



Dated: 07.11.2014

**Subject: Clarifications on Deduction Verification – Queries/Issues raised by CCA offices and Telecom Service Providers (TSPs).**

Kindly refer to various queries raised by CCA offices and Telecom Service Providers from time to time relating to Deduction Verification claimed by the Telecom Service Providers through the quarterly Statements of Revenue and Licence Fee. The queries were also discussed in the Workshops held 16.01.2014 to 18.01.2014 at Jaipur and 05.02.2014 to 07.02.2014 at Bhubaneswar. The queries and inputs received have been examined in detail by a Committee of Senior Officers. Recommendations of the Committee have been accepted by the competent authority and clarifications as given below are hereby issued for guidance and compliance by the CCA offices and TSPs.

1. While verifying payment proofs, CCA offices are insisting for Invoice/Bill/Voucher of other operator along with netting off statement.

Claim of net settlement may be submitted along with a statement in Annexures AO and AG, duly certified by the Authorised signatory of the Licensee Company and at the end of the year duly certified by the Statutory Auditor of the Licensee. The formats AO and AG shall be applicable from the FY 2014-15. If Licensee has not submitted the details till the date of issuance of this circular they shall submit the details in formats AO and AG for earlier periods also. Copies of vouchers/Debit - Credit notes/Invoices duly certified by the Authorised Signatory of the Licensee Company are to be submitted along with extract of ledger and Annexure – AO/AG

However, the cases already finalised by the CCAs till the date of issue of these orders need not be reopened.

Annexure –AO pertains to the settlements transactions between the separate Licensee Companies (Separate Legal Entity) and Annexure - AG pertains to the settlements transactions within the same Licensee Company (Same legal entity) and Inter-segment transactions within the same company (Same legal entity). **Prescribed formats need to be adhered strictly by Licensee as well as by CCAs without any modification.**

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made for pass through charges specifying the name of payee and other details. Computer generated Bank statement may be accepted as proof of payment mentioning either cheque number/account number or name of operator as beneficiary. Banks take 3 – 4 weeks time for preparation of statements. This is in case when the period is recent. The older is the period the greater is the time required for certification.

Complete Bank statements (with running page numbers and logo) whether issued by bank or downloaded from the Bank's website showing relevant payments, of which 1<sup>st</sup> & last page (should not be blank) shall be signed by the Bank Authorities and Authorised signatory of the Licensee Company *duly certifying that the statement contains pages from.....to.....*. Licensee should show the relevant pages on which transaction is mentioned by mapping of relevant transactions in prescribed format – AO and AG.

Submission of the documents is the responsibility of the Licensee. For the current and future period Licensees are advised to collect the documents from the banks on monthly basis.

As regards old cases (*period upto the year 2011-12 for which deduction verification is pending due to bank statement related issues*) operators may submit the bank statements showing the transaction and breakup of the transaction amount/DD alongwith acknowledgment of the receiving party (as proof for date of payment). All such cases related with bank statements may be settled within a period of 45 days from the issue of this clarification, failing which deductions claimed will be disallowed and verification shall be deemed as finalised for the purpose of assessment of Licence Fee.

3. For TDS deposit, following documents are being insisting upon as proof:
- Copies of TDS certificates with individual transaction mapping.
  - TDS Returns (proof that it is deposited with IT).
  - A Certificate from the tax/statutory auditors certifying such forms.

In such instances operators may submit following documents duly signed by the Authorised Signatory of the Licensee Company:

- (a) Copy of Challans alongwith copy of complete Forms 26Q
- (b) Circle-wise break up of challans and Forms 26Q
- (c) Further break up of concerned circle's amount deposited through challans.
- (d) A certificate from Statutory/Tax Auditor certifying the consolidated amount of Challans.
- (e) Mapping of returns with individual transaction cannot be dispensed with although operator can alternately map the break-up of concerned circle amount provided in details at point 'b' above.

Soft copy of Form 26Q shall also be provided in MS excel (2007 format).

4. **Payment of Tax Deduction in terms of Tax Laws but due date falling in subsequent quarter.**

- a) When TDS is deposited in previous quarter and claimed in subsequent quarter, in such cases, it will be allowed in the quarter in which full amount of invoice is claimed subject to producing linkage between the invoice claimed and TDS reflected in Form 26Q. Above provisions are for exceptional circumstances only and Licensees should avoid making it regular practice.
- b) When deduction against an invoice is claimed in earlier quarter and TDS is deposited in the next quarter, in such cases deduction will be allowed in the quarter in which deduction against invoice is claimed, subject to adherence of date of deposit as per Income Tax Act/Rules prevailing at the time of deposit.
- c) If the TDS deducted is deposited after the due date prescribed above, then the deduction will be allowed in the quarter in which it is deposited i.e. if the TDS deducted in March and deposits by 30<sup>th</sup> April, then it would be deemed to have been deposited in same financial year. However, if it is deposited subsequent to this date, Licensee should claim deduction in the next financial year.

5. **Disallowance of total expense if separate TDS proofs not submitted.**

Mandatorily TDS is required to be deposited in same month. In case where it is mandatory for deducting Tax at source, then whole payment shall be allowed as and when whole amount of invoice including TDS is paid and claimed, subject to production of proof of payment.

6. **Deductions claimed against part payments arising out of billing disputes.**

Part payments in normal circumstances shall not be allowed. Operators shall claim the whole amount only with related payment proofs.

However, in exceptional circumstances, if any payment against invoices is being made partly due to disputes then this part payment shall be allowed subject to deposition of related TDS and production of documents in support of disputes. Licensee shall submit a quarterly detail of such invoices in Annexure- PP. The unpaid/disputed part/amount of invoice mentioned in Annexure-PP may be allowed in future subject to approval by the CCA of the concerned Service Area.

Licensee should submit the updated Annexure-PP showing the invoice details against which deductions were claimed in earlier quarter for part payment, alongwith documents for each quarter during the concerned financial year. Annexure PP may be used as tracking device for future purposes for allowing such deduction claims.

## 7. Intra Company and Inter Company Settlement

Intra company settlements (**Same Licensee Company**) are allowed on the basis of submission of copies of vouchers/Debit - Credit notes/Invoices and quarterly extract of General Ledger duly certified by the Authorised signatory of the Licensee Company and at the end of the year duly certified by the Statutory Auditors of the Licensee Company. A certificate in Annexure-'AG' duly signed by the Authorised Signatory of the Licensee Company may also be submitted on quarterly basis and at the end of the year certified by the Statutory Auditors of the Licensee Company.

Inter-company settlements (**different legal entity**) are allowed on the basis of submission of copies of invoices duly certified by the Authorised signatory of the Licensee Company. A certificate in Annexure-'AO' duly signed by the Authorised Signatory of the Licensee Company may also be submitted on quarterly basis and at the end of the year certified by the Statutory Auditors of the Licensee Company.

Annexure AO/AG shall be applicable from financial year 2014-15.

It is pertinent to mention that Licensee shall raise/obtain invoices for all transactions for which deduction is claimed irrespective of nature of transaction i.e. inter-company/intra-company transactions.

If deduction verifications for years earlier than F.Y. 2014-15 is not complete then in case of intra group companies deductions shall be allowed only after submission of vouchers/Debit - Credit notes/Invoices and quarterly extract of General Ledger duly certified by the Authorised signatory of the Licensee Company and in case of inter group company deductions shall be allowed only after submission of copy of vouchers duly certified by the Authorised signatory of the Licensee Company.

## 8. Settlement within Group Companies.

Settlement within group companies may be accepted along with Memorandum of Understanding between companies and other documents

A certificate (signed by authorized signatory of licensee company) in the beginning of each financial year is required from licensee (service area wise) mentioning list of group and separate legal entities to facilitate the smooth deduction verification process.

### What is inter- group company and intra- group company transactions?

Inter-company transactions are those which occur between two separate legal entities e.g. transactions occurred between RCOM and RTL or transactions occurred between Vodafone Ltd and Vodafone South Ltd. are example of inter-company transactions. Pass through charges between two legal entities may be routed through the bank only and not through mere ledger adjustment.

Whereas, intra company and group company transactions are those which occur within same legal entity e.g. transactions occurred between RCOM, Delhi and RCOM UP (East) or transactions occurred between Vodafone South Ltd, AP and Vodafone South Ltd., Karnataka are example of intra and group company transactions.

**PS: Names of Licensees used are for reference/illustration only.**

9. **Re-verification being rejected.**

The issue has already been clarified through clarifications dated 01.11.2012 and 26.09.2013. Operators should strictly follow the allowed time limit without any fail and respond within time.

10. **Reopening of cases on demand-cum- SCN. After completing the assessment, CCAs are not sharing the disallowance details with operators.**

CCA offices have already been advised vide letter dated 01.11.2012 and 26.09.2013 to give speaking and reasoned orders in respect of disallowed deductions. If any deviation with the above mentioned orders, matter may be brought to the notice of CCA concerned with a copy to DoT (HQ).

D.O. No. 1-28/2013/CCAs/LF-II related with the same has been issued on 22.08.2014, in which it has been made clear that 15 days time limit mentioned for making representations against demand cum show cause notices issued by DoT (HQ) (after provisional assessment) may be extended but not more than extra 15 days. So, in total 30 days may be allowed to licensee to submit his representation against demand cum show cause notices. If licensee has already been given opportunity to represent upto 30 days time limit, after issuance of Demand cum show cause notice then same licensee may not be allowed to represent again.

11. **Inter-circle settlements within same legal entity.**

Intra company settlement (Same Licensee Company) is allowed on the basis of submission of quarterly extract of General Ledger duly certified by the Authorised signatory of the Licensee Company and at the end of the year duly certified by the Statutory Auditors of the Licensee Company. A certificate in Annexure-'AG' duly signed by the Authorised Signatory of the Licensee Company may also be submitted on quarterly basis and at the end of the year certified by the Statutory Auditors of the Licensee Company. Copies of vouchers/Debit - Credit notes/Invoices duly certified by the Authorised Signatory of the Licensee Company are to be submitted along with extract of ledger.

Pass through charges between two legal entities may be routed through the bank only and not through mere ledger adjustment.

12. **In the matter of International Roaming, the entire claim is getting disallowed by the CCA offices.**

As per UAS (Item No.57 of Annexure – I, Definition of Terms and interpretation of UAS Licence Agreement) Licence Conditions, IUC/Roaming/pass through charges actually paid for carriage of call to other eligible/entitled Telecom Service Providers are allowed as deductions for the purpose of arriving at AGR.

As per Definition of "Service Providers" given in UAS Licence Agreement, "Service Provider" means Telecom Service Provider licensed under Section 4 of the Indian Telegraph Act 1885 for provision of service.

deductions against pass through charges actually paid and claimed by service providers against their bills to a global telecom. Service providers granted Licence under Section 4 of the Telegraph Act 1885, as per the definition given in the Licence Agreement. Foreign service providers are not eligible service provider, therefore, deductions on account of pass through charges paid to them should not be allowed.

*Cases where deduction verification has been-finalised/closed may not be reopened by CCAs for the time being till further instructions.*

**13. Amount paid in previous quarter and claimed in subsequent quarters and Amount claimed in a quarter and paid in subsequent quarters.**

Assessment of License Fee is carried out on annual basis, whereas, deduction verification is done on quarterly basis. Verification of deductions on quarterly basis is to facilitate the timely verification of deductions claimed. TSPs cannot claim deduction against pass through charges unless and until such payment has actually been made. In normal cases licensee shall claim the deduction only in the quarter in which payment have actually been made.

However, deductions claimed against pass through payments made in previous quarters may be allowed in subsequent quarters in the same financial year, if found justified. Similarly deductions claimed against pass through charges for which payments have **NOT** been made in previous quarter, may be allowed in subsequent quarters, if claimed again in the quarter in which payment has actually been made, in the same financial year, if found justified. Such cases shall be decided by the officer not below the CCA. This provision will be applicable only in exceptional circumstance.

*Licensee shall show the transaction by mapping of relevant transactions in bank statement and prescribed format AO/AG.*

In cases where payment made in earlier/next quarter, in such cases amount of deduction claimed should not be negative on annual basis i.e. amount of deductions allowed shall not be more than the amount of deductions claimed, in a financial year.

**14. Restriction of admissible pass-through amount to the extent of amount shown in the Audited AGR statement.**

Deductions can be claimed only if it can be substantiated by proof of actual payment (As per clause 19.2 of UAS license agreement). Deductions allowed should not be more than the Deductions claimed as per Auditor's Certificate/Audited AGR. In case the Licensee claims deduction on accrual basis it will be disallowed.

**15. There are some settlements with some Operators which are being carried out by the operators at Company level for all the circles. Corporate is exchanging single payment with such Operators and debit / credits are being passed on to respective circles. Some of the CCA offices are disallowing such deductions although circle-wise breakup of the settlement amount is provided to them along with bank statement of Corporate.**

As per clause 22.1 of the UAS License agreement "Licensee will draw, keep and furnish independent accounts for the SERVICE and shall fully comply orders, directions or regulations as may be issued from time to time by the LICENSOR or TRAI as the case may be".

Licensee shall maintain and provide circle wise details of payments along with invoice, failing which deductions claimed shall be inadmissible.

16. As per existing practice timelines of 15 days is allowed for submission of document.

Licensee Companies can submit Quarterly documents within one month from the date of payment of quarterly License Fee of relevant quarter as under:

Quarter	Last date of payment of Quarterly Licence Fee	Last date of Submission of Documents in support of deductions claimed.
1 <sup>st</sup> Quarter	15 <sup>th</sup> July	15 <sup>th</sup> August
2 <sup>nd</sup> Quarter	15 <sup>th</sup> October	15 <sup>th</sup> November
3 <sup>rd</sup> Quarter	15 <sup>th</sup> January	15 <sup>th</sup> February
4 <sup>th</sup> Quarter	15 <sup>th</sup> April	15 <sup>th</sup> May

17. Submission of documents on Quarterly basis and requirement of Audited AGR on quarterly basis:

Time limit mentioned in point 16 above shall be adhered to.

It is clarified that Quarterly AGR statements, duly certified with an affidavit by authorised representative of the Licensee, submitted alongwith payment of quarterly Licence Fee shall be on self assessment basis only.

At the end of the year Annual AGR statements showing quarter-wise breakup of AGR shall be duly certified by the Statutory Auditor of the Company as per Clause 22.2 (b) of UAS Licence Agreement.

18. Payment of Service Tax - one of the Licensees has central registration for tax payable for each month for each of the Circles. The data is extracted from the ERP system and the same is discharged centrally covering all circles on or before the due date either by adjustment through CENVAT credit or cash payment wherever applicable. Further, the information is vetted and certified by statutory auditors in the AGR Audit certificate with the following noting in their certificate as "*Payment has been duly made by the company within the due dates available for payment and that Service tax value considered in the Gross Revenue & in the Deductions are same. Hence there is no impact on AGR values.*"

As per Licence Agreement, Licensees are required to maintain Licence wise separate accounts.

In such cases Licensee shall maintain and provide circle wise details of Service Tax billed, collected and paid/deposited with Government, failing which deduction shall be inadmissible.

19. Supporting documents need to be signed by designated authorized signatory.

Authorised signatory shall be a person authorized by the Board Resolution duly certified by the Company Secretary of the Licensee Company. Such Board Resolution and General Power of attorney should be submitted at the beginning of each financial year for each CCA office.

20. Consolidated payments – proof of payments other than deductions claimed – required or not.

In few cases company generates and pays the consolidated invoices e.g. for roaming and management consultancy or for PSTN and Port charges etc, such practice should be avoided in future transactions by licensees and invoices for claimable deductions should be raised separately and paid separately e.g. for roaming and PSTN charges separate invoices and for management consultancy and Port charges separate invoices.

However, in present practice of raising consolidated invoices raises doubts that whether CCAs should verify all vouchers related with consolidated amount of Invoice or only the invoices related with deduction claimed?

It is hereby made clear that, in such cases of consolidated payments, invoices related with items other than deductions claimed e.g. management consultancy, Port charges may not be verified at this stage as that will be covered under clause 22.5 of license agreement. Invoices related with claimable deductions (e.g. roaming and PSTN Charges etc) and payment proof with breakup of consolidated payments is sufficient to verify the deductions.

Above breakup should be signed by the Authorised signatory stating that "On behalf of Licensee Company, I bear the responsibility for correctness of above details mentioning consolidated payment of Rs:....."

21. Amount shown in the auditor's certificate differs from the amount claimed.

Ideally the amount should match but where such cases arise following action may be taken:

- a) Allow deduction claimed if it is less than Auditor's Certificate.
- b) Restrict the claim to Auditor's certificate if the claim is in excess of Auditor's certificate.

22. Some of the CCA offices are not accepting the standard format prescribed through letter No. 1-28/2006/LF dated 10.12.2013 for submission of documents for verification of deductions claimed for the period earlier than year 2013-14.

Although the format was prescribed for year 2013-14 onwards, however, if any Licensee submits the details of documents in New Format for periods earlier than the year 2013-14, it may be accepted, if the deduction verification process has not been started for the concerned Financial Year. However, these quarterly formats for a financial year shall be uniform in any case. ***This standard format has now been replaced with Annexures AO & AG which is effective from the financial year 2014-15.***



requirements relating to netting off of revenue against which netting off is done such as Foreign Currency Gains, interests etc.

In all such cases where netting off is done in books of accounts, Statutory Auditor's certificate is required to be submitted to the Licensor (CCA) certifying the Gross amounts of the items of revenue against which netting off is done.

24. BSNL charges annual charges for decreasing the call rates. Annual charges paid to BSNL are admissible for deductions or not.

Annual charges paid to other operators are expenses and not admissible as deductions.

Documents for verification of deductions claimed will be submitted alongwith a covering letter with check list for submission of documents in prescribed proforma duly signed by the Authorised Signatory of the Licensee Company

*All the above clarifications are applicable to deduction verification cases which are not yet finalised by the CCA offices. If deduction verification is finalised/closed and reports sent to DoT (HQ), then those cases need not be reopened by CCAs.*

This issues with the approval of Member (Finance), Telecom Commission and Ex-officio Secretary to Government of India.

Encl.: Check list for submission of documents, Annexures AO, AG & PP



(S.K. Mishra)  
DDG (LFA)

**Copy to:**

1. PPS to Member (Finance), DoT (HQ), Sanchar Bhawan, New Delhi
2. PSO to Advisor (Finance), DoT (HQ), Sanchar Bhawan, New Delhi
3. All Pr. CsCA and CsCA for information and further necessary action.
4. Sr. DDG (WPF), DoT (HQ) and all DDGs of Finance Wing at DoT (HQ), Sanchar Bhawan, New Delhi.
5. DDG (LFP), DoT (HQ), Sanchar Bhawan, New Delhi.
6. DG NICF, Ghitorni, New Delhi.
7. All Telecom Service Providers.

## DEDUCTIONS

NAME OF THE LICENSEE COMPANY.....

LICENCE TYPE AND LICENCE NO.....

SERVICE AREA.....

QUARTER ENDING..... OF FINANCIAL YEAR.....

S.NO.	PARTICULARS	REMARKS (Y/N)
1	Audited AGR showing operator wise detail in:- a) Revenue b) Deduction portion.	
2	LF paid details including copies of Challans	
3	Duly authenticated details of deductions claimed towards IUC on actual payment basis. .	
4	Duly authenticated details of deductions claimed towards Roaming on actual payment basis. .	
5	PSTN Details a) Operator-wise Payable Invoices. b) Operator-wise Receivable Invoices. c) Payment proof i.e. Bank Statement indicating the name of the operator duly signed by the Bank/receipts/Cheque/DD etc	
6	Roaming Details a) Operator-wise Payable Invoices. b) Operator-wise Receivable Invoices. c) Any other supporting document required by the CCA office. d) Payment proof i.e. Bank Statement of first two pages (should not be blank) duly signed by bank authorities and all pages signed by the authorized signatory of the Licensee Company. e) Proof of payment/adjustment made in accordance with the License Agreement.	
7	Duly authenticated details of deductions claimed towards Service Tax on provision of service actually paid to the Government if gross revenue had included the component of Service Tax. Payment proof of thereof is also required.	

	<p>of actual and component of Goods Tax. Payment proof of thereof is also required.</p> <p>Day authenticated details of deductions claimed towards ADC, if applicable and payment proof of thereof.</p>	
10	TDS, proof of tax deposit to IT Department along-with Copies of consolidated challans alongwith copy of complete Form 26Q, Circle-wise break up of challans and further break up of concerned circle's amount deposited with Income Tax through challans be submitted alongwith a certificate from Statutory/Tax Auditor certifying quarter-wise consolidated amount of Challans and amount TDS deposited with Income Tax Department	
11	Soft copies of IUC details claim sheet on actual paid basis and payment proof in prescribed proforma.	
12	Auditor's certificate to the effect that IUC invoices are non inclusive of Port or Leased Line charges.	
13	Copy of the Board Resolution authorising the Authorised Signatory of the Licensee Company mentioning the Service Area for which Authorised Signatory has been authorised.	
14	Certificate regarding list of all the Group companies/division under single legal entity.	
15	In the case of Intra-company adjustment, copy of ledger, copy of invoices and Statutory Auditor's certificate in support of adjustment along with Annexure-AG.	
16	Details of inter company transactions in Annexure AO alongwith copy of invoices	
17	In case of disputed part payment claims - Annexure – PP	
18	Copy of the General Power of Attorney for certifying the Authorised Signatory of the Licensee Company.	



FORMAT FOR MAPPING BANK TRANSACTIONS WITH INVOICES - INTRA COMPANY SETTLEMENT (SAME LICENSEE COMPANY/LEGAL ENTITY)

Name of Licensee :  
 Service Area :  
 Financial Year :  
 Quarter :

Sl. No.	Or	LIC Payable to (Name of Licensee Company)	Bank's A/c for which debit raised	PAYABLE				RECEIVABLE																												
				Invt. Number	Invt. No. in month	Invoice Month and Year	LIC Cost per Operator (Payable)	LIC Cost Passed by operator	Total Service Tax	Total Cost	TDS on Cost/Claim	Net Cost (Net Payable)	Receivable from (Name of Licensee Company)	Invoice Month and Year	Receivable in month	TDS on receivable	LIC Cost actually received	Net Receivable	Amount Payable	Amount Receivable																
1	01		4		8	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31						
2	01																																			
3	02																																			
4	02																																			
5	03																																			
6	03																																			
7	04																																			
8	04																																			

In case invoice generation is not possible then number of debit or credit note (as the case may be) shall be mentioned in invoice submer.

Signatures.....  
 Authorised Signatory of the Licensee Company

Signatures.....  
 Statutory Auditor of the Licensee Company

## Proforma for Partly paid Invoices

Licensee:

Service Area:

Financial Year:

Quarter:

Details of partly paid invoices during the current quarter.

Sl. No.	Name of Licensee Company	Service Area for which invoice raised	Invoice Number and date	Total Amount of Invoice	Amount paid against the Invoice	Balance amount of the invoice	Date of balance payment
1	2	3	4	5	6	7	8

Certified that the above details are regarding partly paid invoices, deductions for the balance payment will be claimed in the quarter in which balance payment is made.

Signature.....

Authorised Signatory of the Licensee Company