

Empanelment Policy of Lawyers for Taxation matters of NIXI

The purpose of adopting Empanelment of Lawyers for representing on behalf of NIXI and .IN Registry and dealing specifically with Taxation related cases in the Court, Tribunal, Commissions, Arbitration/Mediation/Conciliation proceedings other than INDRP Domain cases, all kinds of service matters, recovery suits, police complaints, etc. This Policy is to regulate, promote and improvise quality of outcome of taxation related cases in Courts, Tribunals, etc. The Empanelment Policy further defines the term and tenure of a Lawyer's empanelment with NIXI (National Internet Exchange of India) and .IN Registry.

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 other terms and conditions along with the Performa application in which the application has to be made for empanelment have been prescribed as follows:-

Rule 1 - ELIGIBILITY CRITERIA:

The Eligibility criteria for becoming a Lawyer on NIXI Panel is as follows:-

- a. A Lawyer should be a citizen of India.
- b. Having office preferably within 10 kms from the registered office of empaneled advocate. The office should have good infrastructure like telephone, fax, internet, computer, steno etc. so as to enable the Advocate to render efficient and speedy service.
- c. The Advocate should have worked for at least 15 corporate clients / Central Government organizations pertaining to taxation matters in the past out of which a few companies should be in the Public Sector / autonomous bodies of

the State / Central Govt.

- d. A Lawyer shall be a highly qualified person i.e. minimum of Bachelor of Laws (LL.B) or Master of Laws (LL.M), registered with any Bar Council. A Lawyer should have an experience of at least 5 years and should have an expertise of handling taxation related Court cases, complaints, petitions, suits, etc.
- e. A Lawyer shall be a person against whom no vigilance or police case or court proceedings or disciplinary proceedings before Bar Council are pending or decided. Also, a Lawyer should not have been convicted by a court of Law for a criminal and/or a civil misdemeanor which calls into the question as to a Lawyer's ability to act as a panelist.
- f. Appointment of a Lawyer shall be done by competent Authority of NIXI with final approval of CEO (Chief Executive Officer).
- g. A Lawyer shall be not below the age of 35 years.
- h. For considering empanelment for 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.
- i. Empaneled Advocate should not have a conflict of interest in dealing with its cases/ advices etc. and any breach thereof shall be viewed seriously.
- j. An Empaneled Advocate, during the currency of the assignment or after conclusion of the assignment, shall not disclose or make use in any manner, any information/data or any other material whether written or oral collected in connection with the assignment without the prior written consent of NIXI, as such material shall be the property of NIXI.

- k. Empanelled Lawyer/Advocate can themselves get register as Arbitrator if her or she wishes so.
- l. If lawyers are more than the vacancy, then a committee will be constituted by CEO-NIXI who will recommend the names of the lawyers to be selected.

Rule 2- Obligation to act fairly:

An Empaneled Lawyer shall have an obligation to act fairly and in the interest of NIXI / .IN Registry.

Rule 3- Disclosure of Interest:

Empaneled Lawyer shall disclose his conflict of interest with NIXI / .IN Registry, if any, before taking up a case/matter. An Empaneled lawyer, during the process of empanelment will not work directly or indirectly against the interest of NIXI.

Rule 4- Tenure of Empanelment:

The term of Lawyer's empanelment shall be for a tenure of 2 years from the date of their appointment. After completion of 2 years, the empanelment of Lawyer shall cease to exist.

Rule 5- Reappointment:

Reappointment of a Lawyer shall be considered after completion of a gap of 1 (One) year from the date of completion of their earlier empanelment.

Rule 6- Scope of Work:-

The cases will be allotted to lawyers as per the roaster. Competent empaneled lawyer may be allotted some legal consultancy work by CEO-NIXI, if required.

The empaneled Advocates and/ or Legal Consultant shall be required to assist NIXI in the following activities as assigned from time to time.

- i. Rendering Legal opinion;
- ii. Assistance in drafting regulations, notices, policies or Manual of Company etc.;
- iii. Legal vetting of orders, decisions, concept papers, bidding/tender documents, undertakings/indemnity bonds/Agreements/Contracts/MOU/NDA/Deeds to be obtained from entities;
- iv. Review of regulations based on practical working;
- v. Assistance in preparing record note of proceedings of various hearings;
- vi. Handling litigations matters before the High Court and Supreme Court another Dist. or Lower Courts/Tribunals/Arbitration forum or any other Govt. Authority;
- vii. To perform such other work of a legal nature as may be entrusted from time to time;
- viii. Empaneled Lawyer shall send all communications, court orders and updation of status of cases/suits/complaints, etc. from time to time to Legal Officer of NIXI.

Rule 7- Engaging of Senior Advocate Counsel

In addition to empaneled lawyer, NIXI may engage a senior counsel for its case to be represented/argued in the Court for which purpose prior permission of NIXI will be required. Fee of senior counsel will have to be approved by NIXI.

Rule 8- FEE

A Lawyer shall be paid fee of Rs.5,000 per hearing. Fee payable to a Lawyer towards case preparation shall be Rs.20,000. There is no retainership fee to any of the lawyers on Panel.

Rule 9- Case Allotment:

The case will be allotted to a Lawyer as per specialization and skill. Case allotment to an empaneled lawyer shall be as per next in alphabetical sequence of Roaster of same skill. There may be a possibility that a lawyer may not get any case during his or her tenure of empanelment.

Rule 10- Strength of Empaneled Lawyers for Taxation matters:

The number of Lawyers to be empaneled will be maximum of 5 in number.

Rule 11- GENERAL INFORMATION / TERMS & CONDITIONS:

- i. Mere submission of Application and fulfilling of eligibility criteria does not entitle applicant advocates for empanelment.
- ii. The Advocate shall not necessarily be empaneled for specific court and shall accept the work assigned to him and shall not refuse to accept any work without reasonable cause conveyed in writing within three days of assignment.
- iii. 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 NIXI during the continuation of empanelment with NIXI and one year after the termination.
- iv. The empaneled Advocates will not delegate cases but deal with the same themselves. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the officers of NIXI, if required.
- v. The Advocates empaneled under these guidelines/Advertisement shall not be treated as employees of NIXI and therefore, shall not be eligible for

- any salary or benefits available to its employees.
- vi. The empaneled Advocate shall maintain absolute secrecy and confidentiality about the cases of NIXI as required under the rules/regulations made thereunder.
 - vii. The advocates shall accept the terms and conditions of the empanelment as determined by NIXI in full and also modifications from time to time in keeping with the rules and guidelines in NIXI.

Rule 12- 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 empaneled Advocate of NIXI.
- ii. An advocate shall not advise any party or accept any case against NIXI in which he/she 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 NIXI arising in any Court.

Rule 13- DISABLEMENTS:

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

- a. Giving false information in the application for empanelment;
- b. Handing over the brief of matter to another advocates without prior written permission of NIXI;
- c. Failing to attend the hearing of the case without sufficient reason and prior information;
- d. Not acting as per NIXI's instructions or going against specific instruction;
- e. Not returning the brief when demanded or not allowing or evading to allow

- its inspection on demand;
- f. Misappropriation of NIXI's funds or earmarking / using the same towards his fee without NIXI's permission;
 - g. Threatening, intimidating or abusing any of NIXI's employees, officers, or representatives;
 - h. Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/appeal related to NIXI's without permission;
 - i. Committing an act tantamounting to contempt of Court or professional misconduct;
 - j. Conviction of the Advocate in any offence resulting into arrest or detention or disbarment by the Bar Council;
 - k. Passing on information relating to NIXI's case to the Opposite parties or their advocates which is likely to cause damage to NIXI's interest;
 - l. Giving false or misleading information to NIXI relating to the proceedings of the case;
 - m. Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason; and/or
 - n. Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate.

Rule 14- Termination:

Termination of an empaneled Lawyer before completion of his or her tenure shall be as per the order of CEO-NIXI.

Rule 15- Removal from Empanelment:

A lawyer shall be removed if he or she is found guilty of professional misconduct/ contempt of court or because of mishandling of the cases/suit/complaint, etc. after being given a show cause notice of 5 calendar days from the date of its receipt/delivery. Removal of a Lawyer shall be done by competent Authority of NIXI with final approval of CEO (Chief Executive Officer).