

TaxUpdate Alert for Tax Professionals & Businesses 43B(h)

Description

#TaxUpdate Alert for Tax Professionals & Businesses 43B(h)!

In a significant development, the Central Board of Direct Taxes (CBDT) has amended the Form 3CD to incorporate a reporting requirement for deductions under Section 43B(h) of the Income Tax Act. This adjustment comes through CORRIGENDA Notification No. 34/2024, dated March 19, 2024, which corrects an error identified in the earlier Notification No. 27/2024.

Originally, Notification No. 27/2024 linked the reporting of deductions under Section 43B(h) to Clause 26, suggesting that the deduction of expenses was allowable if paid by the due date as prescribed in general terms. However, this linkage was incorrect for the specifics of Section 43B(h), which deals with certain payments to Micro, Small, and Medium Enterprises (MSMEs) under the MSME Development Act. For such payments, the deduction is allowed if the payment is made by the due date as per the MSME Act; and if not, the deduction is then allowed in the year in which the payment is actually made.

Recognizing the error, the CBDT through CORRIGENDA Notification No. 34/2024, revised the directive to properly align the reporting of deductions under Section 43B(h) with Clause 22 of the Form 3CD. This amendment now accurately reflects that the deductions related to MSME payments are to be reported under the correct clause, ensuring compliance with the nuanced requirements of the MSME Act.

However, an oversight remains in addressing the reporting mechanism for cases where the due payments to MSMEs are made in the subsequent year, thereby becoming an allowed expenditure for that next year. The Notification corrects the clause under which these deductions should be reported but does not introduce a new disclosure system for tracking payments made in the subsequent years to MSMEs, thus leaving a gap in the reporting framework within Form 3CD.

This development highlights the CBDT's responsiveness to rectifying errors in its notifications and its efforts to ensure that the tax reporting requirements are clear and accurately reflect the intent of the tax provisions. However, the absence of a disclosure mechanism for subsequent year payments to MSMEs indicates a need for further clarification or amendment to fully address the reporting requirements for these deductions????, the Central Board of Direct Taxes (CBDT) has amended the Form 3CD to incorporate a reporting requirement for deductions under Section 43B(h) of the Income Tax Act. This adjustment comes through CORRIGENDA Notification No. 34/2024, dated March 19, 2024, which corrects an error identified in the earlier Notification No. 27/2024.

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certain payments to Micro, Small, and Medium Enterprises (MSMEs) under the MSME Development Act. For such payments, the deduction is allowed if the payment is made by the due date as per the MSME Act; and if not, the deduction is then allowed in the year in which the payment is actually made.

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The screenshots of the relevant notifications are attached herewith

The snapshot of the rectified notification

MINISTRY OF FINANCE**(Department of Revenue)****(CENTRAL BOARD OF DIRECT TAXES)****CORRIGENDA**

New Delhi the 19th March, 2024

INCOME-TAX

G.S.R. 223(E).—In the notification of the Government of India, Ministry of Revenue (Central Board of Direct Taxes) published in the Gazette of India, Extraordinary, sub-section (i) *vide* number G.S.R. 155(E), dated 5th March, 2024, at page 2, *for* item E, read ‘E. in clause 22, after the figures “2006”, the words and figures “ or any other amount not exceeding the amount of section 43B of the Income-tax Act, 1961” shall be inserted;’.

[Notification No. 34 /2024]

KHUSHBHAI

The snapshot of earlier notification

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 5th March, 2024

G.S.R. 155(E).— In exercise of the powers conferred by section 295 read with sections 44AB and 92E of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (Fourth Amendment) Rules, 2024.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962, in Appendix II,—
 - a) in Form No. 3CD,—
 - (i) in PART A, in clause 8a, for the figures and letters “115BAD”, the figures and letters “115BAD/115BAE” shall be substituted;
 - (ii) in PART B,—
 - A. in clause 12, for the figures and letters “44AD”, the figures and letters “44AD, 44ADA” shall be substituted;
 - B. in clause 18, for sub-clause (ca), the following sub-clauses shall be substituted, namely:—

“(ca) Adjustment made to the written down value—

 - (i) under the proviso to sub-section (3) of section 115BAA (for assessment year 2020-21 only);
 - (ii) under the first proviso to sub-section (3) of section 115BAC or the proviso to sub-section (3) of 115BAD (for assessment year 2021-22 only);
 - (iii) under the second proviso to sub-section (3) of section 115BAC (for assessment year 2024-25 only).”;

- C. in clause 19, in the table,—
 - (i) after the row with entry “35(2AB)”, the row with entry “35ABA” shall be inserted;
 - (ii) after the row with entry “35E”, the row with entry “any other relevant section” shall be inserted;
- D. in clause 21, —
 - (I) in sub-clause (a), in the table, under the column relating to ‘Nature’,—
 - (i) for the words “Expenditure by way of penalty or fine for violation of any law for the time being in force”, the words and brackets “Expenditure for any purpose which is an offence or is prohibited by law or expenditure by way of penalty or fine for violation of any law (enacted in India or outside India)” shall be substituted;
 - (ii) after the row with the words “Expenditure by way of any other penalty or fine not covered above”, the row with the words “Expenditure incurred to compound an offence under any law for the time being in force, in India or outside India” shall be inserted;
 - (iii) for the words “Expenditure incurred for any purpose which is an offence or which is prohibited by law”, the words “Expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person” shall be substituted;
 - (II) in sub-clause (b), in paragraph (ii), in sub-paragraph (B), in item (IV), for the word “payer”, the word “payee” shall be substituted;
- E. in clause 26, for the brackets, letters and word “(f) or (g)”, the brackets, letters and word “(f), (g) or (h)” shall be substituted;
- F. in clause 32, in sub-clause (a),—
 - (I) in the table, in column (5), for the figures and letters “115BAD”, the figures and letters “115BAD/115BAE” shall be substituted;
 - (II) in the table, in column (6), for the figures and letters, “115BAD^”, the figures and letters

Category

- 1. Income Tax

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