

## **National Internet Exchange of India**

### **Empanelment Policy of Lawyers for Taxation Matters of NIXI**

The objective of an Empanelment Policy for Tax Lawyers by NIXI is to ensure that the legal representation provided is of high quality, ethical, and efficient. The purpose of adopting Empanelment Policy of Tax Lawyers is for representing NIXI and .IN Registry and dealing with matters pertaining to direct taxation and/or indirect taxation under the applicable laws of India before the relevant govt. authorities, Tribunals and Courts, etc. The Empanelment Policy further defines the term and tenure of a Tax Lawyer's empanelment with NIXI (National Internet Exchange of India) and .IN Registry. The Rules pertaining to Tax Lawyer's Empanelment are as follows:-

#### **Rule 1**

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

- a) He/She should be a citizen of India.
- b) He/She must be a qualified professional with a minimum qualification of a Bachelor of Laws (LL.B) or Master of Laws (LL.M) degree and must be registered with the Bar Council of India or any State Bar Council.
- c) He/She should have a minimum age of 35 years and should have at least 10 years of experience and expertise in handling court cases, complaints, suits, etc. A tax lawyer should have experience in one or more of the following areas :
  - Direct Taxation; and/or
  - Indirect Taxation etc.
- d) He/She shall be a person against whom no vigilance or police case or court proceedings or disciplinary proceedings before Bar Council are pending or decided. Additionally, a Tax 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 Tax Lawyer's ability to act as a panelist.
- e) Appointment of a Tax Lawyer shall be done by the competent Authority of NIXI with final approval of CEO (Chief Executive Officer).

#### **Rule 2**

If tax lawyers are more than the vacancy, then a committee will be constituted by CEO-NIXI who will recommend the names of the tax lawyers to be selected.

NIXI reserves the right to accept or reject any or all the applications at any stage of the process without assigning any reason thereof and no claim/dispute in this regard shall be entertained.

### **Rule 3**

An Empanelled Tax Lawyer shall have an obligation to act fairly and in the interest of NIXI and all its divisions.

### **Rule 4**

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

### **Rule 5**

The term of Tax Lawyer's empanelment shall be for a tenure of 3 years from the date of their appointment. The performance of the tax lawyers will be evaluated every 3 months during this tenure. After completion of 3 years, the empanelment of Tax Lawyer shall cease to exist.

### **Rule 6**

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

### **Rule 7**

Cases will be assigned to tax lawyers based on their expertise and experience. Additionally, empanelled tax lawyers may be entrusted with legal consultancy work by the CEO of NIXI, if deemed necessary.

### **Rule 8**

Empanelled tax lawyers must provide regular updates on case status, including court orders and communications, to the Legal Officer of NIXI.

### **Rule 9**

- a) The fee payable to the Tax Lawyers shall be governed by the Schedule of fee structure annexed with these guidelines as amended time to time. All invoices submitted for professional services rendered by the empanelled tax lawyer should contain all supporting documents to that effect (including documents recording appearance of the empanelled lawyer).
- b) The Tax Lawyers empanelled/engaged may claim the fee for appearance only in cases of effective hearing and non-effective hearing.
- c) Effective Hearing – Effective hearing for the purpose of claiming appearance fee in a case/matter means a hearing in which any one or both the parties involved in a case are heard by the competent authority/ tribunal/ court. If the matter is called in its turn and the counsel is present to represent NIXI and the competent authority/ tribunal/ court listens to the submissions made by him/ her or by other side or by both and if,

thereafter, the competent authority/ tribunal/ court adjourns the matter, that will be an effective hearing.

- d) Non-effective Hearing – the non-effective hearing means all other hearings which are not covered in the above definitions of effective hearing. If the case is only mentioned and simply adjourned or where adjournment is affected due to no-sitting of the competent authority/ tribunal/ court or only order/judgement is pronounced, it would not constitute an effective hearing and will be treated as non-effective hearing. Further, if a case does not reach for hearing, then it will be treated as non-effective hearing. For case listed before Registrar of Supreme Court/High Court/Tribunal, only for completion of pleadings by way of filing of replies etc., such hearing will be treated as non-effective hearing
- e) In case, an empaneled tax lawyer is to travel outstation pertaining to Court case, arbitration, etc. for NIXI, he or she will also be entitled to Travelling Allowance and Daily Allowance as specified below:-

Boarding and Lodging Expenses entitlement limits have been set by classifying 3 categories:

Category A- Mumbai, Delhi, Chennai, Kolkata, Bangalore, Hyderabad, Ahmedabad, Pune and other state capitals.

Category B- Vishakhapatnam, Nagpur, Ludhiana, Agra, Allahabad, Varanasi, Indore, Kanpur, Baroda, Cochin, Jodhpur, Amritsar, Gwalior, Jabalpur, Jamshedpur, Ajmer, etc.

Category C- All other locations.

- f) The reimbursement expenses limit on Lodging and Daily Allowances, applicable during the business trip and corresponding to each place category have been listed below: -

BOARDING & LODGING			DAILY ALLOWENCE		
A	B	C	A	B	C
On Actual	On Actual	On Actual	Rs.800	Rs.700	Rs.600
Rs.7,000	Rs.6,000	Rs.5,000			

- g) Submission of hotel bills is mandatory for claiming the aforesaid. However, in case, no bills/invoices are submitted for claiming Daily Allowance, an amount of Rs. 200 only shall be paid towards it.
- Travel by Taxi/Ola cab/other cabs is permitted on submission of actual bills. Travel via 2AC Tier will be applicable. Travel via Air in Economy Class Flight is permitted with prior approval of CEO-NIXI.

- h) The Competent Authority shall have the right to approve 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 Tax Lawyer in a particular case. It shall also have the power to fix the fee for eventualities which have not been mentioned in the schedule.
- i) No retainer fee shall be paid to any empaneled tax lawyer/ Tax Law firm merely because such tax lawyer/ Tax Law firm has been empanelled.

### **Rule 10**

Cases will be allotted to a tax lawyer based on their specialization and expertise. The allotment of cases to an empanelled tax lawyer will be determined according to their area of expertise. However, there may be instances where a tax lawyer may not be assigned any cases during their tenure of empanelment.

### **Rule 11**

If an empaneled advocate/law firm has committed or attempted to commit any of the following acts he/she may be removed or suspended from the panel of NIXI, namely: -

- a) Failing to attend the hearing of the case without sufficient reason and without prior intimation;
- b) Handing over the case or matter to another advocate without prior written permission;
- c) Not acting as per the instructions or acting against any general or specific instructions;
- d) Not returning the brief or matter or no-objection when demanded by NIXI's competent authority or not allowing or evading to allow the inspection of case records on demand
- e) Threatening, intimidating, abusing any employee, officer or representative of the NIXI or in any manner misbehaving with him/her
- f) Making or allowing any of his/her associates or juniors to appear on behalf of any opposite party in any case or matter against the interests of the NIXI;
- g) Committing an act that tantamount to contempt of court or professional misconduct;
- h) Arrest or detention or disbarment by the Bar Council;
- i) Directly or indirectly passing on any secret or other information relating to NIXI or any case or matter to the opposite party or the opposite or other advocate which causes or likely to cause damage to NIXI's interests;
- j) Giving false or misleading information to the NIXI's Competent Authority or to any officer or to the employee of NIXI relating to the proceedings of the case or matter;
- k) If at any time during the period of empanelment the empaneled advocate or Law Firm has engaged in any fraudulent activities, misrepresentation, misappropriation etc.;
- l) Violating any of the provisions in terms & conditions of empanelment.

Upon committing any of the above acts, a show-cause notice will be issued to the tax lawyer. They will be given 5 (five) calendar days from the date of receipt or delivery of the notice to provide a response. The final removal or suspension of the advocate or law firm will be determined by the competent authority of NIXI, subject to the final approval of the CEO. The decision of the CEO shall be final and binding on all the empanelled tax lawyers.

**Rule 12**

CEO-NIXI shall have the right to terminate a tax lawyer from the empanelled list before the expiry of their tenure, upon giving due notice with reasons, on grounds such as gross misconduct, failure to carry out duties in a timely manner, or any other reason deemed fit by the CEO.

**Rule 13**

Any tax lawyer may resign from their empanelment with NIXI by providing a 1 (one) month notice and ensuring the successful handover of all assigned cases to the next assigned tax lawyer.

**Rule 14**

The number of Tax Lawyers to be empanelled will be maximum of 2 (two) in number. Out of total 2 (two) number of tax lawyers, each lawyer will be specialized in direct taxation and indirect taxation or both respectively.

**Rule 15**

CEO, NIXI will be empowered to relax any of the above Rules mentioned, in respect of any deserving candidate.

### SCHEDULE OF FEES\*

FOR ATTORNEY GENERAL, SOLICITOR GENERAL, ADDITIONAL SOLICITOR  
GENERAL(ASG) AND SENIOR ADVOCATES.

Sl. No	Name of Advocate	Fees
1.	ATTORNEY GENERAL of India	At a fee upto Rs. 4,40,000
2.	SOLICITOR GENERAL	At a fee upto Rs. 3,30,000
3.	ADDITIONAL SOLICITOR GENERAL(ASG) AND SENIOR ADVOCATES	At a fee upto Rs. 2,20,000

#### FEES FOR TAX LAWYERS/ADVOCATES/ ADVOCATE ON RECORD (AOR)

SL. No.	Category of Service	Supreme Court	High Court	Tribunal/Competent Authority
1.	Per Effective hearing	20,000/-	15,000/-	8,000/-
2.	Online Effective hearing	15,000/-	9,000/-	7,000/-
3.	Non- effective hearing	25% of the effective hearing		
4.	For drafting and filing of Main petition/ Reply	25,000/-	20,000/-	15,000/-
5.	For drafting and filing of Miscellaneous applications/ Miscellaneous Affidavit/ counter Affidavit	Rs. 10,000/-	Rs. 7,000/-	Rs. 5,000/-
6.	Clerkage	Upto 10% of fee subject to a maximum of Rs. 2000/-		
7.	Offline Conference	7000		
8.	Online Conference	5000		
9.	Vetting/Drafting of Miscellaneous Documents	5000		
10.	Legal Opinion on miscellaneous matters other than court cases	12500		
11.	Miscellaneous Expenses (Postage, Printing, OCR, Service of Documents, Statutory Fees etc.)	On actuals (production of bills mandatory, NIXI's decision regarding consideration/ non-consideration of miscellaneous expenses submitted by the empanelled tax lawyer shall be final)		

\*subject to Rule 9 (h)