

Easy Steps To Drafting An Effective Opinion:

The following are the requirements to be kept in mind:

Background:

1. Firstly ,there should be a clear idea of what the client is doing, what are the products /services or processes involved.
2. Then in the context of what the client does a comprehensive knowledge of the industry he is in is to be obtained [from him if available otherwise searching information about the company and industry on google or other search engines]
3. Assist the client to arrive at his concerns with documentary evidence if available
4. To get a grasp of problems a discussion with one of the partners who has interacted with client before start of the opinion.
5. Use all tools like taxation books, bare acts, journals, case laws and circulars.
6. If during discussion no one from consulting is present then the partner concerned should record the discussion in a facts sheet and pass it on to consultancy department which can then be transformed into a standardized questionnaire format which can then be used to base the opinion [Can be started from August]
7. If any further facts are needed at or before issuing an opinion then the person concerned from consultancy should contact client and keep a log.
8. Other than in exceptions opinions would be issued ONLY on written queries/ email.
9. A short jotting on the approach which is planned can be made..
10. Where there are several matters in review the executive summary thereof could be given for ease of reference of client.
11. Whether all the queries raised by client were addressed in opinion
12. Put all the aspects relating to procedures details in annexure so client gets answers in as few and clear sentences as possible.
13. An opinion should be completed in a maximum of two working days

Annexure:

In case the above are addressed the next procedures would involve the following:

14. The partners would be able to give insights even into seemingly routine queries resulting in value addition.
15. A beginner in the area of drafting opinions is advised to not go through the similar opinions as available in the firm's archives as it retards the learning process.
16. The better thing would be to draft opinion on one's own and then refer an earlier opinion of the same client or a similar issue opinion to see impartially if we are close to it in quality of opinion given.

We have tools on hand as follows:

17. Bare Acts, books on Central Excise, Service Tax, Customs, K-VAT which are author backed several of which are in the office readily available from which clarity on procedures to be followed in indirect tax issues which are wide ranging are available. For instance: Procedures to be adopted in different circumstances of job work.
18. The ELTR and STR articles which are contributed by experts if read thoroughly will inform us of several developments and view points which can contribute in drafting a good opinion.
19. Go through the cases compendium in EXCUS, opinions given in the same area before in the office.
20. While going through cases it is better not just to concentrate on head notes as they could give a misleading view point as against what is relevant to the decision on hand
21. Go through cases having similar subject matter so comparisons is got or similar grounds for basing our opinion is got.
22. Departmental circulars can also be gone through.
23. While drafting the opinion discuss details of issues with seniors in office / fellow CA 's to give a better opinion based on ideas cropping up in discussion.
24. When there is a lot of material to be covered in drafting an opinion it is always better to cultivate the habit of speed reading to grasp the essence of the circumstances, solutions involved in opinion.
25. Sometimes solutions could be got from other professionals who could have handled similar matters or who could know some latest development.

26. **What not to do in giving an opinion:** In issuing a quality opinion keep it brief and relevant; Do not confuse the client further in opining, give a clear idea of the most appropriate solution; Avoid mistakes in alignment , spelling , uniform font size and spacing in all opinions issued by the office; There should be clear cut parts to the opinion namely background, query, discussion and opinion.
27. Only where information is not forthcoming from client or due to many issues being involved the number of days of working maybe increased.
28. It should be mentioned in opinion as to the date of the receipt of information from the client by way of mail/office discussion with partners as well as if information received on piece meal basis such further dates thus being the reason for delay in issuing opinion.
29. There should be adequate documentation kept of the relevant agreements that have been given by clients which might have resulted into forming a certain opinion in a given case, like for instance the agreements of contractors with their clients as regards bearing of the service tax component on inclusive or exclusive basis.
30. Where there are several matters in review the executive summary thereof could be given for ease of reference of client.
31. It should be ensured that facts that are presented in the background portion were supported by adequate documentation or confirmed by the client.
32. Whether all the queries raised by client were addressed in opinion.
33. Whether the opinion is legally sound, clear, easy on the reader.
34. Whether there is proper flow of ideas with serialling , annexures, paras.
35. Whether there are any unnecessary repetitions ,omissions in opinions.
36. Whether any grammatical errors in opinion.
37. Whether any case laws have been discussed with for/against views being given and a proper conclusion arising out of the same.

Specimen Form of Opinion:

Name:

Address:

Tel No:

Contact Person:

Status: Proprietor /Partnership/Company/Trust/Association

Location: Resident/Non-Resident

Date of Formation/Constitution:

Nature of Business: Manufacturer/Trader/Service or Profession

Registered under: Central Excise since(Date)

Service Tax since (Date)

VAT since (Date)

Brief Note:(on products and services offered with Central Excise Tariff code,category of service as registered with the authorities as may be applicable)

Queries

1.

2.

Signature.