

Proforma-'A1' of Annexure I

**Particulars to be furnished by an advocate applying for engagement as Jr. /Sr. Standing Counsel**

- 1.Name of the person
- 2.Permanent Account Number
- 3.Father's Name
- 4.Date of Birth
- 5.Address for correspondence including e-mail, Telephone/Mobile no.
- 6.Permanent address
7. Educational Qualification \*
- 8.Category of counsel for which applied (Jr. Standing Counsel/Sr. Standing Counsel)
10. Date of enrolment as an advocate in the State Bar Council and Registration No. \*
- 11.If a partner in a firm, name(s) of the firm(s) and other partners
12. Number of cases relating to Direct Taxes dealt with during last 3/5(Jr./Sr.)years as an Advocate\*
13. Number of cases published in Journals/Newspapers, etc.
- 14.Income from Professional Practice (copy of the latest I.T. return to be attached)

**Verification**

I..... S/o .....,do hereby declare that whatever has been stated in the above application is true to the best of my knowledge and belief.

Signature

Date:

Place:

**\*Applicant to submit documentary proof with respect to aforesaid items/information.**

**Undertaking**

I..... S/o .....,do hereby declare that if engaged by the department, I shall fully abide by the terms and conditions of the engagement.

Signature

Date:

Place:

**Proforma 'A2' of Annexure I**

**Pro forma for application by an officer who has retired/resigned from the Income-tax Department or has been a member of ITAT**

1. Name of the person
2. Permanent Account Number
3. Father's Name
4. Date of Birth
5. Address for correspondence including e-mail, Telephone/Mobile no.
6. Permanent address
- 7.\* Educational Qualification
8. Date of joining Government Service in Income-tax Department
9. Designation and office address of the last post held
10. Date of retirement/resignation from the service
- 11.\* Date of enrolment as an advocate in the State Bar Council and Registration No.
13. If a partner in a firm, name(s) of the firm(s) and other partners
14. Category of counsel for which applied (Jr. Standing Counsel/Sr. Standing Counsel)

**Verification**

I, ..... S/o .....,do hereby declare that whatever has been stated in the above application is true to the best of my knowledge and belief. I further declare that I have not been removed from the service due to any disciplinary proceeding and no disciplinary proceedings under service rules or Pension Rules are pending against me as on date.

Signature

Dated:

Place:

**\*Applicant to submit documentary proof with respect to aforesaid items/information.**

**Undertaking**

I,..... S/o .....,do hereby declare that if engaged by the department, I shall fully abide by the terms and conditions of the engagement.

Signature

Date:

Place:

**Pro forma-'B-2'of Annexure I**

**For those applying for Jr Standing counsel**

Name of the candidate	Qualification & Division obtained at the Degree level	Whether practiced IT matter for the requisite period	Whether articles etc. published in any Law journal, books published etc.	Knowledge of Tax Laws	Interpretational ability/ Advocacy skills	Flair for Advocacy	If a Jr. St. Counsel, marks for past output	Total Marks obtained
	LLM – 2 mark	No of years:						
	M Phil/Ph D- 3 marks	>10 years- 5 marks	Max. 10 Marks	(Max. 20 Marks)	(Max. 20 Marks)	(Max. 25 Marks)	(Max. Marks of 10)	(Max. 100 Marks)
	Academic record (marks scored in LLB):	5-10 years-4 marks						
	>70%- 7 marks	<5 years- 3 marks						
	>60%- 6 marks							
	>50%- 5 marks							
	>40%- 2 marks							

## Annexure-II

### SCHEDULE OF FEES AND ALLOWANCES AND TERMS OF PAYMENT

The fees and allowances payable to Senior Standing Counsels are given hereunder:

#### **1. For appearance in the High Court (subject to exceptions in para 9 & 10 below)**

1.1. In respect of appeal under section 260A of the Income-tax Act or Civil or Criminal Writ Petition under Articles 226 and 227 of the Constitution or Civil or Criminal appeals or revision petition, for first <b>substantial and effective hearing*at admission stage</b>	Rs. 3,000
1.2. In respect of each subsequent substantial and effective hearing <b>up to admission stage</b>	Rs. 1,500
1.3. In respect of appeal admitted under section 260A of the Income-tax Act or reference including application under section 256(2) of the Income-tax Act or Civil or Criminal Writ Petition under Articles 226 and 227 of the Constitution, on first substantial and effective hearing following the completion of pleadings.	Rs. 6,600
1.4. In respect of each substantial and effective hearing, <b>following the first hearing</b>	Rs. 2,400
1.4.1 In respect non- effective hearing (subject to Para 11.3 below)	Rs. 500 subject to maximum of 3 hearings
1.5. In respect of obtaining certificate of fitness under section 261 of the Act, including drafting and typing of the petition	Rs. 3,000(for each application)
1.6. In respect of Civil Miscellaneous application, including drafting and typing (other than those filed with the appeal memo)	Rs. 2,400(per case)

#### **2. For Drafting**

2.1. For drafting of each appeal memo/writ petition/ counter affidavit or any other pleading of similar nature involving original work (including drafting of condonation petition/ notice of motion etc.)	Rs. 6,600per appeal/writ
2.2. For drafting each rejoinder/ written submission/any other pleading in answer In case of identical affidavits, written statements, etc., in connected cases, one drafting fee will be payable in the main case and 1/6 <sup>th</sup> of the drafting fee will be payable in each of the connected case	Rs. 3,600
2.3. Written opinion: (Other than what is referred in Para 7.6 of Annexure I)	Rs. 3,600(per case)

#### **3. For Conference**

<b>Conference fees (with Assessing officer or above)</b>	Rs. 1,200 per conference not exceeding Rs. 3,600 per case
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\*A substantial and effective hearing is one in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given or only judgment is delivered by the Court, it would not constitute a substantial and effective hearing.

The Junior Standing Counsel rendering assistance to the Sr. Standing Counsel shall be entitled to 1/3rd of the amount specified against each item of work. The Junior Standing Counsels performing the functions of Senior Standing Counsels or arguing cases independently as per the orders of CCIT shall be entitled to the full amount specified above against each item of work.

#### 4. Retainership

The Standing counsel shall be entitled to a retainer fee at the following rates:

Senior Standing Counsels	Rs. 20,000 p.m. (for Delhi and Mumbai) Rs. 15,000 p.m. (for other stations)
Junior Standing Counsels	Rs. 10,000 p.m. (for Delhi and Mumbai) Rs. 7,500 p.m. (for other stations)

No separate establishment charges including telephone, etc. shall be payable.

#### 5. Clerkage

Clerkage at the rate of 10 per cent of the appearance fee and drafting fees shall be payable to the counsel, **subject to a maximum of Rs. 8,000/-, in a case or a batch of cases**

#### 6. Out of pocket expense

The amount required for Court fees at the time of filing a case and other miscellaneous expenses including expenses for obtaining certified copies of judgement/order should be paid to the Counsel in advance by the Chief Commissioner. An account of the expenses incurred shall be rendered by the counsel to the Chief Commissioner while presenting the final bill.

#### 7. For appearance before any other Court, ITAT, other statutory bodies, etc.:

The Standing Counsel shall be entitled for fee etc. as under

- (a) At headquarters (the seat of High Court for which the counsel is engaged): Same as payable for appearance before the High Court.
- (b) Out of headquarters: When the Counsel is required to go out of headquarters in connection with any litigation matter, e.g., for conference with a Senior Counsel, Special Counsel or with the Law Officer or for appearance in any Court/ITAT/Statutory Body, etc., outside the headquarters, he will be entitled to a daily fee of Rs. 5,100 per day for the days of his absence from the headquarters including the days of departure from, intervening holidays and arrival back at the headquarters. However, no fee will be paid for the day of departure if he leaves headquarters after Court hours and for the date of arrival if he arrives at the headquarters before the Court hours. The daily fee will be in addition to the normal appearance fee prescribed at para 1 supra.
- (c) Travel/Hotel expenses: In addition to the daily fee, the Counsel will be entitled to travel expenses for travel by air (economy class) or first class AC by train. Road mileage for the journey from his headquarters to the airport/railway station and *vice versa* and from the airport/railway station to the place of his stay out of headquarters and *vice versa* will be paid at the rates admissible to Class I officers of the Central Government having grade pay of Rs. 10,000 in case of Sr. Standing Counsels and Grade pay of Rs. 8,700 in case of Jr. Standing Counsels. He will also be paid a lump sum amount of Rs. 900 as conveyance charges for performing local journey while outside the headquarters. He will also be entitled to actual

expenses for stay in hotel, subject to a maximum for Rs. 5,000 per day for Sr. Standing Counsels and Rs. 3,000 per day for Jr. Standing Counsels.

#### **8. Appearance fee in special circumstance**

The CCIT may entrust specific duties relating to the Departmental work in the High Court for attending to duties which are not specifically covered in this instruction (such duties to be specified) to any Standing Counsel on the panel. The fees for such specified work, however, shall not exceed Rs. 2,000 per day.

#### **9. Appearance fee in connected/covered cases**

- 9.1 When more than one case involving identical questions/issues are heard together and decided by the High Court, the counsel shall be paid full appearance fee in the main case and Rs. 1,000/- in each of the other connected cases.
- 9.2 Similarly, in covered cases (where the judgement in the relevant case is squarely based upon earlier decision of the same High Court or of the Supreme Court) the counsel shall be paid only Rs. 1,000/- per case as the appearance fee. However, in case the counsel has argued the relevant case to the effect that the case was not a covered one and such arguments duly find a mention in the judgement, the case will not be considered a covered one and the counsel shall be entitled for full appearance fee.

#### **10. Uncontested matters**

A case shall be regarded as uncontested, if the same is withdrawn by the plaintiff/appellant or dismissed *in limine* or otherwise decided by the court *ex parte*. In uncontested cases, the fee shall be 1/3rd of the appearance fees as applicable to the stage of the case, otherwise payable, but if such a case is later on restored and decided in contest, the remaining 2/3rd of the fee will be payable.

#### **11. General**

- 11.1 The rates specified above are primarily applicable to income-tax cases but will apply, *mutatis mutandis*, to cases relating to other direct taxes and any other matters assigned by the department. In all cases effective appearance is necessary for the Counsel to claim fee.
- 11.2 No fee will be payable in cases where no legal work is required to be done. For example, cases in which the interest of the department is to be watched pending instructions, the cases involving transmission of records to the Supreme Court, inspection of the Court record for ascertaining the position of the case or other information needed etc.
- 11.3 No fees for adjournment - No fee will be payable to the Counsel if an advance notice about the adjournment has been circulated or the case has been adjourned at his request due to the reasons personal to him.
- 11.4 If the Counsel appears at the instance of the Union of India or for parties other than the Union of India whose scales of fee are not inconsistent with that of the Union of India, he will be entitled to only one set of fees.
- 11.5 When the Counsel does not argue the case himself but assists the Law Officer or any other special Counsel, he will be entitled to the same fee as is payable to him as if the case has been argued by him.

11.6 When cases argued before a Single Judge are referred to a Division Bench or to a Full Bench, separate fee at the rates prescribed at Para 1 of this Annexure will be paid for appearance before each Bench.

#### 11.7 Late submission of certified copies of the judgment

11.7.1 20% of the appearance fees would be deducted if the application for certified copy is not made within two working days, excluding the date of pronouncement of the judgement.

11.7.2 Further, 20% of the appearance fees shall be deducted if certified copy of the judgement is not handed over to the jurisdictional Commissioner/Director of Income-tax within three working days of the judgement being ready for delivery. In case where the jurisdictional Commissioner/Director of Income-tax is stationed at a different city/town from the one where the High Court bench is located, the time limit for delivery of certified copy of judgment would be, five working days of the judgment being ready for delivery.

Provided clause 11.7.2 shall not be enforced if the counsel intimates the Commissioner/Director concerned or the officer nominated by him, of the conclusion of hearing giving particulars of appeal and makes available to him an ordinary copy of the judgement as soon as the same is available (but before the date of judgement being ready for delivery) along with the copy of receipt of making application for certified copy within period stipulated at 11.7.1 above.

#### 12. Procedure for submission and payment of bills to Standing Counsels

12.1 The Counsel should submit professional bills in pro forma 'X' of this annexure by the 10<sup>th</sup> of every month:

12.1.1 Bills for drafting should be submitted in the month succeeding the month in which the appeal etc. was filed.

12.1.2 Bills for appearance for admission and regular hearings as referred in Para 1 of annexure II should be submitted in the month succeeding the month in which relevant orders/judgements are received.

12.2 Bill claiming retainer fee as referred in Para 4 of annexure II should be submitted in the month succeeding the month of retainership.

12.3 Wherever Jr. Standing Counsel has assisted a Sr. Standing Counsel, a combined bill should be submitted by the Counsels.

12.4 The bills shall be scrutinized within 30 days of receipt and deficiency or excess claim if any shall be communicated to the counsel within a week of such scrutiny. The scrutiny of bills should not be kept pending due to non-availability of funds.

12.5 After passage, the Bill should be arranged in seriatim of receipt, for payment.

12.6 The cheque should be sent to the counsel concerned giving particulars of bills covered by the payment.

12.7 In order to resolve any issues pertaining to bills, the PCsIT/CsIT should have periodical, preferably quarterly meetings with the counsels.

**Proforma-'X' of Annexure II**

Bill for claim of professional fees by Standing Counsels (case wise) to be submitted to the PCIT/CIT concerned/CIT (J)

PRE-RECEIPTED

1	Name of the Counsel(s)*	Senior	Junior
2	CIT Charge		
3	Case Title		
4	Asst. Yr. Involved		
5	ITA No./WT No. etc.		

\* In case Junior Counsel has assisted the Senior Counsel in a case, both the names should be mentioned and combined bill to be submitted.

**PART A (Bill for Drafting), as applicable**

(Amount in Rs.)

		Senior	Junior
1	Appeal memo u/s 260A		
2	Writ petition		
3	Counter affidavit or any other pleading of similar nature involving original work		
4	Rejoinder/written submission or any other pleading in answer		
5	Written opinion		
	Total		

**PART B (Bill for appearance etc.), as applicable**

(Amount in Rs.)

		Senior	Junior
1	Admission stage (Whether Connected or Covered case- Yes / No)		
2	First substantial and effective hearing after admission (Whether Connected or Covered case- Yes / No)		
3	Subsequent substantial and effective hearing (Whether Connected or Covered case- Yes / No)		
4	Certificate of fitness (Para 1.4 of annexure II)		
5	Civil Miscellaneous application (Para 1.5 of annexure II)		
6	Date of Judgement		
7	Date of making application for certified copies		
8	Deduct 20% of (1)+(2)+(3) if date at (7) is more than 2 days from (6), excluding the date of judgement	(-)	(-)
9	Date of Judgement ready for delivery		
10	Date of furnishing ordinary copy to the CIT concerned/ CIT Judicial (if applicable)		
11	Date of furnishing certified copy to the CIT concerned/CIT Judicial		
12	Deduct 20% of (1)+(2)+(3) if date at (11) is more than 3 (5 for outstation) days from (9), excluding the date of order ready for delivery. (Not applicable if the counsel intimates the CIT/DIT concerned of the conclusion of hearing giving particulars of appeal and makes available to him an ordinary copy of the judgement as soon as the same is available (but before the date of certified copy being ready for delivery) along with the copy of receipt of making application for certified copy within period stipulated at Para 11.7.1 of annexure II.	(-)	(-)
13	Conference fees		



14	Clerkage		
15	Out of pocket expenses		
16	For appearance at any other Court/ITAT/Statutory bodies (as per Para 7 of annexure II)		
17	Appearance fee in special circumstances (as per Para 8 of annexure II)		
	Total		

Certified that the above information is correct and in accordance with the terms of engagement. The above claims have not been made earlier.

Received Payment

Received Payment

Signature and Name  
of Jr. Standing Counsel  
Mobile/Tel. No.

Revenue  
Stamp

Signature and Name  
of Sr. Standing Counsel  
Mobile/Tel. No.

**For office use only**

Deduction as applicable*		Senior	Junior
1	Connected/Covered cases (as per Para 9)		
2	Uncontested cases (as per Para 10)		
3	Late submission of certified copies		
3a	As per Para 11.7.1 of Annexure II		
3b	As per Para 11.7.2 of Annexure II		
4	Others (specify)		
5	Total deduction		

**Total Bill**

	Senior St. Counsel	Junior St. Counsel
Part A		
Part B		
Total Amount claimed		
Deductions, if any (for office use)*		
Amount passed for payment (for office use)		

\*The counsel shall be intimated of the deductions made before payment of the bill.

**Signature and Name of the D.D.O.**