FAQS ON REPORTING BY SPECIFIED COMPANY	CS MUNISH KUMAR MUNISH KUMAR AND ASSOCIATES (COMPANY SECRETARIES) M. 9780111234 E. csmunishkumar@gmail.com

Mandatory Submission of E-Form MSME-1 with MCA by Specified Companies-As per the MCA Notification dated 22nd Jan, 2019.

NOTIFICATION DATED NOVEMBER 2,2018 BY CENTRAL GOVT.?

The Ministry of Micro, Small and Medium Enterprises issued a notification on **November 2, 2018,** which prescribe half-yearly reporting to **Ministry of Corporate Affairs (MCA)** for the Companies which receives services or goods from **micro or small enterprises** and whose payments to micro and small enterprises suppliers exceed 45 days.

The legal text of the notification is stated below for your reference:

*In exercise of the powers conferred by Section 9 of the Micro, Small and Medium Enterprises Development Act, 2006, (the "Act") the Central Government hereby directs that all Companies who get supplies of goods or services from the **micro and small enterprises** and whose payments to micro and small enterprises suppliers exceed forty five (45) days from the **date of acceptance** or **date of deemed acceptance** of the goods or services as per the provisions of the Act, shall submit a half yearly return to the Ministry of Corporate Affairs ("MCA") stating the following:*

(a) The amount of payments, and

(b) The reason of delay.

NOTIFICATION DATED JANUARY 22, 2019 BY MCA?

The Ministry of Corporate Affairs issued a notification on **January 22, 2019,** which prescribe every specified company shall file in MSME-FORM-I details of all outstanding dues to micro or small enterprises suppliers existing on the date of notification of this order within thirty days from the date of publication of this notification.

Every Specified Company shall file a return as per MSME-FORM-I annexed to this order, by 31st October for the period from April to September and by 30th April for the period from October to March.

The legal text of the notification is stated below for your reference:

1.Short title and commencement.

(1) This Order may be called the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019.

(2) It shall come into force from the date of its publication in the Official Gazette.

2. Every specified company shall file in MSME Form I details of all outstanding dues to Micro or small enterprises suppliers existing on the date of notification of this order within thirty days from the date of publication of this notification.

3. Every specified company shall file a return as per MSME Form I annexed to this Order, by 31st October for the period from April to September and by 30th April for the period from October to March.

WHAT ARE MICRO, SMALL ENTERPRISES?

In accordance with the provision of Micro, Small & Medium Enterprises Development (MSMED) Act, 2006 the Micro, Small and Medium Enterprises (MSME) are depicted below: -

Manufacturing Sector		**Service Sector**	
Enterprises	**Investment in plant & machinery**	**Enterprises**	**Investment in equipment**
Micro Enterprises	Does not exceed Rs. 25 Lakh	Micro Enterprises	Does not exceed Rs. 10 Lakh
Small Enterprises	More than Rs. 25 Lakh but does not exceed Rs. 5 Crore	Small Enterprises	More than Rs. 10 Lakh but does not exceed Rs. 2 Crore

WHAT IS THE DUE DATE OF FILING MSME FORM I FOR THE FIRST TIME?

The initial reporting of all outstanding dues is to be done within 30 days from the date of publication of this notification i.e., **by 21st February, 2019**.

WHO WILL LIABLE TO FILE INTIAL RETURN?

For the purpose of initial reporting, the Specified Company is required to report the dues outstanding to MSMEs for a period exceeding 45 days as on the date of this Notification i.e., as on **January 22, 2019** till **21st February, 2019.**

INFORMATION REQUIRED TO SUBMIT IN FIRST TIME RETURN

Total outstanding amount due as on 22.01.2019

Particulars of Supplier (Financial years/particulars/Name/Pan No/Amount due/date from which the amount due etc.)

Reasons for delay.

DUE DATE FOR SUBSEQUENT RETURNS?

The Specified Companies are required to file the subsequent return by 31st October for the half year beginning from April to September and by 30thApril for the half year beginning from October to March.

WHAT IS SPECIFIED COMPANY?

Every Public or Private Company who Receive Goods and/or Services from MSME, whose payment due or not paid till 45 days.

HOW TO IDENTIFYING WHETHER THE SUPPLIERS COMES UNDER MICRO OR SMALL ENTERPRISES OR NOT?

A request letter and ask to inform whether they are registered under MSMED Act, 2006, If yes, then request them to send a confirmation letter along with duly attested copy of MSME Registration Certificate and PAN organization.

Request Letter Format is as below: -

Letter of Request

Date:

Dear Sir/Madam,

Sub: Micro, Small and Medium Enterprises Certificate

As per the Notification issued by the Ministry of Corporate Affairs on 22nd January 2019, you are requested to inform whether your organization is falling under MSME Category or not as on as on January 22, 2019.

If yes, please send the confirmation letter along with duly attested copy of MSME Registration Certificate and PAN latest by 15th February 2019.

If no communication is received by us within that date, we will consider that your organization does not fall under MSME Category.

Please treat the matter as URGENT!

Regards,

For ……………………………..Limited

Authorized Signatory

WHICH ENTITIES ARE NOT REQUIRED TO FILE MSME FORM I?

Companies who don't have any outstanding dues to Micro or Small Enterprises as on 22nd January 2019.

Or

Companies who have outstanding dues to Micro or Small enterprises but they have paid the dues within 45 days or dues is within limited period i.e. less than 45 days.

CALULATION OF 45 DAYS?

(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

WHAT IS PENALTY FOR NON-FILING OF FORM?

Further, there is no fine/penalty imposed on the Specified Companies for non-filing of the Form. However, if the information filed in the Form is incorrect or incomplete, in any material respect, then the Specified Company shall be penalized under section 405 (4) of the Companies Act, 2013.

IF WE DO THE DEFAULT GOOD, WHETHER WE HAVE TO FILE THE RETURN?

Another important question is that in case the amount outstanding for a period exceeding 45 days in a particular half year is settled in that particular half year itself, will that require reporting to the MCA? The answer to this question lies in the intent of the notification, which requires reporting of all delays beyond a period of 45 days. Hence, even in case a default has been made good, the fact that there was a default at any point of time during the half year, must be reported.

WHICH FORM IS REQUIRED TO FILL FOR COMPLIANCE?

Every specified company shall file in MSME Form I details of all outstanding dues to Micro or small enterprises suppliers existing on the date of notification of this order within thirty days from the date of publication of this notification i.e. by 21 Feb 2019.

NOTE: - E FORM IS NOT AVAILABLE AT MCA WEBSITE ALTHOUGH DRAFT OF THE SAME IS ATTACHED HEREWITH.

THANKING YOU