NEWSLETTER

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M. V. DAMANIA & Co.

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INTERNATIONAL TAX

Aditya Birla Nuvo v. ADIT (Mumbai Tribunal)

Facts:

The Indian Company (ICO) was engaged in the business of manufacturing of yarn, filament, garments, textiles and fertilizers. It engaged an Italian Company (GTA) to supervise dismantling of textile plant in South Africa and re-installing the same at their factory in India. The key features of the agreement were:

- To supervise the dismantling the plant in South Africa and re-installing the same at their factory in India.
- To depute skilled engineers to supervise these activities.
- All the equipments and facilities were provided by the ICO.
- The actual erection of machines in India was to be done by workers provided by the ICO.
- GTA deputed two engineers in India for the supervisory work and their stay in India were 30 and 22 days respectively.

Issues:

- As per IT Act, the payment would fall under the exclusion clause of the definition of 'Fees for Technical Services' under section 9(1)(vii) and hence not taxable.

- As per the Treaty, Article 13 on Fees for Technical Service would not apply as the services were connected to the Permanent Establishment of GTA in India. Further, since the activities of GTA were mainly of supervisory in nature and its stay in India did not exceed 6 months – the minimum time prescribed to constitute a Supervisory PE under Article 5 of the Treaty – the GTA does not have a PE in India and therefore such payment would not be taxable in India..

The relevant text to examine:

Section 9(1)(vii) of The IT Act: The income shall be deemed to accrue or arise in India:- income by way of fees for technical services payable by a person who is a resident..

For the purpose of this clause, "**fees for technical services" means** any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services… **but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient.**

Article 5 of the DTAA on **Permanent Establishment** states a PE includes a building site or construction, installation or assembly project or **supervisory activities** in connection therewith, where such site, project or activities **continue for a period of more than six months**.

Article 13 on Fees for Technical Services states that provisions of taxability in this article shall not apply if the beneficial owner.. **carries on business in the other contracting state in which FTS arises, through a PE** situated therein

The Mumbai Tribunal held that:

The Mumbai Tribunal held that:

Under the IT Act:

- The technicians of GTA were deployed in India only for the supervisory activities. The actual

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work of erection of machines was done by local contractors or supplied by the ICO. Thus the GTA had not undertaken the project to carry out the construction or assembly work.

- The payment in question therefore cannot fall under the exclusion clause of FTS and the payment will be regarded as Fees for Technical Services.

Under the DTAA :

- Since the nature of services rendered by GTA is that of supervisory in nature, it will be within the purview of FTS. However, Article 13 excludes payments for services connected to PE in India under Article 5 on PE.

- The rules for PE and FTS have to be read harmoniously. Hence, the payments made in consideration for supervisory or construction or installation project should be excluded from the purview of FTS taxation.

- Though the GTA, by virtue of their presence in India, would be covered within supervisory PE in India, since their stay in India did not exceed 6 months, the same would therefore not constitute PE in India under the DTAA.

- Once the proposed remittance is outside the purview of taxation, there was no need for deduction of tax at source for such remittance.

Compiled by: Malay Damania

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INTERNATIONAL FINANCIAL REPORTING STANDARDS

EFFECT OF CONEVERGENCE WITH IFRS ON INSURANCE SECTOR - Brief Analysis:

All insurance companies are expected to converge with converged Indian accounting standards effective 1 April 2012 in accordance with the Ministry of Corporate Affairs' announcement on 31 March 2010. Thus, going by aforesaid directives, the insurance companies in India needs to publish IFRS financial statements for 2012-2013.

Indian insurance companies have unique challenges, considering that currently, there is no fully developed local standard for insurance contracts. The Insurance Regulatory and Development Authority (IRDA) Act, 1999 governs Indian insurance companies. Insurance companies need to comply with the accounting standards referred to in sub-section (3C) of section 211 of the Companies Act, 1956 and the rules framed there under, to the extent they are not inconsistent with the accounting policies prescribed in the IRDA Regulations and orders/directions issued in this regard.

The Institute of Chartered Accountants of India (ICAI) is actively promoting the International Accounting Standards Board (IASB) fs pronouncements in the country and has recently issued an exposure draft of the new accounting standard AS39 "Insurance contracts" along the lines of the existing IFRS 4 (Phase I).

The IASB's insurance contracts project has been split into two phases. Phase I culminated in 2004 with the publication of IFRS 4 Insurance Contracts, which permitted many existing international insurance contract accounting practices to be retained. On 30 July 2010, the IASB issued its Exposure Draft (ED)1 on Phase II, intended to result in a single consistent recognition and measurement standard for insurance contracts internationally. If adopted, the ED will replace IFRS 4.

The IFRS 4 standard : key features

IFRS 4 applies to all insurance contracts (including reinsurance contracts) that an entity issues and to reinsurance contracts that the entity holds, except for specified contracts that IFRS standards cover.

It does not apply to an insurer fs other assets and liabilities such as financial assets and financial liabilities within the scope of IAS 39 *Financial Instruments: Recognition and Measurement*.

Definition of insurance contracts

The IASB has decided to continue using the definition of an insurance contract set out in IFRS 4 in the ED. However, the board clarified how significant insurance risk in that definition should be evaluated.

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EFFECT OF CONEVERGENCE WITH IFRS ON INSURANCE SECTOR - Brief Analysis: (*cont.*)

This appreciation will now take into account the time value of the money. No material impact is expected from this adjustment. Some contracts as fixed-fee service contracts are now excluded from the scope of the standard, even if their features correspond to the insurance contract definition. Many of the old UL products in India may now be classified as investment products.

Measuring insurance liabilities

Current IFRS standards for insurance contracts (IFRS 4) permit organizations that are adopting IFRS to continue applying their existing policies to measure insurance liabilities, subject to a "liability adequacy test".

For Indian life insurers, this implies the continued use of the Solvency Margin Guidelines in measuring policy liabilities and, therefore, only limited changes for policy liabilities in practice /' will be expected under the existing IFRS 4.

However, under the proposed ED, this will differ significantly.

The following table summarizes the main differences between current Indian measurements and the proposed ED.

Description	Indian GAAP	IFRS ED	Likely impact
Measurement of insurance liabilities	Gross premium valuation is done using the prospective method with conservative assumptions.	The current exit value (CEV) allows for risk margins and the smoothening of profit margins. It has realistic assumptions.	Liabilities are likely to be low.
Embedded derivatives	This requires them to be valued, although the method is not specified.	This has to be fair-valued using any of the proposed approaches. Additionally, these need to be unbundled.	It is likely to be onerous for money contracts and may increase these liabilities.
Unbundling (recognizing premium as a deposit and not as revenue)	This is not allowed.	These must be unbundled if separable..	This is expected to significantly impact the presentation of accounts.
Investment contracts	The treatment here is identical to that of insurance liabilities.	This is governed by IAS39 and requires unbundling and fair-value measurement.	Some contracts are likely to be classified as investment and will, therefore, be impacted.
Deferral of acquisition costs	This is recognized as expenses.	Contract-level incremental expenses are deferred through profit margin smoothening.	Some expense deferral may facilitate the emergence of more profits.
Exclusion of portfolio-level liabilities	It recognizes and allows various liabilities at the portfolio-level, including ALM mismatch liability and catastrophe provisions.	All liabilities are to be held at the CEV and, hence, contract-specific and not allowed.	Insurers will have to recognize them as part of equity.

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EFFECT OF CONEVERGENCE WITH IFRS ON INSURANCE SECTOR - Brief Analysis: (*cont.)*

CEV is the amount an insurer can expect to pay at the reporting date to immediately transfer their remaining contractual rights and obligations to another entity. The main proposition in the ED is that all insurance liabilities should be measured at CEV using the expected present value of cash flow and margin for risk and profit (future services).
This will require reflecting "market" and "entity" specific assumptions. Many of these assumptions are not likely to be readily observable in the "market".

Unbundling insurance contracts

Insurance contracts may include multiple elements such as insurance coverage, investment (or financial) components and embedded derivatives. A key question in valuing insurance contracts is whether and how to separately identify and measure the components of the contract.

The ED requires entities to unbundled components of a contract that are not closely related to the insurance coverage specified in the contract. In the present scenario, unit-linked insurance plans (ULIPs) are insurance contracts likely to meet definitions under unbundling.

Investment

There are significant differences between accounting for assets under current IRDA requirements and under IFRS. Under IFRS, all assets may be allowed under fair-value measurement and any gains or losses flowing through the revenue account.

IFRS permits historical cost accounting for property and amortization cost accounting for assets classified as held to maturity. The classification is left to companies. However, certain rules must be adhered to if the classification is not under fair value.

Under IRDA, debt, unlisted equities and property are allowed the historical cost accounting or amortization method of accounting.

The following table summarizes the differences between various accounting standards:

Description	Indian GAAP	IFRS ED	Likely impact
Property	There is a historical cost with revaluation once in three years; a revaluation reserve is provisioned.	Allows fair value or historical cost	If fair value model is chosen than it will have impact on P&L
Other investments	This is classified as debt (HTM) and equity/derivative (fair value). Debt and unlisted equity are treated at cost and amortized until maturity. Traded equities and derivatives are measured at fair value and changes are carried through the balance sheet until the sale of the contract. On sale, the entire gain or loss is passed through the revenue account.	Financial assets have to be classified either as fair value through profit and loss or as held till maturity or as available for sale. Any gains or losses for fair value are routed through profit and loss account. For AFS, they are routed through profit and loss for debt assets and through equity for equity assets. Those under HTM are amortized through profit and loss.	The assets have to be reclassified and would have impact on the balance sheet and profit and loss. Further IFRS 9 will change this further and is due to be implemented from Jan 1, 2013.

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EFFECT OF CONEVERGENCE WITH IFRS ON INSURANCE SECTOR - Brief Analysis: (*cont.)*

As companies prepare themselves to convert to IFRS, they need to realize that the most significant change they need to consider is the replacement of IAS 39 Financial Instruments: Recognition & Measurement with a new standard IFRS 9 Financial Instruments, which will be mandatory effective 1 January 2013.

Recognition of deferred tax

IFRS requirements appear to be less stringent than current I-GAAP in recognition of deferred tax assets and are expected to help Indian companies that are making losses.

Deferred acquisition costs

IRDA regulations do not permit any insurance companies to recognize deferred acquisition costs. The proposed ED allows the deferment of contract-level incremental acquisition costs, subject to profitability.

Other effects

The adoption of IFRS will likely have other implications as well. For example, regulators may need to revise regulatory capital requirements in response to significant changes in accounting measurements.

Changes in IFRS accounting measures and definitions may have other business implications, such as borrowing arrangements and other legal contracts that reference accounting information. Bonuses and compensation arrangements may also be affected, and IT systems modifications may be necessary.

Insurance companies planning for an IPO may be affected by the change in accounting standards, as they would be required to comply with new standards.

Conclusion

The implementation of IFRS requires a considerable change-management effort, particularly in training financial personnel and enhancing non-financial personnel's understanding of reported numbers. As the timelines for convergence approach, all insurance companies will have to consider their respective roadmaps and ensure that their convergence plans are designed in a manner that achieves the objectives of doing it right.

Compiled by: Mr. Bharat Jain

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PROFESSIONAL TAX NOTIFICATION

TRADE CIRCULAR - Mandatory e-returns for employers registered under Profession Tax Act, 1975

1. Background:

E-services offered by the Department, especially e-return filing and e-payment facility have been welcomed by the dealers and tax practitioners. In view of the positive response received from all the quarters, the eService of filing e returns is being introduced for the registered employers (PTRC holders) filing monthly returns. Electronic filing of returns for the quarterly and annual return filers under the PTRC category may be made mandatory very soon. It may, however, be noted that a PTRC holder can file e return only after he is enrolled for the e services offered on the web site *www.mahavat.gov.in*

2. e'returns for PT RC monthly returns filers:

By virtue of the powers granted under section 7A of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the. Commissioner of Profession Tax, Maharashtra has issued a notification on, 26-11-2010 (VAT/AMD-1O1O/1B/PT/Adm-6), which provides that from February 2011, every registered employer (PTRC holder) whose tax liability during the previous year was Rs. Twenty Thousand or more shall mandatory file electronic return in Form 111-B online on the website *www.mahavat.gov.in* and make payment in the Government Treasury in chalan MTR-6 before filing such Return.

The periodicity and date of filing return as well as making payment will be as per the provisions of the Maharashtra State Tax on Professions, Trades; Callings and Employments Act, 1975 and Rules thereof.

3. Pre requisites for filing ot e returns:

a. e enrolment: Every employer, required to file an electronic return is required to enroll online on the Department's website *www.mahavat.gov.in* Enrolment for e-services is a onetime activity. An employer, who has enrolled for MVAT/CST e services, must enroll separately for PT RC e services also. An employer holding multiple PT RCs is required to enroll separately for each of the RCs since return for each of the RC is required to be flied separately.

   It may be noted that at present PT EC holders cannot enroll for the PT e-services.

   To avoid the last minute rush, employers are advised to get themselves enrolled well in advance before the due date for the return.

   The PTRC holders, eligible to file quarterly or annual returns, may also e enroll themselves and file e Returns voluntarily.

b. TIN containing 11 digits: In order to file e Return it is mandatory to have a valid 11 digit TIN suffixed with the alphabet 'P'. Treasuries and the Banks are being advised to accept monthly profession tax payments with valid TIN only. After 1-2-2011, e returns shall not be uploaded with the old PTRC numbers.

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PROFESSION TAX NOTIFICATION *(cont.)*

TRADE CIRCULAR - Mandatory e-returns for employers registered under Profession Tax Act, 1975

4. TIN to PT RC & PT EC holders:

a. Structure of the PT RC/E TIN: New Profession Tax TINs allotted to the Employers holding Profession Tax Registration certificate (PTRC holders) are 11 digit numbers starting with 27 and suffixed with "P", e.g. 27123456789P. Similarly new Profession Tax TINs allotted to enrolment certificate holders (PTEC holders) are 11 digit TINs starting with 99 and suffixed with"P", e.g. 99123456789P.

b. Employers registered before 22 July 2007: The employers, who are registered before July 2007 may not have the new TIN but would be having the old PT RC number. Such employers would automatically get the new TIN, after they enroll for the PT RC e-services. This new TIN would be available on the acknowledgement generated after enrolling for the PT RC e services. Such employers need not apply for a fresh PT RC TIN in lieu of the old PT RC number.

c. Employers registered from 22' July 2007 onwards: Employers registered from 22 July 2007 have already been granted the new PT RC TIN.

d. Multiple PT PC TIN for multiple places of business: Maharashtra Value Added Tax Act 2002(MVAT Act) provides for a single TIN for all places of business of a dealer., However, as per the provisions of the Profession Tax Act separate TIN for each of the place of business falling within the jurisdiction of different registering authorities is necessary.

e. PT RC TIN to MVAT/CST dealer, holding single PT RC: The MVAT/CST dealer, holding a single PTRC has been allotted PTRC TIN bearing the same nui1ieric values as MVAT TIN but with suffix 'P'.

f. PT RC TIN to MVAT/CST dealer, holding multiple PT RC: The MVAT/CST dealer, holding multiple PTRCs shall: have multiple PT RC TINs. In such a case: one PTRC TIN shall be the same as the MVAT TIN, having the same first 11 numeric values with suffix 'P'. His other PTRC TINs shall be different.

5. Procedure for enrolment for PT RC e-services:

a. Procedure of enrolment for an employer, holding MVAT/CST TIN and the employer, who does not hold MVAT/CST TIN is slightly different.

b. An Employer, holding MVAT/CST TIN and multiple PT RCs should enroll for one of his PT RCs as an 'employer holding P4 VA T/CST TIN' and for rest of his PT RCs as 'an employer not holding MVAT/CST TIN'.

A Step by step guide for e enrollment for each type of an employer is available on the web site.

6. Procedure for uploading PT RC e returns:

a. Download template of PTRC e-return in form ITT-B, available on the web site www.mahavat.gov.in

b. Path for downloading the e return template is 'Downloads -> Forms->; electronic forms-> form III-(8) - for e-PTRC III-(B)'

c. Fill your e return completely validate it and upload the rem file generated.
Step by step guide for uploading e returns has been provided on the web site.

7. Payment of profession tax:

The challàn in form MTR-6 can be downloaded using the link Home Page -> 'Downloads' -> 'Forms'-> Existing Act's List-> Profession Tax Act -> Chalan MTR-6 for PT payment and used for payment of profession tax.

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TRADE CIRCULAR - Mandatory e-returns for employers registered under Profession Tax Act, 1975

8. Payment of profession tax:

In case, an employer is unable to enroll then he is advised to contact Profession Tax Officer, immediately with

a. photo state copies of PAN and Registration Certificate/ last payment challan (all self attested),
b. bank details
c. details of proprietor, partners, directors, Karta, as the case may be and
d. address details.

These details would be required hi the cases In which PTRC number does not match with the PTRC details available with the Department. The officer will inform new PTRC TIN in such cases alter entering necessary details in MAHAVIKAS. The employer can enroll himself on any day subsequently by login with such PTRC TIN. The new PTRC TIN allotted can also be seen on the website in the section 'Know Your TIN' by entering PAN (Permanent Account Number).

9. Help Desks for assistance:

To assist the employers, who face any difficulty in getting enrolled may contact the Help Desks formed at various locations or may e mail at pteservices@mahavat.gov.ln.

Sr	Help Desk locations	Telephones
1	Mumbai (Mazgaon)	022-23760194, 23760195, 23760056
2	Mumbai (Bandra)	022-6591747/57/67 Ext. 5604,5415, 5207, 5204,5405
3	Thane	022-25496108
4	Kokan Bhavan	022-27571539 Extn. 3613
5	Palghar	02525-256845 Extn. 146
6	Pune	020-26609089
7	Nagpur	0712-2565644 Extn. 406/407
8	Amravati	072 1-2666085
9	Akola	0724-2333702
10	Aurangabad	0240-2344302
11	Nanded	02462-234470

In case of difficulty or for urgent help please contact the Profession Tax Officer (Registration) and/or Help Desk Officer. All Profession Tax Officers and staff have been asked to help enroll all the employers for PTRC e-Services.

The following senior officers may be contacted in case of difficulties not getting resolved at lower level:

Senior Officer	Telephone
Jt. Commr. of Sales Tax, (PT), Bandra, Mumbai	022-26591747/57f67Extn.5301,5310
Jt. Commr. of Sales Tax, (PT), Thane	022-25398989
Jt. Commr.of Sales Tax, (PT), Pune	020-26609100,26609074/5/6
Jt. Commr. of Sales Tax, (PT), Nagpur	0712-2561384

This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

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E-payment directly from Bank's website

Sr. No.	Name Of The Bank
1	STATE BANK OF INDIA
2	STATE BANK OF HYDERABAD
3	STATE BANK OF TRAVANCORE
4	STATE BANK OF MYSORE
5	STATE BANK OF BIKANER & JAIPUR
6	STATE BANK OF PATIALA
7	IDBI BANK
8	CORPORATION BANK
9	UNION BANK OF INDIA
10	BANK OF INDIA
11	BANK OF MAHARASHTRA
12	BANK OF BARODA
13	PUNJAB NATIONAL BANK
14	INDIAN OVERSEAS BANK
15	ALLAHABAD BANK

Compiled by: Mr. Devesh Dubey

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COMPANY LAW AMENDMENT NOTIFICATION

1. Managerial Remuneration in unlisted companies having no profits/ inadequate profits

Government of India
Ministry of Corporate Affairs
Press Note No. 4/2011 dated 8.2.2011
Schedule Xiii of the Companies Act 1956 Being Amended - Unlisted Companies Shall not Require Government Approval for Managerial Remuneration Where they have no Profits

Managerial Remuneration in unlisted companies having no profits/ inadequate profits

1. Companies are divided into private limited and public limited companies. Public limited companies are of two types listed companies (whose shares are listed on a stock exchange)and unlisted companies. Normally, the general public does not hold shares in unlisted companies. Private limited companies are not subject to any limits on managerial remuneration. Public limited companies (listed and unlisted) with no profits/ inadequate profits are currently required to approach the Ministry for approval in those cases where the remuneration of Directors/ equivalent managerial personnel exceeds certain limits.

2. The matter has been re-examined in the light of the evolving economic and regulatory environment. The primary purpose of regulations over managerial remuneration is to protect stakeholders, particularly shareholders and creditors. Unlisted companies are in several respects similar to private limited companies. A substantial number of the applications coming to the Ministry fall under this category and the Ministry's limited manpower is disproportionately involved in this exercise. In the case of unlisted companies so long as the conditions specified in Schedule XIII, including special resolution of shareholders and absence of default on payment to creditors, are fulfilled approval will not be needed hereafter.

3. Accordingly, Schedule XIII of the Companies Act 1956 is being amended to provide that unlisted companies (which are not subsidiaries of listed companies) shall not require Government approval for managerial remuneration in cases where they have no profits/ inadequate profits, provided they meet the other conditions stipulated in the Schedule.

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2.Directions Under Section 212 of the Companies Act 1956 Amended by Ministry of Corporate Affairs

Government of India
Ministry of Corporate Affairs
Press Note No. 3/2011 dated 8.2.2011
Direction under Section 212

Section 212 of the Companies Act, 1956 requires holding companies to attach with their balance sheet a copy of the balance sheet, profit and loss account etc of each of its subsidiaries. In recent years, with the globalization of the Indian economy, there has been a large increase in the number of holding companies and subsidiaries. Accounting policies and practices have also evolved, and Accounting Standards have been issued regarding preparation of consolidated financial statements.

The Ministry has been receiving a large number of applications seeking permission not to attach the accounts of subsidiaries. The Ministry has been granting such permission on case-by-case basis on the basis of certain conditions which are intended to protect the interests of investors.

The matter has been carefully re-examined in the context of the emerging trends in the economy and regulatory and accounting practices. It has been decided that the permission may be granted on a general basis wherever the Board of Directors of the holding company gives its consent and the conditions prescribed by the Ministry are complied with. The Ministry has accordingly issued directions through a general circular no. 1/2011 file no. _____ for this purpose. The conditions to be met by the companies are following:-

i. The Board of Directors of the Company has by resolution given consent for not attaching the balance sheet of the subsidiary concerned;
ii. The company shall present in the annual report, the consolidated financial statements of holding company and all subsidiaries duly audited by its statutory auditors;
iii .The consolidated financial statement shall be prepared in strict compliance with applicable Accounting Standards and, where applicable, Listing Agreement as prescribed by the Security and Exchange Board of India;
iv. The company shall disclose in the consolidated balance sheet the following information in aggregate for each subsidiary including subsidiaries of subsidiaries:- (a) capital (b) reserves (c) total assets (d) total liabilities (e) details of investment (except in case of investment in the subsidiaries) (f) turnover (g) profit before taxation (h) provision for taxation (i) profit after taxation (j) proposed dividend;
v. The holding company shall undertake in its annual report that annual accounts of the subsidiary companies and the related detailed information shall be made available to shareholders of the holding and subsidiary companies seeking such information at any point of time. The annual accounts of the subsidiary companies shall also be kept for inspection by any shareholders in the head office of the holding company and of the subsidiary companies concerned and a note to the above effect will be included in the annual report of the holding company. The holding company shall furnish a hard copy of details of accounts of subsidiaries to any shareholder on demand;
vi. The holding as well as subsidiary companies in question shall regularly file such data to the various regulatory and Government authorities as may be required by them;
vii.The company shall give Indian rupee equivalent of the figures given in foreign currency appearing in the accounts of the subsidiary companies along with exchange rate as on closing day of the financial year.

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3. General Exemption Under Section 211 of the Companies Act 1956 Notified

1. The Ministry of Corporate Affairs issued today a notification on General Exemption under Section 211 of the Companies Act 1956. The notification reads as under:

   Section 211 of the Companies Act, 1956 requires that the balance sheet and profit and loss account of a company shall be in the form set out in Part I of Schedule VI or in such other forms as may be approved by the Central Government either generally or in any particular case.

   The Ministry has been regularly receiving requests for exemption from various classes of companies from the disclosure of certain quantitative details required under Schedule VI. So far, these exemptions were being given on a case-by-case basis with certain conditions.

2. These requirements date back to the era when there was industrial licensing etc., and there was a regulatory purpose in monitoring quantitative aspects of production etc. Their relevance in the present economic and regulatory environment has been re-assessed. Such disclosures are not required in other countries. Indian companies have represented that such disclosure puts Indian companies at a competitive disadvantage where their details are known to foreign competitors, but they cannot get the details from the other side.

3. Accordingly, the Central Government has, by notification, issued a general exemption whereby the categories of companies in column (2) of the Table below will be exempted from the disclosures given in column (3):-

Sr. No.	Class of Companies	Exemptions from para(s) of Part- II of Schedule VI.
1	Cos producing Defence Equipments incl. Space Research;	para 3(i)(a), 3(ii(a), 3(ii)(d), 4-C, 4-D (a) to (e) except (d).
2	Export Oriented company (whose export is more than 20% of the turnover)	para 3(i)(a) 3(ii)(a), 3(ii)(b), 3(ii)(d).
3	Shipping companies (Including Airlines);	para 4-D (a) to (e) except (d).
4	Hotel companies (including Restaurants);	para 3(i)(a) and 3(ii)(d)
5	Manufacturing Companies/multi-product companies;	para 3(i)(a) and 3(ii)(a).
6	Trading companies;	para 3(i)(a) and 3(ii)(b)

4. Conditions:

a. The Board of Directors of the Company has given consent with regard to non disclosure of information referred to in paragraph 1;

b. The Company shall disclose in the Notes forming part of the balance sheet and profit and loss account, the fact of grant of the exemption under this notification;

c. The company shall conform to the prescribed Accounting Standards;

d. The company shall ensure that its financial documents represent a true and fair state of affairs of its finances;

e. The company shall maintain and file such information as may be prescribed or called for or required by the government or the Reserve Bank of India or any regulator;

f. For representation of foreign currency holdings, if any, exchange rate as on date of closing of accounts shall be applicable;

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5. The exemption in respect of the companies referred to in serial numbers 5 and 6 of the Table shall be applicable only for those goods which form less than ten percent of the total value of turnover, purchase, consumption of raw material etc, as the case may be;

6. This notification shall be applicable in respect of balance sheet and profit and loss accounts prepared in respect of the financial year ending on or after the 31st March, 2011.

4.Exemption from Disclosure requirement under paragraph (1) of Note (1) of Part-I of Schedule VI

1. In exercise of the powers conferred by sub-section (3) of section 211 of the Companies Act, 1956 (1 of 1956), the Central Government, being of the opinion that it is necessary to grant exemption in the public interest, hereby exempts Public Financial Institutions as specified under section 4A of the Companies Act, 1956 from disclosing Investments as required under paragraph (1) of Note (1) of Part-I of Schedule VI in their balance sheet subject to fulfillment of the following conditions, namely:-

i. The Public Financial Institutions shall make the complete disclosures about investments in the balance sheet in respect of the following, namely: -

a. Immovable property;
b. Capital of Partnership firms;
c. All unquoted investments and;
d. Investments in subsidiary companies.

ii .The Public Financial Institutions shall disclose the total value of quoted investments in each of the following respective categories, namely:-

a. Government and trusts securities;
b. Shares;
c. Debentures;
d. Bonds; and
e. Other Securities.

iii. In each of the above categories referred to in sub-paragraphs (i) and (ii), investments where value exceeds two percent of total value in each category or one crore rupees, whichever is lower, shall be disclosed fully provided that where disclosures do not result in disclosure of at least fifty percent of total value of investment in a particular category, additional disclosure of investments in descending order of value shall be made so that specific disclosures account for at least fifty percent of the total value of investments in that category;

iv .The Public Financial Institutions shall also give an undertaking to the effect that as and when any of the shareholders ask for specific particulars the same shall be provided;

v. All unquoted investments shall be separately shown;

vi. The company shall undertake to file with any other authorities, whenever necessary, all the relevant particulars as may be required by the Government or other regulatory bodies;

vii.The Investments in subsidiary companies or in any company such that it becomes a subsidiary, shall be fully disclosed.

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2. This notification shall be applicable in respect of balance sheet and profit and loss accounts prepared in respect of the financial year ending on or after the 31st March, 2011.

Compiled by: Miss. Trilochana Thakkar

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