

C6/183620/16/PHQ

Police Head Quarters  
Thiruvananthapuram  
Dated. 14.10.2016

## Circular No. 211/2016

Sub: Multi-level Marketing Entities/ Direct selling Entity—guide lines—issued.  
Ref: Circular No. 1871/C2/2014/TD dated 14/9/2015 issued by the Principal Secretary, Taxes ( C )  
Department, Government of Kerala.

The Government of Kerala vide reference cited have formulated certain guidelines for the functioning of Multi-level Marketing Entities/ Direct sellers. The gist of the Government circular is as follows.

**1. Conditions for Multi-level Marketing/Permissible Direct selling:** For making the Multi-level Marketing/ Direct selling activities permissible within the State of Kerala, the following conditions are to be satisfied;

- (i) Every Multi-level Marketing/ Direct selling Entity operating within the state should;
- (a) take out registration under the Kerala General Sales Tax, 1963/ Kerala Value Added Tax Act. 2003 and the Income Tax Act.
- (b) take out Licenses as may be required as per the Laws of the State/ Centre.
- (c) clearly state the nature of their business in the Partnership Deed or Memorandum of Association, as the case may be.
- (ii) The Multi-level Marketing/ Direct selling Entity should pay sales incentives to direct sellers at the agreed rate within the agreed period.
- (iii) The Multi-level Marketing/ Direct selling Entity should have an official Website wherein the relevant details viz. Names and Identification numbers of their authorized Direct Sellers and provisions for registering complaints by the consumers shall clearly be stated.
- (iv) The Multi-level Marketing/ Direct Selling Entity should have a Consumer Grievance Cell that should ensure redressal of consumer grievances within seven days from the date of making such complaints.

**2. Appointment/ Authorization of Direct Sellers:** While appointing or authorizing the Direct Sellers, the Multi-level Marketing/ Direct Selling Entity should confirm to the following procedure:

- (i) Appointment /authorization of Direct Sellers should be upon receipt of application form in prescribed format. The application form should contain the details of the person applying to become a Direct Seller and an undertaking to the effect that he has understood the nature of business and the terms and conditions of the direct selling. Only after satisfying the correctness and genuineness of the details given in the application form with supporting evidences, he/she should be appointed as a Direct Seller.
- (ii) No application should be considered unless such applicant is eligible to enter into a contract under the Indian Contract Act, 1872
- (iii) An agreement recording terms of the appointment as Direct Sellers should be executed between the Multi-level Marketing/ Direct Selling Entity and Direct Seller.
- (iv) Each Direct seller should be allotted a Unique Identification Number before granting licence/ permission to start Direct Selling and be given with an Identity Card.
- (v) No incentive should be paid to any person either for canvassing any person for becoming a Direct Seller or for joining as a Direct Seller.

(vi) The Multilevel Marketing/ Direct Sellers should undergo training on the do's and don'ts of direct marketing in an approved institution by the Government such as Gulati Institute of Finance and Taxation (GIFT), Sreekrishna, Thiruvananthapuram.

(vii) Each Direct Seller should take out registration under the Kerala Value Added Tax Act, 2003, if the Multi-level Marketing entity is not opting for payment of tax under compounded system envisaged in the Act. If the Multi-level Marketing Entity has opted for paying the tax at the first point of sale on the Maximum Retail Price, the subsequent dealers including Direct Sellers need not take registration nor pay any Value Added Tax.

### 3. Activities Prohibited

(i) No Multi-level Marketing/ Direct Selling Entity or Direct Seller should indulge in any Money Circulation Scheme or do any activity barred by the Prize Chits and Money Circulation Schemes (Banning) Act, 1978

(ii) No Multi-level Marketing/ Direct selling Entity should pay any incentive, by whatever name called, to any person or Direct Seller except the incentive related to the volume of sales of goods or service affected by them.

(iii) Neither the Multi-level Marketing/ Direct Selling Entity nor the direct sellers should supply or sell goods which are of inferior quality or have exceeded its validity/usage period.

(iv) No Multi-level Marketing/ Direct Selling Entity or Direct Seller should carry out any money circulation business or Pyramid Scheme for making money.

(v) No Multi-level Marketing/ Direct Selling Entity should create chain of customers as the long and unbroken chain would amount to Pyramid Scheme and should be construed to be attempting for making quick or easy money.

(vi) No Multi-level Marketing/ Direct Selling Entity or Direct Seller should be selling goods that does not give value of the money the buyer pays.

(vii) No Multi-level Marketing/ Direct Selling Entity or Direct Seller should collect any Service Charge, while selling goods.

(viii) Should not commit any act that is punishable under the Penal Code.

(ix) Should not commit any act or acts in violation of the provisions of Indian Contract Act, 1872.

(x) Should not do any act or acts in violation of the provisions of the Consumer Protection Act, 1986.

### 4. General Conditions

(i) The Maximum Retail Price of all goods sold by the Multi-level Marketing/ Direct Selling Entity or Direct Seller should be visibly displayed on the package/carton/ cover of the goods.

(ii) Goods sold by the Multi-level Marketing/ Direct Selling Entity or Direct Seller should carry Guarantee/ Warranty of the manufacturer.

(iii) Multi-level Marketing/ Direct Selling Entity should give the consumer the opportunity to exchange/ return the goods sold to him if he finds any manufacturing defect or the product purchased is not useful for the purpose it was meant, within thirty days from the date of purchase, provided any seal/protection on the product is kept unbroken.

(iv) Accounts of individual Direct Seller shall be maintained properly and should be made available through web.

### 5. Maintenance of Records:

Direct selling Entity / Company shall maintain the following records:

(i) Memorandum of Association, Articles of Association and Certificate of Registration issued by the Registrar of Companies.

(ii) Copies of TIN, DIN of Directors, TAN and PAN, in the case of Partnership- Partnership Deed duly registered.

(iii) Registration Certificates taken out under the Kerala General Sales Tax Act, 1963/ Kerala Value Added Tax Act, 2003, Chapter V of the Finance Act, 1994, and Central Sales Tax Act, 1956.

(iv) Copies of Sales Tax/ Value Added Tax Returns, Service Tax Returns, Income Tax Returns filed before the authorities concerned during the previous financial years.

(v) Copies of the Statements of Income Tax Deducted at Source.

(vii) KYC/KBDS (Know Your Customer/Know Your Direct Seller) as a mandatory process

6. Grievance Redressal Mechanism: Every Multi-level Marketing/ Direct Selling Entity must have a Complaint Redressal Forum to address the problem of their customers of their customers/ Direct Sellers effectively. Details of such Forum should be made readily available on the website of the Multi-level Marketing/ Direct Selling Entity.

The Multi-level Marketing / Direct Selling Entities and the Direct Sellers have to follow the above guidelines meticulously.

Hence in the light of the above guidelines issued by the Government and statutory provisions in force regarding the subject, all the Police Officers are instructed to take appropriate action under the provisions of the appropriate Act such as Prize Chits and Money circulation Schemes (Banning) Act, 1978, Indian Penal Code, Consumer Protection Act etc. against the Multi-level Marketing/ Direct Selling activity in violation of the above guidelines.

*W 14/10*

State Police Chief

To

All officers in List B for information and necessary action.

Copy to: ADGP, SCRB for publishing in the official website  
✓  
CAs to all officers in PHQ  
Circular Book.

*THH 1505*  
*20/10/16*

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