



## **The Institute of Cost Accountants of India**

**(Statutory body under an Act of Parliament)**

**12, Sudder Street, Kolkata – 700016.**

**Website: [icmai.in](http://icmai.in)**

Ref No: ICAI/EMP/12/13

Date: 30<sup>th</sup> December, 2013

### **EXPRESSION OF INTEREST FOR EMPANELMENT OF ADVOCATE**

**Requirement of Advocates/Law Firms for Empanelment to represent The Institute of Cost Accountants of India (Statutory body under an Act of Parliament) its Regional Councils and Chapters before various Courts, Forum and Tribunals etc.**

The Institute intends to have a panel of Advocates/Firms for representing The Institute of Cost Accountants of India (Statutory body under an Act of Parliament), its Regional Councils and Chapters before various Courts, Forum and Tribunals.

The Law Firms and Practicing advocates who are registered with the Bar Council of India/State Bar Council are eligible for empanelment. The qualification, experience, schedule of fee, other terms and conditions and the proforma application in which the application has to be made, have been prescribed by The Institute of Cost Accountants of India for representing and assisting The Institute of Cost Accountants of India, its Regional Councils and Chapters before various Courts, Forum and Tribunal etc. is available on the Institute's website at [www.icmai.in](http://www.icmai.in). Eligible Law Firms and Practicing advocates may send their applications Within 30 days from the date of the advertisement to :

The Director (Administration),  
The Institute of Cost Accountants of India  
CMA Bhawan, 12 Sudder Street  
Kolkata 700016,



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**GUIDELINES FOR EMPANELMENT OF ADVOCATE**

**A) Eligibility criteria for empanelment**

- (i) The Law Firms and Practicing advocates should be familiar with various branches of law especially those concerning civil law, constitutional, service law, labour law, contract law, commercial law, property laws, Arbitration and taxation etc.
- (ii) In addition to above, the Advocates are required to have the minimum professional/court practice experience as under :
  - a) For empanelment for the Supreme Court of India ..... 10 yrs. Experience in Supreme Court.
  - b) For empanelment for the High Court in India/ ..... 7 yrs. Experience in High Court.
  - c) For empanelment for the Subordinate Courts/Tribunals/Forums .... 5 yrs. Experience in Subordinate Courts/Tribunals/Forums.Provided that the Institute may relax the above conditions at its discretion, if otherwise found suitable in certain cases.

For considering empanelment for the Supreme Court, generally those Advocates who are regularly practicing including Advocates-on-Record of the Supreme Court would be considered, if they are otherwise found to be competent and suitable.

**B) Documents to be submitted by the Advocate**

The Advocates will be required to furnish their Bio-data with latest passport size photograph as per the format given in **Annexure- A**. The attested copies by gazetted officer of the following documents required to be submitted with application:

- a) High School Certificate in support of age.
- b) Registration with Bar Council.
- c) Identity card issued by Bar Association/Bar Council.
- d) Copies of empanelment with other organizations.
- e) Certificates in support of educational qualifications.
- f) An undertaking from the advocate to the effect that all information furnished by him is correct and he is willing to abide by the terms and condition as to empanelment and fees.

**C) Procedure for Empanelment**

The Institute will consider the bio-data for empanelment only on merit after due notice in this regard is published on the website of the Institute. While considering the request from the advocates, following points shall be considered :

- (i) Length of practice and specialization in the area of law concerning the Institute.
- (ii) Proper and adequate infrastructure of an advocate such as office premises, number of junior advocates, assistants, clerks and fax, mobile phone, fixed phone, internet connection etc.



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- (iii) Track record and integrity.
- (iv) If considered necessary, an enquiry in the respective Bar Council/Bar Association about the claims and conduct of the advocate to be empanelled can also be made and credentials may be verified.
- (v) If the advocate is empanelled by other regulators/organizations, opinion of those organizations may be obtained.

The above list is illustrative and not exhaustive. The Institute may also consider any other factor relevant for empanelment.

## **D) Tenure/term of Empanelment:**

The initial empanelment will be for one year or until further orders whichever is later. Performance of empanelled advocates shall be reviewed on annual basis. However, on completion of the term and satisfactory performance of the advocate, the empanelment may be renewed for a period of another three years by the Institute. However, the Institute reserves its right not to empanel any advocate or renew its period or terminate its empanelment any time without assigning any reason. Upon termination or no renewal of the acknowledgement concerned lawyer shall return the brief to the Institute along with connected documents and records with no objection certificate.

## **E) General terms & Condition:**

- (i) The advocate shall not necessarily be empanelled for specific court and shall accept the work assigned to him and shall not refuse to accept any work without reasonable cause.
- (ii) Refusal by any advocate to accept any work otherwise than on grounds of conflict of interest, may entail removal of such advocate from the panel. Similarly, no advocate as long as his name is on the panel shall contest any matter against the Commission.
- (iii) The empanelled Advocates will not delegate cases and themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the officers of the Institute, if required.
- (iv) The Advocates empanelled under these guidelines/ Advertisement shall not be employees of the Institute and therefore, shall not be eligible for any salary or benefits available to its employees.
- (v) The empanelled Advocate shall maintain absolute secrecy and confidentiality about the cases of the Institute as required under the Act and rules/regulations made thereunder.
- (vi) The advocates shall accept the terms and conditions of the empanelment as determined by the Institute in full and also modification from time to time.
- (vii) These guidelines/Advertisement shall also be applicable to the designated Senior Advocates of the High Courts and Supreme Court for all purposes except the requirement of empanelment.

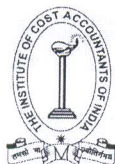


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- (viii) In case of empanelment of Law Firms, all the terms and conditions for empanelment of the individual Advocates shall apply mutatis mutandis to them.
- (ix) If required and considered appropriate by the Institute, Designated Senior Advocates may be engaged to argue the cases on behalf of the Institute keeping in view the urgency and importance of a particular matter. They shall be engaged on case to case basis with the approval of the Institute.

**F) Payment of Fee and other conditions**

- (i) The fee payable to the Advocate shall be governed by the Schedule of fee structure annexed with this advertisement as amended from time to time.
- (ii) The advocate empanelled/engaged may claim the fee for appearance only on the basis of effective hearing or non effecting hearing.
- (iii) Where two or more cases involving substantially identical or similar questions of law or facts, one of such cases will be treated as a lead case and others as identical/connected cases and the advocate/counsel shall be paid full fee for the main case and 10% of the fee of main case, for each of the identical or similar/connected case.
- (iv) If a Senior Advocate or an Advocate is required to appear in a Court, forum and tribunal which is situated at a place other than the place where he ordinarily practices he shall be entitled to travel, expenses for travel by air (economy class) or 2AC by train, Taxi/Auto fair subject to Rs.600 or reasonable actual expenses upon production of bill, whichever is higher, for the journey from his office to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay and Court. He will also be entitled to a reasonable actual expenses for stay in Hotel, subject to a maximum of Rs. 2500/- per day.
- (v) Prior sanction of the Institute is to be obtained for appearance of the Senior Advocate or an Advocate at a place other than the place where he ordinarily practices justifying the reasons as to why the local Senior Advocate or an Advocate is not to be engaged.
- (vi) The Institute shall have the right in exceptional cases to order for payment of fee more than the fee mentioned in the Schedule keeping in view the importance of the matter and the labour and effort put in by the advocate in a particular case. It shall also have the power to fix the fee for eventualities which have not been mentioned in the Schedule or till the appropriate amendment is made in these guidelines/advertisement by the Institute.
- (vii) No retainer fee or any other fee shall be paid to any panel Advocate/law firm merely because such advocate/firm has been empanelled.
- (viii) For giving an appointment on retainer fee basis to the empanelment advocate, prior approval of the Institute in this regard is required.



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## **G) Right to Private Practice and Restrictions:**

- (i) An advocate shall have the right to private practice which should not, however, interfere with or be in conflict with the efficient discharge of his duties as an empanelled advocate of the Institute.
- (ii) An advocate shall not advise any party or accept any case against the Institute in which he has appeared or is likely to be called upon to appear or advise.
- (iii) If the advocate happens to be a partner of a firm of lawyers or solicitors, it will be incumbent upon the firm not to entertain any case against the Institute arising in any Court.

## **H) Disablements:**

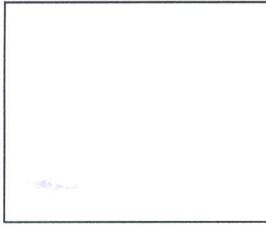
Disablement on the part of the Advocate shall mean and include any of the following :

- (i) Giving false information in the application for empanelment;
- (ii) Handing over the brief or matter to another advocate without prior written permission of the Institute ;
- (iii) Failing to attend the hearing of the case without sufficient reason and prior information ;
- (iv) Not acting as per the Institute's instructions or going against specific instruction
- (v) Not returning the brief when demanded or not allowing or evading to allow its inspection on demand ;
- (vi) Misappropriation of the Institute's funds or earmarking, using the same towards his fee without Institute's permission.
- (vii) Threatening, intimidating or abusing any of the Institute's employees, officers, or representatives.
- (viii) Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/appeal related to Institute's without permission;
- (ix) Committing an act tantamounting to contempt of court or professional misconduct ;
- (x) Conviction of the Advocate is any offence resulting into arrest or detention or disbarment by the Bar Council ;
- (xi) Passing on information relating to the Institute's case on to the Opposite parties or their advocates which is likely to cause damage to the Institute's interest ;
- (xii) Giving false or misleading information to the Institute relating to the proceedings of the case ; and
- (xiii) Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason.
- (xiv) Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate.

**Notwithstanding anything stated herein above, the Institute reserves its right not to empanel any advocate even on fulfilling the eligible criteria or postpone or cancel the process of Empanelment or terminate the empanelment of any advocate at any time for The Institutes as well as for its Regional Councils and Chapters without assigning any reasons in this regard.**



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**Annexure A**

**FORMAT OF BIO DATA FOR ADVOCATE**

1) Name \_\_\_\_\_

2) Date of birth, \_\_\_\_\_

Age (as on date of application) \_\_\_\_\_

3) Educational qualifications  
\_\_\_\_\_

4) Date of Enrolment, Name of Bar Council  
(Enclose attested copy of enrolment certificate)  
\_\_\_\_\_

5) Period of practice  
\_\_\_\_\_

6) Details of Experience/practice  
\_\_\_\_\_

7) Area of practice  
\_\_\_\_\_

8) Specialization, if any (constitution/taxation/service etc.)  
The details of a few important cases the Advocate has dealt with/handled and reported Judgment if any.  
\_\_\_\_\_

9) Whether Central/State Govt. counsel/pleader (indicate period)]  
(With documentary evidence)  
\_\_\_\_\_



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10) Brief list of clients e.g. Govt./organizations/institutes or Autonomous body/PSUs  
(Enclose the documentary evidence)

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11) The courts where the Advocate is regularly practicing  
(Enclose attested copy of Bar Association Membership Certificate)

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12) Date of enrolment as an Advocate - on - record of the Supreme Court and  
Registration No.

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13) Income Tax PAN number (Enclose Copy of PAN Card)

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14) A brief note on suitability for empanelment.

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I declare that I have never been penalized by any bar council in any  
Disciplinary Proceedings. I also undertake to maintain absolute secrecy about the  
cases of the Institute as required under the Act, Rules and Regulations thereunder.

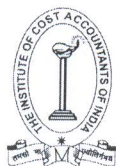
Signature of Advocate

Address (office & residence/chamber)

Tel. No.

Mobile No.

Fax No. E-mail.



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**Schedule of fees for Designated Senior Advocates**

| S. No. | Category of Advocates. | Category of the Service        | Fee*                                                                            |                                                                                                                                                                                                                                                      |
|--------|------------------------|--------------------------------|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                        |                                | Supreme Court                                                                   | High Court                                                                                                                                                                                                                                           |
|        | Senior Advocates.      | (i) For arguing Matters        | For Supreme Court not more than 100,000 (one lac) per day for arguing the case. | For High Court/Tribunals/Other forums at:<br>1) Mumbai Rs50,000/-<br>2) Delhi Rs50,000/-<br>3) Chennai Rs35,000/-<br>4) Kolkata Rs25,000/-<br>5) Other Cities Rs20,000/-<br><br>Not more than the amounts stated above for per day arguing the case. |
|        |                        | (ii) Conference & Settling Fee | Not more than 20,000/- per conference/ Settling                                 | For High Court/Tribunals/Other forums at:<br>1) Mumbai Rs20,000/-<br>2) Delhi Rs20,000/-<br>3) Chennai Rs15,000/-<br>4) Kolkata Rs12,000/-<br>Other Cities Rs10,000/-<br><br>Not more than the amounts stated above for per day arguing the case.    |
|        |                        | (iii) Clerkage                 | Upto 10% of the fee subject to a maximum of 1800/-                              | Upto 10% of the fee subject to a maximum of 1800/-                                                                                                                                                                                                   |

\*No fee shall be payable to the counsel if case is adjourned without hearing.

\*The upper limit of fee may be revised based upon the importance of the case subject to the approval of competent authority.



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**Schedule of fees for Advocate/Advocate on Record (AOR)/Law Firm**

| SL No. | Particulars                                                                                      | Mumbai                   | Delhi                    | Chennai                  | Kolkata                  | Other Cities             |
|--------|--------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1      | For drafting Legal Notice/Reply Notices                                                          | Rs 2000                  | Rs 2000                  | Rs 2000                  | Rs 2000                  | Rs 1500                  |
| 2      | For written opinion (including conference)                                                       | Rs 4000                  | Rs 3500                  | Rs 3500                  | Rs 2500                  | Rs 2000                  |
| 3      | Drafting and filing caveat petitions                                                             | Rs 3000                  | Rs 3000                  | Rs 3000                  | Rs 2500                  | Rs 2000                  |
| 4      | Lump sum for a suit including Applications                                                       | N/A                      | N/A                      | N/A                      | N/A                      | N/A                      |
| 5      | Lump sum for Pleadings i.e. drafting of Claim /Reply/ Counter Claim/ Rejoinder/ Applications/W.P | Rs20,000                 | Rs18,000                 | Rs15,000                 | Rs12,000                 | Rs10,000                 |
| 6      | Conference of ICAI panel advocate with Sr. advocates per hour                                    | Rs 1000                  | Rs 1000                  | Rs 1000                  | Rs 1000                  | Rs 800                   |
| 7      | Appearances-<br>(i) Effective                                                                    | Rs4400                   | Rs4000                   | Rs3500                   | Rs2500                   | Rs2000                   |
|        | (ii) Non effective                                                                               | 50% of effective hearing | 50% of effective hearing | 50% of effective hearing | 50% of effective hearing | 50% of effective hearing |
| 8      | Cerkage                                                                                          | 10% of Fee               | 10% of Fee               | 10% of Fee               | 10% of Fee               | 10% of Fee               |



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|----|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 9  | Discussion and drafting for finalization of agreements with ICAI panel advocates. | Rs 3000                                                                   | Rs 2500                                                                   | Rs 2500                                                                   | Rs 2500                                                                   | Rs 2000                                                                   |
| 10 | Charges for dealing counsel when opinion has been obtained from Sr. Advocate      | Consolidated fee of 10% equivalent to clerkage charged by senior advocate | Consolidated fee of 10% equivalent to clerkage charged by senior advocate | Consolidated fee of 10% equivalent to clerkage charged by senior advocate | Consolidated fee of 10% equivalent to clerkage charged by senior advocate | Consolidated fee of 10% equivalent to clerkage charged by senior advocate |
| 11 | Misc. Expenditure(fax, photocopy, typing , printing, stationery etc)              | <500 No details required >500 actuals(bills to be produced                | <500 No details required >500 actuals(bills to be produced                | <500 No details required >500 actuals(bills to be produced                | <500 No details required >500 actuals(bills to be produced                | <500 No details required >500 actuals(bills to be produced                |
| 12 | For obtaining Search report(Court/BLLRO/ROA)                                      | Rs5000                                                                    | Rs5000                                                                    | Rs4000                                                                    | Rs4000                                                                    | Rs3000                                                                    |
| 13 | For Drafting Title Deed, Registration of deed and other allied works              | Consolidated fee of Rs15000                                               | Consolidated fee of Rs15000                                               | Consolidated fee of Rs15000                                               | Consolidated fee of Rs15000                                               | Consolidated fee of Rs10000                                               |