



NOIDA BRANCH OF CIRC

NEWSLETTER

The Institute of Chartered Accountants of India
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April -2016



FROM THE DESK OF CHAIRMAN

Dear Members,

GREETINGS OF THE DAY.....

At the epistle of this address, I convey my heartfelt thanks and gratitude to all the members of Noida Branch, past chairmen, senior members in profession, colleagues, committee members and staff for their active participation and unflinching support. I extend my warm wishes to the members who have contributed in the Newsletter and provided the valuable write-up's for the professional enrichment and contribution for the branch. We look forward from all members to step forward by sharing their subjective expertise among the members. Knowledge is the asset which increase leaps and bound by sharing.

Friends, with your presence and guidance we could be able to perform remarkable seminars, and functions during the previous month. In this month most of the members will be engaged in the task of Bank Audits, really a trusted work assigned to professional to audit the finance books of banks, a major part of economic pillar, I wish you all the best for your dedicated assignments of Banks.

Happy New Financial Year.....

Thanks & Regards
CA Sanjay Sharma
Chairman, NOIDA Branch

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FROM THE DESK OF GUEST EDITOR

Dear Friends,

It is my utmost Pleasure to interact you through this newsletter.
I am thankful that NOIDA Branch has conferred me the responsibility of Guest Editor in its newsletter and opportunity to serve the branch.

I convey my thanks to all the members who presented their professional write-up and valuable subjects for sharing their professional knowledge among the CA fraternity.

I pledge my heartiest greetings and best wishes to the Managing committee for their unflinching efforts for the Branch.

Thanking you
CA Manoj Kumar Agrawal
Past Chairman, NOIDA Branch



Dear Professional Colleagues,

My warm wishes to all the members. Wish you all a very happy new year (Navsamvat 2073)!

At the outset I would like to thank all the members for providing me an opportunity to serve the profession. I feel privileged to be a part of the management team of our Noida Branch. I would like to assure you that I would leave no stone unturned to make a constructive contribution to fight various challenges faced by our profession and usher the changes that we all desire in the functioning and activities of our branch.

I take this opportunity to request all of you to guide us and send your suggestions for improvements in the activities of the branch so as to enable us to deliver as per your expectations. Your suggestions will act as a guiding force for us.

During our first month, we had organized two seminars on union budget and bank audit and also hosted a seminar on internal audit organized by IASB.

Keeping with the spirit of love and enthusiasm, we had organized a **Holi Milan** for our members and their family members. A number of members had enjoyed and participated in the cultural program.

All this was possible because of collective efforts of all members of the managing committee and support of our members and branch staff. We shall ensure you that we will continue to work collectively and shall make all our best efforts to meet the expectations of our members.

However, our efforts will be useless without your active participation. I would like to request you all to actively participate in the branch activities and also encourage other members and students for the same.

Now let me take this opportunity to extend my warm wishes to all members on the occasion of *Navsamvat, Ram Navami, Baisakhi, Ambedkar Jayanti, Mahavir Swami Jayanti and Hazrat Ali's birthday*. May the festivals bring all the joy and enthusiasm to our life!

At the end, I am reminded of a saying of Swami Vivekanand ji which shows us the path to success :

Take up one idea. Make that one idea your life - think of it, dream of it, live on that idea. Let the brain, muscles, nerves, every part of your body, be full of that idea, and just leave every other idea alone. This is the way to success.

- Swami Vivekananda.

Jai Hind! Bharat Mata ki Jai!

Thanks and Best Regards
CA GIRISH KUMAR NARANG
TREASURER
NOIDA BRANCH CIRC OF ICAI



Respected Professional Colleagues,

Second time I have this opportunity to address my CA fraternity.

By the time, the second issue of E newsletter of this calendar year hits your mail, members who are in practice must be busy in Banks' statutory audit or may be at planning stage of such audit, members who are engaged in other assignment than practice may be busy in statutory audit of their respective organisations. My best wishes are with all.

It is matter of pride that our young members are going global and acting as our brand ambassadors abroad. On behalf of Noida branch, I accentuate this process.

Last, but not least, I further request all members to sphere their valuable time and give write ups for next E newsletter.

Wishing you Happy Naya Samvat,

THANKS,
CA SUDHIR KUMAR,
SECRETARY
NOIDA BRANCH CIRC OF ICAI
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PRESS RELEASE





Provident Fund – UAN activation Incentive Scheme

Ministry of Labour and Employment vide its notification dated 10-02-2016 have introduced an incentive refund scheme in respect of administrative charges deposited for eligible employers for providing Universal Account Number (UAN) to all employees.

As per the scheme, incentive by way of refund shall be payable at the end of every quarter and only such establishments shall be considered eligible for the scheme of refund which have in each month of the quarter have achieved the criteria

for qualification either in scheme 'A' or scheme 'B'.

To claim the refund of administrative charges paid during the quarter, the establishment has to achieve the following criteria relating to UAN in respect of its contributing members in each of the month in the quarter :

Criteria			Scheme 'A'	Scheme 'B'
(i)	Providing members details under Form 11 (New)	80% or above	60% or above	
(ii)	Seeding of the all the three, namely			
	(a)AADHAR	At least 80% of (i) above	At least 70% of (i) above	
	(b) Bank Account	100% of (i) above	At least 80% of (i) above	
	(c) PAN	Wherever applicable	Wherever applicable	
(iii)	UAN activation	100% of (i) above	60% of (i) above	
Refund of administrative charges paid during the quarter		10%	5%	

The scheme shall be in operation beginning from 1st January, 2016 to 31st December, 2016 (i.e. quarters beginning January'16, April'16, July'16 and October'16).

EPFO INTRODUCES SIMPLIFIED UAN BASED CLAIM FORMS

Employees' Provident Fund Organisation (EPFO) has introduced simplified UAN based claim forms no. 19 (UAN), 10-C (UAN) & 31 (UAN) for those employees whose Aadhaar Number and Bank details have been seeded as KYC documents and have duly been verified by the employer using digital signature and the details in Form No. –11 (New) have been completed. The defining feature of these forms is that the employers' attestation is not necessary therein. Those employees not fulfilling the conditions stipulated for using UAN based claim forms shall continue to submit their claim forms for withdrawals in the existing Form No. 19, 10-C and 31.

This will benefit large number of employees whose Aadhaar Number and the Bank Account Number have been seeded as KYC, digitally verified by the employers and all the details are available in Form No. 11 (New) since such employees will not be required to visit their respective employers for getting their claim forms attested. This will result in lesser employer intervention and would encourage more members to activate their UAN by facilitating digital upload of required KYC information

Thanks and Best Regards

CA GIRISH KUMAR NARANG

TREASURER

NOIDA BRANCH CIRC OF ICAI

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SERVICE TAX AUDIT AND DETAILED MANUAL SCRUTINY OF SERVICE TAX RETURNS



In the First Part of this Article, we are discussing about the Service Tax Audit and in the Second part of this Article we will discuss about the Detailed manual Scrutiny of the Service Tax Returns done by the Service Tax Department.

Now a days, Various Service tax assessee are receiving Notices from the Service Tax Department requiring information relating to the Service tax returns filed and asking the assessee that his case has been selected for Scrutiny of Returns.

SERVICE TAX AUDIT

The Audit under the Service Tax has always been a matter of concern for the assessee as well as for the Professionals. As and when an assessee receives a notice from the Service Tax Department for the audit of the financial affairs of the assessee, certainly some questions comes in mind of every assessee and his Consultant such as—

- 1- What is Service Tax Audit
- 2- Why the notice of Service Tax Audit has come
- 3- What will be the course of action of the Audit Team
- 4- What is the Purpose of the Service Tax Audit.

In the following points I have tried in brief to give answers of the above mentioned questions.

Who can conduct Service Tax Audit

Sub Rule 2 of Rule 5A of the Service Tax Rules authorize the following persons to conduct the audit of the records of an assessee registered under Service Tax

- Audit Party Deputed by Commissioner
- CAG
- Chartered Accountant or Cost Accountant nominated u/s 72A of the Finance Act-1994.

The assessee who can be selected for Service Tax Audit and Frequency of Service Tax Audit

The assessee fulfilling the following criteria can be selected for Service Tax Audit

Si.No.	Quantum of annual Service Tax payment (in cash + CENVAT credit)	Frequency of Audit
1	Taxpayers paying more than Rs 3 Crore	Every year
2	Taxpayers paying between Rs 1 to 3 Crore	Once in two years
3	Taxpayers paying between Rs 25 lakhto 1 crore	Once in five years
4	Taxpayers paying below Rs 25 lakh	2% of the total number every year

Purpose of Service Tax Audit

- The Purpose of Audit is to ascertain
 - To ascertain the correctness of claim of CENVAT credit, If any;
 - To ascertain the correct valuation of taxable service
 - To ascertain whether reimbursement claimed in Invoices/ Bill/ Challans have actually been incurred and eligible for deduction for taxable value of service;
 - To ascertain whether deduction claimed for value of goods and materials sold during the course of provision is supported by proper evidence
 - Whether provision of reverse charge have been complied with

Conduct of Service Tax Audit

- The Service Tax Audit is Just as the Scrutiny Assessment in Income Tax having a basic difference that the Income Tax Scrutiny is done at the Income Tax office while the Service Tax Audit is done at the Premises of the assessee.
- The Service Tax Department give Pre intimation to the assessee about the Service Tax Audit
- A Detailed Questionnaire is given by the department requiring various information which the assessee is required to supply
- Done within a defined time frame work (Generally 10 days).

Completion of Service Tax Audit

After obtaining the required information and clarification and after a detailed discussion with the assessee, If Audit Team is satisfied that there is some Service tax remains to be deposited, the department ask the assessee to deposit the required service tax along with interest.

The assessee has right to accept or deny the service tax demanded by the Department. The assessee can partly accept and partly deny the contention of the department.

If the assessee accept or partly accept the service tax demand and deposit the required amount then, the Service Tax audit completes and no further action is taken by the department in respect of the demand accepted and deposited.

If the assessee deny or partly deny the service tax demand and do not deposit the demanded service tax then the department issue the Show Cause Notice and the Adjudication Process Starts.

DETAILED MANUAL SCRUTINY OF SERVICE TAX RETURNS

In the above Paragraphs we have discussed about the Service Tax Audit. In the above mentioned table, It is clear that there are some assessee who are still out of the purview of the Service Tax Audit Process.

But the Service Tax Department wants to reassure that Service Tax assessed by the assessee on his own is correct and no Service Tax Remains to be deposited.

For the said purpose, CBEC issued a **CIRCULAR NO. 185/4/2015-Service Tax dated 30-06-2015** giving detailed guidelines on the Manual Scrutiny of the Service Tax Returns.

Some Highlights of the above mentioned Guidelines are as follows--

- 1- The detailed return scrutiny would be conducted in respect of such assessee whose total tax paid (Cash+CENVAT) for the FY2014-15 is below Rs.50 lakhs.
However, the Chief Commissioner, may direct detailed manual scrutiny of an assessee's return who has paid service tax (Cash+CENVAT) more than Rs.50 lakhs in certain specific cases.
- 2- The focus of detailed manual scrutiny of the returns would be on the returns of those assessee which are not being audited.
- 3- The assessee who have been selected for audit or have been audited recently (in the past three years) should not be taken up for detailed scrutiny.
- 4- In no event should an assessee be subjected to both audit and detailed manual scrutiny.
- 5- To begin with, the returns for the financial year 2013-2014 should be taken up for detailed Scrutiny.
- 6- Returns scrutiny must be done for a complete financial year by looking at two half-yearly returns in conjunction.
- 7- The validation exercise would require reconciling information furnished in the ST-3 return with ITR FormNos.4,5,6 and 26AS and any third party information made available.
- 8- The scrutiny process of an assessee should be completed in a period not exceeding three months.
- 9- In case any additional details are required, the same may be obtained from the assessee through requisition rather than through a visit. Calling of such additional documents must be done with the approval of the jurisdictional DC/AC so as to obviate the complaint of administrative intrusion.
- 10- In cases where detailed scrutiny of returns results in detection of defaults in service tax payment and it appears that the proviso to section 73(1) of the Finance Act, 1994 is invocable, the ST-3 returns of the past periods should also be verified and the results of such verification should be recorded.
- 11- Detailed Manual Scrutiny to be done by range offices covering selected returns based on risk parameters.
- 12- The Purpose is to ensure correctness of the assessment made by the assessee.
- 13- The proper officer must rely mainly on assessment related documents like agreements/contracts and invoices.
- 14- Detailed financial records should not be called for in a routine manner.
- 15- Each Commissionerate has to select equal number of assessee's for carrying out returns' scrutiny from each of the three total tax paid bands (Cash+CENVAT) viz., Rs. 0 to Rs.10 lakhs, Rs.10-25 lakhs and Rs.25-50 lakhs for the financial year 2014-15.
- 16- Before return scrutiny is initiated, the assessee must be given prior intimation of at least fifteen days and the purpose of the exercise must be spelt out in an Intimation Letter.
- 17- Once an assessee's returns are taken up for detailed scrutiny, the Range should compile the Assessee Master Information to facilitate trend analysis in a format given as Annexure II of the Guidelines.

- 18- Since this information is based on the returns, it can be obtained from the returns filed in ACES without making any reference to the assessee.
- 19- Even after the introduction of GST, it may be appreciated that the basic principles of scrutiny of returns and reconciliation of records would remain the same.

Hope the information will assist you in your Professional endeavors. In case of any query/ information, please do not hesitate to write back to us.

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Thanks and Best Regards

CA SOHRABH JINDAL

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FORTHCOMING PROGRAMMES

PROGRAMME DETAILS

DATE

CIRC ORIENTATION PROGRAMME AT BHOPAL

13-14, APRIL, 2016

SEMINAR ON DGFT PROCEDURE

23, APRIL, 2016

SEMINAR ON COMPANIES ACT OR FEMA

30, APRIL, 2016



FILING OF APPEALS AND DRAFTING OF SUBMISSIONS

Aggrieved by the decision of Assessing Officer!
Don't worry file an appeal before the Commissioner of Income Tax Appeals,
During the course of discussion let me elaborate the entire process in complete questions and answers form:-

Q1) - Where to file the Income Tax Appeals?

Ans :-The Assessing Officer is required to issue the demand notice under section 156 of the Income Tax Act-1961 mandated by section 143(3) of the Act. Amazingly even if the demand is NIL out of proceedings of Assessment Order, AO is still required to issue the same. Just read it, It clearly contains the following *"If you intend to appeal against the assessment/penalty, you may present an appeal under Part A of chapter XX of the Income Tax Act-1961to Commissioner of Income Tax Appeals CIT (A)-....., New Delhi, **within 30 days** of the receipt of this notice in form-35, duly stamped and verified as laid down in that form."* So here you got the answer, the jurisdiction is clearly mentioned on the notice issued by the Assessing Officer.

Q2) - Requirements for filing the appeal before CIT (A)?

Ans: - Fill Form 35 as **prescribed under** Rule-45 of the Income Tax Rules, (recently the form has been updated by the department vide its notification number S.O. 637 (E) dated 01.03.2016). The documents will be required in duplicate are Form -35, Grounds of Appeal, Statement of Facts, Copy of Order u/s 143(3) i.e. Assessment Order.

Notice of demand (i.e. demand notice u/s 156 of the Income Tax Act) will be required in original.

Q3) Fees for filing the appeal?

Ans: - Here comes the question of fees for admitting the appeals before the commissioner of Income Tax, Its very nominal i.e. Rs 1000/- only. Duly note that the fees will be paid in the same assessment year for which the order has been processed. For example for the Assessment Order for AY 2013-14, due pay the fees for the same year under Self Assessment Tax> Others column. The challan will also be submitted along with the documents as provided under the Question-2.

Q4) Drafting of Grounds of Appeal?

Ans: - Here comes the real test for drafting, i.e. one of the most important things to be considered while filing the Income Tax Appeal. So how it works,

Someone has rightly said that drafting is an art, but it is not as difficult as Physics, Chemistry or Biology. Let us go step by step:-

Step -1:- Do understand the Quantum of addition made by the Assessing Officer. Assessing officer is duty bound to give reasons for every addition he make. Just attack all his reasoning. You can start with the sentences like: - *"that assessing officer has erred in law and facts of the case"* or *"Basis upon the facts of the case, the order passed by the Assessing Officer is bad in law"* etc. Make sure whatever the reasons are given by the AO in his order, Grounds of appeal should cover them completely.

Step-2:- Without Prejudice to each other, the word prejudice is often used in the Grounds of appeals; the Hindi meaning for the same is “*Pakshpaat*”. I.e. the grounds are not prejudicing each other; every ground has its own relevance. It is always advisable to incorporate “without prejudice to each other”, either at the beginning or at the end for grounds of appeals.

Step-3:- It is advisable to disclose the quantum of additions in the grounds of appeals under various heads. Do note that the Commissioner of Income Tax Appeals will pronounce his judgments on each and every ground taken during the appeals.

Step-4:- Power to alter and amend the grounds- don't forget to take this power, the same can be included in the grounds of appeal by mentioning as a separate point. This inclusion will enable the appellant to amend or add any ground before the commissioner.

Step-5:- Always try to be concise while drafting, mention the facts, there is no need for quoting any judgment in the Grounds, do mention the section wherever applicable.

Q5) Statement of Facts?

Ans: - Although not so necessary for appeal filing but advisable to do so, what are the statement of facts:
- the fact of the assessment order with assessee own submissions.

Enumerate all the facts in points; do quote judgments in favors, Assessing Officer contentions, and counterattack the same with your submissions.

One can use the *Statement of Fact as per order* in case of hurry in filing the appeal.

Appearance before the Appeals:-

Here comes the day of appearance before the appeals, Cases are half won with good submissions and half won with good presentation. It is always not necessary that the facts are in favor of the appellant but it is advisable to take the help of law and related judgments, and be handy on the same.

Do note that the Commissioner of Income Tax Appeal remains occupied with lots of appeals and cases, while drafting submission be concise and to the point. Submission should not be lengthy and vague, prevent yourself from using the repetitive sentences. (Repetition of facts can be done but should be presented in different manner). Do take the relevant judgments with highlights on the relevant Para that are quoted in submission. Make sure that CIT (A) shall not waste his time in searching what you have just spoken. It should be complemented with the words you have written in your submissions. CIT (A) is a busy person, save his time; he needs to dispose off many cases.

Q-1) How to start with Submissions?

Ans: - Start with the basic facts, just like in AO order. i.e. When the assessee filed his return of Income, Income disclosed by the assessee in his return, any revision thereof, date of completion of assessment, additions/disallowances made in the assessment etc. (*the assessee filed his return of income..On... declaring the total income of Rs..., the assessment was completed under section 143(3) of the act...vide order dated..., where the total income was increased amounting to Rs....., aggrieved by the decision, assessee preferred an appeal.....*), the first paragraph is important as it sets out the complete background of the case.

Q2) How to go ahead with it?

Ans: - The submissions should be presented taking each and every ground, the facts for each ground should be enumerated, relevant case laws, provisions of the act supporting for the appellant contention should be quoted in the same. Each ground should have separate submission. Use of certain words, like kindly, humbly requested etc are powerful and convincing in nature. Try to refrain from quoting any case law against which the contradictory decision has been passed by any appellate authority. Do note

that submission of 5 pages is more fruitful than submission of 50 pages if it relates direct to the point, no need of giving the complete *Ramayana*, the CIT has no time to read all the pages. So be concise and to the point.

Q3) is there any useful tips?

Ans: - Although there is no set pattern for giving the submissions, but it is always advisable to use Times new roman, or Calibri (Body) with font size around 14, suitable commas shall be used, all the judgments and relevant provisions should be set out in Italics with inverted “comma”. The judgments can be highlighted in bold with proper citations. Quoting citation is very important with the case laws, until or unless the case law is very popular and does not require any special attention.

Q4) is annexure required?

Ans: - The annexure are important and shall contain the unique identification number, it is better to refer the annexure during the course of submissions only, so that the same can be directly related to the point. Giving all the annexure at one go at the end of submission will not be fruitful, because it is difficult to relate the same with the relevant point.

The annexure can be any relevant extract of the agreement; any related supporting bills or invoices, any relevant voucher, any related judgment etc. It's better to highlight the amount/date/narration of the annexure or any relevant paragraph of the judgment so that same can be traced easily and brought to the notice of the commissioner.

During the course of hearing

Be presentable, do wear formals, take 2 copies of signed submissions along with the annexure, Mark office copy on your set to stop fumbling, do speak and see from your copy, better to put the page numbers on submissions so that the same can be referred easily to the commissioner.

Don't forget to take Power of Attorney in your name as an Authorized Representative; this is the first and utmost requirement before appeals.

In case where the things are not getting as desired, i.e. the CIT (A) is responding differently for which no reasoning can be sought or answer can be given. Ask him for adjournment. Take the adjournment and come back well prepared.

I wish that the above compilation on the appeals and related issues helps all the readers in better way. In case of any other help, please don't hesitate to contact me.

Thanks

CA PANKAJ GOYAL

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DUE DILIGENCE IN INDIA



Due diligence is a process of thorough & objective evaluation of a prospective business decision by getting information about financial, legal and other material issues of the other party.

"Due Diligence" is a legal term (borrowed from the securities industry). It means, essentially, to make sure that all the facts regarding the firm are available and have been independently verified. In some respects, it is very similar to an audit. All the

documents of the firm are assembled and reviewed, the management is interviewed and a team of financial experts, lawyers and accountants descends on the firm to analyse it.

Diligence is often performed by potential buyer or investor on the business of potential seller. Due diligence could be considered an exhaustive review of all business documents and records in an effort to assess the health & viability of business in question. If due diligence is not done, the buyer may end up buying something that is not what the buyer has planned or end up in a business relationship that may cause trouble.

SCOPE OF DUE DILIGENCE

The scope of Due Diligence typically depends on the nature of the transaction proposed to be undertaken. Additionally, the scope of due diligence also depends on mandate – whether complete review of the issuer or restricted to matters like litigation, employment, product review etc. with objective to assess the nature and extent of the risks & highlight them.

In a securities transaction, the broad objectives could be:

- To obtain all material information in relation to the issuer for making disclosures in an offer document or subscription agreement, to enable investors to make an informed decision and to meet regulatory requirements.
- To assess the nature and extent of the risks and highlight them.

A successful due diligence is the key to an eventual investment. It is a process much more serious and important than preparation of business plan.

TYPES OF DUE DILIGENCE

Based on the scope, due diligence can broadly be classified into:

Commercial Due Diligence	Review of the industry, market and business model of the issuer.
Reputational Due Diligence	Review of credit worthiness & reputation of individual counterparts.
Financial Due Diligence	Review of tax, financial position, policies & internal control.
Legal Due Diligence	Review of documentation to identify potential legal issues that may be risk to the transaction or general operations.
Marketing Due Diligence	Review of pricing strategy, promotion of sales & distribution of product.
Operational Due Diligence	Review of the processes associated to the operation of the business.

IT & Intellectual Due Diligence	Review of IT systems used in normal business process and security back up process, controls & monitoring.
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RULES IN DUE DILIGENCE

First Rule: Appointment of due diligence coordinator

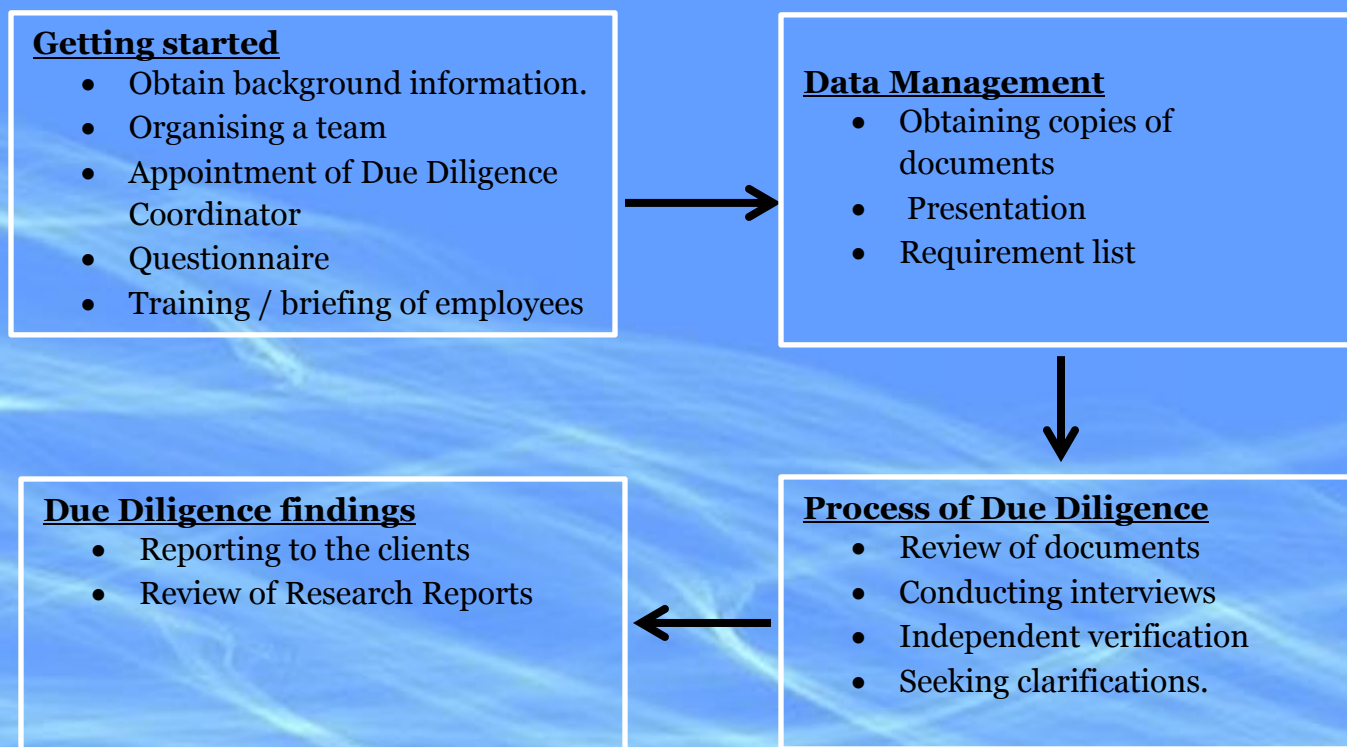
The firm must appoint - due diligence coordinator. This person interfaces with all outside due diligence teams. He collects all the materials requested and oversees all the activities which make up the due diligence process.

The firm must have ONE VOICE. Only one person represents the company, answers questions, makes presentations and serves as a coordinator when the DD teams wish to interview people connected to the firm.

Second Rule: Training of employees

Brief your employees. Give them the big picture. Why is the company raising funds, who are the investors, how will the future of the firm (and their personal future) look if the investor comes in. Both employees and management must realize that this is a top priority. They must be instructed not to lie. They must know the DD coordinator and the company's spokesman in the DD process.

DUE DILIGENCE PROCESS



Due Diligence is a process which is more structured than preparation of business plan. It is confined both in time and in subjects: Legal, financial, technical, marketing and internal controls.

DUE DILIGENCE IN INDIA

The practice of undertaking a formal Due Diligence investigation is comparatively recent origin in India. The concept was mainly imported as process of foreign investors after the economic liberalization reforms of 1991 as a process by foreign investors / their legal & financial advisors.

In India, no statute particularly defines the term 'Due Diligence'. However, the SEBI mandates certain parties to undertake a Due Diligence in the context of issuance of securities by a Company.

As per Issue of Capital & Disclosure Requirement (ICDR) Regulations, 2009;

- Under Regulation 10 (3) (a), of the ICDR regulations, the lead merchant bankers is required to submit to the SEBI, along with the offer document, a due diligence certificate including additional confirmations.
- Regulation 64 of Chapter VI requires lead merchant bankers to exercise due diligence and satisfy themselves about all the aspects of the issue including veracity & adequacy of disclosure in the offer documents. The lead merchant bankers are also required to call upon the issuer, its promoters or in case of an offer for sale, the selling shareholders, to fulfil their obligations as disclosed by them in the offer document.
- Regulation 65 requires the lead merchant banker to submit post – issue reports to the SEBI. Further, Regulation 65(3) is also required to submit a due diligence certificate as per the format specified in Form G of schedule VI along with the final post – issue report.
- Under Regulation 83, a qualified institutions placement shall be managed by lead merchant bankers registered with SEBI who shall exercise due diligence. The lead merchant banker, while seeking in principle approval for listing of the eligible securities issued under the qualified institutions placement, is required to furnish to each stock exchange on which the same class of equity shares of the issuer are listed, a due diligence certificate stating that the eligible securities are being issued under qualified issuers placement.
- Before the opening of the issue, the lead merchant bankers are required to submit a Due diligence certificate along with the draft offer document to the SEBI.
- Under Regulation 8(2)(b), the lead banker is required to submit, after the issuance of observations by the SEBI or after the expiry of the stipulated period, if the SEBI has not issued observations, a due diligence certificate at the time of registering the prospectus with the Registrar of Companies.

DUE DILIGENCE IN LISTED AND UNLISTED COMPANIES IN INDIA

Listed companies require more extensive review of compliances as well as greater degree of caution while sharing information and structuring of a transaction as compared to unlisted companies.

The provisions of SEBI (Prohibition of Insider Trading) Regulations, 1992 are applicable in case of a listed company. The due diligence thus should not include review of unpublished price sensitive information except in certain special circumstances. In case of listed company, care must be taken to ensure (in consultation with legal advisors) that the insider trading regulations are not violated in the process of due diligence. However publicly available information under the listing agreement signed by the listed companies with the stock exchanges may not be adequate to base an investment decision. This matter has to be dealt with on a case – by-case basis.

Thanks & Regards
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Service Exports from India Scheme (SEIS) under Foreign Trade Policy

Services sector has made rapid strides in the past decade and emerge as the largest and one of the fastest-growing sectors of the Indian economy. The services sector is not only the dominant sector in India's GDP, but has also attracted significant foreign investment flows, contributed significantly to exports as well as provided large-scale employment. The Government of India recognises the importance of promoting growth in services sectors and provides several incentives in wide variety of sectors such as Healthcare, Tourism, Education, professional, Research & Development, Advertising, Management Consulting Communications, Construction and Related Engineering Services, transport services, environmental services, recreational cultural and sporting services, among others.

One of the most important schemes called "Service Exports from India Scheme" (SEIS) has been introduced by the Government under new Foreign Trade Policy 2015-20. Under the scheme w.e.f 01.04.2015 all service providers of notified services, shall be rewarded under SEIS, regardless of the constitution or profile of the service provider at rates of 3% or 5% (whichever applicable) of net foreign Exchange Earning. New "Service Exports from India Scheme" not only replaces Served from India Scheme (SFIS) available under the Foreign Trade Policy-2009-2014, but it rationalize the incentives under the erstwhile schemes, removes various kind of restriction of use of scrip issued under the Scheme and significantly enlarges the scope of the earlier scheme. Unlike earlier Scheme, this scheme has been made applicable to exports by SEZ units also.

OBJECTIVE OF THE SCHEME

Objective of Service Exports from India Scheme (SEIS) is to encourage export of notified Services from India. This Scheme has been announced on 01.04.2015 under the New Foreign Trade Policy-2015-2020 and has come into effect from 01.04.2015. In other words, the rewards under the scheme are admissible on exports of notified services rendered on or after 01.04.2015.

SALIENT FEATURES OF THE SCHEME

- Apply to "Service Providers located in India" instead of Indian Service Providers.
- Provides for rewards to all Service providers of notified services, who are providing exporting services from India, regardless of the constitution or profile of the service provider.
- Rewards under SEIS are based on net foreign exchange earned.
(**Net foreign Exchange = Gross earning of foreign exchange-total expenses/payment/remittances relating to services sector in the Financial Year**)
- Reward issued as duty credit scrip is freely transferable and usable for payments of excise duty, customs duty and service tax etc.

- Debits are eligible for CENVAT credit or drawback.
- Certain specified categories of services are not eligible for benefit under the Scheme.
- Scrip can be used for payment of (i) Customs Duties for import of inputs or goods, except items listed in Appendix 3A; (ii) Payment of excise duties on domestic procurement of inputs or goods, including capital goods (iii) Payment of service tax on procurement of services and (iv) payment of Customs Duty and fee (in case of bona fide default under authorization)
- The services and rates of rewards notified are applicable for services exports made between 01.04.2015 to 31.03.2016.

ELIGIBILITY CRITERIA FOR REWARD UNDER THE SCHEME

Service Providers of notified services, located in India, shall be rewarded under SEIS, subject to conditions as may be notified.

- To claim reward under the scheme, Service provider shall have an active IEC at the time of rendering such services for which rewards are claimed.
- Services rendered in **Mode 1:** Cross Border Trade and **Mode-2:** Consumption abroad only will be eligible.
- The notified services and rates of rewards are listed in Appendix 3D.
- Have minimum net free foreign exchange earnings of **US\$15,000** in preceding financial year for eligibility under the Scheme.
- For Individual Service Providers and sole proprietorship, such minimum net free foreign exchange earnings criteria would be **US\$10,000** in preceding financial year.
- Payment in Indian Rupees for service charges earned on specified services (Listed in Appendix 3E) to be treated as receipt in deemed foreign exchange.(Yet not notified)
- In case of IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses / payment / remittances shall be taken into account for service sector only.

SERVICES & RATES OF REWARDS

<u>S. No.</u>	<u>SECTORS</u>	<u>Admissible Rate</u>
1	BUSINESS SERVICES	
A.	PROFESSIONAL SERVICES	5%
B.	RESEARCH AND DEVELOPMENT SERVICES	5%
C.	RENTAL/LEASING SERVICES WITHOUT OPERATORS	5%
D.	OTHER BUSINESS SERVICES	3%

2.	COMMUNICATION SERVICES	5%
3.	CONSTRUCTION AND RELATED ENGINEERING SERVICES	5%
4.	EDUCATIONAL SERVICES (Please refer Note 1)	5%
5.	ENVIRONMENTAL SERVICES	5%
6.	HEALTH-RELATED AND SOCIAL SERVICES	5%
7.	TOURISM AND TRAVEL-RELATED SERVICES	
A.	HOTELS AND RESTAURANTS (INCLUDING CATERING)	3%
B.	Travel agencies and Tour Operators Services	5%
C.	Tourist guides services	5%
8.	RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)	5%
9.	TRANSPORT SERVICES (Please refer Note 2)	
A.	MARITIME TRANSPORT SERVICES	5%
B.	AIR TRANSPORT SERVICES	5%
C.	ROAD TRANSPORT SERVICES	5%
D.	SERVICES AUXILIARY TO ALL MODES OF TRANSPORT	5%

INELIGIBLE CATEGORIES UNDER SEIS

- Supply of service through **Mode-3- Commercial Presence** and **Mode-4 presence of natural persons** are not eligible under SEIS.
- Foreign exchange remittances other than those earned for rendering of notified services would not be counted for entitlement.

Other sources of foreign exchange earnings such as equity or debt participation, donations, receipts of repayment of loans etc. and any other inflow of foreign exchange, unrelated to rendering of service- ***Not Eligible*** for benefit under the Scheme

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