

Newsletter



VAPI BRANCH OF WIRC OF ICAI

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CHAIRMAN MESSAGE



**CA Members Directory
unveiled by the Vapi Branch**

I take this opportunity to thank everyone who has participated in making the National Workshop held at Mirasol, Daman a Memorable Event. We had published a Members directory on CA Day, with the aim to bring up our members in industry and keep the members updated with regular activities conducted by Vapi branch.

Keeping in mind the vision and inspiration from our President CA Jaydeep Shah, we had conducted Marathon Run 2012 with a motive to "SAVE OUR ENVIRONMENT" and more than 800 people participated

in the event. We had celebrated Environment day where in nearly 100 trees were planted in nearby areas of Vapi.

Branch has also taken initiative in organizing the Campus Placement for newly qualified Chartered Accountant in Vapi at All India Level which had been possible with the kind support of CMII, members and companies of surrounding areas.

I would also like to announce for the next Campus Placement Programme to be held in the Aug –Sept 2012. The companies and firms are requested to kindly participate well in time and get the benefit of Placement Programme of ICAI.

My Best Wishes to the students for their results who appeared in exams of May 2012.

Thanking you

Regards:
CA Giriraj B. Laddha
Chairman of Vapi Branch.

Managing Committee for the Year 2012-2013

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(Chairman)

CA. Hitesh Patel
(Vice Chairman)

CA. Prakash Chordia
(Treasurer)

CA. Deepak Desai
(Secretary)

CA. Jignesh Vasani
(Imm. Past Chairman)

CA. Jaiprakash Shethiya
(Founder Chairman)

Editorial Board

CA. Giriraj B. Laddha

CA. Prakash Chordia

CA. Chhaya M Kothari



ACTIVITIES HELD DURING THE MONTH OF JUNE 2012

1. More than 100 Trees were Planted on Environment day on 5th June 2012 by the members of Vapi branch of WIRC of ICAI.
2. Marathon Run-2012 for Members and Students was organized which was held jointly with Vapi West Rotary Club on 10th June 2012.
3. Campus Placement of ICAI for Newly Qualified CA held on 28th of June 2012. Three Companies participated in the campus recruitment.
4. Elocution Competition held For Students at Mirasol, Daman on 30th June 2012
5. National Conference organized by CMII and managed by the Vapi Branch of WIRC of ICAI at Mirasol, Daman on 30th June 2012

FORTH COMING EVENTS:

Vapi branch is organizing a workshop on Effective Communication skills.

The program contents are :

- Conversation Skills
- Vocabulary improvement
- Public Speaking
- Persuasion Skills
- Impromptu Speaking
- Question Answer techniques
- Etiquettes and manners
- Smart Body Language

Date : 5th, 11th and 12th August (Subject to confirmation)

Timing : 10.00am to 6.00pm

Fees for the program: Will be communicated shortly

DIRECT TAX

ISSUANCE OF TDS CERTIFICATES IN FORM 16A DOWNLOADED FROM TIN WEBSITE {206 TAXMANN 112 (ST.)}

Circular No. 01/2012 [F.No. 276/34/2011-IT(B)] Dated 09/04/2012

The CBDT has issued certain administrative clarifications through this circular.

GUIDELINES FOR ENGAGEMENT OF STANDING COUNSELS TO REPRESENT THE INCOME TAX DEPARTMENT BEFORE HIGH COURTS AND OTHER JUDICIAL FORUMS; REVISION OF THEIR SCHEDULE OF FEES AND RELATED MATTERS { 206 TAXMANN 116 (ST.)}

Instruction No. 3/2012 [F.No. 279/MISC/M-75/2011-ITJ] dated 11/04/2012

Detailed revision on above subject matter, after consolidating all the earlier instructions can be found at above citation.

INCOME TAX (FIFTH AMENDMENT) RULES, 2012 – INSERTION OF RULE 2F { 206 TAXMANN 157 (ST.)}

Notification No. 16/2012 [F.No. 149/72/2011-SO(TPL)] dated 30/04/2012

Guidelines for setting up an infrastructure Debt Fund for the purpose of exemption U/s. 10(47) has been provided by inserting Rule 2F.

FINANCE MINISTER'S SPEECH ON FINANCE BILL, 2012 {206 TAXMANN 160 (ST.)}

Press Release dated 07/05/2012

After presenting the Union Budget for the year 2012-13 on 16th March, 2012, Hon. Finance Minister – Shri Pranab Mukherjee has made certain amendments in the Finance Bill, 2012. His speech while presenting the amendments can be found at above citation.

FINANCE ACT 2012 RECEIVES PRESIDENTIAL ASSENT

Finance Act 2012 has received Presidential assent on 28th May, 2012.

GUJARAT VAT

-Transit Forms –

Vide Public Circular No. GUJKA/VAT/402-403/ 2011-12/ OTW 134/115

Dt.1st May, 2012, time limit for discontinuance of old system (MARG) of issuing Pre-authenticated blank forms 402/403 for "Specified Goods" is extended upto 31/05/2012. New system of online issue of Pre-authenticated form 402/403 will be operational w.e.f. 01/06/2012. In new system, Pre-authenticated, forms will be available online for specific transaction only & that too, after filling in all the mandatory details of form 402/403, like name, address, tin of consignor/ consignee, invoice no., date, quantity, value etc. In case of form 403, for bringing "Specified Goods" from outside the state of Gujarat, Maximum 2000 forms can be generated at a time. Out of these forms, the dealer will have to allocate the forms among different suppliers of the goods, who will, in turn, be able to take the printout of the form, from their end, after filing the prescribed mandatory details. Such form obtained from the new system will have to be presented at the check-post w.e.f. 01-06-2012. Forms obtained earlier will not be accepted at the check-post after midnight of 31-05-2012.



CA Deepak Desai, Secretary addressing at National Workshop at Inaugural Session.

If we do not plant knowledge when young, it will give us no shade when we are old.



CA Dhinal Shah, Speaker at national conference on the topic Transfer Pricing and International taxation



Recent Judgments on Direct Tax



Sr Adv. Feroze Andhyarujina addressing Members at National Workshop on Recent Judgments on Direct Taxes.

Be not afraid of growing slowly; be afraid only of standing still.



Vapi Branch committee members along with Judges of Elocution Competition held at Mirasol

ITAT**S. 2(22)(e) Deemed dividend on loan transaction between holding and subsidiary company**

The main business carried on by the assessee company is to act as the holding company of its fully owned subsidiaries. In that capacity it exercised administrative control over the subsidiaries and also managed financial affairs of its subsidiaries. Therefore, that monitoring the financial management of the subsidiaries is an activity carried on by the assessee in the ordinary course of carrying on of its business. During the year holding company received loan amounts from different subsidiaries and those borrowed funds were in turn advanced to other subsidiaries. It was held that provisions of deemed dividend are not triggered. - Farida Holdings (P.) Ltd. v. DCIT [2012] 21 taxmann.com 462 (Chennai - Trib.)

S. 28 Tax treatment of excess of net assets and face value of shares credited to General Reserve arising upon amalgamation

As per the scheme of amalgamation difference between net assets and face value of shares allotted credited to general reserve instead of capital reserve under the scheme of amalgamation is neither taxed as business income u/s 28(iv) nor as capital gains. - Spencer and Company Ltd v. ACIT [2012] 21 taxmann.com 459 (Chennai - Trib.)TM

S.28 Apportionment of membership fees

Following the matching concept, the materiality concept and AS 26 ITAT held that the amount of Rs.15 lakhs claimed as expenses towards corporate

membership for a period of 15 years has to be apportioned in ten years proportionately from the date of obtaining the membership. DCIT v. G. Corp. (P.) Ltd [2012] 21 taxmann.com 304 (Bangalore - Trib.)

S. 40(a)(ia) Disallowance for non-deduction of tax at source in case of Charitable organisation

Section 11 to 13 provides for application of income by a trust for charitable purposes and to that extent, subject to certain conditions, income of the trust is treated to be exempted from taxation. Section 40 is applicable only when deductions under Sections 30 to 38 are being made in computing the income chargeable under the head "profits and gains of business or profession" under Section 28. Hence, provisions of section 40(a)(ia) are not applicable in case of charitable trust or institution where income and expenditure is computed in terms of section 11. Mahatma Gandhi Seva Mandir v. DDIT (E) [2012] 21 taxmann.com 321 (Mumbai - Trib.)

S.45 Difference in value of share allotted in the hands of two shareholders

Company 'C' has allotted shares to shareholder 'A' at par value ie 100 per share and Shareholder 'O' at premium of 504.15 per share. AO treated difference between the price of allotment of share as a capital gains in the hands of Shareholder 'A'. It was held that the AO, has erred in connecting two set of transactions and in treating the differential amount as short-term capital gains in the hands of the assessee-Athappan Nan-

dakumar v. ITO [2012] 21 taxmann.com 177 (Chennai - Trib.)

S.45, 56 – Exchange of flat under development agreement and compensation for alternate accommodation

The acquisition of new flat under a development agreement in exchange of old flat amounted to construction of new flat and entitle for exemption u/s 54. The time period of 3 years from the date of transfer as mentioned in section 54 would apply for the acquisition of new flat. Displacement compensation for alternate accommodation was also given to the assessee to facilitate construction of the flat. Since the actual rent paid by the assessee for the alternate accommodation was lower than the amount received, net income to the assessee taxed as income from other sources. Jatinder Kumar Madan v. ITO [2012] 21 taxmann.com 316 (Mumbai - Trib.)

S.73 Explanation purchase and sale of derivatives

Future and options are in themselves the items, which are traded through stock exchange and not the underlying items to which 'future and options' relate. Explanation to section 73 refers to the business of purchase and sale of shares and not the business of derivative transactions carried out by recognized stock exchange by the assessee. Accordingly 'future and options' are not covered by Explanation to section 73 of the Act DCIT v. M/s. Madanlal Limited TS-303-ITAT-2012 (Kol)



SERVICE TAX

Reverse Charge Mechanism in service tax is not a new concept. Under this scheme, service tax is payable by service recipient instead of service provider. Under this charge service receiver have to register himself under service tax. Further service receiver can not claim general exemption limit of 10 Lakh rupees. So he has to pay even on few rupees of ser-

vice received. It will be very harsh on service receiver end where he has received services falls under reverse charge for only few hundred rupees but due to it he has to register himself in service tax and have to file service tax return on prescribed interval. Moreover under service tax act Nil return is also mandatory and every

registered person have to file half yearly return.

Now after applicability of new service tax regime, new services which is very common like advocate, Hiring vehicle for passenger, has been added under reverse charge.

Complete List is given as under. This is applicable from 01.07.2012. Few new services has been added with partial reverse charge. In case of these services both service receiver and provider has to pay service tax in prescribed ratio.

Sl. No	Description of a service	Percentage of service tax payable by the person providing service	Percentage of service tax payable by the person receiving the service
1	services provided or agreed to be provided by an insurance agent to any person carrying on insurance business	Nil	100%
2	services provided or agreed to be provided by goods transport agency in respect of transportation of goods by road	Nil	100%
3	services provided or agreed to be provided by way of sponsorship	Nil	100%
4	services provided or agreed to be provided by an arbitral tribunal	Nil	100%
5	services provided or agreed to be provided by individual advocate	Nil	100%
6	services provided or agreed to be provided by way of support service by Government or local authority	Nil	100%
7	(a) in respect of services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on abated value. (b) in respect of services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on non abated value.	Nil 60%	100 % 40%
8.	services provided or agreed to be provided by way of supply of manpower for any purpose	25%	75 %
9.	services provided or agreed to be provided by way of works contract	50%	50%
10	any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory (IMPORT OF SERVICES)	Nil	100%



Members at National Workshop, Mirasol Daman

Even you are on the right track, you'll get run over if you just sit there.

-Will Rogers



CA Naresh Sheth being felicitated at National Workshop, Mirasol



LAW UPDATES

SERVICE TAX Continued.....



CCM Rajkumar Adukia being felicitated by CA Rajesh Nadkarni at National Workshop, Mirasol

Whether Reverse Charge is applicable on New services inserted from 01.07.2012 if it has been provided or paid before 01.07.2012 read here

From old list notified vide notification 36/2004-31/12/2004 three service has been **deleted**
 1. Telecommunication
 2. General Insurance auxiliary
 3. Mutual Fund distributor services.

Support services By Govt or Local authority :Section 65B (49) of Finance Act, 1994 provides the definition of 'support services'. Support ser-

vices in respect of which service tax is payable by business entity receiving such services from government or local authority are as under:

- (i) Infrastructural Support Services;
- (ii) Operational support Services;
- (iii) Administrative Support Services;
- (iv) Logistic Services;
- (v) Marketing Services;
- (vi) Advertisement Services;
- (vii) Promotion Services;
- (viii) Construction or Works Contract Services;
- (ix) Security;
- (x) Testing and Analysis
- (xi) Any other support of any

kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever.

Partial Reverse charge :But few new services has been added in the List and for the first time in service tax act /regime partial reverse charge under service tax has been introduced. Now both service receiver and service provider have to pay tax as per prescribed % in case of four services. The reverse charge is applicable if service receiver /service provider satisfy few condition .In other case service provider has to pay tax on full amount of service.

Sl.No.	Description of a service	SERVICE PROVIDER	SERVICE RECIVER
1	services provided by an insurance agent to any person carrying on insurance business	ANY	ANY
2	services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road	where the consignor or the consignee is,— (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; (c) any co-operative society established by or under any law; (d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder; (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons;	
3	services provided or agreed to be provided by way of sponsorship	any	body corporate/partnership firm
4	services provided or agreed to be provided by an arbitral tribunal	Arbitral tribunal	Business entity with a turnover more than rupees ten lakh in the preceding financial year;
5	Legal Services provided by advocate (whether individual or firm) to any business entity	individual or firm	Business entity with a turnover more than rupees ten lakh in the preceding financial year;



SERVICE TAX Continued.....

Sl.No.	Description of a service	Service Provider	Service Receiver
6	services provided or agreed to be provided by way of support service by Government or local authority	Government /Local authority	Business entity
7	(a) services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on abated value.	Individual (prop) / Partnership firm (registered or unregistered) /HUF	any company formed or registered under the Companies Act, 1956 (1 of 1956) or a business entity registered as body corporate located in the taxable territory;
	(b) services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on non abated value.		
8	services provided or agreed to be provided by way of supply of manpower for any purpose		
9	services provided or agreed to be provided by way of works contract		
10	any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory	any	any

Explanation-I. - The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Explanation-II. - In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.

Whether Reverse Charge is applicable on New services inserted from 01.07.2012 if it has been provided or paid before 01.07.2012 read here

Register for Service Tax :So from above now what you should

do is that if you are receiving any of these services and fall under specified category of service receiver then you must register your self for service tax .

Amend service tax registration :If you have already register under service tax act and receiving one of new service added under reverse charge at sr no 4-10 then you have to add this specific service in your service tax registration certificate.

Suppose if a Company is doing some trading of shares and have not registered under service tax but you are hiring vehicle for employee or director for travelling and doing marginal expenses on travelling . After this amendment company has to register under service tax act and have to pay 100% /40 % of service tax as the case may be and have to file service tax return.

Likewise if a business entity has taken a legal opinion from individual advocate or Firm of

advocates then business entity have to pay 100% of service tax due on fees and have to register under service tax .

Suppose they have just paid Rs 2000 in full year even then business entity have to register under service tax act and have to deposit 12.36 % tax on 2000/- Rs and have to file service tax return .

And for such work he has to take again professional help.?

After 01.07.2012 Service tax is not payable by Individual advocates and Advocate Firm and service receiver (business entity) have to pay tax on services received from Individual advocate.

All of above amendments are applicable from 01.07.2012.

This is as per notification 30/2012 dated 20.06.2012

GLIMPSE OF PAST EVENTS



Tree Plantation by Vanshree Hukumchandji Sethiya on Environment day 2012 held by Vapi Branch 2012



Committee members felicitating Vanshree Hukumchandji Sethiya on the Environment Day 2012



Committee members of Vapi Branch at Marathon Run 2012 jointly held with Rotary club.



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To,