



OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX
AAYAKAR BHAWAN, MAIN BUILDING,
NO.121, MAHATHMA GANDHI ROAD, NUNGAMBAKKAM, CHENNAI 600 034.
Phone: (044) 28338073, 28333140.

F.No. CIT(Judicial)/Prosn. Counsels/2019-20/1

Date: 15.05.2019

NOTICE FOR EMPANELMENT OF SPECIAL PUBLIC PROSECUTORS

Applications are invited from advocates of substantial standing and repute and with good academic credentials for the empanelment of Special Public Prosecutors for representing prosecution cases of the Income Tax Department in the Economic Offences Court or/and in the appropriate courts of Chennai and other places of Tamilnadu and Puducherry.

2. Eligibility Conditions:

- (i) Be eligible to appear before the Court as an Advocate, and
- (ii) Have a minimum experience of 7 (seven) years as a Practicing Advocate, in criminal matters. Adequate experience of handling trials relating to Direct Taxes is desirable.

3. Eligibility, Terms & Conditions, Fees etc. are governed by Instruction No.6/2016 (F.No. 279/MISC./M-77/2011-ITJ dated 07.09.2016) and further modification of this Instruction issued vide F.No. 279/MISC./M-77/2011-ITJ dated 18.10.2016 and vide F.No. 279/MISC./M-77/2011-ITJ dated 20.02.2017, of the Central Board of Direct Taxes, New Delhi.

4. The application proforma, eligibility and terms and conditions of empanelment can be accessed at <http://www.tninetax.gov.in> or may be obtained from the Income Tax Officer (Prosecution). All the documentary proof should be submitted along with the application. The Special Public Prosecutors who have either resigned earlier or whose empanelment has been terminated by this office for the reason of non-reporting to work or for any other reason cannot apply.

5. Canvassing in any form shall constitute a disqualification.

6. For the purpose of experience as mentioned in the para 2 above the cutoff date for eligibility will be 31.03.2019.

7. The applications received earlier to this advertisement or received through any other channel or received after the due date are liable to be rejected. Applications not submitted in the prescribed proforma or incomplete in any respect also, are liable to be rejected.

8. The duly filled in applications should be submitted in prescribed Proforma-P1, through Regd. Post or by hand in a sealed cover, addressed to the **Income Tax Officer (Prosecution)**, Room No.327, Aayakar Bhawan, Main Building, 3rd floor, 121, Mahathma Gandhi Road, Nungambakkam, Chennai 600 034. A soft copy of the application in the prescribed proforma should also be mailed to the email id: chennai.ito.osd.pros@incometax.gov.in . The last date for receipt of the applications is **07.06.2019 upto 5.00 PM.**

9. A copy of this advertisement is also available at the Department's website i.e www.tninetax.gov.in.

Sd/-
(M.MATHIVANAN)
Addl. Commissioner of Income Tax
(Judicial & Prosecution),
Chennai.

PROFORMA-P1

Particulars to be furnished by an Advocate applying for engagement as Special Public Prosecutors

1	Name of the person	
2	Permanent Account Number	
3	Father's Name	
4	Date of birth	
5	Address	
	(i) Residence	
	(ii) Office	
6	Telephone/Fax No.	
	Mobile No./Email-Id	
7*	Educational qualification	
8*	Date of enrolment as an advocate in the State Bar Council and Registration No.	
9	If a partner in a Firm, name(s) of the Firm(s) and other partner(s)	
10	Number of criminal cases dealt with during last five years as an Advocate	
11	Brief particulars of experience in handling prosecution cases under Direct Taxes	
12	Income from professional practice. (copies of latest Income Tax Return to be attached)	
13	Preferred place for practice	

VERIFICATION

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

Date		(Signature)
Place		

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

UNDERTAKING

Ison/daughter/wife of do hereby declare that if engaged by the Department, I shall fully abide by the terms & conditions of the engagement.

Date		(Signature)
Place		

**THE ELIGIBILITY, TERMS AND CONDITIONS FOR EMPANELMENT & DUTIES OF
SPECIAL PUBLIC PROSECUTORS IN
INCOME TAX DEPARTMENT CHENNAI**

1. Qualification of Special Public Prosecutors

In order to be eligible for engagement as an SPP, a person should:

- (a) be eligible to appear before the court as an Advocate and
- (b) have a minimum experience of 7 years as a Practicing Advocate, in criminal matters. Adequate experience of handling trials relating to Direct Taxes is desirable.

2. Duties of the Special Public Prosecutors

Duties of the Special Public Prosecutors shall include:

- (i) To represent the Department personally and effectively in conduct of trial for prosecution matters in the Trial courts/ Courts of Session
- (ii) To give opinion when it is sought about the feasibility of filing a prosecution case or any other prosecution matter.
- (iii) To draft complaints and assist in compliance of the technical requirements.
- (iv) To intimate criminal complaint number to the officer concerned/Complainant.
- (v) To intimate the Assessing Officer/ officer concerned about the outcome of each hearing and the date of next hearing, immediately after the hearing.
- (vi) To assist the witnesses of the Department before their evidences and guide them in facing cross examination. The SPP should prepare each witness and its statement in such a manner that there is consistency in the stand of the Department.
- (vii) To apply for the certified copy within 3 days of the judgement and deliver it to the CIT/Pr. DIT/CIT/DIT concerned within 10 days (excluding the time taken by the Courts).
- (viii) When a case represented by him/her is decided against the Department, to apply for certified copy of the judgment within three working days of pronouncement and give his opinion regarding the advisability of filing an appeal against such a decision within seven days of taking In other cases also the same time limits shall be applicable, though opinion will not be required;
- (ix) To draft revision petition, if required or to draft reply to the revision petition, if preferred by the accused.
- (x) To represent the Department in revision matters before the Court of Session.
- (xi) To furnish a statement of the cases handled to the CIT/Pr. DIT/CIT/DIT concerned, by 30th April of every year, indicating the performance in preceeding financial year in '**P2**'.

(xii) To perform such other duties of legal nature as may be assigned to him/her by the Department.

3. Schedule of Fees, Allowances and Terms of Payment:

3.1 The SPPs will be engaged in accordance with the revised schedule of fees and related terms & conditions applicable to them as given below:

S.No	Activity	Fees Payable
1.	Effective Hearing ¹	Rs. 2,000/- per day per case (there shall be no ceiling per day, irrespective of the number of cases heard on a day)
2.	Non-effective Hearing	Rs. 500/- per day per case (subject to the payment for maximum 5 non- effective hearings in a case/connected cases).
3.	Drafting Complaints ²	Rs. 2,000/- per complaint
4.	Drafting Revisions, Replies, Written Arguments, Affidavits, etc. ³	Rs. 1,000/- per case
5.	Conference fees (With Assessing Officer or above)	Rs. 750/- per conference limited to payment for a maximum of 5 conferences in a case/connected cases.
6.	Clerkage	10% of fee at Sl. No. 1 to 4 above.
7.	Opinion fees (written opinion in cases/matters, other than those where adverse orders have been passed by the Court in the cases represented by the SPP)	Rs. 2,000/- per case/connected cases

1. 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 judgement is delivered by the Court, it would not constitute an effective hearing.
2. If substantially identical complaints, affidavits etc. are drafted in connected cases (as defined in para 3.2), drafting fees of Rs. 2,000/- will be paid for the main case only. For other cases drafting fees of Rs. 750/- per case will be paid.

3. If substantially identical Revisions, Replies, Written Arguments etc. are drafted in connected cases, drafting fees of Rs. 1,000/- will be paid for the main case only. For other cases drafting fees of Rs. 500/- per case will be paid.

3.2 Appearance fee in connected cases

When more than one complaint involves substantially identical issues, where the arguments are heard in the main case and the other cases are decided accordingly, such complaint in which the arguments are heard shall be treated as the main case and the others as connected cases irrespective of the fact whether all the cases are heard together or not. The SPP shall be paid appearance fee as per para 3.1 above in the main case and only Rs. 750/- in each of the connected cases for every effective hearing.

3.3 Out of pocket expenses

The amount required for court fees at the time of filing a case and other miscellaneous expenses including for obtaining certified copies of judgement/order shall be reimbursed to the SPP on receipt of the claim.

3.4 For matters outside Headquarters

(The headquarters of the SPP shall be the station where the Trial Court for which the SPP is engaged is stationed)

3.4.1 When the SPP is required to go out of headquarters in connection with any litigation or for conference outside the headquarters, he will be entitled to a daily fee of 3,000/- per day for the days of his absence from the headquarters including the days of departure from, intervening holidays and arrival back to 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 as prescribed in para 3.1 above.

3.4.2 Travel/ Hotel Expenses: In addition to the daily fee, the SPP will be entitled for travel expenses by train in First Class/AC 2 Tier. Road mileage for the journey actually performed by Bus/Taxi/Own Car will be paid as per Mileage Allowance in the T.A. Rules applicable to Central Government Servants at the rate admissible to officers drawing grade pay of Rs. 6600/-. He will also be paid a lump-sum amount of Rs. 750/- as conveyance charges for performing local journey while outside the headquarters. He will also be entitled to actual expenses for staying in hotel, subject to maximum of Rs.3000/- per day.

3.5 Late submission of certified copies of judgement

If the certified copy of the judgement is not delivered to the office concerned within 10 days (excluding the time taken by the Courts) from the date of judgement, 20% of the hearing fees payable to the SPP shall be deducted.

4. Right to Private Practice

(i) The SPP will have the right to private practice, but he shall not appear in the prosecution matters against the Department in any court or be

associated with any assessee in respect of any offence under the Direct Taxes laws in any manner.

(ii) If the SPP happens to be a partner of any firm of lawyers or solicitors, it will be incumbent on the firm not to take up any prosecution case against the Department in any court.

5. Termination of engagement/resignation/expiry of term

The engagement of SPP can be terminated through written intimation by either side without assigning any reason. The CCIT is authorized to act on behalf of the department for the purpose. On expiry of the term or termination or resignation, the SPP shall immediately handover the briefs and other related papers to the Pr. CIT/Pr. DIT/CIT/DIT concerned or the other SPPs nominated by the CCIT for the purpose.