

# Provisions of the Companies Act Regarding Payment of Tax

The **Companies Act, 2013**, though primarily concerned with the incorporation, management, and winding up of companies, also lays down **important provisions related to taxation**, disclosure of tax liabilities, payment of taxes, and compliance with tax laws. While the **actual levy and collection of tax** are governed by the **Income Tax Act, 1961** and other tax laws, the Companies Act ensures **proper accounting, transparency, and compliance** regarding taxes payable by companies.

The major provisions relating to the **payment of tax by companies** are discussed below:

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## 1. Obligation to Pay Taxes

Every company registered under the Companies Act is a **separate legal entity** and is therefore **liable to pay taxes** on its income and transactions.

A company is required to pay:

- **Income Tax** on its taxable profits
- **Minimum Alternate Tax (MAT)**, where applicable
- **Goods and Services Tax (GST)** on supply of goods and services
- **Other statutory taxes and duties** such as customs duty, excise duty (if applicable), professional tax, etc.

Non-payment or evasion of tax attracts **penalties and legal action**.

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## 2. Provision for Taxation in Accounts

### (a) Charging Tax to Profit and Loss Account

Under **Section 129** and **Schedule III** of the Companies Act, a company must prepare its financial statements in a true and fair manner.

Tax expenses such as:

- Current tax
- Deferred tax

must be **properly provided for** and shown in the **Profit and Loss Account**.

### (b) Provision for Tax Liability

Companies are required to:

- Estimate tax liability for the financial year
- Create a **provision for tax** before declaring profits or dividends

This ensures that **tax obligations are met before profit distribution.**

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### 3. Payment of Tax Before Declaration of Dividend

As per **Section 123 of the Companies Act, 2013:**

- Dividend can be declared **only out of profits after providing for depreciation and taxes**
- A company **cannot declare dividends without making adequate provision for tax**

This provision protects:

- Government revenue
- Interests of creditors
- Financial stability of the company

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### 4. Minimum Alternate Tax (MAT) – Section 115JB (Income Tax Act)

Though governed by the Income Tax Act, MAT has relevance under the Companies Act because:

- It is calculated based on **book profits prepared under the Companies Act**
- If income tax payable is less than a prescribed percentage of book profits, the company must pay **MAT**

This ensures that companies showing profits in books **cannot avoid tax completely.**

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### 5. Disclosure of Tax Information

The Companies Act mandates **full disclosure** of tax-related information, including:

- Current tax liability
- Deferred tax assets and liabilities
- Tax disputes and contingent liabilities

These disclosures are made:

- In **Notes to Accounts**

- In the **Auditor's Report**

Such disclosures promote **transparency and accountability**.

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## 6. Role of Auditors in Tax Compliance

Under **Section 143**, auditors must:

- Verify whether proper provision for tax has been made
- Report non-compliance with tax laws
- Comment on unpaid statutory dues including income tax, GST, etc.

Failure to pay taxes is treated as a **serious statutory default**.

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## 7. Payment of Advance Tax and TDS

Companies are required to:

- Pay **advance tax** in instalments during the financial year
- Deduct and deposit **Tax Deducted at Source (TDS)** on specified payments such as salary, interest, rent, and professional fees

Failure to comply may result in:

- Interest
- Penalties
- Prosecution

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## 8. Treatment of Unpaid Taxes

Unpaid taxes are classified as:

- **Statutory dues**
- **Liabilities of the company**

In case of:

- **Winding up**, tax dues are treated as **preferential payments**
- **Insolvency**, government tax dues rank as operational debt

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## 9. Penalties and Legal Consequences

Non-payment or evasion of taxes may lead to:

- Monetary penalties
- Interest on delayed payment
- Prosecution of company and officers in default
- Disqualification of directors in serious cases

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## 10. Corporate Social Responsibility and Taxation

Although **CSR expenditure is not treated as tax payment**, the Companies Act ensures that:

- CSR spending is properly disclosed
- Tax benefits or disallowances are clearly reflected in accounts

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The **Companies Act, 2013** does not directly levy taxes but plays a **crucial supporting role** in ensuring:

- Proper accounting of tax liabilities
- Timely payment of taxes
- Transparent disclosure
- Legal compliance by companies

By linking taxation with **financial reporting, auditing, and dividend declaration**, the Act helps maintain **financial discipline and protects government revenue**.