

The Chartered Accountant World



ESTD. - 1989

A JOURNAL OF
ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

VOLUME XV

No. 5

May, 2004

Editorial Advisory Board
Mr. Vinod Jain, FCA, President

Members — Mr. Sunil Khemka FCA, Mr. Vinod Rustagi FCA, Mr. Anil Sharma FCA,
Mr. Vijay Gupta FCA, Mr. Naveen Jain FCA and Mr. Shiv Mittal FCA

Annual Subscription for C.A.'s Rs. 200/-, Single Copy Rs. 25.00
Annual Subscription for Others Rs. 250/-, Single Copy Rs. 25.00

EDITORIAL VINOD JAIN*

Fiscal Reform Agenda before the Government

The Indian government is all set to take up growth agenda in the backdrop of

Utilizing large foreign exchange reserves.



Income tax to be converted to a territory based taxation even for residents by taxing only income accruing or arising in India.

Parliament election which was mainly contested by the ruling party as well

as the opposition on the promise of a two digit growth. The growth agenda has to generate employment, support self employment, create impact on farmers and rural economy, provide infrastructure by completing high quality highways, roads to each town and village, link Indian rivers, establish waterways, augment power generation and distribution, provide safe abundant drinking water, irrigation facilities and also remove bottleneck in growth of small and medium size industry, services and trading businesses. The growth of agriculture, biotechnology, information technology, telecom and international competitive Indian businesses is equally important.

TO achieve various economic objectives it may be important to concentrate on a carefully carved out fiscal agenda. Some suggestions could be:

Significant cut in govt administrative structure and cost.

Reduction in the burden of interest and loan repayments on the government by:

- Prepayment of all costly domestic and international borrowings of government,

- Swapping low cost borrowing with high cost existing borrowings.
- Disposing off idle or low performing government assets to private sector e.g. uncultivated land, mining resources, hill resorts, huge government buildings etc.

Direct taxes reforms

- Wealth tax Act is not contributing any significant resources and may be considered for deletion.
- Income tax collections and compliances have significantly improved after reduction in tax rates undertaken about 8 years ago. The following revised structure may be considered for income tax rates:
 - o Rs.60,000 and above 4%
 - o Rs.1,20,000 and above 8%
 - o Rs.3,00,000 and above 16%
 - o Rs.6,00,000 and above 24%
 - o For corporate, partnerships and Maximum marginal rate 24%
- Minimum alternate tax to abolish or at least allow carry forward of book losses fully and should not be restricted to lower of carried forward losses or depreciation.
- Surcharge on Income tax to completely abolish.
- Tax deduction at source penalties and prosecution provisions are very harsh.

Even TDS scrutiny is becoming a major source of corruption. The department invariably scrutinises all returns despite no specific power under the statute. Selective 1% scrutiny randomly selected on the lines of assessment scrutiny may be introduced.

- TDS certification system to be replaced with electronic credit to the

Contd...2

Contents

CAPITAL MARKET

- | | |
|--|---|
| 1. Real Estate Investment Trust | 2 |
| 3. BSE asks for tighter norms on delisting | 2 |
| 4. Norms for changing companies names tightens | 3 |
| 5. Amendments to DIP Guidelines | 3 |

TAXATION

- | | |
|---|---|
| 1. Ministry examining Tax Holidays Issues | 4 |
| 2. Income Tax Decisions | 4 |
| 3. Foreign Companies cannot be taxed at higher rate | 4 |

SERVICE TAX

- | | |
|-------------------------------------|---|
| 1. Service Tax waiver norms for SEZ | 4 |
|-------------------------------------|---|

AUDIT

- | | |
|--|---|
| 1. Compliance with Accounting Standards by Banks | 5 |
| 3. ICAI releases statement on CARO | 6 |
| 4. E&Y Debarred for Fresh Audit | 6 |

FEMA

- | | |
|---|---|
| 1. Acquisition of Foreign Securities under ESOP | 6 |
| 3. Current Account Transactions Liberalized | 6 |

LATEST IN FINANCE

- | | |
|--|---|
| 1. Acceptance of Deposits - Revised Guidelines | 7 |
| 2. Interest Rates on Advances | 7 |
| 4. Trade Credits for Imports into India | 8 |

*Mr. Vinod Jain, FCA, FCS, FICWA, LL.B. Chairman, INMACS Management Services Limited and Convenor, National Economic Forum (NEF).



EDITORIAL CONTD. FROM PAGE 1

Fiscal Reform Agenda.....

beneficiaries' permanent account Number.

- Dividend tax to reduce to 8%.
- Income tax to be converted to a territory based taxation even for residents by taxing only income accruing or arising in India. The income earned outside India or remitted to India or arising from rendering services or trading or manufacturing outside India may be fully exempted from Indian Taxation. This will significantly boost global presence of Indian companies and Indian export. This can not be termed as a subsidy to Indian exporters technically and will be within WTO commitments.
- Partnership firms taxation to on the same basis as Corporate entities as promised in 2003 union budget. This promise of the government is to be fulfilled.
- The professional firms to not to have disallowances on partners salary or interest to enable creation of large, internationally competitive firms.
- The special economic Zone facilities extended to Himachal, J & K, Uttaranchal etc. to be allowed in select Districts in other backward states.
- Voluntary disclosure of income scheme to be introduced.
- Expenditure incurred on up gradation of professional skill by taking up higher studies or training programs in India or outside India to be allowable as a deduction.
- Capital gain indexation base may be shifted to 2001/1991 in place of 1981 as getting information of 1981 market rates is becoming difficult.

- Tax holiday period for setting up of hospitals, nursing homes and services clusters in rural areas and low rate interest for purchase of equipment.
- Tax base could be broadened by including the following in the one by six criteria requiring all enterprises regd under sales tax, excise, service tax, and shop & establishment act besides those who are registered importer and exporter.

Service tax legislation is becoming a big burden on growth of service sector. The Govt may consider.

- Reducing service tax rates to 4%.
- Service tax to be fully CENVAT or VAT adjustable.
- Professionals or skill based services to kept out of the service tax net.
- Threshold limit of Rs. 1 million to be exempted from taxation.

Multiple Taxes at Central Govt. Level and state level taxes to be replaced by a single or may be dual tax structure.

- CENVAT (to cover Central excise and customs as two parts) and Income tax at central level.
- VAT at state level. The high sales tax stamp duty rates are a major hurdle to growth and are breeding a parallel economy. A major cut will improve overall collection.

Social security for unorganized sector employees as well as professionals or self employed to introduce. An additional interest allocation would be necessary for these categories as well as to retired and senior citizen out of consolidated fund of India.

To promote India as the services sector hub of the world (other than software and IT) special marketing fund to be set up for promotion of BPO, back office accounting, equity and quantitative research, scientific research, legal and para-legal support, engineering CAD CAM, animation films etc. on similar basis as "Made in India" for the manufacturing sector.

India is poised for a phenomenal growth and the good work done in last 5 years is to be given new momentum in public interest.

1 Real Estate Investment Trust

REITs or Real Estate Investment Trusts are the companies that develop, manage and sell a portfolio of real estate assets and REITs are nothing but is another route that has opened up for investors seeking property options abroad.

In the US alone, there are as many as 700 such funds, and many Indians are looking to these as a significant investment option.

The market capitalisation of the average REIT on the Wilshire Real Estate Securities Index is \$340 million. REITs comprise 6% of the small-cap index, the Russell 2000, the average dividend yield on REITs (7.3%) is six times that of the Russell 2000 average dividend.

2 F&O deals only after clients' written order

Heightened volatility in the markets has created a fresh menace for brokers in the Futures & Options segment. Investors including both institutional and retail are increasingly modifying their investment decisions placed with brokers and entered as orders into the trading system but awaiting execution. Orders are modified a number of times in response to the sudden shifts in market directions to avoid losses. The practice has got so widespread that NSE has now armed brokers with the right to seek order placement, cancellation and modification slips from clients.

As per NSE, the formal slips should state upfront that if a trade is executed before the modification request is received, the order would not be altered. This has come as a major relief to brokers.

3 BSE asks for tighter norms on delisting

The Bombay Stock Exchange has proposed a five to seven year ban on companies and their promoters approaching the capital markets in the event of compulsory delisting of shares from the stock exchanges. According to BSE data, more than 250 companies have opted to delist from the exchanges in the last one year.



4 SEBI tightens norms for changing companies names

In terms of SEBI circular No. SMDRP/POLICY/CIR-8/99 dated April 26, 1999 it has been provided that companies who change their name suggesting any new line of business (including software business), shall disclose the turnover and income, etc., from such new activities separately in the quarterly/annual results required to be submitted/published in compliance with these clauses.

It was further provided that companies which have changed their names after January 1, 1998 or change the name hereafter shall make such disclosures and shall continue to make these disclosures for a period of 3 years from the date of change in the name.

In addition to the above provisions, it has now been decided that all listed companies which decide to change their names shall be required to comply with the following conditions:

- A time period of at least 1 year should have elapsed from the last name change;
- At least 50% of its total revenue in the preceding 1 year period should have been accounted for by the new activity suggested by the new name; and
- The new name along with the old name shall be disclosed through the web sites of the respective stock exchange/s where the company is listed and also through the EDIFAR web site for a continuous period of one year, from the date of the last name change.

(Source: SEBI/MRD/Policy/AT/Cir-20/2004 dt. April 30, 2004)

5 Amendments to the SEBI (DIP) Guidelines, 2000

SEBI, incorporating the following modifications approved by the SEBI Board:

(a) Introduction of the facility of Shelf Prospectus

As per Sec.60A of the Companies Act, 1956, the facility of shelf prospectus can be availed of by specific entities like public sector banks, scheduled banks and public financial institutions. The DIP guidelines have been amended to provide for the same.

These entities can file a draft shelf prospectus with SEBI in the first instance disclosing the aggregate amount the issuer intends to raise through various tranches. There is no variation from the existing requirements, as regards the procedure for filing and documents to be submitted therewith.

SEBI will issue observations on the draft shelf prospectus, which would be valid for 365 days. Subsequently, for each tranche, the permitted entities would be required to file the shelf prospectus after incorporating the updations in terms of Information Memorandum with SEBI. They can proceed with the tranche without waiting for observations of SEBI. If there are any complaints etc., they would be required to address the same to the satisfaction of SEBI.

(b) Guidelines for Preferential Issues

In Chapter XIII – Guidelines for Preferential Issues, the following shall be substituted:

"In clause 13.3.1 - (i) in sub-clause (c), the words "except on such allotments on preferential basis which involve swap of equity shares / securities convertible into equity shares at a later date, for acquisition" shall be omitted.

(ii) after sub-clause (d), the following sub-clauses shall be inserted, namely :-

"(e) the lock-in period in respect of the shares issued on preferential basis pursuant to a scheme approved under Corporate Debt Restructuring framework specified by Reserve Bank of India, shall commence from the date of allotment and shall continue for a period of one year and in case of allotment of partly paid up shares the lock-in period shall commence from the date of allotment and continue for a period of one year from

the date when shares become fully paid up.

(f) no listed company shall make preferential issue of equity shares, warrants, PCDs, FCDs or any other financial instruments convertible into or exchanged with equity shares at a later date, to any person unless the entire shareholding if any, of such person in the company is held by him in dematerialized form.

(g) where the shares, warrants, PCDs, FCDs or any other financial instruments convertible into or exchanged with equity shares at a later date, are issued on preferential basis, the entire pre preferential allotment shareholding of such allottees shall be under lock – in from the relevant date upto a period of six months from the date of preferential allotment.

(h) where the shares, warrants, PCDs, FCDs or any other financial instruments convertible into or exchanged with equity shares at a later date, are issued on preferential basis, the shareholders who have sold their shares during the six months period prior to the relevant date, as applicable, shall not be eligible for allotment of shares on preferential basis."

2. In clause 13.4.1, **Period of Allotment**

(i) the words 'three months' appearing after the words 'within a period of' and before the words 'from the date of' shall be substituted by the words 'fifteen days';

(ii) the following proviso shall be inserted, namely :-

"Provided that where the allotment on preferential basis is pending on account of pendency of any approval of such allotment by any regulatory authority or the Central Government, the allotment shall be completed within 15 days from the date of such approval."

3. After clause 13.4.2, the following clause shall be inserted, namely –

"13.4.2A Nothing contained in clauses 13.4.1 and 13.4.2 shall apply in case of allotment of shares and securities convertible into equity shares at a later date on preferential basis pursuant to a scheme of corporate debt restructuring as per the Corporate Debt Restructuring framework specified by the Reserve Bank of India".

(Source: CFD/DIL/DIP/12/2004/8/4 dt. April 8, 2004)



1 Ministry examining issues related to tax holiday

The Finance Ministry is examining the facts of the case taken up by NASSCOM in its representation to the Revenue Department on Section 10A of the Income-Tax Act, 1961.

Under Section 10A, the profits and gains derived by an undertaking from the exports of articles or computer software are allowed as a deduction from its total income for a period of 10 consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins manufacture of such articles or computer software. The undertaking must have been established in a free trade zone (FTZ).

The officials also indicated that the Finance Ministry may issue clarifications on doubts of law that may arise on Section 10A. The issue which is the bone of contention between the Revenue Department and WIPRO (which has been slapped with tax demand) is the meaning of "undertaking" and whether every expansion of an undertaking would also qualify for a 10-year tax holiday.

"The legal intent of Section 10A is to benefit only newly established undertakings. The department and the company differ on whether expansion should constitute new undertaking or not."

2 Income Tax Decisions

2.1 Denial of exemption for over spending

Hon'ble Rajasthan High Court in the matter of *Shri Akhey Ram Iswari Prasad Trust Vs. CIT* has denied the exemption under section

11 of the income tax Act, 1961, on the ground that a public religious trust has overspent its income. [266 ITR 281]

2.2 Service of hearing notice is mandatory

Hon'ble Bombay High Court in the matter of *M/s. Rainbow Agri Industries Ltd. Vs. ITAT* held that "where notice is not received by the assessee because of a clerical mistake in the notice describing location of the assessee, the Tribunal is bound to rehear the appeal. The order of the Tribunal to the effect that appellants were themselves architects of the alleged mistake was found to be untenable." [266 ITR 38]

3 Foreign Companies cannot be taxed at a higher rate

Everyone's equal in the eyes of law. A recent order by the Income-tax Appellate Tribunal has held that the income-tax Department cannot levy tax on a foreign company at a rate higher than the one applicable to a similarly placed Indian company.

- ❑ In the absence of guidelines explaining 'prescribed arrangement' foreign companies can't be taxed at higher rate.
- ❑ The judgement has created a precedent that can be cited by others
- ❑ It means DTAA overrides Income Tax Act.

Indian Companies face a corporate tax rate of 35% (plus a surcharge of 2.5%). Foreign companies operating in India fall into two categories. Those, which are not registered under the Companies Act, are taxed at a higher rate of 40%. Other foreign companies, which are registered in India, are regarded as Indian companies in the Income Tax Act is concerned and face a maximum tax rate of 35% plus a 2.5% surcharge.

The IT Act also says that foreign companies have to make prescribed arrangements" to pay dividends. It is the term "prescribed arrangements" which figured prominently in this case.

The order, issued by a division bench of ITAT, Mumbai, comprising R.V. Easwar and A.K. Garodia, came in a case involving a British company Decca Survey Overseas.

The ITAT held that the department couldn't levy a higher rate of tax on a foreign company using an explanation introduced into a Section of the Income-Tax Act dealing with Double Taxation Avoidance Agreements.

4 Income-Tax (Seventh Amendment) Rules, 2004

The Central Board of Direct Taxes (CBDT) has amended the Income-tax Rules, 1962 by making an insertion of a new rule 16F. As per the new inserted rule a form has been introduced, Form No. 56H. The form is a report for claiming deduction u/s Sec 10BA of the Income Tax Act, 1961 that pertains to deduction in respect of profits arising out of exports of certain eligible articles.

(Source: Notification No. 128/2004 dt. 31.03.2004)

SERVICE TAX

1 Service Tax waiver norms eased for SEZ

A service provider could now provide any of the 58-odd services to a developer or a unit in a Special Economic Zone (SEZ) and claim service tax exemption without any authorisation from the concerned Chief Commissioner of Central Excise for the service being rendered.

PUBLICATIONS FOR SALE

THE FOLLOWING PUBLICATIONS OF THE SOCIETY ARE AVAILABLE AT Rs. 500/- EACH:

- RESOURCE MOBILISATION
- RISK MANAGEMENT
- TREASURY MANAGEMENT
- MERGERS & ACQUISITIONS
- FOREIGN EXCHANGE DERIVATIVES
- CORPORATE DEBT RESTRUCTURING
- STRATEGIC COST MANAGEMENT
- BALANCED SCORE CARD
- VENTURE CAPITAL
- SUPPLY CHAIN MANAGEMENT
- AS 28 & AS 26

ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY
503-504 CHIRANJIV TOWER, 43, NEHRU PLACE, NEW DELHI-110019
PHONE: 2622 6933, 2622 8410 FAX: 2622 3014
E-MAIL: AICAS@VSNL.NET



1 Compliance with Accounting Standards

RBI prescribes the following actions to be taken by the Banks in relation to the compliance of AS 24, AS 26 and AS 28:

(a) AS 24 - Discontinuing operations

Merger/closure of branches of banks by transferring the assets/ liabilities to the other branches of the same bank may not be deemed as a discontinuing operation and hence this AS will not be applicable to merger/closure of branches of banks by transferring the assets/ liabilities to the other branches of the same bank.

Disclosures would be required under the Standard only when:

- i. discontinuing of the operation has resulted in shedding of liability and realisation of the assets by the bank or decision to discontinue an operation which will have the above effect has been finalised by the bank;
- ii. the discontinued operation is substantial in its entirety.

(b) AS 26 – Intangible asset

The issues that arise and require clarification while complying with the AS have been identified. Banks may be guided by the following while complying with the Standard.

- This AS will not apply to intangible assets created in the books of banks before the effective date of this AS subject to the transitional provisions as laid down in paragraphs 99 and 100.
- It may be difficult to estimate the useful life of computer software which has been customised for the bank's use and is expected to be in use for some time. It is observed that the detailed recognition and amortisation principle in respect

of computer software prescribed in Appendix A to the Standard adequately addresses these issues and may be followed by banks.

- Intangible assets recognised and carried in the balance sheet of banks in compliance with AS 26 will attract provisions of Section 15(1) of the BR Act in terms of which banks are prohibited from declaring any dividend until any expenditure not represented by tangible assets is carried in the balance sheet.

The intangible assets which would be created in the books of banks consequent upon the adoption of AS 26 would generally represent payments made by enterprises towards acquisition of assets which may not be tangible like corporate computer software,

impairment of the value assets. Hence, banks may be guided by these in determining the circumstances when the Standard is applicable to banks and how frequently the assets covered by the Standard need to be reviewed to measure impairment.

- ii. In addition to the assets of banks which are specifically identified at paragraph above, viz. financial assets, inventories, investment, loans & advances etc to which the Standard does not apply, the Standard would apply to financial lease assets and non banking assets acquired in settlement of claims only when the indications of impairment of the entity are evident.

(Source: BP.BC. 82 /21.04.018 dt. April 30, 2004)

2 Declaration of Dividends by Banks

The policy approach adopted by the Reserve Bank with regard to payment of dividends by banks has been recently reviewed in consultation with the Standing Technical Advisory Committee on Financial Regulation (STACFR) and it has been decided that the regulatory focus with regard to payment of dividend by banks should shift from 'quantum of dividend' to 'dividend payout ratio'.

According to the revised guidelines on dividends payable by banks:

- Only the Banks, having the CRAR of at least 11% for preceding two completed years and the accounting year for which it proposes to declare dividend; and
- Net NPA less than 3 %, shall be eligible to declare dividends without prior approval of RBI.

Quantum of Dividend Payable – Banks, which qualify to declare dividends consequent upon compliance with the requirements above would be eligible to pay dividends without obtaining the prior approval of the Reserve Bank. The dividend payout ratio shall not exceed 33.33%.

In case any bank does not meet the criteria prescribed in it should obtain the prior approval of the Reserve Bank before declaring any dividend.

(Source: DBOD.80/ 21.02.067 dt. April 23, 2004)

Chartered Accountants fear loss of autonomy

The Institute of Chartered Accountants of India (ICAI) apprehended that the Centre's move to amend the Chartered Accountants Bill, could lead to loss of autonomy. The Chartered Accountants (Amendment) Bill proposes to substitute Section 30(A) with a new Section aimed at empowering the government to issue directions to the ICAI. The said move could undermine ICAI's autonomy. As per the president of ICAI, the Institute was not consulted before preparing the proposed Bill.

brand equity etc. and would not be in the nature of deferred revenue expenditure like expenses incurred to raise capital, expenses incurred for launching any new products etc. All these items are intangible assets. Therefore, any expenditure incurred towards these intangible items would attract the provisions of BR Act and for carrying any such item in the books, banks would have to seek exemption from Section 15(1) of the BR Act, from the Govt.

(c) AS 28 – Impairment of assets

The Standard would not apply to investments, inventories and financial assets such as loans and advances and may generally be applicable to banks in so far as it relates to fixed assets.

Banks may also take into account the following specific factors while complying with the Standard.

- i. Paragraphs 7 and 8 of the Standard have clearly listed the triggers which may indicate



3 ICAI releases statement on CARO

The Institute of Chartered Accountants of India has released its Statement on the Companies (Auditor's Report) Order, 2003 (CARO).

The statement, which is mandatory for members of the institute, provides detailed guidance to auditors of companies on compliance with the reporting requirements laid down by the Order.

4 E&Y Debarred for Fresh Audit by SEC, USA

After the US Securities and Exchange Commission (SEC) banned Ernst & Young from taking on new audit for six months as a punishment for allowing a "blatant" conflict of interest to arise with its former audit client, PeopleSoft, the firm put up a press note on its Web site.

"While we are surprised and disappointed by the harsh sanctions in the US, we accept them,"

5 GASAB Issues Exposure Drafts on Accounting and Classification of Grants-in-aid and Cash Flow Statements

The Government's Accounting Standards Advisory Board (GASAB) has recently issued Exposure Drafts on the subjects of Accounting and Classification of Grants-in-aid and Cash Flow Statements.

(Source: Issued vide Cir. dt. April 2, 2004)

FEMA

1 Acquisition of Foreign Securities under ESOP Scheme

As a measure of further liberalisation, it has now been decided to dispense with the condition that the shares should be offered at a concessional price. It has also been decided to permit sale of the shares so acquired, without obtaining prior permission of the Reserve Bank, provided the proceeds thereof are repatriated to India.

Authorised Dealers may accordingly allow

would also be applicable in case the maturity period exceeds three years. The changes in interest rates will also apply to NRE deposits renewed after their present maturity period.

(Source: RBI/2004/151/ dated April 17, 2004)

3 Current Account Transactions liberalized

Remittance for maintenance of close relatives abroad - Requests of Indian Nationals on deputation to India from Overseas Companies

It has been decided to extend the same facility of remittance of salary already available to foreign nationals (other than Pakistani nationals) to Indian nationals employed by an overseas company, on deputation to India. Accordingly, it will be in order for the Authorised Dealers to allow remittance of net salary (after deductions of taxes, contribution to provident fund and other deductions) of a citizen of India, who is on deputation to the office or branch or subsidiary or joint venture in India of such overseas company, for the maintenance of close relatives residing abroad.

(Source: A.P./DIR/86 dt. April 17, 2004)

4 Offshore Banking Units in Special Economic Zones

RBI have been receiving a number of enquiries from banks, as to whether under the "Liberalised Remittance Scheme US \$ 25,000 for Resident Individuals", notified in terms of A.P (Dir Series) Circular No 64 dated February 4, 2004, the OBUs set up in India can be allowed to open and maintain foreign currency accounts of resident individuals.

Now, it has been decided by RBI that the OBUs in SEZs will not be allowed to open foreign currency accounts of residents. The banks are advised to ensure that the OBUs do not accept/ solicit deposits or investments from residents or open their accounts.

(Source: RBI/2004/130 dated 1st April, 2004)

NATIONAL COMPANY LAW TRIBUNAL DCA may move apex court on HC Order

The Department of Company Affairs is considering filing an appeal before the apex court against the recent Madras High Court order declaring the setting up of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) as unconstitutional.

The Companies (Amendment) Act, 2002, provided for setting up of the NCLT and NCLAT. According to informed sources the Attorney General of India is being consulted on the issue.

remittances for acquisition of shares under ESOP Schemes as per the terms of the offer.

(Source: A.P. (DIR Series)/90 dated May 3, 2004)

2 Interest rate on NRE Term Deposit & Saving Deposit Accounts

It has now been decided that, until further notice, the interest rates on NRE Deposits for one to three years maturity and for saving deposit effective close of business in India on April 17, 2004, should not exceed the LIBOR/SWAP rates for US dollar of corresponding maturity. The interest rates as determined above for three-year deposits

1 Acceptance of Deposits – Revised Guidelines

Reserve Bank has reviewed the issue relating to acceptance of deposits from Non Resident Indians (NRIs) by persons other than Authorised Dealers/ Authorised Banks in the light of current developments. Persons other than Authorised Dealers/ Authorised Banks include a company registered under Companies Act, 1956 (including a non-banking finance company registered with Reserve Bank) or a body corporate created under an Act of Parliament or State Legislature who has accepted deposits from NRIs on repatriation basis or a company or a proprietorship concern or a firm in India which has accepted deposits from NRIs on non- repatriation basis. The interest earned on such deposits, being current income, is eligible to be repatriated outside India.

It has been decided that such deposits by NRIs may continue as hitherto provided that the amount deposited with these entities does not represent inward remittances or transfer from NRE/FCNR (B) Accounts into the NRO account. In future, deposits by NRIs with the above entities out of inward remittances from overseas or by debit to NRE/FCNR (B) Accounts shall not be permissible. However, such entities may continue to hold and also renew existing deposits held in their books in the name of NRIs on repatriation or non-repatriation basis, as the case may be. The interest earned on such deposits will continue to be eligible for repatriation. The revised instructions shall be applicable with immediate effect.

(Source: RBI/2004/179/A.P. (DIR Series) Circular No.89 dated April 24, 2004)

2 Interest Rates on Advances

In exercise of the powers conferred by Sections 21 and 35A of the Banking Regulation Act 1949, the Reserve Bank of India, being satisfied that it is necessary and expedient in the public interest so to do, hereby directs that with effect from May 1, 2004 the interest rates on rupee export credit would be as indicated herein below:

Interest Rates on Rupee Export Credit of Scheduled Commercial Banks (Per cent per annum)	
CATEGORIES OF EXPORT CREDIT	INTEREST RATES @ Effective from May 1, 2004 to April 30, 2005
1. Pre-Shipment Credit	
a) i) Upto 180 days	Not exceeding BPLR minus 2.5 percentage points
ii) Beyond 180 days and upto 270 days	Free*
b) Against incentives receivable from Government covered by ECGC guarantee upto 90 days	Not exceeding BPLR minus 2.5 percentage points
2. Post-Shipment Credit	
a) On demand bills for transit period (as specified by FEDAI)	Not exceeding BPLR minus 2.5 percentage points
b) Usance Bills (for total period comprising usance period of export bills, transit period as specified by FEDAI and grace period wherever applicable)	
i) Upto 90 days	Not exceeding BPLR minus 2.5 percentage points
ii) Beyond 90 days and upto 6 months from the date of shipment	Free*
c) Against incentives receivable from Government covered by ECGC guarantee upto 90 days	Not exceeding BPLR minus 2.5 percentage points
d) Against undrawn balances (upto 90 days)	Not exceeding BPLR minus 2.5 percentage points
e) Against retention money (for supplies portion only) payable within one year from the date of shipment (upto 90 days)	Not exceeding BPLR minus 2.5 percentage points
3. Deferred Credit	
Deferred credit for the period beyond 180 days	Free*
4. Export Credit Not Otherwise specified(ECNOS)	
a) Pre-shipment credit	Free*
b) Post-shipment credit	Free*

BPLR : Benchmark Prime Lending rate

@ Note : Since these are ceiling rates, banks would be free to charge any rate below the ceiling rates.

*Free: The banks are free to decide the rate of interest to be charged, keeping in view the BPLR and spread guidelines.

(Source: DIRECTIVE DBOD.No.BC.81 /13.07.01/2003-04 dated April 24, 2004)

3 No TDS on 8% Savings Bonds

Banks will not deduct tax at source on the interest and maturity proceeds of the 8% savings (taxable) bonds, 2003 issued by the Government. The Reserve Bank of India has instructed designated banks not to deduct tax at source (TDS) on these bonds, following the notification issued by the Government.

(Source: Press Release No. 2003-2004/1201 dated April 10, 2004)

INMAGS

..... your growth partner

advl.

LATEST IN FINANCE

4 Trade Credits for Imports into India

As Authorised Dealers (ADs) are aware, effective September 27, 2002, ADs have been permitted to approve Short-Term Credit (STC) up to USD 20 million per import transaction for a period less than three years (vide A.P. (DIR Series) Circular No. 25 dated September 27, 2002). STC exceeding USD 20 million per import transaction requires prior approval of RBI.

The present instructions have been reviewed in the light of experience gained and recent developments. Credits up to USD 20 million per import transaction with a maturity period exceeding one year but less than three years would now be permitted only for import of capital goods. The reporting arrangements for such credits have been further simplified. The revised guidelines are set out below.

It is clarified that credit extended for imports directly by the overseas supplier, bank and financial institution for original maturity of

less than three years is hereinafter referred to as 'trade credit' for imports. Depending on the source of finance, such trade credit will include suppliers' credit or buyers' credit. It may be noted that buyers' credit and suppliers' credit for three years and above come under the category of ECB which are governed by ECB guidelines issued vide A. P. (DIR Series) Circular No. 60 dated January 31, 2004 and modified from time to time.

It has been decided that ADs may henceforth approve trade credits for imports into India up to USD 20 million per import transaction for import of all items (permissible under the EXIM Policy) with a maturity period (from the date of shipment) up to one year. For import of capital goods, ADs may approve trade credits up to USD 20 million per import transaction with a maturity period of more than one year and less than three years. No roll-over/extension will be permitted by the AD beyond the permissible period.

As hitherto, ADs shall not approve trade credit exceeding USD 20 million per import transaction. The all-in-cost ceilings over 6 months LIBOR* will continue as under:

Maturity period	All-in-cost ceilings over 6 months LIBOR*
Up to one year	50 basis points
More than one year but less than three years	125 basis points

*for the respective currency of credit or applicable benchmark.

The all-in-cost ceilings include arranger fee, upfront fee, management fee, handling/processing charges, out of pocket and legal expenses, if any. The all-in-cost ceilings will be reviewed from time to time.

As hitherto, ADs shall not issue guarantee, letter of undertaking or letter of comfort in favour of overseas lender on behalf of their importer constituent for trade credit without prior approval of the Reserve Bank.

(Source: RBI/2004/154 dated April 17, 2004)

INMAGS

..... a name you can trust

advl.



The Chartered Accountant World

A JOURNAL OF

ALL INDIA CHARTERED ACCOUNTANTS' SOCIETY

SUBSCRIPTION FORM

The Editor,

The Chartered Accountant World

503-504 Chiranjiv Tower, 43, Nehru Place, New Delhi - 110019

I want to subscribe to "The Chartered Accountant World" for One year/Two years. My/Our particulars are as follows:

Name:

Qualification:

Organisation:

Designation:

Address:

Pin Code:

Ph.: (C) (R)

Fax:

I am enclosing (Postage) / Cheque No.

dated drawn on

in favour of "Accountants' Society" payable

at New Delhi

Date:

Place:

Signature

Regn./Membership No.

Annual Subscription for C.A.'s Rs. 200/- Single Copy Rs. 25/-
Annual Subscription for Others Rs. 250/- Single Copy Rs. 25/-

The Chartered Accountant World



EDITOR

Pankaj Gupta, LL.B, FCS E-mail: pankajgupta@inmagsindia.com

PUBLISHED & PRINTED

At New Delhi by Satish Chandra, Administrative Officer, on behalf of All India Chartered Accountants' Society, 4696, Brij Bhawan, 21A, Ansari Road, Darya Ganj, New Delhi - 110 002 Phone : 23265320, 23288101 E-mail: aicas@vsnl.net Printed at : EIH Limited, Unit: Printing Press, No. 7, Sham Nath Marg, Delhi-110054.

If undelivered, please return to :

All India Chartered Accountants' Society
4696, Brij Bhawan 21A, Ansari Road,
Darya Ganj, New Delhi - 110 002

"The Chartered Accountant World" is normally published in the second week of every month. ■ Non-receipt of any issue should be notified within that month. ■ Articles on subjects of interest to Chartered Accountants are welcome. ■ Views expressed by contributors are their own and the Society does not accept any responsibility. ■ While all reasonable care has been taken to ensure that the information provided in the "Journal" is fair and accurate, the society and its editorial advisory board shall not in any way be responsible for the consequences of any action taken on the basis of reliance upon the contents of this "Journal". ■ All rights reserved. ■ No part of the journal may be reproduced or copied in any form by any means without the written permission of the Society.