

GN(A) 11 (Issued 1997)

Guidance Note on Accounting for Corporate Dividend Tax

1. The Finance Act, 1997, has introduced Chapter XIID on “Special Provisions Relating to Tax on Distributed Profits of Domestic Companies” [hereinafter referred to as ‘CDT’ (Corporate Dividend Tax)]. The relevant extracts of sections 115O and 115Q of the Income-tax Act, 1961, governing CDT have been reproduced in Annexure I. This Guidance Note is being issued to provide guidance on accounting for CDT.
2. The salient features of CDT are as below:
 - (i) CDT is in addition to the income-tax chargeable in respect of the total income of a domestic company.
 - (ii) CDT is chargeable on any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June 1997.
 - (iii) The dividends chargeable to CDT may be out of the current profits or accumulated profits.
 - (iv) The rate of CDT is ten per cent.
 - (v) CDT shall be payable even if no income-tax is payable by the domestic company on its total income.
 - (vi) CDT is payable to the credit of the Central Government within 14 days of -
 - (a) declaration of any dividend,
 - (b) distribution of any dividend, or
 - (c) payment of any dividend,whichever is the earliest.

- (vii) CDT paid shall be treated as the final payment of tax on the dividends and no further credit therefor shall be claimed by the company or by any person in respect of the tax so paid.
- (viii) The expression 'dividend' shall have the same meaning as is given to 'dividend' in clause (22) of Section 2 but shall not include sub-clause (e) thereof. (The relevant extracts of Section 2(22) of the Income-tax Act, 1961, have been reproduced in Annexure II).

ACCOUNTING FOR CDT

3. According to generally accepted accounting principles, the provision for dividend is recognised in the financial statements of the year to which the dividend relates. In view of this, CDT on dividend, being directly linked to the amount of the dividend concerned, should also be reflected in the accounts of the same financial year even though the actual tax liability in respect thereof may arise in a different year.

DISCLOSURE AND PRESENTATION OF CDT IN FINANCIAL STATEMENTS

4. It is noted that clause 3(vi) of Part II of Schedule VI to the Companies Act, 1956, requires the disclosure of "the amount of charge for Indian Income-tax and other Indian taxation on profits, including, where practicable, with Indian income-tax any taxation imposed elsewhere to the extent of the relief, if any, from Indian income-tax and distinguishing, where practicable, between income-tax and other taxation." It is also noted that Part II of Schedule VI only lays down the information to be disclosed in the profit and loss account. However, as a matter of convention and to improve readability, the information in the profit and loss account is generally shown in two parts, viz., the first part contains the information which is required to arrive at the figure of the current year's profit - often referred to as 'above the line', and the second part which discloses, inter alia, information involving the appropriations of the current year's profits - often referred to as 'below the line'.

5. Since dividends are disclosed 'below the line', a question arises with regard to disclosure and presentation of CDT, as to whether the said tax should also be disclosed 'below the line' or should be disclosed along with the normal income-tax provision for the year 'above the line'.

6. The liability in respect of CDT arises only if the profits are distributed as dividends whereas the normal income-tax liability arises on the earning of the taxable profits. Since the CDT liability relates to distribution of profits as dividends which are disclosed 'below the line', it is appropriate that the liability in respect of CDT should also be disclosed 'below the line' as a separate item. It is felt that such a disclosure would give a proper picture regarding payments involved with reference to dividends.

RECOMMENDATIONS

7. CDT liability should be recognised in the accounts of the same financial year in which the dividend concerned is recognised.

8. CDT liability should be disclosed separately in the profit and loss account, 'below the line', as follows:

Dividend	xxxxx	
Corporate Dividend Tax thereon	<u>xxxxx</u>	xxxxx

9. Provision for Corporate Dividend Tax should be disclosed separately under the head 'Provisions' in the balance sheet.

Annexure I

RELEVANT EXTRACTS OF THE PROVISIONS UNDER CHAPTER XII D OF THE INCOME TAX ACT, 1961, REGARDING SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES.

115 O. Tax on Distributed Profits of Domestic Companies

- (1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June, 1997, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of ten per cent.
- (1A) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on distributed profits under sub-section (1) shall be payable by such company.
- (2) The principal officer of the domestic company and the company shall be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of -
 - (a) declaration of any dividend; or
 - (b) distribution of any dividend; or
 - (c) payment of any dividend,whichever is earliest.
- (3) The tax on distributed profits so paid by the company shall be treated as the final payment of tax in respect of the amount declared, distributed or paid as dividends and no further credit therefore shall be claimed by the company or by any other person in respect of the amount of tax so paid.

- (4) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the amount which has been charged to tax under sub-section (1) or the tax thereon.

115 Q

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Explanation — For the purposes of this Chapter, the expression “dividend” shall have the same meaning as is given to “dividend” in clause (22) of Section 2 but shall not include sub-clause (e) thereof.

Annexure II

RELEVANT EXTRACTS OF THE DEFINITION OF THE TERM DIVIDEND AS PER SECTION 2(22) OF THE INCOME TAX ACT, 1961.

2(22) ¹“Dividend includes -

- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;
- (b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;
- (c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;
- (d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not;
- (e)

but ‘dividend’ does not include -

- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets;

¹ See Circular Nos. 20 (XXI-6), dated 10-5-1955 and 46 (XXI-7), dated 10-11-1955.

- ²[(ia) a distribution made in accordance with sub-clause (c) or sub-clause (d) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964, ³[and before the 1st day of April, 1965];]
- (ii) any advance or loan made to a shareholder ⁴[or the said concern] by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;
- (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off.

Explanation 1. - The expression 'accumulated profits', wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956.

Explanation 2. - The expression 'accumulated profits' in sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses and in sub-clause (c) shall include all profits of the company up to the date of liquidation, ⁵[but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force, include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place].

² Inserted by the Finance Act, 1965, w.e.f. 1.4.1965

³ Inserted by the Finance Act, 1965, w.e.f. 1.4.1966

⁴ Inserted by the Finance Act, 1987, w.e.f. 1.4.1988

⁵ Inserted by the Direct Taxation (Amendment) Act, 1964, w.r.e.f. 1.4.1962