

Update on recent amendments for disallowance under Section 43B(H)

Why is this significant?

Receiving payments on time is one of the biggest headaches for any business. The recent amendments protect the Micro and Small businesses (MSEs) registered under the MSME Act by penalizing defaulters.

What are the recent developments?

- Companies will have to make payments to MSEs within a specific period from the **date of invoice**, as given below:
 - When payment terms are defined: payment terms or 45 days, whichever is lower.
 - When payment terms are not defined: Maximum 15 days.

Examples of payment due dates:

Date of Invoice	Payment Terms	Due Date as per MSME Act
01 Jan 2024	10 days	10 Jan 2024 (10 days)
01 Jan 2024	90 days	14 Feb 2024 (45 days)
01 Jan 2024	Not Defined	15 Jan 2024 (15 days)

- What happens if the payment is delayed?
The payment due will be added to the profit of the defaulting company at the end of the financial year. This will in turn increase the tax liability of the company.

Examples:

Invoice Amount	Payments made on time	Overdue Payments	Actual Profit of the Company	Taxable Profits
1,00,000	25,000	75,000	5,00,000	5,75,000
1,00,000	1,00,000	0	5,00,000	5,00,000

Also, the MSEs can charge interest of up to 3 times bank rate (currently 19.5% per annum) from the due date till the date of payment.

- Which businesses is this applicable to?
Businesses fulfilling both conditions:
 - Micro and Small businesses registered with MSME.
 - Manufacturers and Service Providers.

4. When is section 43B not applicable?
 - For Invoices raised by Medium businesses registered with MSME.
 - For Invoices raised by businesses not registered with MSME.
 - For Traders (engaged in buying and selling of goods they don't manufacture).
 - For businesses following presumptive taxation policy (44AD, 44ADA, 44AE).
 - If the invoice is for the purchase of Fixed Assets.
 - Invoices that are objected within 15 days of date of invoice
5. What if I have dispute / objection with the invoice?
 - Dispute / Objection must be raised within 15 days from invoice
 - Due date would be 15 days / 45 days from end of dispute or objection
6. Who is responsible for tracking and ensuring compliance with the law?
 - The onus is on the buyer to check if the seller falls within the scope of MSEs.
 - Appointed auditor of the company will have to ensure compliance with the law.
7. How are Micro, Small, and Medium businesses defined?

Businesses whose investment and turnover limit both fall within the range below:

Particulars	Micro	Small	Medium
Investment	Less than 1 cr.	1 cr. to 10 cr.	10 cr. to 50 cr.
Turnover	Less than 5 cr.	5cr. to 50 cr.	50 cr. to 250 cr.

8. BizExpress's view of the amendment, and next steps for you.
 - Overall, we view this amendment as a positive change for small business owners who will now have some relief from delayed payments.
 - However, this is not going to be a magic pill and solve all the problems with delays in payments. This will mostly be helpful at the year-end (March) to receive payments that were otherwise stuck.
 - If you are an MSE and have outstanding payment receivables beyond 15/45 days, please contact us right away. We can help you file for recovery of your dues.
 - If you deal with suppliers (manufacturers) or buy services from vendors, we suggest you draw up a list of all your creditors and tag them with their MSME status. This will help you ensure timely payments and will keep you 100% compliant with the law.

If you want to understand more about this, feel free to contact your assigned BizExpert.

We're always here to help! 😊