



DELAYED PAYMENT TO MICRO OR SMALL ENTERPRISES AND IT'S CONSEQUENCES

1. As per the notification issued by the Ministry of Micro, Small and Medium Enterprises dated 2nd November 2018 and by the Ministry of Corporate Affairs dated 22nd January 2019, all the companies who get supplies of goods or services from MSMEs (**reference limited to micro and small enterprises**) and whose payments to the suppliers exceed 45 days from the date of acceptance or date of deemed acceptance, are mandatorily required to file a half yearly return with MCA in e-Form MSME-1, stating the following-
 - a. The number of payments due
 - b. The reasons of delay in paying

A. MICRO, SMALL ENETRPRISES:

CLASSIFICATION	MICRO	SMALL
Manufacturing Enterprises and Enterprises rendering Services	Investment in Plant and Machinery or Equipment is not more than Rs.1 crore: and	Investment in Plant and Machinery or Equipment is not more than Rs.10 crore and
	Annual Turnover is not more than Rs. 5 crores	Annual Turnover is not more than Rs. 50 crores

B. Date of acceptance:

- a) the day of the actual delivery of goods or the rendering of services; or
- b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier.



C. Date of deemed acceptance:

Where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services.

D. Due date for filing e-Form MSME-1:

Period	Due Date
1 st April - 30 th September	31 st October
1 st October – 31 st March	30 th April

2. CONSEQUENCES OF DELAYED PAYMENTS TO MSME:

- i. Section 15 of the Micro, Small And Medium Enterprises Development Act, 2006 (“the Act”) provides that where any MSME supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day, the period agreed between the supplier and the buyer in writing ***shall not exceed forty-five days*** from the day of acceptance or the day of deemed acceptance.
- ii. Section 16 of the Act states that, if in case the buyer fails to make the payment to the supplier, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, ***be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rate notified by the Reserve Bank [at present three times of 4.25 % which is 12.75%].***
- iii. Further, Section 22 of the Act requires the companies where there is unpaid amount to MSME to furnish the following information in its annual financial statements:
 - a) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year.
 - b) the amount of interest paid by the buyer in terms of section 16, along with the amount of the payment made to the supplier beyond the appointed day during each accounting year.
 - c) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act.
 - d) the amount of interest accrued and remaining unpaid at the end of each accounting year; and



- e) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under section 23.

Note: The aforesaid disclosures are also made mandatory in the notes on accounts to financial statements under Schedule III to the Companies Act, 2013.

- iv. Section 23 of the Act emphasizes that notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), ***the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.***

Companies may therefore pay dues to MSME on time. Companies are also advised to make proper disclosures in the financial statements in respect dues owed to MSME as stated above.

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