

Extracts from Supplementary Guidance Note on amendments in Form 3CD and Guidance Note on Audit of Fringe Benefits under the Income-tax Act, 1961.

I. Supplementary Guidance Note on amendments in Form No.3CD

Introduction

The Central Board of Direct Taxes has issued Notification No.208/2006 dated 10th August 2006 containing the Income-tax (9th Amendment) Rules, 2006. These rules incorporate several significant amendments in Form No.3CD relating to tax audit. The Fifth Edition of the Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 incorporating the law as amended by the Finance Act, 2005 was published in September 2005. This Supplementary Guidance Note gives guidance on the amendments made by the above-mentioned Notification in Form No.3CD.

Furnishing of Form No.3CA/3CB with Form No.3CD

Every person who is required to get his accounts audited under section 44AB has to furnish the audit report along with the required particulars by the specified date mentioned in section 44AB namely 31st day of October of the Assessment Year (A.Y.). For the A.Y. 2006-2007 the tax audit report is to be furnished latest by 31st October 2006. The Notification No.208/ 2006 has been issued on 10th August 2006. All tax audit reports signed on or after 10th August 2006 whether in respect of A.Y. 2006-07 or the earlier assessment years should be in the revised format. The tax auditor cannot use the old format merely because the tax audit is in respect of accounts for the financial years corresponding to the A.Y. 2006-07 and/or any of the earlier years. The relevant date is the date of signing of the tax audit report and not the financial year in respect of which such audit report is furnished. However, in respect of assessment

years preceding A.Y. 2006-07 the tax auditor while giving his tax audit report in the revised format on or after 10th August 2006 should indicate only those particulars as per the requirement based upon the relevant law applicable to the assessment year in relation to the financial year for which the report is being furnished. Further, the tax auditor need not give information, which is not relevant for the concerned earlier assessment year. This is necessary having regard to the fact that the tax audit report is to be used by the Assessing Officer for the purpose of completing the assessment of the concerned assessee for the relevant assessment year in accordance with the law applicable to that assessment year.

Tax audit report furnished prior to 10th August 2006

If any person who is required to get his accounts audited in terms of section 44AB has got the audit done and furnished the audit report prior to 10th August 2006 in the earlier Form No.3CD, he need not submit a revised audit report furnishing the particulars in the revised Form No.3CD. However, if such a person after getting the tax audit report prior to 10th August 2006 approaches the tax auditor for a revised tax audit report along with the revised Form No.3CD with Annexure II, the tax auditor may furnish a revised report. Attention is invited to paragraph 13.9 of the Guidance Note on Tax Audit.

Amendments made by Notification No.208/2006

Notification No.208/2006 dated 10th August 2006 has made significant amendments in Form No.3CD. It has also inserted Annexure – II for the computation of the value of fringe benefits in terms

• The supplementary Guidance Note on amendments in Form 3CD and the Guidance Note on Audit of Fringe Benefits under the Income-tax Act, 1961 are under finalization and the final version will be made available to the members. The extracts have been given to enable the members to get a fair idea about the guidance given in respect of the abovementioned matters.

of section 115WC read with section 115WB. In the following pages, the gist of the guidance has been given in respect of some of the select clauses.

Part B of Form No.3CD

12A. Give the following particulars of the capital asset converted into stock-in-trade:-

- (a) Description of capital asset;**
- (b) Date of acquisition;**
- (c) Cost of acquisition;**
- (d) Amount at which the asset is converted into stock-in-trade.**

The particulars to be stated under new clause 12A should be furnished with respect to the previous year in which the asset has been converted into stock-in-trade. The clause does not require details regarding the taxability of capital gains or business income arising from such deemed transfer.

Under clause (a) description of the capital asset is required to be mentioned for example shares, security, land, building, plant, machinery, etc.

Under Clause (b) the date of acquisition is to be reported. For ascertaining the correct date the tax auditor will have to refer the accounts of the financial year in which such capital asset is acquired. The date assumes importance for the purpose of determining whether the asset is long-term or short-term in nature.

Under clause (c) the cost of acquisition is required to be reported. Here the cost of acquisition as per the books of account is to be mentioned. In case of depreciable assets, the carrying cost appearing in the books will be the written down value. But the value to be reported will be the original cost of acquisition. Even in case of an asset acquired prior to the 1st day of April 1981 the value to be reported will be the original cost of acquisition. The assessee may exercise the option of considering the fair market value of the asset as on 1st April 1981 for assets acquired prior to that date for the purpose of computation of capital gains as provided under section 55(2)(b)(i).

Under clause (d) the amount at which the asset

converted into stock-in-trade should be stated. Such an amount may not be the fair market value as on the date of conversion or treatment as stock-in-trade. If a value other than carrying cost is recorded then the auditor has to examine the basis of arriving at such a value. The valuation of stock-in-trade is to be examined with reference to AS-2 – Valuation of Inventories. Non-compliance with AS-2 is to be suitably qualified in the main audit report.

It is desirable that necessary accounting entry is passed in the books of account at the time of conversion of the asset into or treatment of the same as stock-in-trade.

In the case of assessees like a proprietorship concern, prior to the conversion of the asset into stock-in-trade, the details regarding the date of acquisition and cost of acquisition may not be recorded in the books of account. It is also possible that the year in which the capital asset is acquired, the accounts of the assessee may not have been subjected to audit. Also an assessee can acquire a capital asset through various modes such as discussed under section 49 of the Act. Under such circumstances the auditor may have to verify the cost and the date of acquisition. The following broad principles need to be kept in mind.

While verifying the cost of acquisition of the fixed asset, the auditor should bear in mind the principles enunciated in Accounting Standard (AS) 10, Accounting for Fixed Assets. As per paragraph 20 of the said Accounting Standard, the cost of a fixed asset comprises its purchase price and any attributable cost of bringing the asset to its working condition for its intended use. Thus, in case of **capital assets** purchased by the assessee, it would relatively be easy for the auditor to verify the cost of acquisition, the evidence being provided by the supporting purchase invoices from the supplier, entries appearing in the bank statements in respect of payment to the supplier, entries appearing in the cash book/ bank statement for payment of cartage installment etc. In case of **self-constructed capital assets**, the cost would comprise those costs that relate directly to the specific capital asset and those that are attributable to the construction activity in

general and can be allocated to the specific asset. In the case of **Capital assets acquired in exchange** or in part exchange for another asset, the cost of the asset acquired is either the fair market value or the net book value of the asset given up, whichever is more clearly evident, adjusted for any balancing payment or receipt of cash or other consideration. In case the capital asset is recorded at the net book value of the asset, the fixed asset register would provide the prime evidence of the value. If, however the capital asset so acquired is recorded at the market value the auditor would need to examine the basis for arriving at the fair market value, for example, the valuer's report, market quotes (in case of listed securities). While relying upon the valuer's report, the auditor should also bear in mind the principles outlined in Auditing and Assurance Standard (AAS) 9 - Using the Work of an Expert. In any case the auditor would also need to look into how the assessee has decided the value at which the asset is recorded in the books of account is more clearly evident than the other value. In case of a capital asset acquired by way of inheritance, the auditor may find it difficult to verify the cost of acquisition to the original owner. In case there does not exist any documentary evidence as to the cost of acquisition of the asset to the original owner, say the sale/purchase agreement the auditor may need to rely upon the reports of the experts such as valuers. In addition to the above, the auditor should also refer to the guidance contained in the Guidance Note on Audit of Fixed Assets issued by the Institute.

17(f) amounts inadmissible under section 40(a)

Notification No.208/2006 has not made any amendments to clause 17(f). However, the Taxation Laws (Amendment) Act, 2006 which has come into force on 13th July 2006 made amendments in sections 40(a) and section 194J which have a bearing on the responsibilities of a tax auditor. Therefore, the following additional guidance has been given to guide the tax auditor to discharge his responsibility in the context of the above-mentioned amendments.

The Taxation Laws (Amendment) Act, 2006 has amended sub-clause (ia) of clause (a) of section 40 w.e.f. the 1st day of April 2006. The scope of inadmissible amounts mentioned in the sub-clause has been expanded to include rent and royalty. Accordingly, where tax has not been deducted in respect of rent and royalty or after deduction has not been paid during the previous year or in the subsequent year before the expiry of the time prescribed under sub-section (1) of section 200, the same shall not be deducted in computing the income chargeable under the head "profits and gains or business or profession".

It may be noted that section 194-I has also been amended by Taxation Laws (Amendment) Act, 2006. However, this amendment is with effect from 13th July 2006. Therefore, for the purpose of computing the inadmissible amount under section 40(a)(ia) for the assessment year 2006-07 rent will have the meaning as per the Explanation (1) under section 194-I prior to its substitution by the Taxation Laws (Amendment) Act, 2006.

It is possible that an assessee may contend that the inadmissibility under section 40(a)(ia) with respect to the amended definition of rent and royalty does not apply in relation to assessment year 2006-07. In such a case the tax auditor should state the view point of the assessee and also provide the relevant information as mentioned above in order to enable the tax authority to take a decision in the matter.

17 (h) (A) whether a certificate has been obtained from the assessee regarding payments relating to any expenditure covered under section 40A(3) that the payments were made by account payee cheques drawn on a bank or account payee bank draft, as the case may be, [Yes/No]

(B) amount inadmissible under section 40A(3), read with rule 6DD [with break-up of inadmissible amounts];

This is an amendment to the existing sub-clause (h) of clause 17. The Taxation Laws (Amendment) Act, 2006 has amended section 40A(3) w.e.f. 13th July 2006 to provide that the payment for expenditure is made only by account payee cheque

or account payee bank draft. The present provision of allowing the expenditure in case the payment has been made by crossed cheque/bank draft has been discontinued.

The amended provisions of section 40A(3) are not applicable for the A.Y. 2006-07. They are applicable from 13th July 2006. The certificate required under Item (A) of sub-clause (h) is based upon the amended provisions of section 40A(3). So far as A.Y. 2006-07 is concerned the tax auditor may state that clause (A) is not applicable. However, the tax auditor has to verify whether the law contained in section 40A(3) as applicable for A.Y. 2006-07 has been complied with by the assessee. Although the reporting requirement is not strictly applicable for the previous year 2005-06 and also for the period from 1.4.2006 to 12th July 2006, it is always desirable that the tax auditor should obtain suitable certificate as per the applicable law and keep it in his audit working papers file.

In respect of A.Y. 2007-08 the reporting requirements under sub-clause (h) can be divided into two parts. In respect of the period commencing from 1st April 2006 and ending on 12th July 2006 the amended provisions of section 40A(3) are not applicable. Therefore, in respect of that period there is no reporting requirement under item (A) of sub-clause (h). In respect of the period commencing from 13th July 2006 and ending on 31st March, 2007 and the subsequent financial years the reporting requirements of item (A) have to be complied with.

There may be practical difficulties in verifying the payments made through crossed/account payee cheque or bank drafts. If no proper evidence for the verification of the payment by the crossed/account payee cheque or draft is available, such a fact could be brought out by appropriate comments as suggested.

The earlier sub-clause (h) required furnishing of the amount inadmissible under section 40A(3) read with rule 6DD along with computation. The amended sub-clause requires disclosure of amount inadmissible under section 40A(3) read with rule 6DD with the break-up of inadmissible amount.

Wherever possible individual items of inadmissible expenses may be given. However where, in view of the large volume of transactions, it is not possible to give individual items of inadmissible amounts, the tax auditor may furnish such details under broad heads of accounts.

(I) amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income

It is primarily the responsibility of the assessee to furnish the details of amounts of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income. The method of ascertaining the inadmissible expenditure as and when prescribed should be followed. The tax auditor has to verify the details furnished by the assessee and should satisfy himself that the inadmissible amounts have been worked out correctly. Where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income under the Act and does not furnish the necessary particulars for the purpose of ascertaining the inadmissible expenditure under section 14A, the tax auditor has to make a proper disclaimer/qualification. Attention is invited to paragraph 5 of AAS-11, Representation by Management which is as under:-

During the course of an audit, management makes many representations to the auditor, either unsolicited or in response to specific enquiries. When such representations relate to matters which are material to the financial information, the auditor should;

- (a) seek corroborative audit evidence from sources inside or outside the entity;
- (b) evaluate whether the representations made by management appear reasonable and consistent with other audit evidence obtained, including other representations; and
- (c) consider whether the individuals making the representation can be expected to be well

informed on the matter.

For the Assessment Year 2006-07 the tax auditor's duty arises by virtue of sub-section (1) of section 14A. He has to verify the details furnished by the assessee and should satisfy himself that the inadmissible amounts have been worked out correctly.

(m) amount inadmissible under the proviso to section 36(1)(iii).

The requirements of sub-clause (m) are applicable in respect of capital borrowed for acquisition of an asset for extension of the existing business or profession. The assessee has to furnish the details of amount inadmissible under the proviso to section 36(1)(iii). The tax auditor has to verify the correctness of the particulars furnished by the assessee with the documentary evidence.

Clause 21 dealing with the requirements of furnishing of particulars relating to payments covered by section 43B has been amended consequent to the statutory amendment which has given a uniform treatment to all the payments covered by section 43B. Accordingly, all the payments covered by section 43B will be allowed as a deduction provided such payments are made before the due date for filing of the return of income. Consequently, Part (ii) of clause 21 has been omitted by Notification No.208/2006.

27. (a) Whether the assessee has complied with the provisions of Chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of the Central Government [Yes/No]

(b) If the provisions of Chapter XVII-B have not been complied with, please give the following details*, namely:-

		Amount
(i)	Tax deductible and not deducted at all
(ii)	Shortfall on account of lesser deduction than required to be deducted
(iii)	Tax deducted late
(iv)	Tax deducted but not paid to the credit of the Central Government

Clause 27 (a)

The newly inserted clause 27 is different from the earlier clause. In the earlier clause the requirement was with reference to the tax deducted at source but not paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B. The new clause requires reporting on the compliance with the provisions of Chapter XVII-B regarding deduction of tax at source and payment thereof to the credit of the Central Government. Thus, the scope of reporting under the new clause is much wider. This reporting requirement is to be read with the specific non-compliances stated under clause (b).

While reporting under this clause the tax auditor may exercise his judgment in the light of the applicable laws and report accordingly about the compliance of this provision. The tax auditor may rely upon the judicial pronouncements while taking any particular view. In case of difference of opinion between the tax auditor and the assessee, the tax auditor should state both the viewpoints. Further, in view of the voluminous nature of the transactions, the tax auditor can apply tests checks and compliance tests for verifying the information required to be provided under this clause.

It is essential to note that it is the primary responsibility of the assessee to prepare the information in such manner so that the tax auditor can verify the compliance as required in the new clause. The tax auditor is required to verify that no items have been omitted in the information furnished to him and reasonable tests checks would reveal whether or not the information furnished is correct. The extent of check undertaken would have to be indicated by the tax auditor in his working papers and audit notes. The tax auditor would be well advised to so design his tax audit programme as would reveal the extent of checking and to ensure adequate documentation in support of the information being certified. In the case of large organizations it is in their own interest to get a separate and independent audit conducted in

respect of tax deducted at source and remitted to the credit of the Central Government.

From the above it is clear that while answering the issue of compliance with the provisions of Chapter XVII-B, a number of debatable issues will arise before the assessee as well as the tax auditor. Therefore, it may not be possible to say yes/no in many of the tax audits. The answer to the question may have to be qualified depending upon the facts and circumstances of each case. Where the tax auditor is satisfied regarding the compliance with the provisions of the Chapter XVII-B he may consider bringing out such compliance by appropriate comments in the following manner:

"We have verified the compliance with the provisions of Chapter XVII-B regarding the deduction of tax at source and regarding the payment thereof to the credit of the Central Government in accordance with the Auditing Standards generally accepted in India which include test checks and the concept of materiality. Such audit procedures did not reveal any significant non-compliance with the provisions of Chapter XVII-B."

In case the tax auditor is not satisfied regarding the compliance with the provisions of Chapter XVII-B he may consider bringing out such non-compliance by appropriate comments in the following manner:

"We have verified the compliance with the provisions of Chapter XVII-B regarding the deduction of tax at source and regarding the payment thereof to the credit of the Central Government in accordance with the Auditing Standards generally accepted in India which include test checks and the concept of materiality. The non-compliance as revealed during such audit procedures is as mentioned in clause (b) hereunder."

Clause 27(b)

The reporting requirement in clause (b) arises where the tax auditor is not satisfied as to the compliance by the auditee with the provisions of the Chapter XVII-B regarding deduction of tax at source and the payment thereof to the credit of

the Central Government. Such non-compliance is required to be reported under sub-clause (i), (ii), (iii) and (iv).

In regard to sub-clause (i) the tax auditor has to verify the particulars regarding tax deductible and not deducted at all from the information furnished by the assessee. The various provisions of Chapter XVII-B requires different classes of assessees to deduct tax at source on various nature of payments. The tax auditor should consider the applicability of the different provisions relating to tax deduction at source taking into consideration the status of the assessee and the applicability of the relevant provision. As regards the applicability of the provisions, the tax auditor should take into consideration the relevant sections, rules, notifications, circulars and various judicial pronouncements. There may be occasions when the tax auditor may not agree with the interpretation/view taken by the auditee. In such cases it will be advisable to report both the views. The tax auditor may give the information under this sub-clause in the following format:

S.No.	Particulars of payment	Tax deductible but not deducted	Remarks

The shortfall on account of lesser deduction is required to be reported in sub-clause (ii). This will include deduction at a lower rate than what is prescribed, application of wrong rate of deduction of tax at source, non-inclusion of surcharge and education cess etc.

Further, as per the provisions of sections 195 and 197 the deductee can obtain a certificate of no deduction or lower deduction. The tax auditor should refer to the relevant provisions, rules, circulars, notifications and such certificates obtained from the auditee to verify the cases where tax has been short deducted at source. In the case of payment to non-residents the applicable rate of tax deduction at source is to be read along with the Double Taxation Avoidance Agreement. The tax auditor may give the information under this sub-clause in the following format:

S.No.	Particulars of payment	Tax deductible	Tax deducted	Remarks

Sub-clause (iii) requires the tax auditor to verify and report on tax deducted late. The due dates of deduction have been prescribed under the various provisions of the Act and the rules framed thereunder. The auditor should verify the date of actual deduction with reference to the due date of deduction as per the Act, rules/circulars/notifications for reporting under this clause. The tax auditor may give the information under this sub-clause in the following format:

S.No.	Particulars of payment	Tax deductible	Due date of deduction	Date of deduction	Remarks

Sub-clause (iv) requires information regarding cases where tax has been deducted at source but the same has not been deposited. As such the tax auditor should verify the cases where the tax has been deducted at source but not paid before the last date of the previous year under audit. Only those cases where tax has not been deposited before that date are to be reported under this clause. For example, in respect of previous year ending 31st March 2006 details of tax deducted and due for payment upto 31st March 2006 but not paid to the Government before 31st March 2006 should be furnished. The tax deducted at source on 31st March 2005 and due to be deposited on 7th April 2005 or by 31st May 2005 but not deposited till 31st March 2006 will be required to be reported. Similarly the tax deducted at source on 31st March and due to be deposited on 7th April 2006 or by 31st May 2006 will be reported in the audit for the year ending on 31st March 2007, if not deposited by that date. The tax auditor may give the information under this sub-clause in the following format:

S.No.	Particulars of payment	Tax deducted	Tax not paid	Remarks

In the case of items which are also covered under clause 17(f) the information provided in clause (i), (ii) and (iv) should agree with the information provided in clause 17(f).

II. Guidance Note on Audit of Fringe Benefits under the Income-tax Act, 1961

Notification No.208/2006 has inserted Annexure II to Form No.3CD. The said Annexure contains the particulars to be furnished regarding the value of fringe benefits in terms of section 115WC read with section 115WB. The Guidance Note on Audit of Fringe Benefits under the Income-tax Act deals

with the basic provisions relating to fringe benefits, the audit approach thereof, clause-wise guidance in respect of specified expenses, concessional treatment to certain specified employers, cross border transactions and binding nature of circulars. In the following pages the object of the Guidance Note, the audit approach and the basic concepts to be kept in mind while furnishing particulars in respect of the specified expenses in Annexure II have been given for the information of the members.

Objective of this Guidance Note

The object of this Guidance Note is to provide guidance to the members for discharging their responsibilities in issuing the report regarding the computation of the value of fringe benefits in accordance with the provisions of section 115WC read with section 115WB of the Act. It intends to -

- (i) explain the relevant provisions of Chapter XII-H relating to the definitions, the basis of charge and the value of fringe benefits;
- (ii) explain the requirements of reporting in regard to fringe benefits.
- (iii) assist in clarifying the respective responsibilities of the employer and the tax auditor;

- (iv) suggest enquiries the tax auditor should make from the employer;
- (v) suggest the manner in which requisite disclosure may be made and the circumstances in which a qualified/adverse/ disclaimer report may be issued and
- (vi) suggest the manner of dealing with certain issues arising in the matter.

Audit approach and reporting responsibilities

In carrying out an audit the tax auditor is primarily concerned with verifying that the transactions of the business, as entered in the books of account, are recorded in a manner such that the financial statements drawn up there-from reflect a true and fair view of the state of affairs of the enterprise on a given date. The responsibility entrusted to the tax auditor to report in Form No. 3CD would also now include the verification of the amount expended on items that may be termed as fringe benefits or deemed fringe benefits.

In carrying out the verification, an issue would arise in determination of the head of expenditure which could be a matter of a subjective view. Thus certain items of expenditure 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 helmets or certain uniforms or umbrellas to employees may be considered by some to be a staff welfare expenditure, intended to provide an amenity to the employees. Another view of the same expenditure is that the expenditure is less for the benefit of the staff and is incurred primarily with the objective of reducing potential expenditure/loss arising from injury or illness. Another possible view would give emphasis to the global policy of the company to provide such safety features/uniforms etc. irrespective of whether the employee desires the same. The accounting head to be debited for recording such expenditure could be staff welfare,

kit expenses or consumable stores respectively. This decision would depend primarily on the approach adopted.

It would be difficult to categorically say that any one of these approaches is incorrect. 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 purposes of determining the appropriate head of expenditure for forming an opinion whether the same falls within the category of fringe benefits or deemed fringe benefits.

Adoption of this approach would mean that the underlying objective of the expenditure should be considered and not merely the apparent objective. In determining whether or not certain expenditure falls within the specific clauses of heads mentioned in section 115WB(2), this aspect would be important. The Act states that fringe benefit would be deemed to have been provided if any expense is incurred for the purposes mentioned in section 115WB(2) clauses A to Q. Therefore, whether a particular item of expenditure falls within the ambit of the fringe benefit, 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 decisive for computing the value of fringe benefits.

In this connection, question number 11 of the CBDT circular number 8/2005 indicates the meaning of the term 'purpose'. As per the said circular "the word 'purposes' in the term 'for the following purposes' referred to in sub-section (2) of section 115WB refers to the proximate purpose and not the distant purpose. For example, if an expenditure is incurred on travel for discussing an advertisement plan for a product, such expenditure shall be construed to have been incurred for the proximate purpose of travelling and not the ultimate purpose of advertisement and accordingly liable to FBT."

The assessee would be well advised to determine the amount of expenditure subject to FBT by adopting the test of proximate purpose as

mentioned in the circular even though the head of account debited in the books of account is different. The tax auditor too may keep in mind that even though such head of expense being debited may be acceptable in carrying out the audit of the financial transactions; however, for the purpose of verification of computation of fringe benefit tax, the test of proximate purpose in determining the taxability of expenditure needs to be adopted. The tax auditor would therefore have to verify the correctness of the computation of the expenditure which are covered within the ambit of FBT keeping in mind the purpose of the expenditure as evidenced by the supporting evidence. As mentioned above, subjectivity could arise in regard to determining the purpose for which expenditure is incurred. In the event of the auditee/assessee insisting on adopting a different approach for quantification of fringe benefits from that suggested by the CBDT, it would be appropriate for the tax auditor to make a suitable disclosure in this regard.

In formulating the audit approach towards reporting on true and correctness of the particulars contained in **Annexure II** to Form No.3CD, it is necessary to understand that the tax auditor would need to apply reasonable tests on the information prepared by the auditee for working out value of fringe benefits.

The expression "true and fair" is widely understood though not defined even by the Companies Act, 1956. On the other hand, the words "true and correct" lay emphasis on factual accuracy of the information. In this context reference is invited to AS-1 and AS(IT) – I relating to disclosure of accounting policies. These standards recognize that the major considerations governing the selection and application of accounting policies are (i) prudence, (ii) substance over form and (iii) materiality. Therefore, while giving the particulars, considering the nature of expenditure to be given in the Annexure to Form No.3CD, the aspect of materiality should be considered.

In giving his report the tax auditor will have to use his professional skill and expertise and

apply such audit tests as the circumstances of the case may require, considering the contents of the audit report. He will have to conduct the audit by applying the generally accepted auditing procedures, which are applicable for any other audit. He can apply the test checks depending on the type of internal control procedures followed by the assessee/employer. The tax auditor will also have to keep in mind the concept of materiality depending upon the circumstances of each case. He would be well advised to refer to the Auditing and Assurance Standards -13(AAS-13) "Audit Materiality" issued by the ICAI. If the statutory tax auditor of an auditee is also appointed to undertake tax audit, it is advisable to carry out both the audits concurrently.

The audit report given under this section is to assist the income-tax department to work out the correct value of fringe benefits. In order that the tax auditor may be in a position to explain any question which may arise later on, it is necessary that he should keep detailed notes about the evidence on which he has relied upon while conducting the audit and also maintain all his working papers. Such working papers should include his notes on the following, amongst other matters:

- (a) work done while conducting the audit and by whom;
- (b) explanation and information given to him during the course of the audit and by whom;
- (c) decision on the various points taken;
- (d) the judicial pronouncements relied upon by him while drafting the audit report; and
- (e) certificates issued by the client / management letters.

The requirements of documentation and peer review concepts are applicable in respect of tax audit conducted by chartered accountants. For this purpose attention is also invited to AAS 3 – Documentation, which provides that the tax auditor should document matters which are important in providing evidence that the audit was carried out in accordance with the basic principles.

It is important that the audit working papers prepared and / or obtained by the tax auditor provide evidence that:

- (i) the opinion expressed by the tax auditor in respect of the particulars given in Annexure II is based on the examination made by him;
- (ii) in arriving at his opinion, the tax auditor has given due cognizance to the information and explanations given by the assessee and that his opinion is not arbitrary;
- (iii) the information and explanations obtained were full and complete that is, the tax auditor has called for all the information and explanations which were necessary to be considered before arriving at his opinion; and
- (iv) the tax auditor did not merely rely upon the information or explanations given by the auditee/assessee but that he subjected such information and explanations to reasonable tests to verify their accuracy and completeness.

The concept of valuation of fringe benefits being in its evolving stages in India, it is possible that some difficulties might be faced by the auditee in identifying, classifying and reporting the same. For the purposes of **Annexure II**, it is essential that the expenditure is classified by the auditee under the natural head to which it belongs. For example, the assessee might have capitalized the traveling expenses of the employees incurred in connection with purchase of plant and machinery, in the books of account but for the purposes of **Annexure II**, the said expenditure would need to be shown as travelling expenses in terms of section 115WB(2)(Q) *[From the A.Y.2007-08 onwards]. Though the assessee is not required to amend his financial records yet to comply with the requirements of the provisions of sections 115WA and 115WB(2), he should be advised to maintain adequate records of the payments made/expenditure incurred so that identification and examination of the fringe benefits is facilitated. The tax auditor should apply the same degree of examination as in case of a normal audit.

*115WB(2)(P) for the A.Y.2006-07

While verifying the details provided in the Annexure, the auditor will have to consider the following parameters in respect of each of the expenses on which FBT is payable:

- (a) identification of the expenses and correlating the same to the respective clauses,
- (b) quantification of the FB in respect of the expense,
- (c) verification that no other expense of similar nature is left out or duplicated in any other expenses and
- (d) the presentation in the format required by the **Annexure II**.

The tax auditor in terms of the requirements of audit under section 44AB of the Act is required to report whether in his opinion the particulars in respect of fringe benefits as given in Annexure II to Form No.3CD, are true and correct.

The audit procedures help the tax auditor in forming his opinion; and the audit report is the culmination of the tax auditor's efforts and conclusions reached by him. The audit report is a medium through which the tax auditor communicates the results of his findings to the users. It is, therefore, essential that the audit report contains a clear expression of the tax auditor's opinion on the subject matter under audit. The attention of the members in this regard is invited to Auditing and Assurance Standard (AAS) 28 - "The Auditor's Report on Financial Statements" and "Statement on Qualifications in Auditor's Report" issued by the ICAI contain the basic principles to be followed by the tax auditor while giving his audit report, including the basic elements of an audit report. However, the tax auditor, pursuant to tax audit under section 44AB of the Act, is required to submit his report in Form No.3CA or 3CB, as the case may be. These forms have been prescribed under the Rules. Nevertheless, paragraph 6 of AAS-28 clearly states that where the regulator prescribes the form in which the tax auditor should issue his report, the tax auditor should report in

the form prescribed by the regulator in addition to the requirements of AAS 28. Thus, while reporting in the Form Nos. 3CA and 3CB, the tax auditor should enquire that the report among other things complies with the requirements of AAS-28. For example, those relating to the basic elements of the tax auditor's report, such as title, addressee, introductory paragraph, scope paragraph, opinion paragraph, date of report, place of signature, membership number and tax auditor's signature.

The Guidance Note contains detailed guidance as to when the tax auditor should issue a qualified opinion or an adverse opinion or a disclaimer.

ANNEXURE - II TO THE TAX AUDIT REPORT

The requirements of reporting in Annexure II would require that the auditee while compiling the particulars to be furnished for verification would have to take a view based upon the auditee's understanding of the various provisions of the Act relating to fringe benefits tax. This Guidance Note does not purport to provide any interpretation of the law. That is a matter for the auditee and its tax advisers. Based on the legal provisions as contained in Chapter XII-H of the Act, it may be stated that while interpreting any of the provisions, the auditee as well as the tax auditor may take the aid of circulars regarding various issues. If the said interpretation is beneficial to the auditee, the same can be followed by him. But if the auditee is of the opinion that the provisions of the circular are not in consonance with the legal provisions or judicial propositions, it can adopt an interpretation which in its opinion is in accordance with the provisions of law and judicial decisions. If the auditee follows a view contrary to the circular, it will be in his interest to make necessary disclosure about the different view taken as compared to the view expressed in the circular. In such a situation the tax auditor would be required to give a suitable disclosure/note/qualification as explained in Chapter V keeping in mind the requirements of applicable Auditing Standards and more particularly AAS-28.

Circular of CBDT

The Central Board of Direct Taxes has issued an elaborate circular (No.8/2005) dated 29th August 2005 which contains a large number of questions and answers on the various issues relating to income-tax on fringe benefits. In the following pages references to circular will mean the circular No.8/2005 issued by the CBDT.

Relevance of method of accounting

In determining the expenditure falling within the definition of fringe benefit, the tax auditor would take into consideration expenditure as identified in accordance with the method of accounting regularly followed by the auditee.

Sub-section (2) of section 115WB states that fringe benefits shall be deemed to have been provided if the employer has "in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains) incurred any expense on or made any payment for the purposes mentioned in the sub-section".

The reference to "made any payment for" raises the question whether a mere payment towards an intended expenditure would also come within the ambit of fringe benefit tax. The CBDT in its answer to question No. 18 in its circular has clarified that FBT would be payable in the year in which the expenditure is incurred. Therefore, FBT would not be payable on payment of advance towards expenses to be incurred in the future.

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 auditee. In addition to any expenditure incurred, any payment not debited to the profit and loss account but made for the prescribed purposes will also attract FBT. This would have to be kept in mind by the auditor while verifying correctness of Annexure II.

In case of expenses which are capitalized and amortised over a period, the CBDT has clarified in its answer to question No.19 that FBT is payable in the year in which the expense is incurred irrespective of whether the expenditure is capitalized or not. The circular further clarifies that the same expenditure will not be liable to FBT again in the year in which it is amortized and charged to profit and loss account.

On the issue whether preoperative expenses falling within the categories specified in section 115WB(2) would be covered in the scope of FB, the CBDT circular in its answer to question No.16 has clarified that any expenditure incurred for the purposes referred to in clauses (A) to (P) [now (Q)] of sub-section (2) of section 115WB is liable to FBT irrespective whether such expenditure is incurred prior to commencement of the business or thereafter. From the above clarification one may conclude that expenditure incurred/payments made towards prescribed purposes during the relevant previous year as defined in section 3 will be subject to FB. The proviso to section 3 states that the previous year is deemed to commence from the date of setting up of the business or profession.

The combined reading of answers to question Nos. 16, 18 and 19 would show that the approach adopted by the CBDT is that items which fall within clauses A to Q of section 115WB(2) on the test of proximate purpose would be included within the ambit of FB.

Responsibility of tax auditor

The Hon'ble Finance Minister in his speech made on the floor of the House at the time of passing of the provisions relating to income-tax on fringe benefits has placed a significant responsibility on chartered accountants. Accordingly, they have to assist in the determination of the value of the fringe benefits on which the FBT is payable by the auditee. In order to facilitate the said information being made available to the Assessing Officer in a manner that it can be relied upon, amendments have been made in the Form No. 3CD that

require the auditor to confirm the correctness of information furnished by the auditee in regard to the value of the fringe benefits liable to tax. The said information is required to be furnished in the prescribed form viz. Annexure II to Form No.3CD. The said Annexure II prescribes a columnar form of presentation which facilitates the quantification of the value of fringe benefit under each of the sub-clauses of section 115WB. The adjustments/ deductions which are required to be made in accordance with the law, are also required to be shown in separate columns to facilitate verification by the tax auditor and tax authorities. The format has been devised with the intention of providing a transparent computation of the value of fringe benefits.

Annexure II to the tax audit report

Annexure II has been inserted in Form No.3CD with effect from 10th August 2006. Therefore all tax audit reports signed after 10th August 2006 will have Annexure II appended after Annexure 'I'. Similar format has been prescribed to the return of income in respect of assessees whose accounts are not subjected to audit under section 44AB. These persons who are liable to pay fringe benefit tax but whose accounts are not subject to audit under section 44AB shall submit the requisite information on a self declaration basis. Entities to whom the provisions of Chapter XII H - Income-tax on fringe benefits do not apply but to whom the provisions of section 44AB apply (for e.g. proprietary concerns etc.) will report that Annexure II of Form No.3CD as "not applicable".

The expenditure may have been recorded under various account heads in the books of account. The details of expenditure have to be given on the basis of the sub-clauses of sub-section (2) of section 115WB (as stated in columns 2 and 3). In this context it is necessary to keep in mind the clarification given in the circular regarding the scope of word "purposes" in the term "for the following purposes" referred to in sub-section (2) of section 115WB. The circular clarifies that the word "purposes" in the term "for the following purposes" referred to in sub-section (2) of section

115WB refers to the proximate purpose and not the distant purpose as explained in paragraph 5.5. The "total", in column 6 therefore, may not tally with any particular account in the books of account. It would therefore be advisable to maintain proper grouping statements and working sheets in regard to the items included/excluded from the above statement and also the reasons for doing so.

Columns 2 and 3 of Annexure II require the statement of the various sub-clauses mentioning the specified expenditure and the particulars of such expenditure/payment, respectively.

Column 4 has five sub-columns. It is possible that the various types of expenditure mentioned in the relevant sub-clauses might not have been recorded in one particular account but might have been recorded under different heads of account. Column 4 has five sub-columns requiring disclosure of the accounts under which the specified expenses have been recorded in the books of account.

(a) Debited to profit and loss account: Under this sub-head the various specified expenditures as have been recorded in the revenue account and debited to profit and loss account have to be stated.

(b) Accounted for in the balance sheet: Paragraph 9.1 of AS-10 – Accounting for Fixed Assets states that the cost of an item of fixed asset comprises its purchase price, including import duties and other non-refundable taxes or levies and any directly attributable cost of bringing the asset to its working condition for its intended use. Paragraph 9.3 states that the administration and other general overhead expenses are usually excluded from the cost of fixed asset because they do not relate to a specific fixed asset. However, in some circumstances, such expenses as are specifically attributable to construction of a project or to the acquisition of a fixed asset or bringing it to its working condition, may be included as part of the cost of the construction project or as a part of the cost of the fixed asset.

In this regard, the auditee could have recorded the specified expenditure directly in the balance sheet instead of recording it in the revenue account. Details of such specified expenses directly accounted for in the balance sheet should be given in this column.

(c) *Reimbursement:* The details of expenses incurred by the auditee but reimbursed by others should be given in this column. The answer to Q.No.12 of the Circular is relevant here. Where a company incurs expenditure on traveling, hotels, etc. wholly and exclusively for executing an assignment of its client and the client reimburses the employer for such "out of pocket" expenses, the circular clarifies that since the expenditure on traveling, hotels, etc. is incurred by the employer and not by the client, the employer is liable to FBT in respect of such expenditure. It is further clarified that the client will not be liable to FBT in respect of payment for such expenditure.

(d) *Any other head:* Under this clause, the expenditure by an employer which is of the nature falling within the scope of the provisions of section 115WB and which has not been debited to the profit and loss account or not accounted for in the balance sheet but is liable to FBT because of the provisions of the Act, are to be reported. One such example is that the depreciation on motor car as per the Circular No.8/2005 dated 29th August, 2005 is to be depreciation as per the provisions of the Income-tax Act, in case such depreciation has not been debited to the profit and loss account.

(e) *Total:* The total of the expenditure which has to be considered under the respective sub-clause, as stated in column 2, has to be stated, even though such expenditure might have been recorded under a particular head or different heads.

Column 5 is for giving the details of the deductions, if any. Where an assessee has expenditure under any of the specified heads it will appear in the profit and loss account. However,

on the issue where a company incurs expenditure on traveling, hotel etc. wholly exclusively for an assignment for its client and the client reimburses the company for such "out of pocket" expenses, the answer to question No.12 clarifies that the client will not be liable to FBT in respect of payment of such expenditure. Such expenses so reimbursed will be included under this column. Deductions can be in respect of recoveries from employees as explained in question No.32. The answer to question No.32 recognizes the concept of "net expenses" (i.e. net of recoveries). It clarifies that where the employer recovered from its employee any amount of expenditure incurred for the purposes listed in clauses (A) to (Q) of sub-section (2) of section 115WB, the value of fringe benefits shall be determined with reference to the net expenditure and not gross expenditure. For example, if an employer incurs a total expenditure of Rs.10 lakhs on repair, running and maintenance of motor cars, and recovers Rs.1 lakh from its employees, the value of the fringe benefit in respect of repairs, running and maintenance

of motor cars shall be calculated on the basis of the net expenditure of Rs.9 lakhs (i.e. Rs.10 lakhs minus Rs.1 lakh).

Column 6 of Annexure II is the net sums of the total of column No.4 minus the details mentioned in column No.5.

Column 7 of Annexure II mentions the percentage of expenditure/payment which is to be considered as the value of fringe benefit.

Column 8 of Annexure II is for giving the value of fringe benefit.

Conclusion

The above extracts have been given to guide the members in understanding the audit approach and the basic concepts to be kept in mind while furnishing the particulars regarding various specified expenses for the purposes of computation of the value of the fringe benefits. For complete text of the Guidance Note, please refer to the aforesaid publication.

Post Qualification Course (PQC) on Information System Audit (ISA)

Join Information System Audit (ISA) PQC NOW to take ISA AT in March 2007: Members interested in qualifying the *Information Systems Audit (ISA)* Post Qualification Course (PQC) AT in March 2007 attempt may join now and complete their ISA Professional Training by December, 2006. For further details about the ISA PQC, please refer to ISA Prospectus and the ISA Portal at www.isaicai.org

ISA PT Batches: The *ISA Professional Training (PT)* batches would be starting from October/November 2006 in all Regional Offices/Branches where breakeven batches can be formed. ISA PT Batches are proposed from October/November at Aurangabad, Chandigarh, Delhi, Jaipur, Kolkata, Lucknow, Mumbai & Visakhapatnam.

Members interested in joining these batches are requested to contact these offices immediately to reserve a seat. Details of forthcoming batches are also hosted on the ISA portal from time to time.

Reversionary Classes: Members who have completed ISA PT Batches earlier with old syllabus can join a forthcoming batch by paying Reversionary Class Fee of only Rs.1,000/-.

ISA Eligibility Test in November 2006: The next ISA ET is tentatively scheduled for November 11, 2006. A detailed announcement in this regard would be hosted by October 10, 2006 and candidates have to fill the ISA ET Online form from October 15-31, 2006 to take the ET.

CA Community Lost Two Lives in 7/11 Terror Attack

When the Terrible Tuesday shook Mumbai, it had sent shockwaves not only across India but across the globe. The CA fraternity around the world was no exception. More particularly because two of the more than 200 innocent lives lost in the cowardly act were those of Chartered Accountants—Laxmichand Nanji Gala (55) and Ashok Vaghela (40). A CA student Chirag Arvind Chauhan was seriously injured. As we pay tributes and salute their families for bravely coping with the losses, we are publishing brief profiles of these members and the CA student to enable the membership at large to express solidarity with the bereaved families.

Laxmichand Nanji Gala

 The 55-year-old talented and hardworking professional and active social worker, Laxmichand Nanji Gala died in the explosion in the first class compartment of the local train near Matunga in Mumbai. Having his own accountancy firm in Dadar, he had left his office early to watch his favourite Kutchi play with his wife Urmila (51) in Borivali, but only to fall prey to terrorism on the way. He was grievously injured and breathed his last while being taken to Sion Hospital. He is survived by wife Urmila, daughter Falguni and son Chirag.

His life was one of the many inspiring success stories of Mumbai. Hailing from Chhasara village in Gujarat, he had lost his father when he was just two. He was brought up by his mother—she worked in the fields. He finally managed to get admission in Mumbai's prestigious NM College of Commerce and Economics. From becoming the first CA of his village to switching jobs for 13 years and finally establishing a successful CA firm in Dadar in 1986, his life had many inspiring twists and turns. In his last days, he was busy getting his new flat in Dadar ready to save himself the daily commutes from Borivali to Dadar.

His distraught wife is slowly and gradually coming to terms with the ultimate loss while his son is managing operations of his firm.

Ashok Vaghela

The 40-year-old Ashok Vaghela died in the Khar-

Santacruz blast on way to his home in Borivali's Rustomjee Complex (Mumbai). Known for his hard work, friendly nature and professional talent, he had his own CA firm in Mumbai. Mr. Vaghela is survived by wife Yogita and two children—12-year-old son Kewal and 9-year-old daughter Shraddha.



Born to a small-time embroidery businessman, he had spent his childhood in a two-room apartment in Ram Niwas chawl in Borivali East. But he always nurtured a dream to bring in better days for him and his family. He toiled hard in studies and kept chasing that dream even as a commerce graduate from Parle's Chinoy College. And that dream began to be realised when he bought a flat in Rustomjee Complex a few years ago when his CA firm progressed. He was the treasurer of the building's society.

His bereaved family, particularly the housewife Yogita, is trying hard to cope with the grave loss of the head of the family. In fact, Mr. Vaghela had already initiated Yogita into a business venture as an agent of mutual funds.

Chirag Arvind Chauhan (CA Student)

CA student Chirag Arvind Chauhan, doing articleship training after passing PE-II was seriously injured in the 7/11 blasts. He commenced articleship training in August 2005. In spite of the fact that he is completely paralysed below his chest, his enthusiasm to become a Chartered Accountant is intact.

ICAI's GESTURE

Besides sending condolences to the bereaved families an ad hoc grant of Rs. 1 lakh was sanctioned to the families of the deceased members. On receiving further information, the ICAI will offer assistance for sustenance and education of the children of the family. ICAI President CA. T.N. Manoharan called on Mr. Chirag Chauhan at Hinduja hospital and assured him of all help for his education and to enable him to qualify as a Chartered Accountant.

Angels Can Fly Because They Take Themselves Lightly; Devils Fall Because of Their Gravity.

Important Council Decisions

Guidelines for Practice in Corporate Form of Practice (261st meeting)

As per the existing Code of Ethics, a member in practice is permitted generally to be a 'Director Simplicitor' in any company and as such he is not required to obtain any specific permission in this regard irrespective of whether he and/or his relatives hold substantial interest in that company. However, a member in practice shall not hold the position of Managing Director or Whole-time Director of a Body Corporate if he and/or his relatives hold substantial interest in such concern. In the alternative, a member in practice can occupy such positions by surrendering his Certificate of Practice (CoP). Where substantial interest is not so held, a member in practice can hold these positions only after obtaining specific and prior approval of the Council in which case the member will be regarded as being in part-time practice and therefore, can neither do attest function nor he can train articled/audit assistants.

To empower the members to face the emerging challenges in the service sector as well as to equip them for the opportunities in the non-audit service area, the Council at its 261st meeting held from 1st to 3rd August, 2006 reviewed the aforesaid position and in the interest of the profession, decided to allow members in practice to render Management Consultancy and Other Services in Corporate form, subject to the guidelines to be issued by the Institute in this regard.

The Council decided to allow members in practice to hold the office of Managing Director, Whole-time Director or Manager of a body corporate within the meaning of the Companies Act, 1956 provided that the body corporate is engaged exclusively in rendering Management Consultancy and Other Services permitted by the Council in pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949 and complies with the conditions(s) as specified by the Council from time to time in this regard.

The members can retain full time Certificate of Practice besides being the Managing Director, Whole-time Director or Manager of such Management Consultancy Company. There will be no restriction on the quantum of the equity holding of the members, either individually and/

or along with the relatives, in such Company. Such members shall be regarded as being in full-time practice and therefore can continue to do attest function either in individual capacity or in Proprietorship/Partnership firm in which capacity they practice and wherein they are also entitled to train articled/audit assistants.

The name of the Management Consultancy Company is required to be approved by the Institute and such Company has to be registered with the Institute. The guidelines alongwith the prescribed application forms for approval of name and registration, provisions of ethical compliance and other details have been issued and the same will come into force w.e.f 1.10.2006.

By abundant caution, it may be clarified that no audit practice can be done in Corporate Form. The consultancy practice hitherto done in Individual or Firm Status alone is now intended to be permitted in Corporate Form also.

The guidelines for Corporate Form of Practice are as follows:

GUIDELINES FOR PRACTICE IN CORPORATE FORM

Definition.

- (i) Managing Director, Whole-time Director and Manager -**

The term "Managing Director", "Whole-time Director" and "Manager" shall have the same meaning as defined/understood in the Companies Act, 1956. For this purpose, the member in practice who is a Managing Director, Whole-time Director or Manager shall be full-time practitioner/proprietor/partner in a Chartered Accountants firm.

- (ii) Act –** Act means The Chartered Accountants Act, 1949.
- (iii) Regulations –** Regulations means the Chartered Accountants Regulations, 1988.
- (iv) Code of Ethics –** Code of Ethics means the Code of Ethics issued by the Institute and decisions of the Council in this regard.

Success is Not the Key to Happiness. Happiness is the Key to Success.

- (v) **Institute** – Institute means the Institute of Chartered Accountants of India.
- (vi) **Council** – Council means the Central Council of the Institute.
- (vii) **Member** – Member means a Member in Practice. Member in Practice means a ‘Member in Practice’ as defined in the Chartered Accountants Act, 1949 and its Regulations.
- (viii) **Management Consultancy & Other Services** – Management Consultancy & Other Services or MCS means ‘Management Consultancy & Other Services’ permitted by the Council in pursuance to Section 2(2)(iv) of the Chartered Accountants Act, 1949. The definition of the expression “Management Consultancy and other Services” as appears at pages 8-10 of the Code of Ethics, 2005 edition is as under:
- The expression “Management Consultancy and other Services” shall not include the function of statutory or periodical audit, tax (both direct taxes and indirect taxes) representation or advice concerning tax matters or acting as liquidator, trustee, executor, administrator, arbitrator or receiver, but shall include the following:
- (i) Financial management planning and financial policy determination.
 - (ii) Capital structure planning and advice regarding raising finance.
 - (iii) Working capital management.
 - (iv) Preparing project reports and feasibility studies.
 - (v) Preparing cash budget, cash flow statements, profitability statements, statements of sources and application of funds etc.
 - (vi) Budgeting including capital budgets and revenue budgets.
 - (vii) Inventory management, material handling and storage.
 - (viii) Market research and demand studies.
 - (ix) Price-fixation and other management decision-making.
 - (x) Management accounting systems, cost control and value analysis.
 - (xi) Control methods and management information and reporting.
 - (xii) Personnel recruitment and selection.
 - (xiii) Setting up executive incentive plans, wage incentive plans etc.
 - (xiv) Management and operational audits.
 - (xv) Valuation of shares and business and advice regarding amalgamation, merger and acquisition.
 - (xvi) Business Policy, corporate planning, organisation development, growth and diversification.
 - (xvii) Organisation structure and behaviour, development of human resources including design and conduct of training programmes, work study, job-description, job evaluation and evaluation of work loads.
 - (xviii) Systems analysis and design, and computer related services including selection of hardware and development of software in all areas of services which can otherwise be rendered by a Chartered Accountant in practice and also to carry out any other professional services relating to EDP.
 - (xix) Acting as advisor or consultant to an issue, including such matters as:-
 - (a) Drafting of prospectus and memorandum containing salient features of prospectus. Drafting and filing of listing agreement and completing formalities with Stock Exchanges, Registrar of Companies and SEBI.
 - (b) Preparation of publicity budget, advice regarding arrangements for selection of (i) ad-media, (ii) centres for holding conferences of brokers, investors, etc., (iii) bankers to issue, (iv) collection centres, (v) brokers to issue, (vi) underwriters and the underwriting arrangement, distribution

It is only possible to live happily ever after on a day-to-day basis.

- of publicity and issue material including application form, prospectus and brochure and deciding on the quantum of issue material (In doing so, the relevant provisions of the Code of Ethics must be kept in mind).
- (c) Advice regarding selection of various agencies connected with issue, namely Registrars to Issue, printers and advertising agencies.
 - (d) Advice on the post issue activities, e.g., follow-up steps, which include listing of instruments and despatch of certificates and refunds, with the various agencies connected with the work.
- Explanation:** For removal of doubts, it is hereby clarified that the activities of broking, underwriting and portfolio management are not permitted.
- (xx) Investment counseling in respect of securities [as defined in the Securities Contracts (Regulation) Act, 1956 and other financial instruments.] (In doing so, the relevant provisions of the Code of Ethics must be kept in mind).
 - (xxi) Acting as registrar to an issue and for transfer of shares/other securities. (In doing so, the relevant provisions of the Code of Ethics must be kept in mind).
 - (xxii) Quality Audit.
 - (xxiii) Environment Audit.
 - (xxiv) Energy Audit.
 - (xxv) Acting as Recovery Consultant in the Banking Sector.
 - (xxvi) Insurance Financial Advisory Services under the Insurance Regulatory & Development Authority Act, 1999, including Insurance Brokerage.
- (ix) Management Consultancy Company**
– Management Consultancy Company means a Company, which complies with the Guidelines for Practice in Corporate Form issued by the Institute.
- (x) **Relative** – Relative means "Relative" as defined in Appendix (9) of the Chartered Accountants Regulations, 1988, 2002 edition.
- 3. Name of the Management Consultancy Company:**
- (i) The Management Consultancy Company shall have a distinct name which shall be approved by the Institute. The prescribed format of application for approval of name for Management Consultancy Company is at Form 'G' (enclosed). Standards prescribed in Regulations 190 of the Chartered Accountants Regulations, 1988 shall be applicable to the name of the Management Consultancy Company. However, even if a name is provided and subsequently it is found that the same is undesirable then, the said name can be withdrawn at any time by the Institute. The provisions in respect of name of companies as prescribed in the Companies Act, 1956 shall be applicable in letter and spirit.
 - (ii) The name of Management Consultancy Company may indicate the area of 'Management Consultancy & Other Services' permitted by the Council from time to time.
 - (iii) The Management Consultancy Company shall neither be permitted to advertise nor to use logo.
- 4. Registration:**
- After approval of the name under Guideline 3 and incorporation under the Companies Act, 1956, the Management Consultancy Company is required to be registered with the Institute in a prescribed Form 'H' (enclosed).
- 5. Ethical Compliance:**
- (i) Once the Management Consultancy Company is Registered with the Institute as per the Guidelines, it will be necessary for such a Company to comply with the following requirements: -
 - a) If the individual practitioner/sole-proprietorship firm/partnership firm is the

If 'Thank You' is the Only Prayer You Say, That Will be Enough.

statutory auditor of an entity then the Management Consultancy Company should not accept the internal audit or book-keeping or such other professional assignments, which are prohibited for the statutory auditor firm.

- b) The Notification No. 1-CA(7)/60/2002 dated 8th March, 2002 (enclosed) in respect of ceiling on Non-audit fees is applicable in relation to a Management Consultancy Company.
- c) The Management Consultancy Company shall comply with clauses (6) & (7) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 and such other directives as may be issued by the Institute from time to time.
- (ii) The Management Consultancy Company shall give an undertaking that it shall comply with clauses (6) & (7) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 and such other directives as may be issued by the Institute from time to time.

6. Object of Management Consultancy Company:

The Management Consultancy Company shall engage itself only in Management Consultancy & Other Services. The Management Consultancy Company shall give an undertaking that it shall render only Management Consultancy & Other Services prescribed by the Council pursuant to powers under section 2 (2)(iv) of the Chartered Accountants Act, 1949.

The Object Clause should restrict itself only to the Management Consultancy & Other Services permitted by the Council in pursuance to Section 2(2)(iv) of the Chartered Accountants Act, 1949.

7. Violation of Act:

In case of alleged violation of the provisions of the Act, Regulations framed thereunder, guidelines/directions laid down by the Council from time to time and Code of Ethics issued by the Council, the individual practitioner/sole-proprietorship firm/partnership firm in general

and the Managing Director/Whole-time Director/Manager of such company in particular, would be answerable.

8. Applicability of Companies Act, 1956 and other laws:

All the provisions of the Companies Act, 1956 and other laws that are applicable to a Company formed under the Companies Act, 1956 shall be applicable to the Management Consultancy Company. The Guidelines are in addition to the provisions contained in the Companies Act, 1956.

9. Benefits available to members if the Guidelines framed are complied with:

- i) The member can retain full time Certificate of Practice besides being the Managing Director/Whole-time Director/Manager of Management Consultancy Company.
- ii) The member will be entitled to train articled/audit assistant(s).
- iii) There will be no restrictions on the quantum of the equity holding of the member, either individually and/or along with his relatives, in such a company.

10. Transitory Provisions:

- i) Any member who wishes to become Managing Director/Whole-time Director/Manager of an existing Company, which is rendering Management Consultancy & Other Services, and wishes to take other benefit contained in the Guidelines, shall comply with the Guidelines for Practice in Corporate Form.
- ii) The Company is required to take approval of name and then apply for registration with the Institute.
- iii) If the Institute has reservation over the name of an existing Company that wishes to come under the provisions of this Guidelines, the Company shall be required to apply for change in name.
- iv) The Company is also required to change its object clause, if the same contains objects other than those provided in the Guidelines.

Form 'G'

APPLICATION FOR APPROVAL OF NAME FOR PROPOSED MANAGEMENT CONSULTANCY COMPANY

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

[See Guideline 3 of Guidelines for Practice in Corporate Form]

- | | | |
|---------------|---|--|
| 1. | Proposed name of the Company
(in order of preference) | 1. _____ |
| | | 2. _____ |
| | | 3. _____ |
| 2. | Name of the Members/firm along with name of partners forming proposed Management Consultancy Company | |
| | Firm Name/Member Name | Firm Regn. No./M.No. |
| 3. | Address of the Registered Office of the proposed Management Consultancy Company

_____ | |
| | Pin | _____ |
| | Tel. No. | _____ |
| | Fax No. | _____ |
| | E-mail | _____ |
| | Website Address | _____ |
| 4. | Ownership pattern of the Company | |
| 5. | Name of the member proposing to become Managing Director/Whole-time Director/Manager | |
| | Name of the Member | Membership No. |
| | 1. _____ | _____ |
| | 2. _____ | _____ |
| | 3. _____ | _____ |
| Place : | | Name(s) with Membership No(s).
and signature(s) of duly authorized
Partner(s)/Proprietor(s) of the firms |
| Date : | | |

Form 'H'

DECLARATION FOR REGISTRATION OF MANAGEMENT CONSULTANCY COMPANY

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

[See Guideline 4 of Guidelines for Practice in Corporate Form]

1. Name of the Management Consultancy Company
 2. Address of the
 - (i) Registered Office
 - (ii) Branch Office
 4. Ownership pattern of the Company
 5. Name of the member(s) proposing to become Managing Director/Whole-time Director/Manager

Name of the Member	Membership No.
1. _____	_____
2. _____	_____
3. _____	_____
 6. Number and Date of Incorporation Certificate
(Please enclose Incorporation Certificate issued by the ROC)

A Good Fighter is Not Angry.

I/We hereby declare that the Management Consultancy Company shall render Management Consultancy & Other Services which are prescribed by the Council of the Institute from time to time pursuant to powers under Section 2(2)(iv) of the Chartered Accountants Act, 1949. This Company has been constituted in compliance with the Guidelines for Practice in Corporate Form issued by the Institute.

I/We hereby declare that I/We shall comply with Clauses (6) & (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 and such other directions as may be issued by the Institute from time to time in this regard.

Place :

Date :

Signatures of two authorised Directors of the body corporate and the Managing Director/Working Director/Manager of that body corporate together with membership no. under a common seal.

(Enclose a copy of Board Resolution)

Notification No.1-CA(7)/60/2002

8th March, 2002

1-CA(7)/60/2002: In exercise of the powers conferred by clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute of Chartered Accountants of India hereby specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as statutory auditor of Public Sector Undertaking(s)/ Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crores or more in a year and accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/ Company(ies) on a remuneration which in total exceeds the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority(ies)/ regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of the conditions/restrictions specified in this Notification.

Explanation:

1. The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s) payable to the statutory auditors and their associate concern(s) put together;
2. For the above purpose,
 - (i) the term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949 but shall not

include:-

- (i) audit under any other statute;
- (ii) certification work required to be done by the statutory auditors; and
- (iii) any representation before an authority;
- (ii) the term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/ are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;
- (iii) the terms "relative" and "substantial interest" shall have the same meaning as are assigned under Appendix (10) [now Appendix (9)] to the Chartered Accountants Regulations, 1988.

3. In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory auditor/s together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

4. This notification is applicable for any appointment(s) on or after 1st April 2002.

The Only Way to Have a Friend is to be One.

ICAI E-Initiatives: Towards a Brighter Future

Continued from Page 465 of September 2006 Issue ...

Virtual Institute Project has had a significant impact on the functioning of the ICAI. It has converted all offices of the Institute into Satellite offices with IT responsibility being centralized. It has facilitated instantaneous consolidation of members & students records at all India level. It has brought e-Services to members' doorsteps. It has created a unified accounting backbone for the Institute, thanks to the integration of regional councils and branch accounts with uniform publications accounting.

Towards Tomorrow → Today

The ICAI started IT initiative towards a brighter future. Today, this initiative covers:

- World Class IT Infra under Virtual Institute Project
 - Data Centres
 - Unified Centralised System & Online Services
 - Online Payment facility for members & students
- ICAI Portal
- Digital Signature Certificates issuance capability

The ICAI has an integrated system in place with an All India database of members and students. It is an Enterprise application with a mix of client server & web server and implemented under Oracle, D2K, and JSP. It has brought a paradigm shift in the functioning of ICAI and has brought about a management change from Standalone working to 24 X 7 working with all services at your doorsteps. The following are some of the highlights of the system:

Networking:

- ✓ Robust Corporate Network with ZERO downtime
- ✓ Runs without even ISDN backup
- ✓ Single Service Provider - Voice lines, Mobile Phones, VPN & DIA links with VoIP

Routers:

- ✓ Unique – runs on Nortel Routers
- ✓ Nortel Routers are comparable to CISCO

- ✓ The Institute had purchased these routers at 1/3rd cost of CISCO routers

Primary Delivery Centre (PDC) & DR Site:

- ✓ Both in-house
- ✓ Lots of recurring costs saved
- ✓ Both data centres are of Level 3 standards

Sun Cluster with Oracle RAC:

- ✓ One of the few organisations for Sun Cluster with RAC
- ✓ Real-time database replication to DR site
- ✓ Most robust database architecture

ICAI Portal:

- ✓ Interactive Portal
- ✓ Unique – implemented using Oracle Portal Server
- ✓ Runs in-house from our data centre

Information Architecture:

- ✓ Standardised on Oracle
- ✓ Oracle database in the backend, Oracle Application/ Portal Server in the middle tier, Oracle D2K/ Oracle Tools in the front-end
- ✓ Supposed to be the best architecture

Enterprise Mailing:

- ✓ Huge mailing architecture
- ✓ Uniform mail IDs across the Institute
- ✓ Mass mailing to members & Students– a regular feature
- ✓ Sends 1,50,000 mails everyday

Unique Student Registration Number:

Virtual Institute provides unique registration number to the students. Students can find out their unique registration number by clicking on Std New Regn Display link on the e-Seva site of the Institute <http://220.225.137.148/ICAI>. The student needs to supply his/ her old registration number here such as BB094567, NPT000002 to get the new registration number.

Eligibility Certificate Online:

Further, students have a facility to see their Eligibility Status on e-Seva for which Eligibility

Beginning is Half Done.

Certificate link will have to be clicked. Supply of Students Unique Registration Number such as WRO0203507 or CRO0203506 and Course Code such as PE1 or PE2 or FNL or INT will display the Eligibility Status of the student.

Publications Ordering Online:

Members and Students have the facility to purchase publications online under e-Seva using Publications link on the site. A click on this link will allow members & students to select the Category, Book with Number of copies with delivery address. A click on Submit link will open Payment Gateway and facilitates online credit card payment.

Thereafter, the publications get couriered within one week from the date of online payment.

Online Conference/Seminar Registration:

Members and Students also have the facility to register for Conferences/ Seminars online under e-Seva using Conference/Seminar link of the site. A click on this link will allow members & students to select Conference or Seminar and Delegate Type and a facility to select registration with contact address of the delegate. A click on Submit link will open Payment Gateway and facilitates online credit card payment.

(To be continued in November 2006 Issue...)

Dubai Chapter Silver Jubilee Celebrations

Dubai Chapter of ICAI celebrated completion of 24 years and entering the Silver Jubilee year on 24th and 25th August 2006. Dubai Chapter is the largest ICAI Chapter outside India with over 800 members. ICAI started Dubai Chapter in 1982. An Examination Centre was also approved later, which is effectively functioning till date. An office of ICAI was opened in the Knowledge Village in the year 2003, which is catering to the requirements of members and students.



Mr. K. Rahman Khan, Hon'ble Deputy Chairman of Rajya Sabha and ICAI President CA. T.N. Manoharan presenting memento to Dubai chapter, which was received by CA. G. R. Mehta, Chairman of the Chapter.

Dignitaries Hon'ble Mr. K. Rahman Khan, Deputy Chairman, Rajya Sabha, Mr. C.M. Bhandari, Ambassador of India UAE, CA. T.N. Manoharan, President ICAI and Dr. Ashok Haldia, Secretary ICAI on the occasion of Silver Jubilees celebrations with Managing Committee members of Dubai Chapter: CA. G.R. Mehta (Chairman), CA. Raju Menon, CA. Hanumantha Kumar, CA. S. Venkatesh, CA. S. M. Shenoy, CA. K. Srikant Das, CA. Abhiram Dixit and CA. Paryank R. Shah.



Happiness is When What You Think, What You Say, and What You Do Are in Harmony.

MoU Between ICAI and CERT, UAE Signed



President ICAI CA. T.N. Manoharan exchanging MoU with Dr. Tayeb Kamali in the presence of Mr. K. Rahman Khan, Hon'ble Deputy Chairman Rajya Sabha; Dr. Ashok Haldia, Secretary ICAI; CA. Prakash Chand Mehta, Chairman Abu Dhabi Chapter; CA. G.R. Mehta, Chairman Dubai Chapter and CA. Ganpat Singhvi.

A Memorandum of Understanding (MoU) between the Institute of Chartered Accountants of India (ICAI) and the Centre of Excellence for Applied Research and Training (CERT), Abu Dhabi, was signed on 25th August 2006 by CA. T.N Manoharan, President of ICAI and Dr. Tayeb Kamali, Vice Chairman of CERT. As per the MoU, ICAI and CERT have agreed to –

- (i) Conceptualise and devise an international curriculum in accountancy integrating local needs keeping in mind various requirements of different levels of accountancy and audit professionals.
- (ii) Review the existing education and skill sets in the area of accountancy and auditing and a strategic plan prepared for the development of accountancy and auditing profession in the UAE, which would ensure independence and impartiality.
- (iii) Explore the establishment of an independent institute for promoting chartered accountancy as a profession in UAE.

It was a historic moment for the ICAI and

the Accounting and Auditing Profession in UAE. With ever growing UAE economy and financial markets it was the right moment for such initiative to be taken by the UAE Government to regulate accounting, auditing and financial information disclosure activities to give better confidence to the investors. ICAI is proud to associate itself with this significant initiative.

The ICAI had earlier assisted formation of the Institute of Chartered Accountants of Nepal in Nepal. Besides, ICAI helped the accounting bodies in Sri Lanka as well as in Nepal in launching the post qualification course on Information Systems Audit.

CERT has been set up in the UAE under the Ministry of Education with the mandate to develop the human resources of UAE. It seeks to develop a strong national workforce and introduce innovative technologies to the UAE and the region that enhance organizational efficiency and performance. CERT has extensive experience in the UAE and the Region in establishing forums and platforms across various disciplines to serve specific business and industry segments.

Practical Workshops on Computer Assisted Auditing Techniques, IS Audit, IS Audit of Banks/Banking Application, MS-Excel as a Tool for Financial Analysis & Audit

Considering requests from members for provision of practical training on the said topics, the Committee on Information Technology has started organising these

workshops at the Regional/Branch offices. Members interested in participating in these workshops may contact their Regional/ Branch Offices.

Hate the Sin, Love the Sinner.

Invitation to Empanel as a Resource Person for Post Qualification Course in International Trade Laws & WTO

With a view to develop a base of expertise and specialized skills amongst the membership of the Institute in various agreements of WTO, the Committee on Trade Laws and WTO of The Institute of Chartered Accountants of India had introduced a **Post Qualification Course in 'International Trade Laws and World Trade Organisation' for the members of the Institute i.e., Chartered Accountants.**

The various subjects forming part of the Theoretical Knowledge with examination under Part I of the Course are:-

Group A	
Paper I	Introduction to International Trade
Paper II	GATT, Rules of Origin and Trade Related Agreements
Paper III	GATS, TRIPS and TRIMs, SPS and Dispute Settlement and Review Procedures in WTO
Group B	
Paper IV	Domestic Trade Laws
Paper V	Anti-dumping, Anti-subsidy and Safeguards - Laws and Practice
Paper VI	Competition Laws and Policies

Since issues involved in the field of WTO and its various agreements are complex and difficult to understand without proper guidance of, or interaction with the experts in the field, an interactive

programme called Personal Contact Programme (PCP) is organized for 30 (presently) days every six months in all the aforesaid subjects for the candidates registered for the Course.

Since the candidates registered for the Course are spread throughout the country, the need was felt to have a common pool of resource persons spread throughout the country who are experts on one or other subject matter of the Course as mentioned above.

So, if you have the relevant knowledge and expertise on any of the subject matters of the Course, the Committee on Trade Laws & WTO cordially invites you to empanel yourself in the elite list of speakers maintained by it. Suitable honorarium would be paid to the resource person delivering lecture/presentation during the PCP. Besides this, you may also be assigned one of the various research projects proposed to be undertaken by the Committee on Trade Laws & WTO in the above-mentioned fields.

Interested persons may please write to ctlwto@icai.org sending therewith a detailed profile, contact details and area of expertise.

Post Qualification Course in International Trade Laws & WTO — Determining the Future

It is always easy to pursue the set course of career progression by following the standard course but visionary is one who defies the set course and sails through the unchartered waters where one has never ventured or only a handful have, and comes out excelling in that field. World Trade Organisation regime and related issues is one such field.

For this you need to join the Elite Club of people who know about the Global Negotiations Scenario and are in a position to understand and advise about the nitty-gritty's of Anti-Dumping, Anti-Subsidy, Safeguard, Trade Related IPRs, Dispute Settlement, International Commercial Arbitration,

SPS, Export Import Policy & Procedure, GATS and a host of complex but interesting issues involving WTO and its various Agreements, and of course, the corresponding domestic laws.

The ICAI's Post Qualification Course in International Trade Laws & WTO gives an opportunity to its Members to see an altogether new world of global trade scenario by exposing them to understand the origin and basics of WTO, its various agreements like Agreement of Anti Dumping, Agreement on Subsidies and Countervailing Measures, Trade Related of Intellectual Property Rights, Trade Related Investment Measures, International

Honest Disagreement is Often a Good Sign of Progress.

Commercial Arbitration, Dispute Settlement Mechanism and other interesting topics. Members who register for the Course get an opportunity to interact with eminent experts in the respective fields to understand the intricacies of these issues and practical aspects thereof during various stages of the Course. Since its launch, the Course has seen numerous innovative learning tools & technologies, which have added further value to the Course.

Course Highlights

- The Course involves two Parts viz., Part I - Theoretical knowledge with examination, supported by conduct of Personal Contact Programmes (PCPs) and Part II - Practical Training and submission of a Dissertation.
- Registration fees for the Course is Rs. 20,000/- payable in two installments: 1st Installment of Rs. 10,000/- payable at the time of registration for Part I and 2nd Installment of Rs. 10,000/- payable at the time of applying for the Personal Contact Programme. Registration fee includes cost of study material to be provided by the Institute.
- Subjects forming part of the Theoretical Knowledge with examination under Part I are: Group A: Paper I: Introduction to International Trade; Paper II: GATT, Rules of Origin and Trade Related Agreements; Paper III: GATS, TRIPS and TRIMs, SPS and Dispute Settlement and Review Procedures in WTO; Group B: Paper IV: Domestic Trade Laws; Paper V: Anti-dumping, Anti-subsidy and Safeguards - Laws and Practice; Paper VI: Competition Laws and Policies.
- Self-study aspect in Part I of the Course would be augmented by conduct of Personal Contact Programmes (PCPs), covering all the subjects, for 30 days with a minimum attendance record of 80%.
- Part II of the Course consists of Practical Training for 30 (thirty) days and submission of dissertation & interview.

There are plethora of opportunities in the new international trading regime. Chartered Accountants would have to re-engineer their practical skills to cope with the new challenges. To re-engineer a Chartered Accountant's practice, one would need to choose a particular area of interest in the field of WTO, which has the likelihood of attracting clients. After collecting the necessary reference material and after analyzing case laws on WTO disputes with respect to select agreements, Chartered Accountants

would be in a position to take on assignments. These assignments will not be confined to the core areas of accountancy but would emanate from the entire gamut of professional services.

Opportunities would primarily exist at three fundamental levels:

- At Government levels
- At Revenue Authorities' level
- At Business Units' level

For details of possible opportunities, please visit the website of the Institute at www.icai.org by following the link Members>Courses>ITL&WTO>FA Q or alternatively at www.icai.org/icairoot/members/courses/faq_ITL_WTO.jsp?icaidptid=14-29.

Registration for the Course is open throughout the year. Candidates shall be eligible to appear for Part I Examination to the Course only after six months of registration and specified minimum attendance at PCPs. Therefore, **for appearing in the May, 2007 Examinations for Part I of the Course, the last date for taking registration in the Course is October 31, 2006.**

For obtaining registration, the Prospectus for the Post Qualification Course in 'International Trade Laws and World Trade Organisation', priced at Rs. 150/-, can be obtained from the Institute's sale counters at New Delhi and the Regional Offices at Mumbai, Chennai, Kolkata and Kanpur and the Branches of the Institute. Copy of Prospectus can also be obtained by post from the Joint Secretary, Postal Sales Department of the Institute at C-1, Sector I, NOIDA – 201 301 (U.P) by sending a Demand Draft of Rs. 150/- plus postal charges (Rs. 9 within New Delhi and Rs. 20 for Rest of India, if required by Courier; or Rs. 40/-, if required by registered post) favouring 'The Secretary, The Institute of Chartered Accountants of India' payable at New Delhi.

The Course was conceptualized as a capacity building measure for Institute's members and embodies in itself an integrated approach of conceptual learning through self-study coupled with interaction with experts through Personal Contact Program, Practical Training and Dissertation. Members of the Institute wishing to make forays in this emerging scenario should join the Post Qualification Course in International Trade Laws & WTO. For further details, please visit <http://www.icai.org>.

The Weak Can Never Forgive. Forgiveness is the Attribute of the Strong.

No. 54-EL(1)/1/2006

14th September, 2006

ELECTION - 2006

CIRCULAR

Dear Contesting Candidate,

Sub: Election Code of Conduct – Compliance regarding

You may be aware that the Chartered Accountants (Amendment Act) 2006 required the Central Government to specify the Rules on the manner in which the election to the Council is required to be conducted. Accordingly, the Central Government made the Chartered Accountants (Election to the Council) Rules, 2006 and brought the same into force effective from 5th September, 2006.

2. Rule 16 of the Chartered Accountants (Election to the Council) Rules, 2006 requires the Council of the Institute to frame and issue a Election Code of Conduct for maintaining a healthy and peaceful atmosphere during the election process for ensuring a free and fair election. Accordingly, the Council of the Institute framed the Election Code of Conduct containing instructions/norms/prohibitions as enclosed for the forthcoming election to be held on 15th and 16th December, 2006. The Election Code of Conduct shall be applicable to all candidates and their authorized representatives for the election to the twentieth Council and nineteenth Regional Councils. This Code shall come into force from 14th September, 2006 and remain in operation till the conclusion of the election process i.e., declaration of results of the election on 11th January, 2007.

3. It should be appreciated that compliance with the above Election Code of Conduct would not only meet the expectations of the members of the profession and the society at large, but would also avoid basis for allegation(s) on violation of provisions of the Chartered Accountants (Election to the Council) Rules, 2006 and the Chartered Accountants Regulations, 1988. It should be noted in this regard that the Election Code of Conduct is deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) and is therefore obligatory for each candidate and his authorized representative to comply with the Election Code of Conduct framed by the Council.

4. An extract of the relevant provisions of Rules 16 and 42 of the Chartered Accountants (Election to the Council) Rules, 2006 specified by the Central Government, on the conduct of the candidates and their authorized representatives, as aforementioned, as expected thereunder, in connection with the election, is enclosed herewith for your ready reference.

Yours faithfully,

Sd/-

Dr. Ashok Haldia
Secretary

Encl: As above:

Copy to:

1. Chairmen of Non-Standing Committees of the Council.
2. Chairmen of Regional Councils and Chairmen of Branches thereof.
3. All Members concerned including those heading /concerned with Study Circles of Regional Councils/Branches, Chapters abroad, CPE Chapters, CPE Study Circles and Voluntary Associations/Societies or its equivalents whose members are Chartered Accountants.

An Eye For an Eye Makes the Whole World Blind.



The Institute of Chartered Accountants of India, New Delhi

ELECTION CODE OF CONDUCT

[made under rule 16 of the Chartered Accountants
(Election to the Council) Rules, 2006]

for

Compliance by Candidates and their authorised representatives for Election to the Twentieth
Council and Nineteenth Regional Councils to be held on 15th and 16th December, 2006

Effective date: The Election Code of Conduct containing instructions and norms for compliance by candidates and their authorised representatives comes into force from Thursday, the 14th September, 2006 and shall be in force till the date of declaration of results i.e., on 11th January, 2007.

- i. No Member contesting said election (irrespective of, whether filed their respective nominations or not and whether they are sitting members of the Council/Regional Council/Branch Managing Committee or not) should associate himself as a Paper-writer, Speaker, Guest Faculty, Organiser/Coordinator, Chief Guest and the like manner in any of the programmes organized/held, within as well as outside their respective constituencies, by the Institute, Regional Councils, Branches of Regional Councils, Study Circles of Branches/Regional Councils, Chapters abroad, CPE Chapters, CPE Study Circles etc. or by other agencies e.g., Voluntary Associations/Societies whose members include Chartered Accountants, Industry bodies like CII, FICCI, ASSOCHAM, etc., likely to have members of the Institute as part of audience.
 - the Election Code of Conduct, for organizing the programmes including those already scheduled may be made. For instance, a non-contesting member of the Council/Regional Council/Branch Managing Committee or any other Member may be entrusted upon with the task of organisation of programme(s).
- ii. No publicity of programmes and their coverage by the above organs of the Institute/bodies, in a manner covering contesting candidates, is to be given in any of the Journals, News Letters or its equivalents or otherwise.
- iii. No interview to Newspaper(s), electronic media and the like by contesting candidates in any manner whatsoever is permissible. Exception to this prohibition is interview given in a non-professional capacity.
- iv. No photograph of, or any write-up, report, column, and the like by any contesting candidate is allowed for publication/inclusion in the Journal, News Letter or its equivalents/Website of any of the above organs of the Institute/bodies in any manner whatsoever.
- v. No brochure/any other material covering contesting candidates including written communications of programmes organized by any of the above organs of the Institute/

The Usefulness of a Pot Comes From its Emptiness.

bodies between 14th September, 2006 and 16th December, 2006 should contain the name or reference of any contesting candidate in any manner whatsoever. This prohibition is not however applicable for the brochure/other material as aforesaid already printed for sending to the intended readership or audience, or name required to be given under any specific legal requirement.

- vi. No brochure/publicity material including written communications printed between 14th September, 2006 and 16th December, 2006 in respect of any programme to be held after 16th December, 2006 should contain the photograph/reference to any of the contesting candidates in any manner whatsoever.

Extract of the relevant provisions of Rules 16 and 42 of the Chartered Accountants (Election to the Council) Rules, 2006 specified by the Central Government.

Rule 16: Election Code of Conduct.

- (1) With a view to maintain a healthy and peaceful atmosphere during the election process for ensuring a free and fair election, the Returning Officer, shall issue a Election Code of Conduct for candidates, as approved by the Council before issue of notification under sub-rule (2) of rule 4, and which shall be published on the web-site of the Institute.
- (2) The Election Code of Conduct shall contain instructions and norms to be followed by candidates and their authorized representatives appointed under these Rules during the entire election process including at the polling booth and counting center.
- (3) The Election Code of Conduct shall come into force from the date of issue of notification under sub-rule (2) of rule 4.
- (4) The Election Code is deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule of the Act and it is obligatory for each candidate to comply with Election Code of Conduct.

Rule 42: Disciplinary action against member in connection with conduct of election.

- (1) A member shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute, he is found to have contravened the provisions of sub-rule (2) or all or any of the clauses of sub-rule (3) or sub-rule (4) of this rule.
- (2) Only one manifesto or circular shall be issued by a candidate in relation to the election in the period commencing from the date of issue of final list of nominations to the candidates.
- (3) A manifesto or circular issued shall conform to the following requirements in the interest of maintaining dignity in the election, namely:-
 - (a) A manifesto or circular shall contain information regarding the candidate himself and shall not make any reference, directly or indirectly, to any other candidate;
 - (b) The information, which a candidate may furnish in a manifesto or circular regarding himself, shall not differ in any material respect from the information furnished by the Institute to the voters under rule 9. A candidate may, however, include in such manifesto or circular, any additional information not contained in the information furnished under rule 9;
 - (c) A manifesto or circular shall neither contain any appeal to the voters on the basis of caste or on communal, religious, regional or sectional lines nor any tall claim;
 - (d) The distribution of a manifesto or circular shall be restricted only to the members of the constituency concerned;
 - (e) A certified copy of such manifesto or circular shall be sent to the Returning Officer by speed/registered post within 15 days of its issue;

Force is All-conquering, but its Victories are Short-lived.

- (f) While a candidate may repeat, in any form, the manifesto or circular issued under sub-rule (2) of this rule without changing its contents, however, he shall not issue more than one manifesto or circular.
- (4) A member shall not adopt one or more of the following practices with regard to the election to the Council, namely :-
- (i) Bribery, that is to say, any gift, offer or promise of any gifts or gratification to any person by a candidate or any other person, with his connivance, with the object directly or indirectly of :-
 - (a) inducing a member to stand or not to stand as a candidate at an election or rewarding him for act or omission; or
 - (b) inducing to withdraw his candidature or rewarding such withdrawal; or
 - (c) inducing a voter to vote or not to vote at an election, or as a reward for act or omission;
- Explanation**-For the purpose of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and it includes organising parties or providing any other form of entertainment, and all forms of employment for reward; but it does not include the payment of any expenses bonafide incurred at or for the purpose of any election;
- (ii) undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person, with his connivance, with the free exercise of any electoral right;
 - (iii) the publication by a candidate or by any other person, with his connivance, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any can-
 - dicate, being a statement reasonably calculated to prejudice the prospects of that candidate's election;
 - (iv) the obtaining or procuring or abetting, or attempting to obtain or procure, by a candidate or by any other person, with his connivance, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State, other than the giving of vote by such person, if he is a member entitled to vote;
 - (v) the hiring or procuring, whether on payment or otherwise, of a vehicle by a candidate or by any other person, with his connivance, for the conveyance of voters;
 - (vi) resorting to disorderly behaviour or misbehaviour within the zero tolerance zone to be determined by the Returning Officer of the polling booth and/or venue for counting of votes;
 - (vii) exhibiting or placing any notice or sign board relating to the election by a candidate or by any other person with the connivance of the candidate at any time and any where during the election period including on the date or dates of polling within a distance of 200 meters from the polling booth;
 - (viii) non-compliance with any of the directives or circulars or instructions issued by the Returning Officer under these Rules in any matter relating to elections;
 - (ix) contesting the election representing a political party or on political lines;

It is Better to be Silent And be Thought a Fool, Than to Speak and Remove all Doubt.

- (x) any act specified in clauses (i) to (ix), when done by a member, who is not a candidate, but is acting with the concurrence or connivance of a candidate;
- (xi) the receipt by a member or an agreement by a member to receive any gratification:-
 - (a) as an inducement or reward for standing or not standing as a candidate; or
 - (b) as an inducement or reward for withdrawing his candidature; or
 - (c) as an inducement or reward for himself or any other person for voting or refraining from voting; or
 - (d) as an inducement or reward for inducing or attempting to induce any voter to vote or refrain from voting; or
- (e) inducing or attempting to induce any candidate to withdraw his candidature;
- (xii) Contravention or misuse of any of the provisions of these Rules or making of any false statement knowing it to be false or without knowing it to be true, while complying with any of the provisions of these Rules.

CHAPTER VII REGIONAL COUNCILS

134. Elections to the Regional Councils

(10) Subject to the provisions contained in this Chapter, the provisions regarding election prescribed in Chapter VI of these Regulations shall 'mutatis mutandis' apply to the election to the Regional Councils.

CLASSIFIEDS

4470: Required CA firm for Network/Merger. Also require partnersanywhereinIndia.Contact immediately to Sri A. Mohapatra, Plot No. 739, Tankapani Road, Bhubaneswar – 751014 or email: ckpa@sify.com

4471: Required Chartered Accountant Firm for Network or Merger with a firm based in Northern India. Apply to: Box No.4471, C/o The Chartered Accountant, Post Box No. 7100, New Delhi – 110002

4472: Kolkata based CA firm with infrastructure seek professional work on Assignment/Sub Contract/Retainer ship basis at different places of West Bengal, Orissa and Jharkhand. Contact: 9831174911. Email:trnsengupta@

rediffmail.com

4473: Required a Chartered Accountant with maximum 3 years experience on partnership basis to start CA firm in Trivandrum. Please contact: 9495312441. Email: bins_mailbox@yahoo.com

4474: Mumbai based CA firm requires fresh or 3 to 5 years experienced Chartered Accountants. The candidates should have audit or taxation experience and should be good communicators. Contact: 9869104492. Email: nisark@vsnl.net

4475: Required Chartered Accountants, Semi qualified and Articles for Gurgaon and Delhi office. 1315, Ansal Towers, 38

Nehru Place, New Delhi. Email: uccglobal@gmail.com. Website: www.uccglobal.in

4476: Baroda based CA firm seeks work on Assignment/Sub-contract/Partnership/Networking basis. Please contact: feafirm@yahoo.co.in

4477: Delhi based CA seeks professional work on Assignment/Retainership/Partnership basis. Contact Dinesh 9899615888, 9212718629

4478: Chennai based practicing FCA seeks professional work on Partnership/Assignment/Sub-contract/Retainership/Merger/Network basis. Contact: capartner@sify.com

All Great Things Are Simple, and Many Can be Expressed in Single Words.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/1/2006: In pursuance of sub-rules (3) and (5) of rule 6 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006 read with regulation 134 of the Chartered Accountants Regulations, 1988, it is hereby notified that the list of members eligible to vote (i.e., List of Voters) from the various regional constituencies for elections to the Twentieth Council and Nineteenth Regional Councils of the Institute will be available on payment of Rs. 350/- per copy for any of the five regional constituencies from the office of the Institute at ICAI Bhawan, Indraprastha Marg, New Delhi 110 002 effective from 14th September, 2006. Copies of the List of Voters pertaining to relevant regional constituency will also be available for sale at the said rate in the concerned Regional Councils at Mumbai, Chennai, Kolkata and Kanpur and their respective Branches.

Dr. Ashok Haldia
Secretary

**[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED
14th September, 2006]**

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/2/2006: In pursuance of sub-rule (2) of rule 4 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) read with regulation 134 of the Chartered Accountants Regulations, 1988, the Institute of Chartered Accountants of India is pleased to notify the following important dates relating to the next elections of members to its Council and Regional Councils:-

1.	The last date and time for receipt of nominations	Thursday, the 5.10.2006 - 6.00 P.M.
2.	(i) Date(s) and place of scrutiny of nominations	6 th to 19 th October, 2006; New Delhi
	(ii) Last date for scrutiny of nominations	19.10.2006
3.	The last date and time for withdrawal of nominations	28.10.2006 – 6.00 P.M.
4.	The date or dates of polling -	

Humility, Like Darkness, Reveals the Heavenly Lights.

	(i) Ahmedabad, Bangalore, Chennai, Delhi/New Delhi, Hyderabad, Kolkata, Mumbai and Pune	15 th and 16 th December, 2006
	(ii) Other cities/towns	16 th December, 2006
5.	The last date for receipt of applications for permission to vote by post under rule 28 of the Chartered Accountants (Election to the Council) Rules, 2006	6.10.2006
6.	The last date and time for receipt by post of ballot papers back	22.12.2006 – 5.00 P.M.
7.	Dates of Counting	26.12.2006 to 7.1.2007
8.	The date of declaration of results	11.1.2007*

*Dr. Ashok Haldia
Secretary*

*The date to be reckoned for the purpose determining the limitation period for filing election dispute application.

**[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED
14th September, 2006]
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No.54-EL(1)/3/2006: In pursuance of sub-rule (3) of rule 12 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) read with regulation 134 of the Chartered Accountants Regulations, 1988, the Council of the Institute of Chartered Accountants of India hereby notifies that the Panel for the scrutiny of nominations for elections to its Twentieth Council and Nineteenth Regional Councils to be held in December, 2006, shall be composed of the following:-

1. Dr. Ashok Haldia,

Returning Officer and Secretary,
The Institute of Chartered Accountants of
India, ICAI Bhawan, Indraprastha Marg,
NEW DELHI – 110 002.

2. Shri Jitesh Khosla

Joint Secretary
Ministry of Company Affairs
Government of India
5th Floor, A Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
NEW DELHI-110 001

3. Shri Sunil Chander

Principal Director of Commercial Audit and
Ex-officio Member Secretary, Audit Board
Office of the Comptroller & Auditor General
of India, 10, Bahadur Shah Zaffar Marg,
NEW DELHI-110 002

*Dr. Ashok Haldia
Secretary*

If You Don't See the Bottom, Don't Wade.

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/4/2006 : In exercise of the powers conferred by sub-rule (1) of rule 10 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006), the Institute of Chartered Accountants of India has decided that in respect of election to its Twentieth Council to be held in December, 2006, a candidate for election shall pay in all a fee of Rs. 5000/- (Rupees Five Thousand only) for his candidature, irrespective of the number of nominations that may be filed.

The said fee is required to be paid by a demand draft drawn in favour of Secretary, the Institute of Chartered Accountants of India, payable at New Delhi.

*Dr. Ashok Haldia
Secretary*

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/5/2006 : In exercise of the powers conferred by sub-regulation (7) of regulation 134 of the Chartered Accountants Regulations, 1988, the Institute of Chartered Accountants of India has decided that in respect of election to its Nineteenth Regional Councils to be held in December, 2006, a candidate for election shall pay in all a fee of Rs. 2,500/- (Rupees Two Thousand Five Hundred only) for his candidature, irrespective of the number of nominations that may be filed.

The said fee is required to be paid by a demand draft drawn in favour of Secretary, the Institute of Chartered Accountants of India, payable at New Delhi.

*Dr. Ashok Haldia
Secretary*

The Price of Greatness is Responsibility.

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/6/2006: In pursuance of sub-rule (1) of rule 11 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006), the Institute of Chartered Accountants of India hereby notifies that in respect of election to its Twentieth Council to be held in December, 2006, a candidate shall pay an amount of Rs.20,000/- (Rupees Twenty Thousand only) as security deposit, for his candidature, irrespective of the number of nominations that may be filed. The security deposit so paid shall be forfeited, if he fails to secure not less than 2% (two percent) of the original votes as defined in rule 35 of the said Rules polled in the concerned regional constituency.

The said deposit is required to be paid by a demand draft drawn in favour of Secretary, the Institute of Chartered Accountants of India, payable at New Delhi.

*Dr. Ashok Haldia
Secretary*

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/7/2006: In pursuance of sub-rule (1) of rule 11 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) read with sub-regulation (10) of Regulation 134 of the Chartered Accountants Regulations, 1988, the Institute of Chartered Accountants of India hereby notifies that in respect of election to the Nineteenth Regional Councils to be held in December, 2006, a candidate shall pay an amount of Rs.10,000/- (Rupees Ten Thousand only) as security deposit, for his candidature, irrespective of the number of nominations that may be filed. The security deposit so paid shall be forfeited if he fails to secure not less than 1% (One percent) of the original votes as defined in rule 35 of the said Rules polled in the concerned Regional Council.

The said deposit is required to be paid by a demand draft drawn in favour of Secretary, the Institute of Chartered Accountants of India, payable at New Delhi.

*Dr. Ashok Haldia
Secretary*

Beauty is Also to be Found in a Day's Work.

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No. 54-EL(1)/8/2006 : In pursuance of rules 21 and 29 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) read with Schedule 6 thereof and sub-regulation (10) of regulation 134 of the Chartered Accountants Regulations, 1988, it is hereby notified that 15th and 16th December, 2006 have been appointed as the dates for the recording of votes for elections to the Twentieth Council and Nineteenth Regional Councils of the Institute of Chartered Accountants of India for Ahmedabad, Bangalore, Chennai, Delhi/New Delhi, Hyderabad, Kolkata, Mumbai and Pune. At all other places 16th December, 2006 has been appointed as the date for recording of votes.

All polling booths will remain open from 8.00 a.m. to 7.00 p.m. on the respective date(s).

Dr. Ashok Haldia
Secretary

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No.54-EL(1)/9/2006: In pursuance of sub-rule (1) of rule 9 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) read with Schedule 4 thereto, the Institute of Chartered Accountants of India is pleased to notify that nominations of candidates who desire to stand for election to its Twentieth Council, to be held in December, 2006 should be forwarded in the manner specified in rule 9 of the said Rules (details of which will be found printed in the Nomination Form also) addressed to Dr. Ashok Haldia, Secretary to the Council (by name), at ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002 so as to reach him not later than 6.00 p.m. on 5.10.2006.

The nomination shall be in the Form approved by the Council of the Institute under sub-rule (3) and in the manner specified in rule 9 of the said Rules. While filing the nominations, candidates should keep in mind the provisions of the Chartered Accountants (Election to the Council) Rules, 2006, particularly those contained in rules 9, 10, 11 and 12 of the said Rules. The nomination forms

Every noble work is at first impossible.

can be had from the Office of the Institute at ICAI Bhawan, New Delhi as well as from the Regional Offices at Mumbai, Chennai, Kolkata and Kanpur w.e.f. 14th September, 2006. The nomination forms will be accepted by the Secretary to the Council at the above address at New Delhi only, effective from the said date.

The number of persons to be elected from each Regional Constituency is shown below in column (3) against the respective Constituency:

Sl. No.	Number and Name of the Regional Constituency	No. of persons to be Elected
1.	Western India Regional Constituency The States of Goa, Gujarat and Maharashtra and the Union Territories of Dadra & Nagar Haveli and Daman & Diu.	11
2.	Southern India Regional Constituency The States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu and the Union Territories of Lakshadweep and Pondicherry.	8
3	Eastern India Regional Constituency The States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Sikkim, Tripura, West Bengal and the Union Territory of Andaman & Nicobar Islands.	3
4	Central India Regional Constituency The States of Bihar, Chattisgarh, Jharkhand, Madhya Pradesh, Rajasthan, Uttaranchal and Uttar Pradesh.	4
5	Northern India Regional Constituency The States of Haryana, Himachal Pradesh, Jammu & Kashmir and Punjab and the Union Territories of Chandigarh and Delhi.	6

The fee of election and security deposit required to be paid under rules 10 and 11 of the said Rules must be by way of demand draft drawn in favour of the Secretary, the Institute of Chartered Accountants of India, payable at New Delhi.

Dr. Ashok Haldia
Secretary

**[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA,
EXTRAORDINARY DATED 14th September, 2006]**

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002.**

14th September, 2006

NOTIFICATION

(Chartered Accountants)

No.54-EL(1)/10/2006: In pursuance of sub-rule (1) of rule 9 of the Chartered Accountants (Election

Inspiration comes of working every day.

to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) read with Schedule 4 thereto and sub-regulations (5) and (10) of regulation 134 of the Chartered Accountants Regulations, 1988, the Institute of Chartered Accountants of India is pleased to notify that nominations of candidates who desire to stand for election to its Nineteenth

from the Regional Offices at Mumbai, Chennai, Kolkata and Kanpur w.e.f. 14th September, 2006. The nomination forms will be accepted by the Secretary to the Council at the above address at New Delhi only, effective from the said date.

The number of persons to be elected to each Regional Council is shown below in column (3) against the respective Regional Council :

Sl. No.	Name of the Regional Council	No. of persons to be Elected
1.	Western India Regional Council	22
2.	Southern India Regional Council	15
3.	Eastern India Regional Council	7
4.	Central India Regional Council	8
5.	Northern India Regional Council	12

Regional Councils, to be held in December, 2006 should be forwarded in the manner specified/prescribed therein (details of which will be found printed in the Nomination Form also) addressed to Dr. Ashok Haldia, Secretary to the Council (by name) at ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002 so as to reach him not later than 6.00 P.M. on 5.10.2006.

The nomination shall be in the appropriate form (Revised Form "17" of Schedule 'A' to the Chartered Accountants Regulations, 1988) and in the manner prescribed in regulation 134. While filing the nominations, candidates should keep in mind the provisions of the Chartered Accountants (Election to the Council) Rules, 2006, particularly those contained in sub-rules 9, 10, 11 and 12 of the said Rules and the provisions of regulation 134 of the said Regulations. The nomination forms can be had from the Office of the Institute at ICAI Bhawan, New Delhi as well as

The fee of election and security deposit required to be paid under regulation 134 of the said Regulations read with rules 10 and 11 of the said Rules must be by way of demand draft drawn in favour of the Secretary, the Institute of Chartered Accountants of India, payable at New Delhi.

For the purpose of elections to the Regional Councils, subject to the provisions contained in Chapter VII of the Chartered Accountants Regulations, 1988, the provisions relating to elections as contained in the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 (as amended by the Chartered Accountants (Amendment) Act, 2006) shall `mutatis mutandis' apply.

Dr. Ashok Haldia
Secretary

Remember that happiness is a way of travel, not a destination.

Revision of Audit Fee

[PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA]

NEW DELHI: DATED 18.9.2006

NOTIFICATION (Chartered Accountants)

No. 1-CA (7)/93/2006: In exercise of the powers conferred by Clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, and in supersession of Notification No. 1-CA(7)/75/2004 dated 12th May, 2004 published in Part III Section 4 of the Gazette of India dated 22nd May, 2004, the Council of the Institute of Chartered Accountants of India hereby specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he on behalf of the firm of Chartered Accountants in which he is a partner (a) consisting of 5 or more partners but less than 10 partners with at least one partner holding a certificate of practice for five years or more; or (b) consisting of 10 or more partners with at least one partner holding a certificate of practice for five years or more; accepts or carries out any audit work involving receipt of audit fees (excluding reimbursement of expenses, if any) for such work of an amount less than what is specified hereunder:-

Provided that such restriction shall not apply in respect of the following: -

- (iii) audit of newly formed concerns relating to two accounting years from the date of commencement of their operations;
- (iv) certification or audit under Income-tax Act or other attestation work carried out by the Statutory Auditor; and
- (v) Sales Tax Audit and VAT Audit.

This becomes operative for all audits relating to accounting periods beginning on or after 1.9.2006.

Explanation:

For the purpose of this notification, the expression statutory auditor means and includes a Chartered Accountant appointed as an auditor under a Central/State or Provincial Act as well as an auditor appointed under any agreement.

The Council has clarified that for the above purpose the audit of Provident Fund Trust, Gratuity Fund etc. carried out by the statutory auditor are to be considered as separate and distinct audit so that the above restrictions are applicable to it.

	Practising firm having 5 or more partners but less than 10 partners	Practising firm having 10 or more partners
(i) In cities with population of 3 million and above. (as per the last census)	Rs. 6,000/- p.a.	Rs. 12,000/- p.a.
(ii) In cities/towns having population of less than 3 million. (as per the last census)	Rs. 3,500/- p.a.	Rs. 8,000/- p.a.

- (i) audit of accounts of charitable institutions, clubs, provident funds, etc. where the appointment is honorary i.e. without any fees;
- (ii) statutory audit of branches of banks including regional rural banks;

Sd/-

**DR. ASHOK HALDIA
SECRETARY**

When love and skill work together, expect a masterpiece.