goal, but you can also get in the zone while relaxing. Various sports, and most notably extreme sports and any other activities with perceived high risk and challenge, are perfect to get your mind off work.

The second way to achieve more balance is to spend more time in nature. Studies show that physical activity in a forest or a park helps recover from stress. I recommend spending at least an hour a week alone, in a quiet place away from everyone else. If you can't take your mind off work, consider listening to music or taking a book or an e-reader with you.

Gary Keller, co-owner of one of the biggest international real estate franchises, writes in his bestselling book *The One Thing: The Surprisingly Simple Truth Behind Extraordinary Results* about three ways people try to achieve balance between work and life. The first approach is living in the middle – paying equal attention to work and life.

This approach won't work for people who want to achieve big things because you can't achieve extraordinary results with a balanced approach. Extraordinary happens at the extremes, and if you only pay moderate attention to your work, you won't achieve big things.

The second approach is going to the extremes – spending a lot of time at work for long periods of time and then trying to fix the damage done to your personal life by ignoring your work. This approach is just as bad as the first approach. While you can achieve big goals with this attitude, everything else in your life will suffer.

In his novel *Suzanne's Diary for Nicholas*, James Patterson provides a powerful metaphor that has stuck with me since I read it for the first time in Keller's book:

"Imagine life is a game in which you are juggling five balls. The balls are called work, family, health, friends, and integrity. And you're keeping all of them in the air. But one day you finally come to understand that work is a rubber ball. If you drop it, it will bounce back. The other four balls... are made of glass. If you drop one of these, it will be irrevocably scuffed, nicked, perhaps even shattered."

If these two approaches don't work, then what does?

Keller suggests the third approach – counterbalancing. With this approach, you never go long periods of time without paying attention to your personal life. It always gets a similar level of focus. With your work life, you frequently go to the extremes, but only for short periods of time so your personal life won't suffer. This approach requires you to sacrifice the unessential aspects of your work in pursuit of working on the biggest things.

This approach is the healthiest attitude. It will guarantee extraordinary results, while working on your goals while still paying attention to your personal life.

ANNUAL RETURN FILING – PRIVATE LIMITED COMPANY

It is mandatory for companies, public or private, registered in India to file their Annual Returns with the Registrar of Companies. Private Limited Company annual return filing must also be supplemented by all the relevant financial documents including financial statements, certifications of compliance, registered office address, shares & debenture and other securities details, register of promoters and directors, debt structure, and key management profile. In addition to this, Private Limited Company annual return filing must also declare the major shareholders, any changes in Directorship, and details of the transfer of securities if any, along with following:

- Details regarding key meetings amongst the members of the Board, and its various committees
- Compensation of Directors and key managerial personnel
- Details regarding penalty or punishment imposed on the company, its directors or officers
- Details of compounding of offences and Appeals made against such penalty or punishment
- Details of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them in the company

Below is a quick overview of the important e-forms that need to be submitted as part of the Private Limited Company annual return filing:

- AOC-4: Needed for presenting the balance sheet of the company, consolidated financial statement, and profit and loss details. This is a form specifically designed for filing Financial Statement with the ROC, and must be filed within 30 days of Holding of Annual General Meeting (AGM).
- MGT-7: To give information about the directors and shareholders during the reporting Financial Year. This must be filed within 60 days of the AGM.
- MGT-14: For the purpose of adoption of Balance Sheet and Director Report, and must be filed within 30 days of Holding of Board Meeting.

In addition to this for private limited company annual filing, you may also have to present a Director Report along with following annexure:

- AOC-2: Form for disclosure of particulars of contracts/arrangements entered into by the company.
- MGT-9: Extract of annual return with details such as CIN, Registration date, name and category of the company, registered address and contact details.
- Secretarial Audit Report on company annual compliance of various legislations including the Companies Act and other corporate and economic laws applicable to the company.

The consolidated financial statement must be approved by the Board of Directors before it can be filed to the Registrar of Companies. Once the board has approved the financial statement, it should be signed by 3 people - two Directors and one of the below-mentioned personnel (in decreasing order of preference):

- CEO, if any
- CFO, if appointed.
- Company Secretary of the Company, if appointed

After the board has provided its sign-off, the financial statement needs to be submitted to an auditor, who will then prepare a detailed report on the financial statement, which will be presented to the shareholders during the AGM. Since this audit report is referred to and relied upon by many inside and outside the organization, it must be prepared with utmost care and due diligence.

As per the Indian company law, every company registered in India needs to file the annual return within 60 days from the last held Annual General Meeting (AGM). If there was no AGM in a given year, the company needs to file the returns with 60 days from when the AGM should have happened, and must also explain why there was no AGM – in such cases there may be penalties or extra fees levied, which the company will have to pay within the time as specified, under section 403. If a company fails to file its annual return within the stipulated time, there may be additional fine between INR 50,000 and INR 500,000. Additionally, there may also be personal punishments, including financial penalty up to INR 500,000 and/or jail term up to 6 months, for officers who are responsible for the default. Similar fines can also be imposed if the company fails to maintain a register of members, debenture holders, and other security holders.

CLASSIFICATION IN GST – IMPORTANCE & PROCEDURES

GST is applicable on the taxable supplies of goods or service or both. However, certain provisions under GST Act and the rules made thereunder are applicable only with respect to goods and certain other provisions are applicable only to the services. Therefore, multiple rates could be applicable. It is important to classify a supply as supply of goods or supply of service. In the GST law also, the classification of goods continues to be based on Customs Tariff Act, which is based on the HSN. However the archaic VAT law has been followed where there is a rate for every schedule for goods - a very cumbersome and impractical method. The HSN based classification is further made applicable even for services. To understand the applicability of correct rate of GST or to determine whether any exemption is available, it is important to know the HSN code in which a particular goods or service is covered. Based on the HSN code, the GST rate, exemptions and conditions for exemptions, if any, are being notified.

Importance of classification

Department could object to the rate adopted or exemption claimed when mistake or error comes to light in the course of assessment, investigation or revenue audit. The customer may object to the classification or the rate. The assessee himself may come to know of the error due to competitors using different rates, paying or not paying, attending some awareness session, reading articles, books. Errors may also come to light at the time of due diligence, internal audit, statutory audit, outsourced consultant changing, etc.

Some assessees would suffer loss of business in period of uncertainty till proper classification is arrived at as they may have stopped supplies for some time. Nobody could have got ready for the numerous rates and exemptions due to the fact that they were announced too late. A period of at least 6 months should have been provided for getting ready. However, those who got ready in May 2017 when list discussed in GST council was released were able to be better prepared and in case of unreasonable rates, represented and got the same corrected before 1st July.

Cost of mistakes in GST classification would include the following :

- ➔ In case of higher tax charged, assessee may have to suffer the loss of orders and cost of re-establishing with the customers, the loss of credibility with customers. The cost of discounts is not factored which one is forced to give to retain the customer.
- ➔ In case of goods or services supplied paying duty erring on the side of law which are nil rated or exempted the denial of credit by the revenue up to 6 years can be fatal for the business in addition to the demand, interest and penalty.

Impact if credit for trader is 80% credit could be 15% of output then $15 \times 6 = 80$ + interest 20 + penalty 20 = 120 % of turnover!!!

In case of short charge due to incorrect classification or claim of exemption which is not available, would result in non-recoverability of taxes from the customers and cost of interest. In business, breaking the credit chain could make business unviable.

Impact if rate is 18% then $18 \times 6 = 108$ + Interest 30 + penalty 30 = 168% of 1 years turnover!!!!

- Valuation methods prescribed for certain categories of goods and or services would be dependent on the classification of such goods and/or services. Wrong classification would lead to wrong payment of tax.
- On certain goods and/or services GST is to be discharged by the recipient of supply under reverse charge mechanism. Wrong classification may result in non-payment of tax or un-necessary payment of tax.
- Denial of benefits under FTP such as duty drawback and incentives being provided for various goods and/or services at varied rates can be the result.
- Non-payment of compensation Cess, if any, applicable on specified goods and or services which may result in penal proceedings
- Getting the liability on Import of goods/Services all wrong or not claiming the ITC (Input Tax Credit) benefit of export on goods/service exports due to improper classification could also happen. This could happen when the alternative headings available have different import/export criterion being applicable to them.

In case of dispute by revenue in addition to the above costs: the cost of penalty, denial of credit availed, cost of dispute resolution at adjudication, appeal, Court stages also would arise. It should be kept in mind that the internal manpower resources could get substantially involved to resolve the issue inspite of the fact that a specialist in GST maybe outsourced to prepare the reply, appearance etc.

Classification Procedure in brief

The supplier shall identify the correct classification of the goods as per the notifications issued under GST law and ascertain the rate of tax which is payable. The goods have to be primarily classified as per the description of the goods specified therein and next as per the trade or commercial understanding of the product.

Understand the global scenario and then the Indian scenario of that business or activity, the alternative methods or variants, the domain knowledge of the transaction, Whether the GST paid is available as ITC and the customer profile. A brief study including web search for images.

The steps involved for classification of goods are as follows.

- The first step is to find out the classification heading based on the description and nature of the goods being supplied as per the notified rate schedule. Confirm that the product is also similarly or more specifically covered in the Customs Tariff and HSN 2017. The Section Notes and Chapter Notes to the Schedule to be read.
 - If there is no ambiguity, the classification is final and there is no need to apply the non-statutory principles of classifications set out in commentary section above.
 - If there is ambiguity, first reference shall be made to the Rules for interpretation of the Customs Tariff. Find the trade understanding of the terms used in the Schedule, if the meaning is not clear. If the trade understanding is not available, the next step is to refer to the technical or scientific meaning of the term. If the tariff headings have technical or scientific meanings, then that has to be ascertained first before the test of trade understanding. If none of the above are available reference may be had to the dictionary meaning or ISI specifications. Evidence may be gathered on end use or predominant use.
 - In case of the unfinished or incomplete goods, ascertain if the unfinished product has the essential characteristics of the finished product, if yes, apply that classification to the unfinished product.
 - If the classification is not ascertained as per point (e) mentioned above, find out the heading, which is more specific to the nature of product.
 - If the classification is still elusive, ascertain which material gives the article its essential characteristics and use that classification.
 - While doing so, consideration as to the following non-statutory principles can also applied for classification, however it should be understood that statutory principles shall have precedence over non-statutory principles.
 - Find the trade understanding of the terms if the meaning is not clear.
 - If the trade understanding is not available, the next step is to refer to the technical or scientific meaning. However if the tariff headings have technical or scientific meanings, then that has to be ascertained first before the test of trade understanding. If none of the above is available, reference may be made to the dictionary meaning or ISI specifications. Evidence may be gathered on end use or predominant use.
- Once the goods are appropriately classified, then examine whether any exemption or concessional notification exists. Here care is to be taken to ensure conditions if any are complied with/compliable in full or substantially.

- It is suggested to classify and to declare all the goods supplied including by-products, intermediate products, stock transfers, job work, waste and scrap, if any generated during the manufacturing process. (Exempted items are also to be declared as an additional disclosure as a measure of caution)
- The supplier should as far as possible, provide the description of the goods as it is to be invoiced or as it is understood in the market (including brand name, if any). It would be advisable to enclose trade literature. The HSN description need not be reproduced. For example, the spindle assembly is basically a part of wiper for cars. Instead of declaring the same as 'Parts of Wiper', declare the same as 'Spindle Assembly for Wipers of Cars.'

It is possible that the rate arrived at is higher than what others in organized/unorganized trade/industry are using. Also that there is a doubt. In such cases, till clarity emerges, the additional action points could be as under:

- Represent truthfully background that specifies of the goods seeking, conformity fairness equality, pounding reasons for rate sought. This needs to be made to the GST council as well as all the State GST Commissioners.
- Simultaneously one could go through the association which represent many.
- Go for an advance ruling. If satisfied with finding all right, if not go for appeal.

The following steps may be followed while classifying the services;

- The first step is to determine and confirm whether it is a supply of service.
- If more than one item viz. goods and/or services are being supplied together, determine whether it is a composite supply or mixed supply.
- In case of composite supply, identify the principal supply and decide whether it is supply of goods or supply of service.
- Verify whether it is a mixed supply. Identify the different supplies in the mixed supply and classify all the supplies involved.
- Refer to Schedule II to the CGST Act, 2017 to confirm whether the supply is a deemed service.
- Refer the exemption Notification No. 12/2017-Central Tax (Rate), dated 28.06.2017, to decide whether a particular service is exempt or not. The classification under HSN is irrelevant in deciding the exemption since the exemption is based on the description of the service and not on the basis of classification under HSN. Nonetheless, the classification of exempt service is required to be mentioned in the invoice, returns and records.

- Find out the classification heading based on the description and nature of the service being supplied in the notification 11/2017-Central Tax (Rate) dated 28/6/2017 - amended time to time and determine the four digit classification heading.
- Determine the rate of GST by referring to the said relevant notification.

Further CBEC has released mobile application for determining the classification of goods and/services called as 'GST Rate finder' which could be used for indications but may not be conclusive.

Conclusion:

It is said that a stitch in time saves nine - an old English proverb. It is and a business fact that cost of prevention is negligible against the cost of a cure. The time involved in seeking clarity later or resolving the dispute could be used more productively for doing business. Further, the tax department (adjudication, appeal), the Tribunals and Courts are clogged with old disputes and in India are a major reform area being focused by Government. Their time and effort for a non-productive activity is a loss to the nation.

Legal Update

1] J and K Bank Ltd. vs. Asst. Commissioner of Income Tax [29th August 2017]

Issue:

Loss on account of embezzlement by employees was incidental to assessee's banking business and should be allowed as deduction in the year when embezzlement is discovered by assessee bank and not in the year of its detection.

Held:

The assessee, a Bank, filed the return for AY 97-98 claiming a loss on account of embezzlement of R1.65 lakhs. AO took stand that although the embezzlement came to the notice of the assessee on earlier dates yet the assessee claimed the deduction in the AY 1997-1998, and thus, AO disallowed the said. Similarly another embezzlement loss of R 10.66 lakhs was disallowed for AY 2000-2001. CIT(A) relied on the decision of his predecessor for previous AYs and allowed the assessee's appeal. ITAT held that loss should be claimed in the year as soon as the same is detected and the case was remitted to the AO to decide the claim in terms of the direction that the loss can be allowed if the same is claimed in the year it is detected notwithstanding whether the same has got crystallised and accordingly allowed the appeal preferred by the Revenue. Aggrieved, assessee filed an appeal before HC.

HC referred to SC ruling in Associated Banking Corporation of India Ltd. [(1965) 56 ITR 0001] wherein it was observed that embezzlement of funds by an agent, like a speculative adventure, does not necessarily result in loss immediately when the embezzlement takes place. So long as a reasonable chance of obtaining restitution exists, loss may not in a commercial sense be said to have resulted. It was also noted that SC in the case of Badri Das Daga observed that loss resulting from embezzlement by employee or agent of a business as deduction under Section 10(1), if it arises out of carrying on of business and is incidental to it.

A CBDT circular dated November 24, 1965 was also noted by HC. The Circular said "In the light of the above decisions of the SC, the legal position now is that loss by embezzlement by employees should be related as incidental to a business and this loss should be allowed as deduction in the year in which it is discovered." HC referred to ruling in Jagannath Maheshwari Amritsar [AIR 1957 PUNJAB 226] and observed that the expression detection and discovery have different connotations. When embezzlement comes to the notice of an employer, it can be said that such embezzlement is detected by the employer. However, the expression "discovers" indicates detection as the result of uncovering, revealing or laying open to view what was hidden, concealed or unknown. But words do not always retain their abstract or primary definitions and their meanings vary in accordance with contextual use. The word "discovers" has been interpreted by English Courts to mean "comes to the conclusion from the examination the Inspector makes, and from any information he may choose to receive" or "has reason to believe" or "finds or satisfied himself" or "honestly comes to the conclusion from information before him".

HC thus held that loss by embezzlement being incidental to the banking business ought to be allowed as deduction in the year it was discovered and not detected, and the expression "discovered" ought to be read in the context of CBDT Circular (supra).

Thus, HC ruled in assessee's favour.

2] Principal Commissioner of Income Tax vs. Bikram Singh [25th August 2017]

Issue :

Unexplained credit addition u/s. 68 restored w.r.t loans/advances received from parties' whose creditworthiness/genuineness could not be established by the Assessee; Assessee failed to discharge 'initial onus'.

Held :

With respect to return filed by the Assessee for AY 2011-12, the AO made additions u/s. 68 in respect of loans/advances received from 8 parties, since the assessee was unable to establish the identity, creditworthiness and genuineness of the said persons and transactions. The CIT(A) upheld the additions whereas the ITAT deleted the additions in respect of 4 parties and restored the addition of remaining 4 parties to the file of the AO. Aggrieved Revenue filed an appeal before Delhi HC.

Referring to various HC and SC rulings, HC noted that the initial burden lies on the Assessee to establish the identity of the shareholders, the genuineness of the transaction and the creditworthiness of the shareholders. It is only after the initial burden is discharged that the onus shifts to the Revenue.

W.r.t. a creditor, HC observed that the bank account of that creditor was opened by a cash deposit of R 1,000 and there are several sums running into lakhs withdrawn in cash and that R 50 lakhs were be given as loan/advance to assessee in the absence of any loan agreement without interest or security specifications. W.r.t. another creditor, it was observed that his bank account was opened with just R500, and thereafter huge sums of cash were deposited into the account and then a sum of R1.10 crores was lent to the assessee without any agreement, interest payment or security. HC remarked that such transaction was 'fantastic' and 'incredible'. Further, HC also remarked that just because a PAN card was filed, the genuineness of the transaction could not be established and the ITAT had failed to check the financial strength of the creditor to lend such a huge amount to assessee.

For another creditor, HC observed his annual income was between R1.75 lakhs to R1.8 lakhs and he also did not file an ITR and had no PAN number; thus raising serious doubt about his identity and genuineness.

HC held that since the assessee was unable to discharge the onus cast on him in respect of transactions with impugned 4 creditors, the onus did not shift to the Revenue.

HC observed that the transactions in the present appeal are yet another example of the constant use of the deception of loan entries to bring unaccounted money into banking channels. This device of loan entries continues to plague the legitimate economy of our country. As seen from the facts narrated above, the transactions herein clearly do not inspire confidence as being genuine and are shrouded in mystery, as to why the so-called creditors would lend such huge unsecured, interest free loans - that too without any agreement. Thus, the creditors failed the test of creditworthiness and the transactions failed the test of genuineness.

HC thus ruled in favour of Revenue.

3] Principal Commissioner of Income Tax vs. Late Rama Shankar Yadav [18th August 2017]

Issue:

Unexplained expenditure addition u/s. 69C restricted to 5% of amount spent on purchases, by HC; ITAT had restricted the addition to only 5% holding that the profits on those purchases could not be more than 5%

Held:

The assessee filed his return of income for AY 2005-06 and an assessment order u/s. 148 was passed on 16.12.2008 by the AO by making an addition of R60 lakhs as unexplained expenditure u/s. 69C which assessee had incurred in making purchases. The CIT(A) considering the past record of profits, confined the aforesaid addition to only 5% of the amount spent on purchases as the profits on the said expenditure/purchases. ITAT confirmed CIT(A)'s order. Aggrieved, Revenue filed an appeal before Allahabad HC.

HC noted that the language of Section 69C of the Act stipulates two conditions necessary for deeming the expenditure incurred by the assessee to be his income for the said year (i) where no explanation is offered; and (ii) where the explanation offered is not found to be satisfactory. Further, the use of the word "may" in the impugned provision made the deeming provision discretionary and not mandatory. Thus, as per HC, it was not mandatory to treat such unexplained expenditure to be the income of the assessee.

HC referred to SC ruling for Smt. P. K. Noorjahan wherein it was held that the provisions of Sec. 69A which are pari-materia to Section 69C are not mandatory in as much as the legislature had used the word "may" in the provision. Thus, the AO had full discretion to add or not to add any such expenditure or any part thereof in the income of the assessee even if no explanation was offered or if offered was not found to be satisfactory.

HC observed that a notice pursuant to Section 69C was served upon the assessee on 23/09/2011 fixing the date of 10/10/2011 as expiry of time for submitting the explanation, and that the assessee had died on 02/10/2011. The legal heirs of the assessee had submitted that they had no knowledge of the business of their deceased father. Thus, the assessee and his heirs were prevented by sufficient good cause from submitting the explanation to justify the expenditure or its source. HC remarked that to meet such contingencies, the legislature has in its wisdom, conferred a discretionary jurisdiction upon the AO to add or not to add such unexplained expenditure in the income of the deceased even if there is no explanation.

HC concluded that since the provisions of Section 69C were not mandatory in nature, the AO had full discretion either to add or not to add the unexplained expenditure in the income of the assessee based upon sound judicial principles. HC thus affirmed ITAT's order restricting the addition to 5% of expenditure.

HC thus ruled in assessee's favour.

COMPLETE NRI GUIDE TO PROPERTY IN INDIA

Non-resident Indians often feel perplexed as to how to go about investing in property in India. They are unsure about the rules and the methodology of making investments and hence are apprehensive about the outcome from such investments.

NRI, PIO and OCI explained

Let us first look at what the term NRI actually connotes. NRIs' or non-resident Indians are individuals who hold an Indian passport and are currently residing or has resided in another country for a consecutive 180 days or above during the said financial year.

In addition to NRIs' there are two categories of individuals who can buy property in India. They are the PIOs' (Person of Indian Origin) and the OCIs' (Overseas Citizen of India). The PIO status used to be a 15 year visa for non-Indian citizens. However this has been discontinued from 9th January 2015. Presently all PIO card holders have been automatically been categorized as OCIs'.

As of now applicants may apply for OCI card only, since PIO card scheme is no longer in existence. It is not mandatory to transfer the PIO Card to OCI card. If required, one may apply for OCI card in lieu of a valid PIO card free of any charges.

Type of Property that can be / cannot be bought by NRIs All properties

- which are not agricultural, plantation or farmland property can be acquired by NRIs' (including PIOs' and OCIs').
- No special permission is required to be taken by such NRIs' from RBI for making the purchase.
- The documents required are a valid passport, address proof, Permanent Account Number (PAN card) and photograph.

Funding the Purchase by NRIs

NRIs' holding non-resident external (NRE) or Non Resident Ordinary (NRO) rupee accounts in India are eligible to buy property by issuing cheques from such accounts. NRIs' holding deposits in Foreign Currency Non-resident (FCNR) accounts can also make purchase using funds from such accounts. Besides this, overseas currency can also be brought to India through legitimate banking channels.

Power of Attorney (POA) by NRIs and its adjudication

It is often that NRIs' are not willing to travel to India for registering the property in their name. In such cases and situations, it is within their rights to issue POA in favour of a close relative residing in India. The relative can then sign on the purchase contract on his behalf and also register the same in his or her name. The POA, per se, must be signed by the NRI in the presence of a notary or consulate officer in the country of his residence.

Once the POA is sent to India, the POA holder will have to sign and adjudicate it within three months from the date of assigning the power, at the registrar's office in India. After this procedure is completed, it can be said that the POA has been legally given.

Repatriation of funds and tax implications for NRIs

When a sale of property takes place and the amount so received as sale proceeds is sent abroad to the country of the NRI's residence, it is called repatriation of funds. The process involves conversion of Indian rupee to foreign currency.

As per the Indian tax laws, if an NRI holds a property in India, he or she is not liable to pay tax unless there is a rental income accruing from it. However, if the property is sold, then capital gains tax – short term or long term, as the case may be, is applicable.

- Short Term Capital Gain (STCG) is applicable when the property is disposed of for a profit within a period of 3 years from date of purchase. Profit thus accruing is taxable as per the applicable income tax slab for the seller.
- Long Term Capital Gain (LTCG) occurs when the property is sold after 3 years. Indexation benefit is available in such cases and the profit after applying such indexation benefit is taxable at 20.6 %.
- However, if the profit is reinvested in Section 54EC bonds issued by REC or NHAI (within 6 months of the sale) or if another property is bought with it within a specified number of years, then the tax gets waived off.

Taxability of rental Income for NRIs

If the property held by the NRI is let out on rent then such rental income is taxable. Due taxes have to be paid on such income and proper income tax returns need to be filed under relevant PAN.

If the NRI has two or more properties in India then only one can be treated as self-occupied and 'deemed rent' has to be declared for the other properties and tax has to be paid on them. However, as per the rules applicable to resident Indians, NRIs' too have the choice of showing 30% of such deemed rental income as maintenance cost and get tax benefit against the same.

No tax is payable on deemed income in the country of the NRI's residence, however, it is advisable to declare the same there as it could otherwise cause problems during the repatriation of funds from India.

Loan availability and tax benefits on home loans for NRIs

NRI, PIO and OCI all have access to home loans in India. Multinational banks have different schemes in place for providing home loans subject to country related restrictions. Banks seek POA for extending home loans to NRIs'.

As per the tenets of the Income Tax act of India (section 24), interest on a home loan is deductible from the income gained from house property to the extent of Rs.2 lakh per annum for self-occupied property. Other than self-occupied property, actual interest paid can be claimed as a benefit. Over and above this, up to Rs.1.5 lakhs is deductible on account of principal repayment under the overall limit available as per section 80C.

Conclusion:

A good decision is based on the knowledge. The above details can help you on better understanding of NRI property dealings and in turn will help you take the right property decision.



ICAI INTERNATIONAL CONFERENCE

Accountancy Profession: Convergence and Sustainability in Digital Era

12 CPE
Hours

ज्ञानं परमं बलम् - Knowledge is Supreme Power

8th-9th December 2017 | Hotel Sahara Star, Mumbai



ABOUT THE CONFERENCE

In the challenging times, Chartered Accountancy profession today is an integral facet of society. In the growth and development of a country, the accounting profession, perceptibly is playing a dynamic role in ensuring stability and sustainability of country's Economy and Corporates through financial discipline, control and strong financial resilience, thus adding elements of credence and trust to financial reporting.

The ICAI International Conference on the theme 'Accountancy Profession: Convergence and Sustainability in Digital Era' will be a congregation of Intellectuals in areas of Governance, latest Accounting and Auditing Standards, Integrated Reporting, Transparent Regulatory Regime, New Frontiers in Direct Taxes like GAAR and BEPS, GST Implementation impact, Capital and Financial Market developments and the impact of Digitisation on the profession.

The ICAI International Conference at Mumbai, the financial capital of India, is going to be an apt platform for ideas exchange and usher interactive dialogue amongst the global and local accounting fraternity and other stakeholders. The dawn of a digital society juxtaposed with traditional avatar of an accountant role is leading to re-skilling need for professional accountants and Institute's endeavour is to provide continuous education to the emerging context. The international conference is likely to see participation of more than 1,500 professionals and business leaders and is recommended to be attended by all those who wish to remain updated with the emerging dynamics and excel.



The Conference 'Accountancy Profession: Convergence and Sustainability in Digital Era' comes at most opportune time when Accountancy profession is rededicating towards transforming India, the World's largest democracy, towards Transparency and Accountability while moving towards a digital society to ensure stability and sustainability of country's Economic growth by adding elements of credence and trust to financial reporting and assurance systems.

India has triggered itself on the path of Economic Growth and Financial Stability playing an important role to take the World together on the Mantra of 'Vasudhaiva Kutumbakam' which means whole world is one family. The instant International Conference will be a congregation of Intellectuals in areas of Governance, latest Accounting and auditing Standards, Integrated Reporting, Transparent Regulatory Regime, New Frontiers in Direct Taxes like GAAR and BEPS, GST Implementation impact, Capital and Financial Market developments and the impact of Digitisation on the profession.

I am sure this International Conference will push our horizons beyond professional mandate and the delegates will learn from emerging dynamics in the field of Accountancy, Auditing, Direct and International Tax, GST, Capital Markets from the experts across the Globe and enrich themselves to emerging context.

CA. Nilesh S. Vikramsey
President – ICAI



The Accounting profession is playing a dynamic role as a value creator both nationally and internationally. The dawn of the new digital economy has created new opportunities for Chartered Accountants. The expectations of stakeholders from the profession have increased manifold and the profession, has a new multi-dimensional role in the wake of fast paced emerging developments.

With physical frontiers disappearing and the pace at which Digitisation is taking place; the need of the hour is to recalibrate the profession with skills to understand ramifications of emerging trends like Artificial Intelligence & Automation in Accountancy and Auditing, Forensic Accounting, Digital currency, and newer paradigm of Financial Reporting. It is now essential that one should familiarise with the internationally accepted practices as to be acceptable in evolving markets by continuously upgrading oneself.

With wide range of topics and gamut of renowned International and National Speakers including representatives from Government, Regulators and private sector, I am sure that the instant Conference on 'Accountancy Profession: Convergence and Sustainability in Digital Era' on 8th and 9th December 2017 at Hotel Sahara Star, Mumbai, would provide the much needed impetus for further enrichment of the acumen of our esteemed members through exposition of vast pool of knowledge of distinguished resources from across the globe, which would be able to garner the same by participating at this International Conference.

Best Wishes for the Grand Success of the event.

CA. Naveen N. D. Gupta
Vice President – ICAI



Accountancy Profession: Convergence and Sustainability in Digital Era

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Conference Schedule

First Day: Friday, the 8th December 2017

Inaugural Session
Session – I : Accountancy in the Disruptive Era
<ul style="list-style-type: none"> Accounting of Revenue and Leases under Ind AS: Paradigm Shift Bank Audit (Branches as well as CSAs) Impact of Ind AS Implementation
Session – II : Future of Audit – Critical Issues
<ul style="list-style-type: none"> New 'Audit Report' Requirements (SA-700, 705 and 706) Reporting of Key Audit Matters (SA 701) in 'Audit Report'
Key Note Address – 1: GST – Enhancing Competitiveness, Transparency and Growth
Session III: Technology Impact on Accounting
<ul style="list-style-type: none"> Artificial Intelligence: Challenging the Profession: Myth or Reality Block Chain: What it means to Accounting and Audit Forensic Audit: Substitute or Supplement to Audit
Key Note Address – 2: Strengthening Public Finance with Accrual Information
Key Note Address – 3: Integrated Reporting – Future of Reporting
Panel Discussion – 1: Accountancy Profession in the Global Realm –Opportunities in the Emerging and Developed Markets
Panel Discussion – 2: Indian Accountancy Profession: Global Opportunities

Second Day: Saturday, the 9th December 2017

Keynote Address – 4: Indian Capital Markets - Anchoring Economic Growth
Session –IV : Developments in raising Finance through Capital and Financial Markets
<ul style="list-style-type: none"> SME Listing & Financing and Crowd Funding Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)– Spurring Growth of Real Estate
Keynote Address – 5: Financing India's Growth–Challenges and Way Forward
Panel Discussion – 3: Empowering SMPs for healthy growth of Accountancy Profession
Keynote Address – 6: Financial Sector Reforms – Empowering Economic Growth
Session – V: Taxation in the Disruptive Era – Challenges and Opportunities
<ul style="list-style-type: none"> Cross-Border and Domestic Taxation – Post GAAR and BEPS Transfer Pricing – Recent experience with Advanced Pricing Agreement (APA)
Session-VI: GST Leading to One Nation One Tax
Valedictory Session
Conference Concludes

Fee Details		
CATEGORY	FEES	TIME LINE FOR REGISTRANTS
ACA/FCA/Non Member/Foreign Participants	₹ 4,000/- +18%GST = 4,720/-	Till 20 th November, 2017
ACA/FCA/Non Member/Foreign Participants	₹ 4,500/- +18%GST = 5,310/-	Post 20 th November, 2017
Sponsorship		
The Sponsorship at the ICAI International Conference will give the Sponsors the dual benefit of having the same deliverables at the ICAI Awards 2017 and ICAI - CPBAI Corporate Forum on 19 th and 20 th January 2018 at Mumbai, in addition to ones being provided at the instant International Conference.		
For Sponsorship, please contact. Dr. Surinder Pal, Joint Secretary, ICAI, Email: spal@icai.in , Mobile: +91 93507 99931		
For further details about the ICAI International Conference, including registration, hotel options, sponsorship options, etc., please log on to http://ic.icai.org/.		
International Conference Secretariat: Ms. Srabani Kapoor, Dy. Director, The Institute of Chartered Accountants of India, Plot NO C-40,G-Block, Bandra Kurla Complex, Bandra (East), Mumbai 400 051 Tel: +9122 3367 1578, Email: kapoor@icai.in ; ic2017@icai.in		



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