TAX ISSUES TO BE CONSIDERED

WHILE COMPLYING GUIDANCE

May 18, 2025

NOTE ON FINANCIAL STATEMENTS

FOR NON-CORPORATE ENTITIES

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Introduction

- The accounting standards Board has prescribed the formats for the presentation of the financial statements of Non-corporate Entities in the form of Guidance Note, which were earlier issued as a part of Technical Guide.
- The objective is to standardize the formats of financial statements for these entities and to enhance the quality and comprehensiveness of the financial reporting by these entities.
- This Guidance Note is effective for financial statements covering periods beginning on or after April 1, 2024.

Introduction

- Entities for business, commercial or other economic and social activities can be established under variety of structures and the most common structures are as follows:
- Sole proprietary firms
- Hindu Undivided Family
- Partnership Firms
- Association of Persons
- Society registered under any law for the time being in force
- Trust (Private or Public)
- Statutory Corporations, Autonomous bodies and Authorities

Introduction

- This Guidance Note is relevant for the purpose of preparation of the financial statements of the above mentioned Non-Corporate Entities unless any formats/principles are specifically prescribed by the relevant Statute or Regulator or any Authority, e.g., formats have been prescribed for Trusts under Maharashtra Public Trust Rules, 1951.
- It may be clarified that Limited Liability Partnerships (LLPs) form of entities are scoped out of this Guidance Note.
- The Guidance Note has provided for format and various disclosure requirements in the Financial Statements. As such, no tax issues arise directly because of the Guidance Note. However, having made various disclosures in the Financial statements as per the Guidance Note one has to be careful that tax issues related to such disclosures are taken care while preparing Income Tax Computation/ITR.

MSME Disallowance

The Guidance note requires the assessee to give following details of trade payables under Current Liabilities: Principal amount payable and interest due thereon to supplier which are Micro, Small and Medium Enterprises (MSME).

Related Income Tax Issues:

Having disclosed trade payables to MSME Enterprises and interest due thereon, the assessee needs to consider Disallowance of Interest Expenditure as per section 23 of the MSMED Act,2006 while preparing ITR. Further, the assessee needs to disallow the trade payables outstanding beyond a limit as per S. 43B(h) of the Income Tax Act. Disallowance applies only to Entities registered as MSME under MSMED Act,2006 as defined by section 2(e),(h) and (m) of the Act.

Classification	Investment in Plant and Machinery or Equipment	Annual Turnover
Micro	Does not Exceed Rs. 1 Crore	Does not Exceed Rs. 5 Crore
Small	Does not Exceed Rs. 10 Crore	Does not Exceed Rs. 50 Crore
Medium	Does not Exceed Rs. 50 Crore	Does not Exceed Rs. 250 Crore

These limits have been revised upward with effect from 01.04.2025.

MSME Disallowance

- A composite criterion of investment and turnover shall apply to the classification of an enterprise as micro, small or medium.
- In case there is a change in category during the financial year, the change will apply in the next financial year.
- Any transactions carried out before the date of registration will not attract disallowance under section 43B(h).
- Payment made for any purchases or services received before the date of cancellation shall be covered under section 43B(h).

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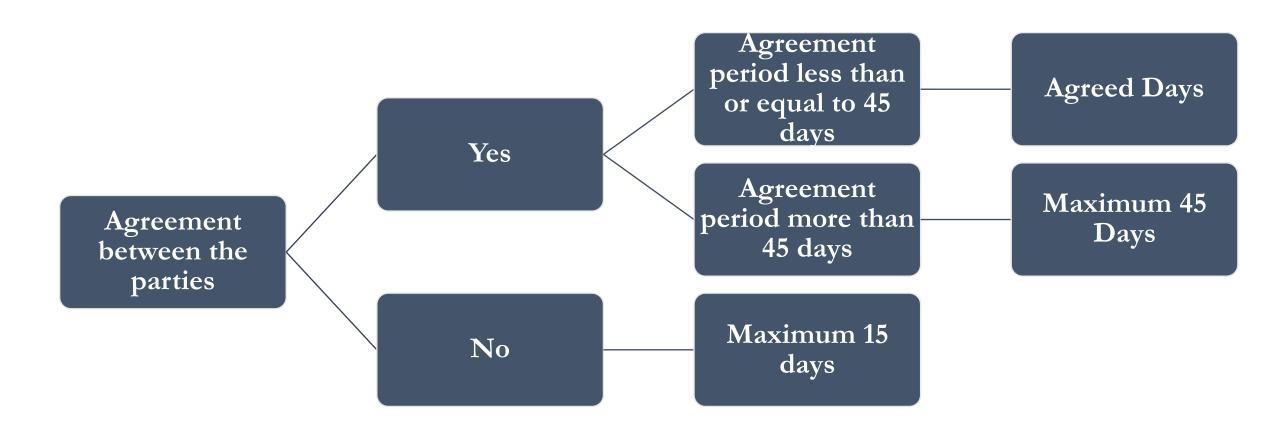
Particulars	Not Applicable	Applicable
Supplier to auditee	Retail/ Wholesale trader	Others
Category of Supplier	Medium Enterprise	Micro and small enterprise
Outstanding	As on 31/03/23	From A.Y. 2024-25

Time Limit for making payment to Micro & small enterprises:

- a. The Time Limit agreed upon in writing between supplier & buyer subject to a maximum of 45 Days.
 - *Terms of payment on the invoice or the purchase order which is accepted can also be construed as an agreement in writing.
- b. No time limit agreed upon in writing: before appointed day.
 - *Appointed Day means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.
- **Day of acceptance: Day of delivery of Goods or rendering of services
- **Auditor can refer to MSME-1 filled by the auditee on MCA Portal.
- **MSME-1 is a half-yearly return that the specified company needs to file regarding their outstanding payments to MSME

Chartered Accountants

Summary of Section 15 of MSMED Act, 2006:



MSME Disallowance //

Sr No.	Day of acceptance or Deemed Acceptance	agreed	Appointed Date	Due date of Payment as per MSMED Act	Actual date of Payment	Disallowance /Allowance u/s 43B(h)
1	25/3/2024	NA	10/4/2024	9/4/2024	31/3/2024	No Disallowance
2	25/3/2024	NA	10/4/2024	9/4/2024	9/4/2024	No Disallowance
3	25/3/2024	NA	10/4/2024	9/4/2024	11/4/2024	Disallowance in AY 2024-25. Will be allowed in AY 2025-26
4	25/3/2024	24/4/2024		24/4/2024	24/4/2024	No Disallowance
5	25/3/2024	24/4/2024		24/4/2024	26/4/2024	Disallowance in AY 2024-25. Will be allowed in AY 2025-26
6	25/3/2024	24/4/2024		24/4/2024	2/4/2025	Disallowance in AY 2024-25. Will be allowed in AY 2026-27
7	25/3/2024	25/5/2024		9/5/2024	9/5/2024	No Disallowance
8	25/3/2024	25/5/2024		9/5/2024	12/5/2024	Disallowance in AY 2024-25. Will be allowed in AY 2025-26
9	1/1/2024	NA	17/1/2024	16/1/2024	16/2/2024	No Disallowance



MSME Disallowance

Amount of Interest inadmissible u/s 23 of the Micro, Small and Medium Enterprises Development Act,2006

Section 15 read with section 16 of MSMED Act provides for liability to pay interest to MSME supplier in case of delay in payment.

Section 22 of MSMED Act provides for certain disclosure in case any buyer is required to get his accounts audited under any law for the time being in force.

Section 23 of the MSMED Act lays down that an interest payable or paid by the buyer, under or in accordance with the provisions of this Act, shall not for the purposes of the computation of income under the Income-tax Act,1961 be allowed as a deduction.



Gratuity disclosure and Disallowance under 43B/40A(7)

Note 8 of Illustrative Format of Financial Statements of Non-Corporate Entities talks about Provision. Disclosure under Provision requires disclosure for Provision of Gratuity.

Gratuity Related Income Tax Compliance:

Gratuity is allowed as deduction u/s 36(1)(v). Section 40A(7) /43B provides for disallowance of Gratuity.

Section 40A(7)(a)- No deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.

Section 40A(7)(b)- Nothing in clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.

Section 43B(b)- any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees shall be allowed only on payment basis.

Contribution to PF

The Guidance note requires the assessee to make a separate disclosure of contribution to provident and other funds in Statement of Profit and Loss Account under Employee Benefit expenses.

Income Tax Issues of Delayed Payment of Employee Contribution to PF

There was a controversy about deduction of employee's contribution to PF which is deposited after the due date under PF act.. The Supreme Court decided the matter against the assessee in case of Checkmate Services [2022](448 ITR 518) wherein it is held that the assessee will not get deduction of delayed payment of employees contribution to PF.

Disclosure of Investment in Debenture or Bond under Investment- Non Current and Current:

The Guidance note requires the assessee to make a separate disclosure for investment in Debentures or Bonds.

Income tax Issues related to Investment in Tax Free Bonds:

Having given a separate disclosure for investment in tax free bonds, the assessee needs to make a disallowance under section 14A. Rule 8D requires the assessee to make disallowance of direct expenditure as well as indirect expenditure (1% of Annual average of monthly average of opening and closing balance of investment generating tax free income).

Disclosure of Prior Period Items

The Guidance note requires the assessee to make a disclosure regarding prior period items by way of notes to the financial statements.

Income Tax Issues related to Prior Period Items

Having made a disclosure for prior period items by way of note, the assessee needs to make sure that prior period expenses are disallowed while computing income in the ITR. As regards Prior Period Income, one can take suitable action based on amount involved. If the amount of Prior Period income is substantial, assessee can file an updated return for the relevant year. If the amount of prior period income is not substantial, assessee can offer the same in the present year's return of income.

Disclosure of Interest Expense under Finance Cost.

The Guidance note requires the assessee to give details of finance costs in the Statement of Profit and Loss Account.

Income Tax related issues regarding allowance of Interest Expense.

When assessee has Interest bearing funds as well as Interest free funds and the assessee has made Investments, then the question arises whether the interest deduction will be allowed u/s 36(1)(iii). The Department contends that interest bearing funds has been utilised for making investments and therefore interest should not be allowed as a deduction.

The assessee can contend on the basis of direct nexus if same is available. In case interest bearing funds are more than investment, the assessee can argue that interest free funds have been used for making investments placing reliance on the Supreme Court in case of South Indian Bank Ltd. ([2021] 130 taxmann.com 178) and Bombay High Court decision in the case of HDFC Bank (2016) (67 taxmann.com 42) (Bom) which says that a presumption can be drawn that interest free funds have been utilised for making investment if such funds are more than the investment. This will enable the assessee to claim deduction of interest without attributing any part of borrowing to the investment.

Disclosure of Increase in Capital

The Guidance note requires the assessee to give details of capital account including details of capital introduced during the year. The assessee can prepare a suitable note for increase in Capital Account which will help a lot in substantiating the increase in capital. In Scrutiny proceeding, details of increase in capital are invariably called for.

Variation in Gross Profit(GP)

The Guidance note requires the assessee to give the data of the year under consideration as well as the previous year. While preparing the final accounts the assessee need to check about substantial decline in GP, if any, and prepare a suitable note explaining reasons for substantial decline in GP which will help a lot in convincing the assessing officer for decline in GP. In Scrutiny proceeding, details of decline in GP are invariably called for.

Guidance note on Disclosure Requirement of TDS Payable

The Guidance note requires to report TDS payable as separate line item under Other Current Liabilities.

TDS Payable related Income Tax Compliance:

Section 40(ia) provides for disallowance of 30% of sum payable to resident on which tax is deductible under chapter XVII-B and such tax has not been deducted or has not been paid on or before the due date u/s 139(1).

