

Circulars

RBI CIRCULARS

Guidelines on compliance with Accounting Standard (AS) 11(revised 2003)

Accounting Standard (AS) 11, 'The Effects of Changes in Foreign Exchange Rates' (revised 2003) issued by the Institute of Chartered Accountants of India (ICAI), has come into effect in respect of accounting periods commencing on or after April 1, 2004 and is mandatory in nature from that date. Accordingly, Reserve Bank of India has identified the issues that arise and require clarification and issued the guidelines on compliance with AS 11(revised 2003) vide *Circular No. RBI /2004-05/395 DBOD No.BP.BC.76 /21.04.018/2004-05 dated March 15, 2005*. Banks are advised as follows:

- (1) For the purpose of Paragraph 17 of the Standard foreign branches of Indian banks would be classified as "non-integral foreign operations". Similarly, Offshore Banking Units (OBUs) set up in India by banks would also be classified as "non-integral foreign operations". Taking into consideration the operation of the representative offices of banks set up abroad and the explanation in paragraph 18 of the Standard, Representative Offices would be classified as "integral foreign operations".
- (2) As per paragraphs 9 and 21 of the Standard, a foreign currency transaction should be recorded by Indian branches and integral foreign operations, on initial recognition in the reporting currency, by applying to the foreign currency amount the exchange rate between the reporting currency and the foreign currency at the date of the transaction. Further, paragraph 24 (b) of the Standard states that income and expense items of non-integral foreign operations should be translated at exchange rates at the dates of the transactions. While adopting the Standard, Indian branches and integral foreign operations of banks may face difficulty in applying the exchange rate prevailing at the date of the transaction in respect of the items which are not being recorded in Indian Rupees or are currently being recorded using a notional exchange rate, due to their extensive branch network and volume of transactions. Similarly, banks may face difficulty in translating income and expense items of a non-integral foreign operation by applying the exchange rates at the dates of the transactions. Action to be taken by the banks is as follows:

Banks, which are in a position to apply the exchange rate prevailing on the date of the transaction for recording the foreign currency transactions at their Indian branches

and integral foreign operations and for translating the income and expense items of non-integral foreign operations as required under AS 11 are encouraged to comply with the requirements. Banks, which have an extensive branch network, which have a high volume of foreign currency transactions and are not fully equipped on the technology front may be guided by the following:

- (i) Paragraph 10 of the Standard allows, for practical reasons, the use of a rate that approximates the actual rate at the date of the transaction. For example, an average rate for a week or a month might be used for all transactions in each foreign currency occurring during that period. Similarly, in respect of the non-integral foreign operations, paragraph 25 of the Standard provides that for practical reasons, a rate that approximates the actual exchange rates, for example an average rate for the period, is often used to translate income and expense items of a foreign operation. The Standard also states that if exchange rates fluctuate significantly, the use of average rate for a period is unreliable. Therefore, as per the Standard, except in cases where exchange rates fluctuate significantly, a rate that approximates the actual rate at the date of the transaction may be used. Since the enterprises are required to record the transactions at the date of the occurrence thereof, the weekly average closing rate of the preceding week can be used for recording the transactions occurring in the relevant week, if the same approximates the actual rate at the date of the transaction. In view of the practical difficulties which banks may have in applying the exchange rates at the dates of the transactions and since the Standard allows the use of a rate that approximates the actual rate at the date of the transaction, banks may use average rates as detailed below:
 - (ii) FEDAI has agreed to publish a weekly average closing rate at the end of each week and a quarterly average closing rate at the end of each quarter for various currencies.
 - (iii) In respect of Indian branches and integral foreign operations, those foreign currency transactions, which are currently not being recorded in Indian Rupees at the date of the transaction or are being recorded using a notional exchange rate may now be recorded at the date of the transaction by using the weekly average closing rate of the preceding week, published by FEDAI, if the same approximates the actual rate at the date of the transaction.
 - (iv) Generally, Indian banks prepare the consolidated

accounts for their domestic and foreign branches at quarterly or longer intervals. Hence, banks may use the quarterly average closing rate, published by FEDAI at the end of each quarter, for translating the income and expense items of non-integral foreign operations during the quarter.

- (v) If the weekly average closing rate of the preceding week does not approximate the actual rate at the date of the transaction, the closing rate at the date of the transaction should be used. For this purpose, the weekly average closing rate of the preceding week would not be considered approximating the actual rate at the date of the transaction if the difference between (a) the weekly average closing rate of the preceding week and (b) the exchange rate prevailing at the date of the transaction, is more than five percent of (b). In respect of non-integral foreign operations, if there are significant exchange fluctuations during the quarter, the income and expense items of non-integral foreign operations should be translated by using the exchange rate at the date of the transaction instead of the quarterly average closing rate. For this purpose, the exchange rate fluctuation would be considered as significant, if the difference between the two rates is more than ten percent of the exchange rate prevailing at the date of the transaction. The limit of five/ten percent variation has been considered as appropriate since such variation is not expected to have a material impact on the amount of the relevant items such as foreign currency loans and advances and deposits, and operating results.

- (3) Paragraph 7 of the Standard defines 'Closing rate' as the exchange rate at the balance sheet date. In order to ensure uniformity among banks, closing rate to be applied for the purposes of AS 11(revised 2003) for the relevant accounting period would be the last closing spot rate of exchange announced by FEDAI for that accounting period.

Procedure for accounting of accrued interest-UCBs

The Reserve bank of India has amended the para 2(ii) regarding accounting of accrued interest of borrowal accounts which are performing assets, of circular UBD. No.I & L(PCB)/46/12.05.00/94-95 dated 28.02.1995 and substituted as under:

“In respect of borrowal accounts which are treated as performing assets, accrued interest may be debited to the borrowal account and credited to interest account and taken to income account.”

Further a sub paragraph no 2(iii) to the existing para-

graph no. 2 is inserted as under:

Para 2(iii) -Reversal of income

“If any advance, including bills purchased and discounted, becomes NPA as at the close of any year, interest accrued and credited to income account in the corresponding previous year, should be reversed or provided for if the same is not realised. This will apply to Government guaranteed accounts also.”

(Circular no. RBI/2004-05/410 UBD(PCB).Cir.42/09. 140.00/2004-05 dated March 30, 2005.)

DIRECT TAX

Electronic Filing of Returns of Tax Collected at Source Scheme, 2005

The Central Board of Direct Taxes specifies the Scheme for electronic filing of return of tax collected at source, vide *Notification No. 121/2005 dated 30th March, 2005*. The highlights of the scheme are:

Preparation of e-TCS Return

1. The person responsible for collection of tax at source who is required to furnish e-TCS Return under this scheme will be called “e-collector” and e-collector shall use the relevant Form prescribed under the Rules for preparing e-TCS Returns.
2. The e-collector shall prepare his e-TCS Return according to the data structure to be provided by the officer not below the rank of Commissioner of Income-tax designated by the Board for the purpose of administration of this scheme namely “e-filing Administrator”
3. While preparing e-TCS Return the e-collector shall quote his permanent account number and tax deduction and collection account number as also the permanent account number of all persons in respect of whom tax has been collected by him. He shall ensure that separate floppy (3 ½ inch and 1.44 MB capacity) or CD-ROM, shall be used for each Form of e-TCS Return.

Furnishing of e-TCS Return

1. The e-collector shall furnish e-TCS Return on computer media to the company, authorised by the Board to act as e-TCS Intermediary, duly supported by a declaration in Form No.27B.
2. The e-TCS Intermediary shall perform format level validation and control checks on the e-TCS Returns and on successful completion the e-filing Administrator shall issue provisional receipt to the e-collector.
3. The e-TCS Intermediary shall upload the data on e-TCS Return on the server designated by the e-filing Administrator for the purpose of e-TCS Return and

check whether the prescribed particulars relating to deposit of the tax collected at source in bank and the permanent account number of the person from whom tax has been collected have been given in the e-TCS Return.

4. On successful completion of the check, the data of e-TCS Return shall be transmitted by the e-TCS Intermediary to the e-filing Administrator together with the declaration in Form No.27B and the provisional receipt issued shall be deemed to be the acknowledgement of the e-TCS Return.

INDIRECT TAX

SERVICE TAX

The finance bill 2005 has proposed widening the scope of some services and brought some new services under the tax net.

A. Notifications effective from 1st March, 2005

(I) Construction Service (Notification No. 4/2005-ST dt 01-03-2005) - The gross amount charged for the purpose of calculating the abatement of 67% as per notification 15/2004 will include the value of goods or materials supplied or provided and value of goods or materials used by the service provider.

(II) Exemption to job worker under 'Business Auxiliary Service' (Notification No. 8/2005-ST dt 01-03-2005): It exempts taxable services of production of goods on behalf of the client from the whole of service tax as referred in sub clause (v) subject to following conditions:

1. Processing is done on raw materials or finished goods supplied by the client.;
2. Goods are returned back to client for use in or in relation to manufacture of the final product which fall under First Schedule to the Central Excise Tariff Act.; and
3. Appropriate amount of excise duty must be paid on it. It shall not include nil rate of duty or duty of excise wholly exempt.

B. Notifications effective from 1st April, 2005.

(I) Exemption from complete payment of service tax up to the value of Rs. 4 lacs in any financial year: - (Notification No. 6/2005)

- (a) The taxable services are not provided under the brand name or trade name.
- (b) Does not apply to the persons where service receiver is made liable to pay service tax.

Conditions:-

- (i) Aggregate value of taxable services rendered shall not exceed Rs. 4 lacs in preceding financial year. Value of exempt service will not be considered.
- (ii) One may not avail exemption and pay full service

tax - once such option exercised cannot be withdrawn in a remaining part of financial year.

- (iii) No cenvat credit shall be taken on inputs, input services or capital goods.

Clubbing – If one or more taxable services is provided from one or more premises the same shall be aggregated together.

- II) The liability to pay service tax is now shifted from the mutual fund distributor to an Asset Management Company or a person receiving such person. (Notification No. 5/2005 dt 1st March, 2005)

III Changes In Service Tax Rules, 1994 (Notification No. 7/2005- ST dt 1st March, 2005)

(i) Centralised Registration –

(ii) Applicable only when services are provided from more than one premises or office and centralized billing or centralized accounting system is in place. If such system is located in more than one office, one Registration Certificate will suffice.

(iii) If premises fall in the jurisdiction of different Chief Commissioners approval of person specified by the Board is required. In other cases the jurisdictional Commissioner or Chief Commissioner.

(iv) **Invoice** must be issued within 14 days from the completion of the provision of service or receipt of payment for such service which ever is earlier.

(v) **Due dates** - service tax is now payable by 5th of the following month for person other than proprietor or partnership firm and 5th of the following month after the end of quarter for proprietor or partnership firm. For March tax will paid by 31st of March.

C. Changes effective from date to notified after the enactment of the Finance bill, 2005.

(i) New Services brought under tax net:

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| <ul style="list-style-type: none"> - Transport of goods through pipeline or other conduit - Dredging services - Cleaning services - Packaging services - - Club or Association Service . | <ul style="list-style-type: none"> - Site preparation and clearance, excavation, earth moving and demolition services - Construction of Complex Services - Mailing list compilation and mailing - Survey and map making services |
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(ii) Scope of existing services expanded.

1. Authorised Service Station Services: services of reconditioning or restoration added.
2. Broadcasting Services: Permitting the rights to receive any form of communication like sign, etc. are now taxable.
3. Beauty Treatment Services: Hair cutting, hair dyeing,

hair dressing or such other similar services added.

4. Business Auxiliary Services: production or processing of goods for, or on behalf of, the client. Input defined to mean all goods /services intended for use by the client. Scope of services of Commission agent and their coverage are clearly defined.
 5. Construction Services: renamed as “commercial or industrial construction service” and will include construction of a new building, pipeline or conduit, completion and finishing services, repair, alteration, renovation or restoration of such building etc. intended for commerce or industry.
 6. Erection, Commissioning And Installation: will include installation of electrical items, plumbing, heating, ventilation, pipe work, various insulations and proofing, lift and escalator and such other similar services.
 7. Franchise Services: Now it means an agreement by which the franchisee is granted representational right to sell or manufacture goods or provide service or undertake any process identified with franchisor.
 8. Intellectual Property Services - The transfer of Intellectual Property Right must be temporary.
 9. Maintenance And Repair Services - includes person not under maintenance agreement, services in relation to maintenance or Management or immovable property and repairs to include reconditioning and restoration.
 10. Manpower Recruitment Services - The definition will now include temporary employment.
 11. Outdoor Catering Services - Scope is widened to include Caterer who supplies the food in the premises of services receiver.
 12. Sound Recording Services - To include services such as sound cataloguing, storing, mixing or re-mixing or any audio post-production activity on any media or device.
 13. Video Tape Production Services - To include services of editing, cutting, colouring, dubbing, special effects, etc., or undertaking any video post-production activity.’
- (iii) **Import of Service** – Services are deemed to be taxable in India where service provider has permanent establishment in a country other than India and services are received or to be received by a person having usual place of business in India.
- (iv) **Service tax on advances** - if the amount is received for services to be provided, service tax will be

payable by the receiver of such amount.

D. Changes proposed by Finance Bill 2005, to be effective from the date of enactment of the Finance Act

- (i) Section 67 service tax is now payable on advance received for services to be provided.
- (ii) Section 69 and 70 - central government empowered to specify persons other than service provider who shall make application for registration and also file returns.
- (iii) Section 73 - Excise officers specified by the Board will adjudicate the show cause notices. Other Section viz. 74, 78, 84, 85 and 86 changed accordingly.
- (iv) Section 83 - makes adjudication procedures in Excise applicable to service tax.
- (v) Section 83A empowers Excise officers to levy penalty.
- (vi) Section 96A (b) lays down person who may apply for Advance Rulings.

E) Export of Services Rules notified w.e.f 15th March 2005 - Exempt export services. Export Services defined in three parts –

1. Specified services provided in relation to immovable property situated outside India e.g. Architect Services, General Insurance, etc.
2. Specified services performed wholly or partly outside India e.g. Business Exhibition, Erection, Commissioning & Installation, etc.
3. Specified services if certain conditions satisfied -
 - (a) Services provided and used in relation to commerce or industry if the recipient of such service is located outside India. If such recipient has any industrial or commercial establishment or any office relating thereto in India three conditions must be satisfied viz. order for service is outside India, service is delivered & used in business outside India, payment is received in convertible foreign exchange;
 - (b) If not covered by (a) if recipient is located outside India at the time of receipt of such services.

F. As per Rule 4 - a taxable services may be exported without payment of service tax.

G. Rebate of service tax - Central Government may by notification provide for Rebate of service tax paid on exported services or rebate of service tax paid on input services or excise duty paid on inputs used in providing export services.

H. Notifications rescinded w.e.f 15th March 2005. (Notification No. 10/2005-ST dt 03.03.05)

- (a) Exemption for foreign currency receipts withdrawn.
- (b) Exemption in respect of transport of export cargo by aircraft

A complete list of circulars/notifications (with weblinks of full text) issued by the various Departments/Ministeries between 25th February, 2005 and 12th April, 2005 is available at the ICAI website at http://icai.org/common/circulars_main.html