



Pune | Mumbai | Hyderabad

A graphic of a red clipboard with a yellow clip at the top and a yellow pencil at the bottom. The text 'SEC 43B' is written in large, bold, black letters on the white paper.

**SEC  
43B**

**Section 43B in  
Income Tax Act, 1961**

Knowledge Series

April 2024 - Vol 6 (Series 1)

## ❖ Introduction

In this knowledge series, we will explore Section 43B of the Income Tax Act, 1961, a crucial provision for businesses and professionals in India. This section specifies certain expenses that can be claimed as deductions for computing income tax only when they are actually paid. The aim of this knowledge series is to understand Section 43B, so that the taxpayer can ensure accurate tax filing and avoid potential discrepancies.

### We will understand:

- The **rationale** behind this section,
- The **types of expenses** covered,
- Some of the **hypothetical examples** of section 43B,
- **Conditions** for claiming Section 43B,
- Its **implications** for businesses,
- **Recent amendment** in the Section.

## ❖ What is Section 43B?

- Section 43B of the Income Tax Act, 1961, is a provision that governs the deductibility of certain business expenses on an actual payment basis.
- It states that specific expenses can be claimed as deductions for computing income tax only in the year of payment or before the due date of filing the return of income for that year, whichever is earlier.
- This section aims to increase inflation of profits and ensure a more accurate representation of taxable income.

## ❖ Types of Expenses Covered under Section 43B



- a) Any sum payable by assessee by way of **tax, duty, cess or fees (Example return late filing fees)**, by whatever name called, under any law for the time being in force, or
- b) Any sum payable by the assessee as an employer by way of **contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees**, or
- c) Any sum referred to in **clause (ii) of sub-section (1) of section 36**, or
- d) Any sum payable by assessee as **interest on any loan or borrowings** taken from any public financial institution or a State financial corporation or a State industrial investment corporation, as per the terms and conditions of the agreement governing such loan or borrowing, or
- da) Any sum payable by assessee as **interest on any loan or borrowing** taken from a **deposit-taking NBFC or systemically important non-deposit-taking NBFC**, as per the terms and conditions of the agreement governing such loan or borrowing, or
- e) Any sum payable by the assessee as **interest on any loan or advances** taken from a **scheduled bank or a co-**

**operative bank** other than a primary agricultural credit society or a primary co-operative agricultural and **rural development bank** in accordance with the terms and conditions of the agreement governing such loan or advances, or

- f) Any sum payable by the assessee as an **employer in lieu of any leave at the credit** of his employee i.e. **Leave Encashment**,
- g) Any sum payable by the assessee to the **Indian Railways** for the use of railway assets, or
- h) Any sum payable by the assessee to a **micro or small enterprise beyond the time limit** specified in **section 15** of the Micro, Small and Medium Enterprises Development Act, 2006 (As per the Union Budget 2023)

## ❖ Examples of Section 43B of Income Tax Act:

### Scenario 1:

- ABC Private Ltd's accounting year ends on March 31st, and the due date for filing its income tax return for the financial year 2023-24. (Assessment Year 2024-25) is October 31st, 2024.
- Let's say ABC Private Ltd creates a provision of Rs.1,00,000 towards Bonus for its employees for the financial year 2023-24 (April 1st, 2023, to March 31st, 2024).
- If ABC Private Ltd. pays this expense booked as provision before October 31st, 2024, it can claim deduction for this expense in the financial year 2023-24 itself. However, if the payment is made after October 31st, 2024,

ABC Private Ltd. won't be able to claim this deduction for the financial year 2023-24, but it can claim it in the subsequent financial year when the payment is made.

- **This example illustrates the importance of timely payment of certain expenses** to claim deductions under Section 43B of the Income Tax Act.

### Here's a hypothetical scenario 2

- XYZ Private Ltd.'s accounting year ends on March 31st, and the due date for filing its income tax return for the financial year 2023-24. (Assessment Year 2024-25) is October 31<sup>st</sup>,2024. The company booked expense of Rs.1,00,000 for leave encashment of its employees. The company paid Rs. 50,000 before 31st March 2024 and Rs. 30,000 before October 31<sup>st</sup> ,2024.

### ❖ Analysis of Scenario 2 under Section 43B

- As the company paid Rs. 50,000 before the end of the Financial Year and Rs.30,000 before its return filing date. The company can claim deduction of only Rs. 80,000.
- The remaining Rs. 20,000 will not be allowed in the FY 2023-24 as the same is not actually paid in FY 2023-24.

### ❖ Conditions for claiming deductions under Section 43B

- a. The payment must be **actually made and not just accrued or payable**. For example, if an employer creates a provision for bonus for its employees in FY 2023-24 but does not pay it on or before ITR due date, the bonus will not be allowed as a deduction in FY 2023-24 (AY 2024-25).

- b. Expenses from clause (a) to (g) are allowed as deduction under section 43B only if they have paid on **or before the due date of filing the income tax return** as per Section 139 of The Income Tax Act, 1961 **Exception to this condition is expense in clause (h) of section 43B** i.e., for expense recorded in **FY 2023-24**, even if the payment is made before ITR due date of FY 2023-24 but post time limit specified in MSMED Act, 2006, then expense will be allowed as deduction in **FY 2024-25** only.

- c. The payment must be **evidenced by a written document** such as a cheque, bank draft, or online transfer.

### ❖ Section 43B can impact businesses in several ways



#### a. **Cash flow management:**

Businesses need to carefully consider their cash flow to ensure they can make timely payments for the specified expenses.

#### b. **Tax Planning:**

Understanding Section 43B is crucial for tax planning purposes. Businesses may need to prioritize and adjust their payment schedules to optimize their tax liability.

#### c. **Record Keeping:**

Maintaining accurate **records of payments and liabilities** is essential for complying with Section 43B.

### ❖ Amendment in Section 43B



- a. The Finance Bill 2023 introduced a **new clause (h) to Section 43B**.

- b. This amendment specifies that any sum payable by the assessee to a **micro or small enterprise (MSME)** beyond the time limit specified in Section 15 of the Micro, Small and Medium Enterprises Development Act, 2006, will not be eligible for deduction.

- c. This amendment aims to protect MSMEs from delayed payments and ensure they receive timely payments for their goods or services.

- d. One can claim deduction on payment to MSME vendors if they are paid **within 15 days** in cases without **agreement**.

- e. In case there is **written agreement, 45 days or as per the time** in a pre-defined written agreement, whichever is earlier.

f. What are Micro and Small Enterprises as per MSMED Act?

Basis	Micro	Small
Investment in Plant, Machinery, or equipment and	Not more than 1 Cr	Not more than 10 Cr
Turnover	Up to 5 Cr Annually	Up to 50 Cr Annually

*Note: Section 43B(h) is not applicable for Medium Enterprises.*

- **Scenario 1:**

A sold goods to B on 1<sup>st</sup> January 2024 and there was **no written agreement** regarding payment. Now B made payment on 10<sup>th</sup> January 2024. Now this expense is allowed in FY 2023-24 for income tax computation as B has made the payment by 15<sup>th</sup> January 2024 (within 15 days from sale of goods).

- **Scenario 2:**

A sold goods to B on 20<sup>th</sup> January 2024. B should make payment **within 30 days i.e by 18<sup>th</sup> February 2024**, from date of sale **as per the agreement between A & B**. B made payment on 25<sup>th</sup> February 2024. As per the Section 43B(h), in case of written agreement, payment should be made in days as per agreement or 45 days, whichever is earlier.

In this case, payment should be made within 30 days. As B fails to make payment within 30 days, the expense is not allowed as deduction for FY 2023-24, but it will be allowed in FY 2024-25.

## ❖ Compliance Calendar for the month of April 2024

Sr. No.	Date	Compliance
1	07-Apr-24	ECB-2 Return (Monthly)
2	11-Apr-24	GSTR-1 (Monthly)
3	13-Apr-24	GSTR-1 Quarterly Return -QRMP
4	15-Apr-24	ESIC Payment and Return (Monthly)
5	15-Apr-24	Provident Fund Payment and Return (Monthly)
6	20-Apr-24	Monthly Payment of Profession Tax (Karnataka)
7	20-Apr-24	GSTR-3B (Monthly)
8	22-Apr-24	GSTR-3B Quarterly Return -QRMP
9	30-Apr-24	Payment of TDS /TCS
10	30-Apr-24	Maharashtra PT monthly Return and Payment
11	30-Apr-24	MSME Form 1

## ❖ GC Corner:

On the Quarterly recreational event 'Clash of Clans', we enjoyed various games like dodgeball, tug of war etc. A day full of enthusiasm and teamwork.

## ❖ Giant Connection LLP:

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## ❖ Special Mention

Thank you, **Priti Innani**, for compilation of this knowledge series.

