

No.1-28/2013/CCAs/LF-II
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
LICENSING FINANCE ASSESSMENT WING

Dated: 04.03.2015
09

OFFICE MEMORANDUM

Subject: Clarifications on Deduction Verification – Queries raised by CCA offices¹ and TSPs².

With reference to the above mentioned subject, I am directed to convey the following clarifications in supersession of the earlier O.M. of even number, dated 07.11.2014 for necessary action by all concerned.

Query raised	Clarification
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 are to be submitted in Annexure AO ³ and AG ⁴ , duly certified by the authorized signatory of the Licensee at the end of every quarter, and by the statutory auditor of the Licensee at the end of the year for the relevant financial year, along with copies of vouchers/debit-credit notes/ invoices and extract of Ledger ⁵ duly certified by the authorised signatory of the Licensee. <i>The formats AO and AG shall be applicable from the FY⁶ 2015-16.</i>

¹ Controller of Communication Accounts (which includes the office of Principal CCAs and Joint CCAs also)

² Telecom Service Providers (Licensees)

³ AO- Format for reporting transactions with other operators.

⁴ AG- Format for reporting transactions within the same Licensee Company

⁵ Ledger- is the copy of relevant pages of ledger with journal entries on it and not the excel sheet summary of transactions.

⁶ FY- Financial Year

<p>2. Most of the CCAs insist for original Bankers' Certificate certifying each of the payment 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.</p>	<p>Relevant pages of the bank statement showing relevant payments whether issued by bank or downloaded from the bank's website shall be signed by the bank authorities and authorized signatory of the Licensee. Licensee should show the relevant transactions by mapping of relevant transactions in prescribed format – AO and AG. In Annexure AG where settlement is done through adjustments, bank detail columns may be left blank. Requirement of bankers' certificate indicating the name of the payee for transactions where name of payee is not available in bank statement cannot be dispensed with. Licensees will have to submit the certified bank statement or banker's certificate or both, as the case may be, showing the transaction and breakup of the transaction amount for old cases up to FY 2013-14 (where deduction verification is pending due to bank statement related issues) by 30.05.2015, failing which deductions claimed will be disallowed.</p>
<p>3. For TDS⁷ deposit, following documents are being insisted upon as proof:</p> <ul style="list-style-type: none"> - 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. 	<p>In such instances operators may submit following documents duly signed by the Authorised Signatory of the Licensee:</p> <ul style="list-style-type: none"> (a) Copy of consolidated Challans along with copy of Corresponding Forms 26Q. (b) LSA⁸ wise break up of consolidated challans. (c) Further transaction wise break up of concerned LSA's amount mentioned in point (b) above. (d) Annual certificate from Statutory or Tax Auditor, certifying the correctness of breakup given in point (b)

⁷ TDS- Tax Deducted at Source

⁸ LSA-License Service Area

	<p>and (c) above.</p> <p>(e) Mapping of returns with individual transaction cannot be dispensed with. Alternately operator may map the breakup of concerned LSA's amount provided in details at point (b) & (c) above.</p> <p>(f) Soft copy of Form 26Q & its annexure shall also be provided in MS excel (2007 format).</p> <p>(g) In old cases up to FY 2014-15 Form 16A may be accepted in place of Form 26Q along with breakup of amount and documents mentioned in point (b), (c) and (d) here above.</p>
<p>4. Payment of Tax Deduction in terms of Tax Laws but due date falling in subsequent quarter.</p>	<p>If deducted TDS is deposited up to the prescribed due date⁹, then the deduction will be allowed in the same quarter for which it relates i.e. if the TDS deducted in quarter of January to March and deposited by 30th April i.e. due date prescribed for deposit, then deduction will be allowed in January to March quarter i.e. same financial year. In case deducted TDS deposited after prescribed due date then deduction will be allowed in next quarter/financial year.</p>
<p>5. Disallowance of total expense if separate TDS proofs not submitted</p>	<p>a) In cases where payment proofs are submitted except TDS proof, in such cases amount for which proofs are submitted will be allowed as deduction except TDS part. Licensee has to provide information of such invoices in Annexure-PP¹⁰ to claim such partial deduction. If Licensee submits proof of TDS up to 30th June of</p>

⁹ Prescribed due dates- for deposit of TDS:

7th of every month in case of TDS for April to February and 30th April in case of TDS for March. These dates shall be extended if Income Tax Department extends the dates but it shall not include the extension after paying penal interest.

¹⁰ PP- Format for reporting transactions of part payments due to dispute, absence of TDS proof or settlement at amount lower than the invoice amount.

	<p>succeeding Financial Year by linking it with Annexure-PP then same may be allowed, if found justified. Partial claims due to TDS shall not be allowed to be carried forward to the succeeding financial year.</p> <p>b) In cases where final payment is made at amount lower than the invoice amount, in such cases, amount for which payment proofs are submitted will be allowed as deduction. Licensee has to provide information of such invoices in Annexure-PP to claim such partial deduction during the financial year. Partial claims due to this shall not be allowed to be carried forward to the succeeding financial year.</p> <p>c) When TDS is deposited in previous quarter and claimed in subsequent quarter, In such cases, it will be allowed in subsequent quarter in which claim is made subject to producing linkage between the invoice and TDS reflected in Form 16A(up to FY 2014-15)/26Q.</p>
<p>6. Intra -company¹¹ and Inter-company settlement¹²</p>	<p>Intra-company settlements (Same Licensee Company) are allowed on the basis of submission of Annexure - AG with extract of ledger, duly certified by the authorized signatory of the Licensee at the end of every quarter and by the statutory auditor of the Licensee at the end of the FY along with copies of vouchers/debit - credit notes/invoices duly certified by the authorised signatory of the Licensee.</p>

¹¹ *Intra- company Settlement*

Intra Company settlements are those which occur within same legal entity. For example. transactions between RCOM, Delhi and RCOM UP (East) or transactions between Vodafone South Ltd, AP and Vodafone South Ltd., Karnataka. (PS: Names of Licensees used above are for illustration purpose only.)

¹² *Inter- company Settlement*

Inter- company settlements are those which occur between two separate legal entities. For example transactions between RCOM and RTL or transactions between Vodafone Ltd and Vodafone South Ltd. or transactions between Bharti Airtel Ltd. and Idea Cellular Ltd. etc. Pass through charges between two legal entities may be routed through the bank only and not through mere account adjustment.

	<p>Inter-company settlements are allowed on the basis of submission of Annexure - AO duly certified by the authorized signatory of the Licensee at the end of every quarter and by the statutory auditor of the Licensee at the end of the FY along with copies of invoices duly certified by the authorised signatory of the Licensee. Licensee shall invariably and clearly mention the name of parties on invoice. Pass through charges between two legal entities need to be routed through bank only and not through mere ledger adjustments.</p>
7. Inter-Service Area/ Intra- Service Area settlements within same legal entity.	Same as mentioned above in point 6 for intra-company settlements.
8. Re-verification being rejected.	The issue has already been settled through clarifications of OM number dated 01.11.2012 and 26.09.2013.
9. Reopening of cases on demand-cum- SCN ¹³ . After completing the assessment, CCAs are not sharing the disallowance details with operators.	CCA offices have already been advised vide O.M. of Dated 01.11.2012 and 26.09.2013 to give reasoned orders in respect of disallowed deductions. In case of any deviation noticed by the Licensee the same may be brought to the notice of CCA concerned endorsing a copy to LFA ¹⁴ Wing of DoT (HQ). In case of Demand cum SCN issued after assessment the clarifications issued wide D.O. No. 1-28/2013/CCAs/LF-II dated 22.08.2014 shall apply.
10. In the matter of International Roaming, the entire claim is getting disallowed by the CCA offices.	As per definition of Service Provider given in UAS Licence Agreement (Item No.57 of Annexure – I), "Service Provider means Telecom Service Provider licensed under Section 4 of the Indian Telegraph Act 1885 for provision of service".Therefore, deductions on account of IUC ¹⁵ /Roaming/Pass through charges actually paid and

¹³ SCN- Show Cause Notice

¹⁴ LFA- Licensing Finance Assessment

¹⁵ IUC-Interconnection Usage Charges

	claimed by Licensee may be allowed, if the same is paid to the eligible telecom service providers who are covered by the definition mentioned above.
11. Amount paid in previous quarter but claimed in subsequent quarters and amount claimed in previous quarter but paid in subsequent quarters.	As a matter of principle the deductions claimed for which payments have not been made shall be disallowed. However, the payments made in the previous quarter may be allowed in subsequent quarter subject to submission of required proofs.
12. Restriction of admissible pass-through amount to the extent of amount shown in the Audited AGR ¹⁶ statement.	Deductions allowed should not be more than the deductions claimed through Audited AGR statements (Audited Statements of Revenue and Licence Fee).
13. There are some settlements of some operators which are being carried out at corporate office level for all their circles. Corporate is exchanging single payment with other 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.	<p>In cases where transaction is made through single payment at corporate level then the following documents should be produced by the licensee in support of their claim:</p> <p>(a) Copy of proof of payment.</p> <p>(b) License service Area wise break up of single payment mentioned in (a) above.</p> <p>(c) Further transaction wise break up of (b) above.</p> <p>(d) A certificate from authorised signatory certifying the correctness of breakup given in point (b) and (c) as per the given format:</p> <p style="text-align: center;"><i>“On behalf of Licensee (name of license company), I (name, designation, address, mobile no.) Certify that Rs..... (Amount) pertains to admissible deductions allowed under clause of Licence Agreement and bear the responsibility for correctness of above mentioned consolidated payment of</i></p>

¹⁶ AGR- Adjusted gross Revenue

	Rs.....(amount)" (e) Mapping of payment mentioned in 13(a) with Annexure AO/AG.															
14. As per existing practice timelines of 15 days is allowed for submission of documents.	Licensees can submit quarterly documents along with the check list in prescribed proforma¹⁷ within 45 days from the date of payment of quarterly license fee of relevant quarter as under: <table border="1" data-bbox="790 555 1481 996"> <thead> <tr> <th>Quarter</th> <th>Last date of payment of quarterly Licence Fee</th> <th>Last date of submission of documents in support of deductions claimed.</th> </tr> </thead> <tbody> <tr> <td>1st Quarter</td> <td>15th July</td> <td>31st August</td> </tr> <tr> <td>2nd Quarter</td> <td>15th October</td> <td>30th Nov</td> </tr> <tr> <td>3rd Quarter</td> <td>15th January</td> <td>28th/29th Feb</td> </tr> <tr> <td>4th Quarter</td> <td>15th April</td> <td>31st May</td> </tr> </tbody> </table>	Quarter	Last date of payment of quarterly Licence Fee	Last date of submission of documents in support of deductions claimed.	1 st Quarter	15 th July	31 st August	2 nd Quarter	15 th October	30 th Nov	3 rd Quarter	15 th January	28 th /29 th Feb	4 th Quarter	15 th April	31 st May
Quarter	Last date of payment of quarterly Licence Fee	Last date of submission of documents in support of deductions claimed.														
1 st Quarter	15 th July	31 st August														
2 nd Quarter	15 th October	30 th Nov														
3 rd Quarter	15 th January	28 th /29 th Feb														
4 th Quarter	15 th April	31 st May														
15. Submission of documents and audited AGR on quarterly basis.	It is clarified that quarterly statements of revenue and license fee shall be on self assessment basis only and to be submitted as per the time limit prescribed in item no. 14 above. The audited AGR has to be submitted at the end of FY along with the annual statement of revenue & license fee.															
16. 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	Licensee shall maintain and provide circle wise details of Service Tax billed, collected and paid/deposited with Government, failing which deduction shall be disallowed.															

¹⁷ Check list in prescribed proforma (attached)

<p>certificate as <i>"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."</i></p>	
<p>17. Supporting documents need to be signed by designated authorized signatory.</p>	<p>Authorized signatory shall be the person authorized by a valid Board Resolution duly certified by the Company Secretary of the Licensee. Such Board Resolution should contain authorized signatory's complete identification details, designation, address, contact no. etc. The Board may nominate two authorized signatories for each LSA for certifying the documents and any subsequent change to be intimated to the concerned CCA office within 15 days.</p>
<p>18. Consolidated payments – proof of payments other than deductions claimed – required or not.</p>	<p>In such cases of consolidated payments, invoices related with items other than deductions allowed under license agreement e.g. management consultancy, Port charges need not be verified for the purpose of determining allowable deductions. However, the authorized signatory will have to submit an undertaking in the format prescribed at Item No. 13 above.</p>
<p>19. Amount shown in the auditor's certificate differs from the amount claimed.</p>	<p>Deductions shall be restricted of the lower of amount shown in auditor's certificate and audited AGR statements.</p>
<p>20. 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.</p>	<p>CCA offices can accept the documents up to the FY 2014-15 either in the format prescribed earlier or in the new format prescribed in this OM, if the deduction verification process has not been started for the concerned FY.</p>
<p>21. Requirement of Statutory Auditor's certificate should be dispensed with in case of items of revenue against which netting off is done such as Foreign Currency Gains, interests etc.</p>	<p>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</p>

	of revenue against which netting off is done.
22. BSNL charges annual charges invoices for decreasing the call rates. Annual charges paid to BSNL are admissible for deductions or not.	Annual charges paid to any other operators are in the nature of expense and not allowed as deductions.


(Srikanta Panda)

DDG (LFP)-LO

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. CCAs and CCAs for necessary action.
4. Sr. DDG (WPF), DoT (HQ), Sanchar Bhawan, New Delhi.
5. DDG (LFP), DoT (HQ), Sanchar Bhawan, New Delhi.

CHECK LIST FOR SUBMISSION OF DOCUMENTS FOR VERIFICATION OF 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	Quarterly/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. (Quarterly/Audited)	
4	Duly authenticated details of deductions claimed towards Roaming on actual payment basis. (Quarterly/Audited)	
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.	

8	Duly authenticated details of deductions claimed towards Sales Tax actually paid to the Government if gross revenue had included the component of Sales Tax. Payment proof of thereof is also required.	
9	Duly authenticated details of deductions claimed towards ADC, if applicable and payment proof of thereof.	
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 (Quarterly/Audited)	
11	Soft copies of IUC details claim sheet on actual paid basis and payment proof in prescribed proforma. (Quarterly)	
12	Authorised Signatory's/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 (Quarterly/Audited).	
16	Details of inter company transactions in Annexure AO alongwith copy of invoices (Quarterly/Audited)	
17	In case of disputed part payment claims - Annexure – PP (Quarterly/Audited)	
18	Copy of the General Power of Attorney for certifying the Authorised Signatory of the Licensee Company.	

Audited documents are required to be submitted at the end of the Financial Year only

FORMAT FOR MAPPING BANK TRANSACTIONS WITH INVOICES - INTER COMPANY SETTLEMENT (DIFFERENT LEGAL ENTITIES)

(Separate forms may be submitted for PSTN and Roaming deduction claims)

ANNEXURE - AO

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

S. No.	Qtr	IUC Payable to (Name of Licensee Company)	Service Area for which invoice raised	Payable									Receivable							Payment Details							
				Invoice/Debit Credit note Number and date	Payable Serial No of Invoice in mapping	IUC Cost as per Operator (Payable)	IUC Cost Passed by operator	Total Service Tax	Total Cost	TDS on Cost/Claim	TDS Serial No in Form 26Q for mapping	Net Cost (Net Payable)	Receivable from (Name of Licensee Company)	Invoice/Debit Credit note Number and date	Receivable Serial No of Invoice in mapping	IUC Revenue including Service Tax (Receivable)	IUC Cost actually received	TDS on receivable amount	Net Receivable	Amount Payable/Receivable	Net Amount Paid	Cheque No./RTGS etc.	Cheque Date	Pay out Bank	Clearing Date	Deduction Claimed	S.No. in Bank Statement
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
1	Q1																										
2	Q1																										
3	Q2																										
4	Q2																										
5	Q3																										
6	Q3																										
7	Q4																										
8	Q4																										
Total Claim Amount																											

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

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

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

FORMAT FOR MAPPING BANK TRANSACTIONS WITH INVOICES - INTRA COMPANY SETTLEMENT (SAME LICENSEE COMPANY/LEGAL ENTITY)
 (Separate forms may be submitted for PSTN and Roaming deduction claims)

ANNEXURE - AG

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

S. No.	Qtr	IUC Payable to (Name of Licensee Company)	Service Area for which invoice raised	Payable									Receivable							Payment Details							
				Invoice/Debit Credit note Number and date	Payable Serial No of Invoice in mapping	IUC Cost as per Operator (Payable)	IUC Cost Passed by operator	Total Service Tax	Total Cost	TDS on Cost/Claim	TDS Serial No in Form 26Q for mapping	Net Cost (Net Payable)	Receivable from (Name of Licensee Company)	Invoice/Debit Credit note Number and date	Receivable Serial No of Invoice in mapping	IUC Revenue including Service Tax (Receivable)	IUC Cost actually received	TDS on receivable amount	Net Receivable	Amount Payable/ Receivable	Net Amount Paid	Cheque No./ RTGS etc.	Cheque Date	Pay out Bank	Clearing Date	Deduction Claimed	S.No. in Bank Statement
1	Q1	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
2	Q1																										
3	Q2																										
4	Q2																										
5	Q3																										
6	Q3																										
7	Q4																										
8	Q4																										

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

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