

BHUJ BRANCH OF WIRC OF ICAI

E-NEWSLETTER FOR THE MONTH OF AUGUST-2020

(FOR PRIVATE CIRCULATION ONLY)

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CHAIRMAN'S COMMUNICATION

Dear Professional Brothers & Sisters

In India, the festival time is awaited by people of all age groups i.e. children, youths and elders in equal spirit in the family. Indians celebrate festivals with full of enthusiasm and fervour. August is the month of national festival Independence day and cultural/religious festivals like Raksha Bandhan, Janmashtami, Samvatsari, Ganesh Chaturthi and Eid (Id-ul-Adha). I take this opportunity to wish you all on national festival and all pious festivals

Positivity is enshrined in the smile that we may have accepting a challenging task. Accepting a challenge we may not be sure of answers explaining what, where, when, who, why and how aspects of the challenge, but gracefully accept it and make a small beginning. Soon we realise things fall in place and how simple it is to complete the task and emerge winner. Chartered Accountants with their acumen are in position to plan and strategise and achieve many tasks that otherwise look impossible.

Chartered Accountants have to play vital role in time of uncertainty by providing guidance to clients for management of finance, management of risk and management of other resources. Professional Chartered accountants advice to small businesses helps in improved rates of survival, growth, decision-making procedures, and superior financial performance.

The month that was – July 2020

-Month was started with celebration of 72th **Chartered accountants day** with programmes of Flag Hosting, Convened Annual General Meeting, Swachchh Bharat Abhiyan, Tree Plantation and Blood Donation camp with large number of participants.

-Bhuj Branch jointly with all branches of Gujarat (12 Branches) organised Devine motivational Speech virtual seminar on “**Deal With tough time**” by Pujya Gyanvatsal Swami (BAPS) for Member and Students along with family members on 14-07-2020 and attended by 1200+ participants

-Branch has **invited suggestions & Views** from members for better functioning of Branches from members of Branch.

-Bhuj Branch jointly with Gandhidham(Host) and Anand Branches organised Virtual CPE on Practical Approach of how to utilize the “**Company Fresh Start Scheme-2020**” by CA P V Satish Kumar, (CWA, CS) on 18-07-2020 attended by 50+ participants

-Bhuj Branch has organised Virtual CPE on “**Important Changes in Income Tax** Applicable from AY 20-21” with speaker CA Venil Shah our branch member on 21-07-2020 attended by 58+ participants

-Bhuj Branch jointly with Gandhidham and Anand Branches organised Virtual CPE on “**Controvercial Judgments on GST**” by CA Abhay Desai on 25-07-2020 attended by 98 participants

Independence Day Celebration

National festival Independence day celebrated annually on August 15 in India. Bhuj Branch is also planning for celebration of Independence day. Details of program will be sent by mails to members.

Non CPE Program on Sunday

Chartered Accountants are not only finance expert but doing extra ordinary performance and work other than in area of finance. Interested members are invited to share their experience in area of interest i.e Physical Fitness Yoga, Tracking & Travels, Cricket, Music, Share Market, Political Knowlge sharing or any other area in virtual meetings.

Service to Society by Charity Activity

Charetered accountants are class of the society equipped with all resources. We are doing charitable activities by our owned but we can do better jointly. There are many way in which we can serve the society. Interested members can join and discuss activities to be done for the welfare of the society.

Forthcoming Academic Program for Members (e-learning)

We are planning to organise various programs on relevant topics i.e Tax Audit, GST, Income Tax etc. on virtual platform.

I would like to conclude with the thought,

“Whether you think you can, or you think you can’t, you’re right either way.”
Henry Ford

Stay Safe. Stay Happy. Stay Updated

Thanks and Regards

CA Jitendra Thacker

Chairman

Date: 01-08-2020

Complying with Independence in matters of Fees, Compensation & Evaluation Policies, Gifts & Hospitality and Actual or Threatened Litigation (Sections 410, 411, 420 & 430)

CA Shahid Memon

B.Com, ACA

When performing audit engagements, the Code requires firms to be independent and in alignment with the fundamental principles. This Part sets out specific requirements and application material on how to apply the conceptual framework to maintain independence when performing such engagements. The conceptual framework set out in Section 120 to identify, evaluate and address threats to independence must be envisaged.

Section 410: Fees

- The nature and level of fees or other types of remuneration might create a **self-interest or intimidation threat**.

Causes, evaluation & mitigation of self-interest or intimidation threat:

(1) Firm Level:

- (a) **Cause:** When the total fees generated from an audit client by the firm expressing the audit opinion represent a large proportion of the total fees of that firm, the dependence on that client and concern about losing the client create a self-interest or intimidation threat.
- (b) **Evaluation:** Factors that are relevant in evaluating the level of such threats include:
 - a. The operating structure of the firm.
 - b. Whether the firm is well established or new.
 - c. The significance of the client qualitatively and/or quantitatively to the firm
- (c) **Mitigation:** To reduce dependence on the audit client, efforts should be made to increase the client base of the firm.

(2) Partner Level:

- (a) Cause: A self-interest or intimidation threat is also created when the fees generated by a firm from an audit client represent a large proportion of the revenue of one partner or one office of the firm.
- (b) Evaluation: Factors that are relevant in evaluating the level of such threats include:
- a. The significance of the client qualitatively and/or quantitatively to the partner or office.
 - b. The extent to which the compensation of the partner, or the partners in the office, is dependent upon the fees generated from the client.
- (c) Mitigation: To reduce dependence on the audit client, efforts should be made to increase the client base of the partner or the office & an appropriate reviewer who did not take part in the audit engagement should review the work performed.

Requirements in light of Section 410 when total fees from a audit client & related entities exceeds 15% of total fees:

- Disclose to client about the fact that for **two consecutive years**, the fees from client represent more than 15% of total fees of the firm.

However, no such ceiling is applicable where such fees don't exceed Rs.5 lakhs, including fees for other services or through different firm or firms in which member of firm is partner or proprietor.

No such ceiling on the total fees of a firm would be applicable in the case of audit where auditor is appointed by the Government.

- Discuss if any of the following two actions can safeguard to address the threat, and if so, apply it:
 - a) Prior to the audit opinion being issued on the third year's financial statements, an engagement quality control review by an independent professional accountant, or a professional body should be carried out ("a pre-issuance review"); or
 - b) After the audit opinion on the third year's financial statement has been issued, and before the audit opinion being issued on

the fourth year's financial statements, an engagement quality control review of the second year's audit by an independent professional accountant, or a professional body should be carried out ("a post-issuance review").

- If the firm determines that post-issuance review cannot reduce the level of threat to acceptable level, the firm shall have pre-issuance review performed.
- If the fees for two consecutive year continues to exceed 15%, the firm shall comply with the disclose to and discuss the same with client and also get post-issuance review or pre-issuance review carried out as applicable, as discussed above.

Fees Overdue:

- If the significant portion of fees is unpaid before issuance of audit report for the following year, self-interest threat might be created.
- Section 511 prohibits members to carry out audits of clients to whom loans and guarantees are given. The firm is required to determine if the same shall be treated as loan to client, thereby affecting auditor's independence.
- The firm shall either obtain partial payment of overdue fees or appoint reviewer to review the work performed.

Contingent Fees:

- CAs are not allowed to charge fees based on a percentage of profits or which are contingent upon the findings or results of work performed, except in cases which are permitted under Regulation 192 of The Chartered Accountants Regulations, 1998, which are as under:
 - a. Receiver or Liquidator** can charge fees based on a percentage of realization or disbursement of Assets
 - b. Auditor of a co-operative society**, can charge fees based on a percentage of the paid-up capital or the working capital or gross or net income or profits
 - c. Valuer for the purpose of direct taxes**, can charge fees based on a percentage of the property valued

- d. The Council may by resolution, specify certain **management consultancy services**, where fees may be charged on percentage basis, contingent upon the findings or results of such work
- e. In case of certain **fund raising services**, the fees may be based on a percentage of the fund raised
- f. in the case of **debt recovery services**, the fees may be based on a percentage of the debt recovered
- g. In the case of services related to **cost optimisation**, the fees may be based on a percentage of the benefit derived and
- h. Any other service or audit as may be decided by the Council.

In exercise of _____ power, The Council have permitted charging of fees based on percentage of profits or contingent upon the findings or results of work in following circumstances:

- i. Charging of fees by members enrolled as Insolvency Professional in Insolvency proceedings
- ii. Rendering Non-assurance services to non-audit clients.

Section 411: Compensation and Evaluation Policies

- A firm's evaluation or compensation policies might create a **self-interest threat**.
- When an audit team member for a particular audit client is evaluated on or compensated for selling non-assurance services to that audit client, the level of the self-interest threat will depend on:
 - (a) What proportion of the compensation or evaluation is based on the sale of such services;
 - (b) The role of the individual in the audit team; and
 - (c) Whether the sale of such non-assurance services influences promotion decisions.
- To eliminate such self-interest threats, actions like removing that individual from audit team or revising compensation plan or evaluating process for that individual can be taken.

- An appropriate reviewer should review the work of the audit team member to address such threats.
- A firm shall not evaluate or compensate a key audit partner based on that partner's success in selling non-assurance services to the partner's audit client. This requirement does not preclude normal profit-sharing arrangements between partners of a firm.

Section 420: Gifts and Hospitality

- Accepting gifts and hospitality from an audit client might create a **self-interest, familiarity or intimidation threat**.
- A firm, network firm or an audit team member shall not accept gifts and hospitality from an audit client, unless the value is trivial and inconsequential.
- Section 340 lays down the requirements and application material, where a firm, network firm or audit member is offering or accepting an inducement to or from an audit client, non-compliance of which may threaten independence.
- Requirements laid down in Section 340 don't allow gifts or hospitality to be accepted, even though the value is trivial or inconsequential, if the intent is to improperly influence behavior.

Section 430: Actual or Threatened Litigation

- When litigation with an audit client occurs, or appears likely, **self-interest and intimidation threats** are created.
- The relationship between client management & audit team members should be open and complete information regarding client's operations must be disclosed. Actual or Threatened litigation might affect

management's willingness to make complete disclosure and create self-interest and intimidation threats.

- The level of such threats should be evaluated by materiality and whether the litigation relates to prior audit engagement.
- When audit team member is involved in litigation, threats can be eliminated by removing that individual from audit team.
- An appropriate reviewer should review the work performed to address such threats.

Business, Family and Personal Relationship (Sections 520 & 521)

CA Chirag R Shah
B.Com. FCA, DISA(ICAI)

Introduction

New Code of Ethics 2019 based on the conceptual framework set out to identify, evaluate and address threats to independence. If we reduce threats than accept the assignment otherwise we have to decline to assignment. Business, Family or personal relationships with client personnel might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Business Relationship (Section 520)

Threat Evaluation

A firm, a network firm or an audit team member shall not have a close business relationship with an audit client or its Management unless any financial interest is immaterial and the business relationship is insignificant to the client or its Management and the firm, the network firm or the audit team member, as applicable. The above is subject to additional restrictions under Companies Act, 2013, where applicable. As per section 141(3)(e) of Companies Act, 2013 read with Companies (Audit and Auditors) Rules, 2014, a firm, an individual practitioner, sole proprietor or partner (as the case may be) shall not, whether directly or indirectly, have business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed.

❖ Examples

- Having a financial interest in a joint venture with either the client or a controlling owner, director or officer or Other individual who performs senior managerial activities for that client.

- Arrangements to combine one or more services or products of the firm or a network firm with one or more services or products of the client and to market the package with reference to both parties.

❖ Exception

- The term "business relationship" shall be construed as any transaction entered into for a commercial purpose except
 - 1) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Companies Act, 2013 and the Chartered Accountants Act, 1949 or any other Act and the rules or the regulations made under those Acts;
 - 2) commercial transactions which are in the ordinary course of business of the company at arm's length price- like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such Other similar businesses.

❖ Apply Safeguards

- I. Purchase of goods and services from an audit client by a firm, a network firm, an audit team member, or any of that individual's immediate family does not usually create a threat to independence if the transaction is in the normal course of business and at arm's length.
- II. firm, a network firm, an audit team member, or any of that individual's immediate family shall not have a business relationship involving the holding of an interest in a closely-held entity when an audit client or a director or officer of the client, or any group thereof, also holds an interest in that entity, unless:
 - i. The Business Relationship is insignificant to firm
 - ii. The Financial interest is immaterial
 - iii. The financial Interest does not give the ability to control the closely held entity
- III. Eliminating or reducing the magnitude of the transaction.

IV. Removing the individual from the audit team

Family and Personal Relationships (Section 521)

Threat Evaluation

Family or personal relationships with client personnel might create a self-interest, familiarity or intimidation threat depending on their role, certain employees of the audit client. Threat is created when an immediate family member of an audit team member or Closed Family of an Audit Team Member or Relationships Partners or employees of Firm with Client.

Additionally, under Companies Act, 2013, where applicable, as per Sec 141 (3)(f) of the Act an individual practitioner, sole proprietor or the firm is ineligible from being appointed as an auditor of a Company where relative of an individual practitioner, sole proprietor or partner (as the case may be) is a director or is in the employment of the company as a director or key managerial personnel as defined under the Companies Act, 2013

Factors that are relevant in evaluating the level of such threats include:

- The individual responsibilities on the audit team.
- The role of the family member or other individual within the client, and the closeness of the relationship.
- The position held by the immediate family member
- Close family member of an audit team member or Firm Partner or Employee of audit firm is a director or officer of the audit client or an employee in a position to exert significant influence.
- The role of the Audit team member or Partner or Employee of Firm
- The nature of the relationship between the partner or employee of the firm and the director or officer or employee of the client.

❖ **Apply Safeguard**

- We may take following action for eliminate or reduce the Self interest, familiarity or intimidation threat and apply the safeguard

- I. Structuring the responsibilities of the audit team so that the audit team member does not deal with matters that are within the responsibility of the immediate family member or has a close relationship
- II. Structuring the partner's or employee's responsibilities to reduce any potential influence over the audit engagement and having an appropriate reviewer review the relevant audit work performed.
- III. Partners and employees of the firm shall consult in accordance with firm policies and procedures if they are aware of a personal or family relationship between:
 - (a) A partner or employee of the firm or network firm who is not an audit team member; and
 - (b) A director or officer of the audit client or an employee of the audit client in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.
- IV. An Individual shall not participate as an audit team member when any of that individual's immediate family:
 - (a) Is a director or officer of the audit client;
 - (b) Is an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion; or
 - (c) Was in such position during any period covered by the engagement or the financial statements.
- V. Removing the Audit team member who has the close relationship Audit client or his employee.

Section 540: Long Association of Personnel (Including Partner Rotation) with an Audit Client, Section 550: Auditor Rotation.

**CA Nikit A. Desai
B.Com, FCA.**

The Ethical Standards Board of The Institute of Chartered Accountants of India, has issued revised Code of Ethics, which has come in to effect from 1st July 2020. Certain new requirements have been introduced in this Revised Code of Ethics, which includes:

- 1) Section 540: Long Association of Personnel (Including Partner Rotation) with an Audit Client, and
- 2) Section 550: Auditor Rotation.

As the saying goes - “Familiarity breeds Contempt” – An English Proverb, the ESB of the ICAI, has introduced new requirements of Personnel/Partner Rotation and Auditor Rotation with an Audit Client to address the issue. When an individual is involved in an audit engagement over a long period of time, familiarity and self-interest threats might be created.

We shall discuss the requirements as set out by the sections.

➤ Why this new section 540 – Long Association of Personnel is introduced?

A self-interest threat might be created as a result of an individual’s concern about losing a longstanding client or an interest in maintaining a close personal relationship with a member of senior management or those charged with governance. Such a threat might influence the individual’s judgment inappropriately.

➤ What are the Factors that are relevant to evaluating the level of Familiarity or Self Interest Threat?

Here the factors have been differentiated on basis of Individual i.e. Personnel / Partner and the Audit Client.

In relation to an Individual:

- Overall length of relationship with the client, including the period if at a previous firm.
- How long the individual has been an engagement team member
- The extent to which the work of the individual is directed, reviewed and supervised by more senior personnel
- The extent of ability to influence the outcome of the audit
- The closeness of the individual's personal relationship with senior management or those charged with governance.
- The nature, frequency and extent of the interaction between the individual and senior management or those charged with governance.

In relation to the Audit Client:

- The nature, frequency and extent of the interaction between the individual and senior management or those charged with governance.
- Whether there have been any recent changes in senior management or those charged with governance.
- Whether there have been any structural changes in the client's organization which impact the nature, frequency and extent of interactions the individual might have with senior management or those charged with governance.

➤ Is there any safeguards to address such familiarity or self-interest threats?

Some examples of actions that might be safeguards to address such familiarity or self-interest threats include:

- Changing the role of the individual on the audit team or the nature and extent of the tasks the individual performs.
- Having an appropriate reviewer who was not an audit team member review the work of the individual.
- Performing regular independent internal or external quality reviews of the engagement.

If a firm decides that the level of the threats created can only be addressed by rotating the individual off the audit team, the firm shall determine an appropriate period during which the individual shall not:

- (a)** Be a member of the engagement team for the audit engagement;
- (b)** Provide quality control for the audit engagement; or
- (c)** Exert direct influence on the outcome of the audit engagement.

The ethical standards have bifurcated the Audit Clients into 2 categories:

- 1) Audit clients that **are not** Public Interest Entities and
- 2) Audit clients that **are** Public Interest Entities.

- What is the duration of rotation fixed by the section 540 of Code of Ethics for Long Association of Personnel/Partner?

The period shall be of Sufficient Duration to allow the familiarity and self-interest threats to be addressed for audit clients that are not Public Interest Entities.

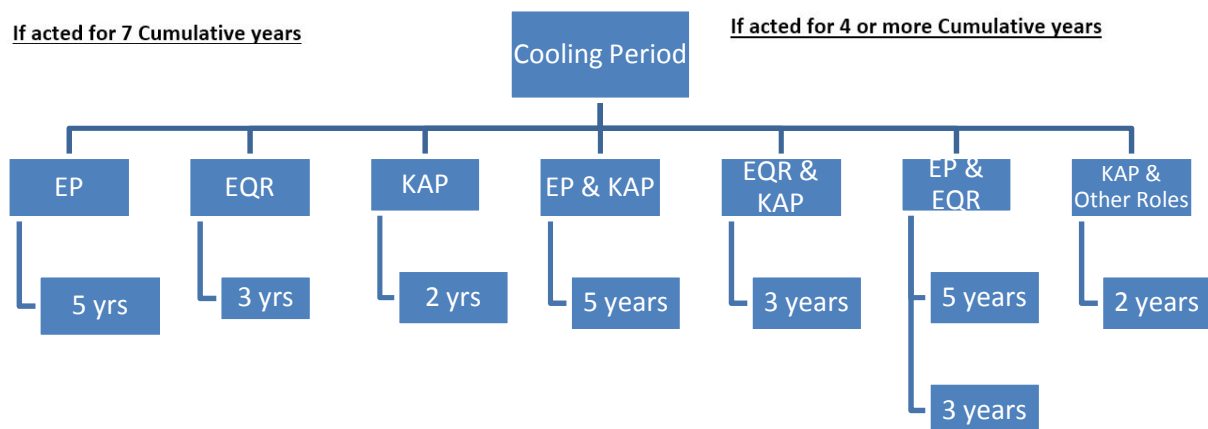
The period rotation for audit clients that are Public Interest Entities is as under:

An individual shall not act in any roles or combination of such roles for a period of more than 7 cumulative years (Time – on period):

- 1) EP – Engagement Partner
- 2) EQR – Individual appointed as responsible for Engagement Quality Control Review
- 3) KAP – Any other Key Audit Partner Role

- What is the Cooling Period to be served by the individual after being rotated?

The period for Cooling has been categorized on basis of roles played by the individual in the firm with the audit client and the duration of the said role.



- Whether period of service at a prior firm to be considered for Long Association?

Yes, the length of relationship shall, where relevant, include time while the individual was a key audit partner on an engagement at a prior firm.

- Are there any restrictions on the individual during the Cooling – off Period? If yes, what are they?

Yes, there are certain restrictions on individual that he shall not perform as under:

Be an engagement team member or provide quality control for the audit engagement

Consult with engagement team or client regarding issues/events affecting the audit engagement

Be responsible for leading or co-ordinating the professional services to the client.

Undertake role or activities that have significant or frequent interaction with senior management or those charged with governance or Exerting direct influence on the outcome of the audit engagement.

However, the provisions are not intended to prevent the individual from assuming a leadership role in the firm or a network firm (like that of Senior or Managing Partner, Chief Executive or equivalent).

- How does the provisions apply if any different statute is applicable to the audit client?

If rotation of partners for an audit client has been stipulated vide any industry/Sector specific provisions contained in a statute, the said provisions shall be applicable with regard to such industry/Sector.

In case of an audit client being a company, in accordance with the Section 139 of the Companies, Act, 2013, the members of a company may resolve to provide that in the Firm appointed by them, the auditing partner and its team shall be rotated at such intervals as may be resolved by the members. If they resolve to provide shorter time on period, such shorter period will prevail.

Section 550 – Auditor Rotation

In accordance with Section 139(2) of the Companies Act, 2013, no listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—

- (a) an individual as auditor for more than one term of five consecutive years; and
- (b) an audit firm as auditor for more than two terms of five consecutive years:

Provided that—

- (i) an individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;

For the purposes of sub-section (2) of section 139, the class of companies shall mean the following classes of companies excluding one person companies and small companies:-

- (a) all unlisted public companies having paid up share capital of rupees ten crore or more;
- (b) all private limited companies having paid up share capital of rupees fifty crore or more
- (c) all companies having paid up share capital of below threshold limit mentioned in (a) and (b) above, but having public borrowings from financial institutions, banks or public deposits of rupees fifty crores or more.

(ii) an audit firm which has completed its term under clause (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:

Provided further that as on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years:

Provided also that every company, existing on or before the commencement of this Act which is required to comply with the provisions of this sub-section, shall comply with requirements of this sub-section within a period which shall not be later than the date of the first annual general meeting of the company held, within the period specified under sub-section (1) of section 96, after three years from the date of commencement of this Act.

SA-230 Audit Documentation

CA Jimmy Sonaghela
B.COM, ACA

Scope:-

Documentation is considered the backbone of an audit. SA-230 deals with the auditor's responsibility to prepare audit documentation for an audit of financial statement. "Audit Documentation" refers to the record of audit procedures performed, relevant audit evidence obtained, and the conclusions the auditor reached.(terms such as "Working papers")

Why Documentation?

Documentation is essential because the work that the auditor performs, the explanation given to the auditor, the conclusion arrived at, are all evidenced by documentation. Poor documentation may depict poor performance in an audit. The auditor may have executed appropriate audit procedures, however if there is no documentation to prove, it may put question on work done, in case any material misstatement is reported.

Objective:-

The objective of the auditor is to prepare documentation that provides:

- A sufficient and appropriate record of the basis for the auditor's report and
- Evidence that audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements.

Purpose:-

The following are the purpose of Audit Documentation:

- Assisting the engagement team to plan and perform the audit.
- Assisting members of the engagement team to direct and supervise the audit work, and to discharge their review responsibilities.
- Enabling engagement team to be accountable for its work.
- Retaining a record of matters of continuing significance to future audits.

- Enabling the conduct of quality control reviews and inspections.
- Enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements.

Timely Preparation:-

The auditor shall prepare audit documentation on a timely basis.

Preparing sufficient and appropriate audit documentation on a timely basis helps to enhance the quality of audit and facilitates the effective review and evaluation of the audit evidence obtained and conclusions reached before the auditor's report is finalised.

Documentation prepared after the audit work has been performed is likely to be less accurate than documentation prepared at the time such work is performed.

Form, Content and Extent of Audit Documentation:-

The form and content of audit documentation should be designed to meet the necessary circumstances of particular audit. It should satisfy the requirement of governing standards and substantiate the conclusion arrived at by the auditor.

The form and content of documentation depends on various factor such as:-

- The size and complexity of the entity,
- The nature of the audit procedures to be performed.
- The identified risk of material misstatements.
- The significance of the audit evidence obtained.
- The nature and extent of exceptions identified.
- The audit methodology and tools used.
- The need to document a conclusion or the basis for a conclusion not readily determinable from the documentation of the work performed or audit evidence obtained.

Examples of Audit documentation:-

- Audit Programmes.
- Analyses.
- Issue memoranda.
- Summaries of significant matters.
- Letters of confirmation and representation.
- Checklist.
- Correspondence(including e-mail)concerning significant matters.
- Copies of Specific and significant contracts and agreements.

Assembly of the Final Audit File:-

The auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis. An appropriate time limit within which to complete the assembly of the final audit file is ordinarily not more than 60days after the date of the auditor's report.

Retention Period:-

Working papers prepared by auditor during audit should be retained, long enough, for a period of time sufficient to meet the needs of his practice and satisfy any legal or professional requirement of record retention.The Retention period for audit engagements ordinarily is no shorter than seven years from the date of auditor's report, or if later, the date of group auditor's report.

Ownership of Audit Documentation:-

Audit documentation is property of the auditor. He may at his own discretion, make portion of, or extracts from , audit documentation available to clients, provided such disclosure does not undermine the work performed, or in the case of assurance engagements, the independence of the auditor or of his personnel.

Critical Unaddressed Issues for GST Refund method “With Payment of IGST” & Probable solution

CA. Deep Koradia
B.com, FCA, DISA (ICAI)

It has been 3 years of implementation of Goods & Services Tax law. One of the biggest reform in the taxation structure since the independence has faced so many issues since inception. Businesses and professionals were expecting settling of law with the time and government is working proactively to address such issues but it seems the settling of the law is still far away. Under the GST law, most of the refunds are to be processed online and some of them are automated as well under the method “With payment of IGST”, which can be said as one of the achievement of this law, however there are a few issues in these methods.

In GST, there are primarily 2 methods of refund, say

1. Without payment of Taxes (Under LUT)
2. With payment of Taxes (IGST)

If one is opting for 2nd method, “With payment of Taxes (IGST)”, (where one does “Export of **Goods**” out of India), the Shipping bill is deemed to be the application for refund has been filled and along with couple of checks and balances, the whole refund are processed autonomously!!

However, to do so, the system, the computer and the web based portal has to verify a few things and they have to keeps checks and balances. To achieve the same, they have made a sync and linked GSTN Portal, Custom &

Ice-Gate Portal and PMFS Portal. The whole refund claim travels from these portals and verifies the predefined set of rules and if one particular Shipping Bill passed all the rules then refund gets credited directly to the bank account.

Now, to err is human. Since there are so many parties involved in the export process viz, The exporter, the Custom House Agent, the GST Consultant, The Custom department, the shipping line etc., there are always chance that a clerical mistake may happen even if highest level of care & accuracy is taken. The Autonomous system is not a human and even if a mismatch of single Dot or a slash, it holds the refund claim.

To address this kind of clerical issue, the government has proactively arranged refund fortnights. The 3rd session and the last one was arranged on 16th July 2018 to 30th July 2018 – almost 2 years ago. Now doing such fortnights are goods things, but following issues are still unaddressed:

1. The fortnights were mainly for SB005 Error issue:

In the Autonomous system, there are so many errors such as SB001 to SB006, TBE0001 to TBE0025. In the refund fortnights, only error in relation to SB005 can be addressed and not all types of errors. Solution is, such fortnights should address all of the issues.

2. When there is provisions of amendment in shipping bill Under section 149 after EGM is filled, why the same is not amended in the online portal?

There are so many errors which are **clerical in nature** and same was came to know **only after the shipment is dispatched and EGM is filled**. For eg. A single letter mistake in Invoice Number, mistake in taxable Value of the product, Mistake of GST Rate & GST amount mentioned in the shipping bill. Take the following example:

Say one shipping bill for 1000 USD (conversion rate say 75) plus 5% as GST is filled (Basic Value 75000 + GST 3750). Now, later it came to know that the actual GST rate was 18% [75000*18% = 13500] but the EGM was already filled. While discharging the GST liability on GST portal, the tax payer has discharged full at 18%. Since the shipping bill is deemed refund application and only 3750 was mentioned, the refund is processed only of Rs 3750!! . When the taxpayer approached the Jurisdictional Superintendent to correct the error under Section 149 of Custom Act, 1962, the same was done only manually and not on portal. Being the autonomous system, the system has not processed the differential refund. Even after approaching IGST wing, EDI wing, DG Systems office New Delhi, all answers were the same that the Shipping bill can't be corrected in the system for which the law is providing the mechanism under section 149, and infect the manual correction is already processed by the Jurisdictional Custom superintendent!! . So it just require an update in the system utility / software / portal to make the concerned officer enable to make those changes which he has already done manually, which is as per the law and which is the right of the taxpayer to expect those changes to be reflected on the portal as well, not only in manual paper.

Autonomous system is good for the refund process, as it smoothen the process, prevent the corruption, provide the timely working capital to the exporters, etc. but side by side, law can't be so strict that only a clerical nature of the error cause the exporter such undue hardships.

Solution is to have the permanent window at every port to address such issues all the time and not merely during the fortnights. Also, the Concerned Jurisdictional Custom AC / Superintendent should have power to amend the details in the system **AND also** to process the refund manually after duly

verifying all the documents at their end, If the system is not processing the same.

3. Permanent window to address these issues

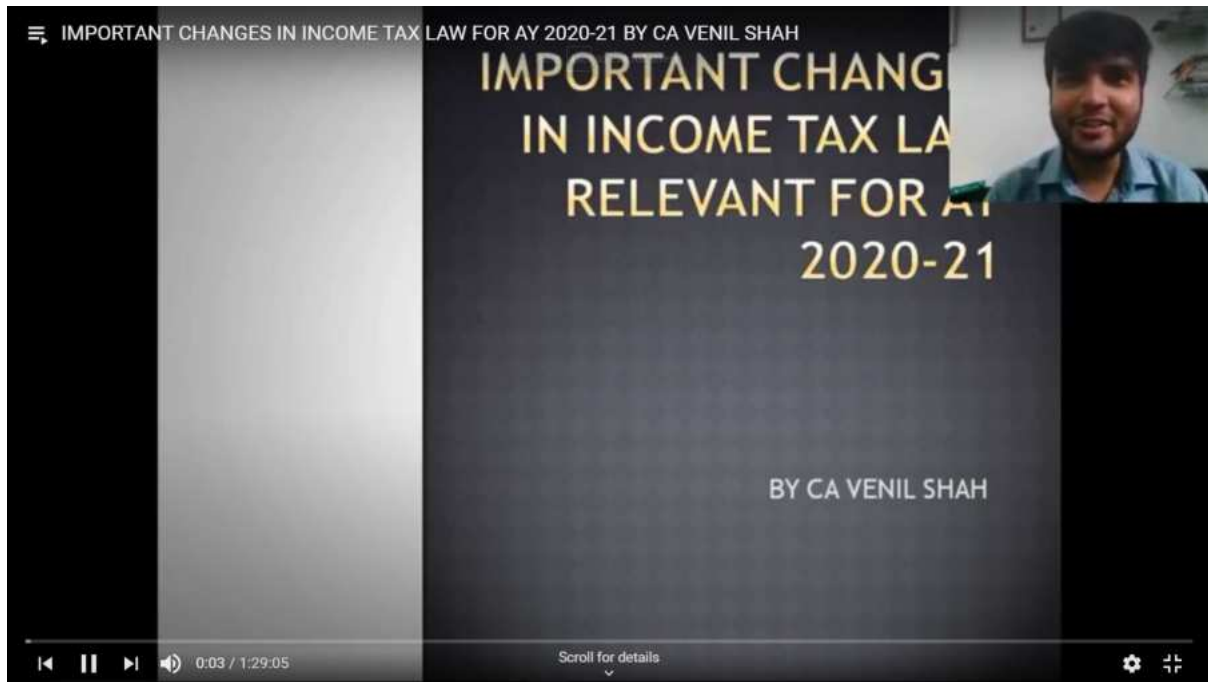
As mentioned above, there is always a chance of a clerical error whenever there is a human intervention. So instead of announcing refund fortnight, there has to be a permanent window to address such issues.

A lot has been done by the stakeholders and a lot to be done to make an ideal system for exporters to boost the exports. The above mentioned are very critical aspects and many a time taxpayer left with no other option. The author expects these problems are taken positively&addressed proactively, especially in this COVID-19 situation where we aim to become Self-reliant!

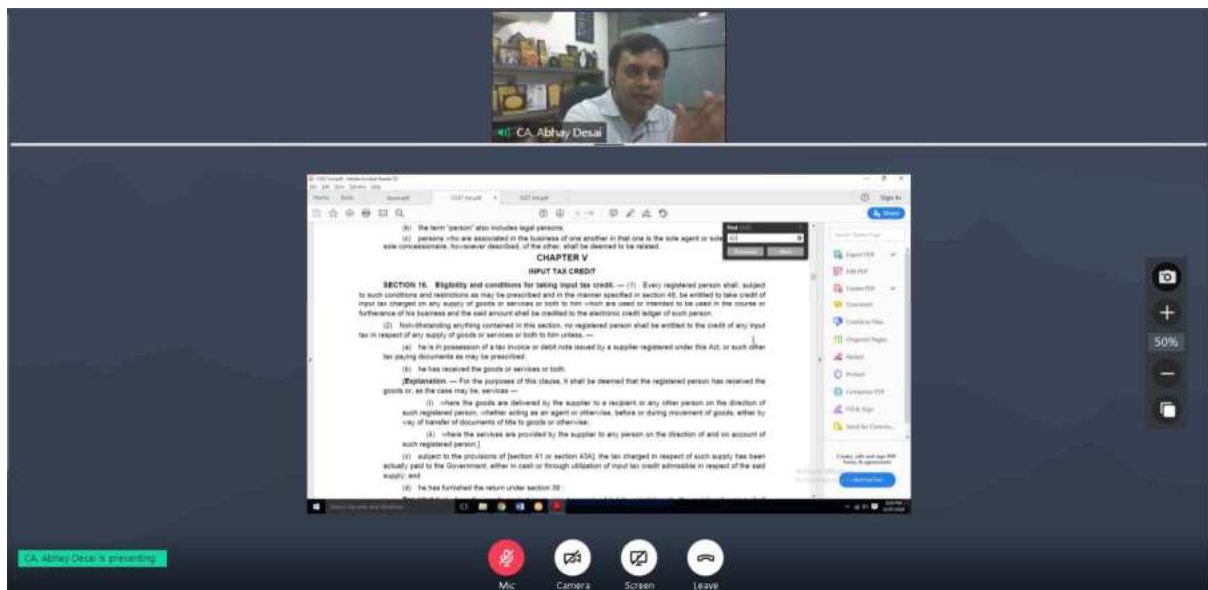
Contributed by CA DEEP KORADIA

Sr No	Notification No	Category	Date	Description	Keyword / Reference / Comment	Link
1	58/2020	Central Tax	01-07-2020	Seeks to make eighth amendment (2020) to CGST Rules	Amendment in rules with respect to NIL GSTR1 & 3B Can be filled via SMS	Click here
2	59/2020	Central Tax	13-07-2020	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2019-2020	GSTR-4 for the FY 2019-20 Extended to 31-08-2020	Click here
3	60/2020	Central Tax	30-07-2020	Seeks to make Ninth amendment (2020) to CGST Rules	E-Invoices revised schema & Forms notified	Click here
4	61/2020	Central Tax	30-07-2020	Seeks to amend Notification no. 13/2020-Central Tax in order to amend the class of registered persons for the purpose of e-invoice	E-invoice's applicability extended to person having TO exceeding 500 Crore [from 100 crore]. These limit will not apply to SEZ units.	Click here

CPE ON IMPORTANT CHANGES IN INCOME TAX



CPE ON GST-CONTROVERSIAL DECISIONS



CPE ON GST-CONTROVERSIAL DECISIONS



CPE-COMPANY FRESH START SCHEME



MOTIVATIONAL LECTURE BY PUJYA SWAMI SHREE GYANVATSAL SWAMIJI



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ભુજમાં ચાર્ટર્ડ એકાઉન્ટન્ટ દિવસ વિવિધ કાર્યક્રમો સાથે ઊજવાયો

ભુજ, તા. ૬ :
આઈસીએઆઈ ભુજ શાખા દ્વારા
ચાર્ટર્ડ એકાઉન્ટન્ટ દિવસની
વિવિધ કાર્યક્રમો સાથે ઊજવણી
કરવામાં આવી હતી.

કતિરા કોમ્પ્લેક્સ,
સંસ્કારનગર ખાતે આવેલી
એસો.ની કચેરીમાં સ્વચ્છ ભારત

સ્વચ્છતા ઝુંબેશ, વૃક્ષારોપણ,
રક્તદાન કેમ્પનું આયોજન કરાયું

અભિયાન, ફલેગ હોસ્ટિંગ,
વાર્ષિક સાધારણ સભા,
વૃક્ષારોપણ, જ્યારે રક્તદાન
કેમ્પનું આયોજન લેવા પટેલ

સી.એ. દિવસની ઊજવણીના
ઉપલક્ષમાં આયોજિત કાર્યક્રમમાં
ઉપસ્થિત અગ્રણીઓ.

હોસ્પિટલ ખાતે કરવામાં આવ્યું
હતું. ચેરમેન જિતેન્દ્ર ઠક્કર,
વાઈસ ચેરમેન રમેશ પિંડોરિયા,
મંત્રી આશિષ ગઢવી, ખજાનચી
પૂર્વી દોશી તેમજ ઈમિડિયેટ પાસ્ટ
ચેરમેન હાર્દિક ઠક્કર ઉપરાંત
સંસ્થાના સિનિયર સભ્ય ઈશ્વર
દેસાઈ, રામજી પટેલ, તિલક
કેશવાણી, નીતિન ઠક્કર, જાગૃત
અંજારિયા, જયસુખ મહેતા,
દર્શન ખંડોલે ચર્ચામાં ભાગ લઈ
વિવિધ સૂચનો કર્યા હતાં.

સી.એ.ની સંસ્થા દ્વારા આજે સ્વામિનારાયણના સંતનો વર્ચ્યુઅલ મોટિવેશનલ સેમિનાર

ભુજ | ચાર્ટર્ડ એકાઉન્ટન્ટ્સની સંસ્થા આઈસીએઆઈની ડબલ્યુઆઈઆરસી ભુજ શાખા તથા ગુજરાતની તમામ શાખાઓ સાથે સંયુક્તરૂપે વર્ચ્યુઅલ મોટિવેશનલ સેમિનારનું આયોજન તા. 14/7ના રાત્રે 9 વાગ્યે કરવામાં આવ્યું છે. જેમાં સીએ, વિદ્યાર્થીઓ અને રસ ધરાવતા લોકોને પરિવારના સહિત આમંત્રણ આપવામાં આવ્યું છે. આ સેમિનાર ડીલ વિથ ટફ ટાઈમ (ગુજરાતી ભાષામાં) વિષય પર આયોજિત છે. જેમાં વક્તા તરીકે બીએપીએસ સ્વામિનારાયણ સંસ્થાના સંત જ્ઞાનવત્સલ સ્વામી છે. આ સેમિનાર લિંક https://www.youtube.com/watch?v=vrxPcx_11ji પર જોઈ શકાશે.

વર્તમાન સ્થિતિમાં દરેક વ્યક્તિ મનોબળ ટકાવે

ભુજ, તા. ૧૮ : ભુજ બ્રાન્ચ ઓફ ચાર્ટર્ડ એકાઉન્ટન્ટ્સ તથા ગુજરાતની ૧૨ બ્રાન્ચ સાથે મળીને વર્તમાન પરિસ્થિતિ ઉપર બેન્ક સંસ્થાના જ્ઞાનવત્સલ સ્વામીનો સેમિનાર યોજવામાં આવ્યો હતો.

પ્રારંભમાં ભુજ બ્રાન્ચના ચેરમેન જિતેન્દ્ર ઠક્કરે સર્વેને આવકાર આપ્યો હતો. અમકાવાઈ બ્રાન્ચના કેમીલ શાહ તથા વડોદરાના ચેરમેન કૃપાલ બ્રહ્મભટ્ટ પ્રાસંગિક ઉદ્બોધન કર્યું.

ભુજ સહિત ગુજરાતની ૧૨ ચાર્ટર્ડ એકાઉન્ટન્ટ્સ શાખાઓ દ્વારા સેમિનાર યોજાયો હતો.

સ્વામી જ્ઞાનવત્સલે શારીરિક તથા નાણાકીય હાનિ થાય તેવી પરિસ્થિતિમાં કેવા પ્રકારના વિચારો રાખવા જોઈએ, કેવો અભિગમ કેળવવો તથા ક્યા ક્યા કામો કરવા જોઈએ તેના પર

સમજ આપી હતી. આવી સ્થિતિમાં દરેક વ્યક્તિને મનોબળ ટકાવી રાખવા પણ તેમણે અપીલ કરી હતી.

ગાંધીધામ બ્રાન્ચના ચેરમેન કરણ ઠક્કરે સંચાલન કર્યું હતું. સંજય ચૌટારાએ ટેકનિકલ માર્ગદર્શન આપ્યું હતું. સુરેશના ઉશર જીવાની, રાજકોટના વિનય સાકરિયા, જામનગરના દિપેશ ભૂત, આણંદના ભાવેશ ઠક્કર, વાપીના શ્યામ પુરોહિત, નવસારીના જરકવીક



ચાર્ટર્ડ એકાઉન્ટન્ટ્સની ગુજરાતની શાખાઓના પ્રતિનિધિઓ સાથે જ્ઞાનવત્સલ સ્વામીનો સેમિનાર યોજવામાં આવ્યો ત્યારની તસવીર

સુરેશવાલા, ભરૂચના હરસીત હાજર રહ્યા હતા. આશિષ ગઢવી, પૂર્વ દોરી શાહ, ભાવનગરના મનોજ ભુજના વાઇસ ચેરમેન હાર્દિક ઠક્કર વગેરેએ સહયોગ ગોહિલ, રામુલ અબ્રવાલ વગેરે રમેશભાઈ ચિડેરિયા, મંત્રી આપ્યો હતો.

