Financial and Non-financial Reporting of Different Non-corporate Entities

Lesson 14

KEY CONCEPTS

■ Non-Corporate Entities (NCEs) ■ Accounting Standards ■ Financial Statements ■ Formats of Financial Statements ■ Reporting ■ Registration of Financial Documents

Learning Objectives

To understand:

- Reporting requirement of Different Non-Corporate Entities (NCEs)
- Applicable accounting standards
- Standardization and quality reporting by NCEs
- Non-financial reporting by partnership firms, society & trust

Lesson Outline

- Introduction
- Non-financial reporting by a Partnership Firm under the Partnership Act, 1932
- Organizational Forms for Nonprofit Organizations
- Permissible Purposes
- Non-profit Organization Activities
- Reporting
- Charitable or Public Benefit Status
- Local and Cross-Border Funding
- Compliance under the FCRA
- Applicability of Accounting Standards
- Financial Statements
- Lesson Round-Up
- Test Yourself
- References

INTRODUCTION

Besides Financial Reporting, non-corporate entities such as Partnership Firms whether Registered Partnership Firms or Unregistered Partnership Firms, Society registered under any law for the time being in force, Trust (private or public) registered or unregistered under any law for the time being in force. are also required to submit non- financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.

Non-financial reporting by a Partnership Firm under the Partnership Act, 1932

Application for Registration (Section 58)

A statement for the registration of a firm shall be sent or delivered to the Registrar within a period of one year from the date of constitution of the firm, effected by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated. The statement shall be in the prescribed form and accompanied by the prescribed fee and a true copy of the deed of partnership stating:

(a) the firm-name,

(aa) the nature of business of the firm,

(b) the place or principal place of business of the firm,

(c) the names of any other places where the firm carries on business,

(d) the date when each partner joined the firm,

(e) the names in full and permanent addresses of the partners, and

(f) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

When the Registrar is satisfied that the provisions of section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement. On the date such entry is recorded and such statement is filed, the firm shall be deemed to be registered.

The firm, which is registered, shall use the brackets and word (Registered) immediately after its name.

If the statement in respect of any firm is not sent or delivered to the Registrar within the time of one year as stated above, then the firm may be registered on payment, to the Registrar, of a penalty of one hundred rupees per year of delay or a part thereof.

Recording of Alterations in Firm-Name, Nature of Business and Principal Place of Business (Section 60)

When an alteration is made in the firm name or in the nature of business of a firm or in the location of the principal place of business of a registered firm, a statement shall be sent to the Registrar, within a period of 90 days from the date of making such alteration, accompanied by the prescribed fee, specifying the alteration and signed and verified in the manner required under section 58.

Noting of Closing and Opening of Branches (Section 61)

When a registered firm discontinues business at any place or begins to carry on business at any place, such place not being its principal place of business, any partner or agent of the firm shall send intimation thereof to the Registrar, within a period of 90 days from the date of such discontinuance or, as the case may be, from the date on which the firm begins to carry on business at such place. The Registrar shall then make a note of such intimation in the entry relating to the firm in the Register of Firms, and shall file the intimation alongwith the statement relating to the firm filed under section 59.

Noting of Changes in Names and Addresses of Partners (Section 62)

When any partner in a registered firm alters his name or permanent address, an intimation of the alteration' shall be sent, within a period of 90 days from the date of making such alteration, by any partner or agent of the firm to the Registrar, who shall deal with it in the manner provided in section 61.

Recording of Changes in and Dissolution of a Firm (Section 63)

A notice shall be given to the Registrar within a period of 90 days from the date of change in the constitution of a registered firm or dissolution of a registered firm by

(i) every incoming, continuing or outgoing partner **in case** where change occurs in the constitution of a registered firm, and

(ii) every person who was a partner immediately before the dissolution, or the agent of every such partner or person specially authorised in this behalf, when a registered firm is dissolved,

Notice shall specify date of such change or dissolution. Notice shall be filed long with statement relating to the firm filed under section 59.

The Registrar shall keep record of the notice by way of entry relating to the firm in the Register of Firms.

Intimation by partners of firm constituted after change: Where a change occurs in the constitution of a registered firm, all persons, who after such change are partners of the firm, shall jointly send an intimation of such change duly signed by them, to the Registrar, within a period of 90 days from the date of occurrence of such change and the Registrar shall deal with it in the manner provided by section 61.

Recording of withdrawal of a minor: When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, shall within a period of 90 days from the date of his election, give notice to the Registrar that he has or has not become a partner, and the Registrar shall record it in the Register of Firms.

Mode of Giving Public Notice (Section72)

A public notice under this Act is given:

(a) Where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 63, and by publication in the Official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates, has its place or principal place of business, and

(b) in any other case, publication in the Official Gazette, and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.

Power to Make Rules (Section 71)

Power to prescribe rules w.r.t. fee payable under the Act for sending intimation under various provisions of the Act to Registrar of Firms as well as the Forms is vested in the State Government by virtue of section 71 of the Act.

(1) Subject to the provisions of section 70A, the State Government may, by notification in the Official

Gazette, make rules prescribing the fees which shall accompany documents sent to the Registrar or which shall be paid in respect of any intimation, notice or application given to the Registrar or which shall be payable for the inspection of documents in the custody of the Registrar or for copies from the Register of Firms or which shall be paid for supply of any prescribed forms.

(Section 70 A provides that such fees shall not exceed the maximum fees specified in Schedule I.)

(2) The State Government may also make rules

(a) prescribing the form of statement submitted under sub-section (1) of section 58 and of the verification thereof;

(aa) prescribing the manner of filing an appeal under sub-section (4) of section 58;

(b) requiring statements, intimations and notices under sections 60, 61, 62 and 63 to be in prescribed form, and prescribed the form thereof;

(c) prescribing the form of the Register of Firms, and the mode in which entries relating to firms are to be made therein, and the mode in which such entries are to be amended or notes made therein;

(d) regulating the procedure of the Registrar when dispute arises;

(e) regulating the filing of documents received by the Registrar;

(f) prescribing conditions for the inspection of original documents;

(g) regulating the grant of copies;

(h) regulating the elimination of registers and documents;

(i) providing for the maintenance and form of an Index to the Register of Firms;

(j) generally, to carry out the purposes of this Chapter;

(3) All rules made under this section shall be subject to the condition of previous publication.

Reporting obligations of Society under the Societies Registration Act, 1860

A society is a nonprofit membership organization formed by seven or more members for a literary, scientific, or charitable purpose. The definition of "society" and the scope of its permissible purposes may vary somewhat based on the relevant state law, though most state laws are based on the federal Societies Registration Act of 1860. Section 20(1) of the federal Act provides that it applies to: "Charitable societies, the military orphan funds,... societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the diffusion of political education, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of Art, collections of natural history, mechanical and philosophical inventions, instruments, or designs."

List of governing body to be filed with the Registrar of Joint Stock Companies (Section 4):

Annual list of managing body to be filed Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the societies is held, or, if it rules do not provide for an annual general meeting, in the months of January, list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses and occupations of the governors, council, director, committee, or other governing body then entrusted with the management of the affairs of the society.

Charitable or Public Benefit Status

In order to obtain charitable status and therefore be eligible for tax exemption and deductible donations under the Income Tax Act (see section on Tax Law), Non-Profit Organisation (NPO) must have religious or charitable purposes according to the definition provided by the Income Tax Act 1961.

Section 2(15) of the Act states that "charitable purpose" includes:

- Poverty relief;
- Education and yoga;
- Medical relief;
- Preservation of the environment;
- Preservation of monuments or places or objects of artistic or historic interest; or
- "The advancement of any other object of general public utility." An NPO providing advisory services to other NPOs and social enterprises, for instance, could fit within this category.

With its tax benefits, charitable status enables NPOs to more effectively raise donations and receive grants from individual donors, companies, governments, and foreign organizations.

Beyond annual audits and filing of their returns, charitable NPOs are subject to few additional duties in order to maintain their tax-exempt status.

As long as an NPO is registered, it may generally seek and receive funds from local sources to further its charitable purposes without any legal constraints. An NPO may mobilize local funds in any lawful manner, including by way of soliciting donations and grants or sponsorships or organizing public fund-raising events. NPOs are obligated to issue receipts and keep proper records of such funds.

Donors in India who seek to support either domestic or foreign NPOs must ensure that the NPO is registered. If they wish to receive a deduction, they should ensure that the NPO has also registered with the Income Tax Department and can provide an 80G certificate. A tax-exempt donor organization in India must also ensure that any organization it supports has the same or similar purposes. For instance, a domestic foundation that supports education and health care may lose its tax exemption if it provides sup- port to an NPO that does not have one or both of these issues as its purpose.

Cross-Border Funding

Under the Foreign Contributions Regulations Act (FCRA) 2010, all Non-Profit Organisations in India that wish to accept multiple foreign contributions must:

- Register with the Central Government;
- Agree to accept contributions through designated banks; and
- Maintain separate books of accounts with regard to all receipts and disbursements of funds

Beyond the constraints on Indian Non-Profit Organisation acceptance of foreign funds, Non-Profit Organisations are generally not subject to limitations with regard to contact or affiliation with foreign organizations or persons. Indian NPOs are not permitted to operate internationally, however. The Income Tax Law requires that the funds of an Indian NPO be used exclusively in India. If an NPO seeks to apply funds towards activities outside of India, it must first obtain approval from the Central Board of Direct Taxes.

Compliance under the FCRA

As noted above, all organizations that receive funding from a foreign source must act in accordance with the Foreign Contributions Regulations Act (FCRA) 2010. Under the FCRA, foreign contributions include currency, securities, and articles. Funds collected by an Indian citizen in a foreign country on behalf of a Non-Profit Organisation registered in India are considered foreign contributions. Moreover, even funds received in India, in Indian currency, are considered foreign contributions if they are from a foreign source. Contributions from an expatriate Indian are not considered "foreign contributions" unless the individual has become a citizen of a foreign country. Commercial receipts are not considered foreign donations. In other words, Non-Profit Organisations may receive consultancy or other commercial receipts from foreign sources without FCRA registration and FCRA-registered NPOs may deposit commercial receipts in their domestic, non-FCRA-designated bank accounts, and such receipts are not required to be reported to the FCRA department.

The FCRA requires all organizations falling within its scope to register with the Ministry of Home Affairs (MHA). The organization may either apply for a one-time prior permission to receive funds from a single foreign source, or it may register for a five-year permit to receive unlimited foreign contributions from several foreign sources. To register with the MHA, an organization must submit an online application form (Form FC-3A) on the MHA's online portal. The Intelligence Department has a role in reviewing applications, however, and may delay the process if it has additional inquiries about a Non-Profit Organisations applicant. FCRA registration must be renewed every five years. To register under the FCRA, an organization must already be registered under an existing statute as a trust, society, or company, and have been in existence for at least three years, undertaken reasonable activities in furtherance of its charitable activities, excluding administrative costs.

Public Charitable Trusts

Three or more trustees may form and govern a public charitable trust. Such a trust may be established for a number of purposes, including poverty relief, education, medical relief, the provision of facilities for recreation, or any other objective of general public utility. Indian public trusts are generally irrevocable.

The laws governing charitable trusts vary from state to state. Most states have their own Public Trusts Act. Maharashtra State, for example, governs trusts under the Bombay Public Trusts Act 1950. The same Act is applicable in neighboring Gujarat State, with some variations. In states that do not have a Trusts Act, the federal Indian Trusts Act of 1882 applies.

The registration process for trusts varies from state to state. In states that have their own Trusts Act, a trust can register with the State Charity Commissioner. In states where there is no state Trusts Act or Charity Commissioner, the trustees may register the Deed of Trust with the office of the Registrar of Deeds or Assurances in accordance with the Indian Registration Act. The key registration document is the Deed of Trust. The Deed must specify the name of the trust, the names of its founders and trustees, the purposes of the trust, and how the trust should be governed.

Permissible Purposes

A Non-Profit Organisation stated objectives must fall within the relevant definition as described above for each form, for the purpose of registration and carrying out activities. For the purpose of charitable tax exemptions and tax deductions for donors, an NPO must pursue a "charitable purpose" according to the definition provided by the Income Tax Act 1961.

Section 2(15) of the Act 1961 states that "charitable purpose" includes:

- Relief of the poor
- Education and yoga
- Medical relief
- Preservation of the environment (including watersheds, forests and wildlife)
- Preservation of monuments or places or objects of artistic or historic interest
- The advancement of any other object of general public utility.

The Income Tax authorities govern all three NPO forms (trust, society etc) for the purpose of tax exemption and deductions. In order to enjoy certain tax benefits, NPOs must register with the Income Tax Department under certain sections of the Income Tax Act. NPOs must register under Section 12AA in order to obtain tax exemption, and under Section 80G for donors to the organization to obtain to be able to give donors tax deductions.

Additionally, the Ministry of Home Affairs regulates all three NPO forms if they receive foreign contributions. An NPO seeking to receive funds from a foreign source must apply to the Ministry under the Foreign Contributions Regulation Act (FCRA) 2010.

Public charitable trusts must benefit a large class of beneficiaries and must be for the public benefit. Moreover, trustees of public charitable trusts may not engage in self-dealing.

Reporting Obligations

Every Non-Profit Organization (NPO) registered in India is required to keep proper financial records and have them audited annually. They must file returns separately with each of the state and federal registering authorities, such as the Charity Commissioner, Income Tax Department, and Ministry of Home Affairs. NPOs do not have to regularly report to the government on their activities, though this is often required by donors.

An NPO is permitted to provide grants to individuals or institutions in any amount or proportion, at the discretion of the NPO's governing body, in order to further its objects. However, members of the governing body themselves and their families are not allowed to gain any personal benefit from such a grant, according to the Income Tax Act.

Beyond financial reporting requirements, NPOs are generally not under direct supervision of or obligation to any government authorities. NPOs are generally independent with regard to their internal governance, as well. The government has the right to regulate but not control the internal affairs of an NPO. Fines and penalties may be imposed for certain irregularities such as not filing audit returns in time. NPOs may also be subject to random financial or tax assessments by the regulatory authorities, at their discretion.

Financial Reporting of Non-Corporate Entities & Applicability of Accounting Standards

Accounting Standards contain wholesome principles of accounting and can be viewed as standardised language of business to communicate high quality information in financial statements based on principles of transparency, consistency and also comparability and reliability. Accounting standards are a set of principles which entities follow while preparing the financial statements providing a standardised way of describing the entity's financial position and financial performance.

Following Accounting Standards are applicable wholly or partially to non-corporate entities as per their activities:

AS1: Disclosure of Accounting Policies

AS2: Valuation of Inventories

AS 3: Cash Flow Statements

AS 4: Contingencies and Events Occurring After the Balance Sheet Date

AS 5: Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies

AS 7: Construction Contracts (Revised 2002)

AS 9: Revenue Recognition

AS 10: Property, Plant & Equipment

AS 11: The Effects of Changes in Foreign Exchange Rates (Revised 2003)

AS12: Accounting for Government Grants

AS 13: Accounting for Investments

AS 14: Accounting for Amalgamations

AS 15: Employee Benefits

AS 16: Borrowing Costs

AS 17: Segment Reporting

AS 18: Related Party Disclosures

AS 19: Leases

AS 20: Earnings Per Share

AS 21: Consolidated Financial Statements

AS 22: Accounting for Taxes on Income

AS23: Accounting for Investments in Associates in Consolidated Financial Statements

AS 24: Discontinuing Operations

AS 25: Interim Financial Reporting

AS 26: Intangible Assets

AS 27: Financial Reporting of Interests in Joint Ventures

AS28: Impairment of Assets

AS 29: Provisions, Contingent Liabilities and Contingent Assets.

Applicability of Accounting Standards

Applicability of Accounting Standards.	Accounting Standards apply in respect of any entity engaged in commercial, industrial or business activities.
Exemption from complying Accounting Standards.	Exclusion of an entity from the applicability of the Accounting Standards is permissible only if no part of the activity of such entity is commercial, industrial or business in nature.
Applicability of AS if only small portion of business is commercial, industrial or businees in nature.	Even if where a very small proportion of the activities of an entity were considered to be commercial, industrial or business in nature, the Accounting Standards would apply to all its activities including those, which are not commercial, industrial or business in nature.

ICAI- Technical Guide on Financial Statements of Non-Corporate Entities

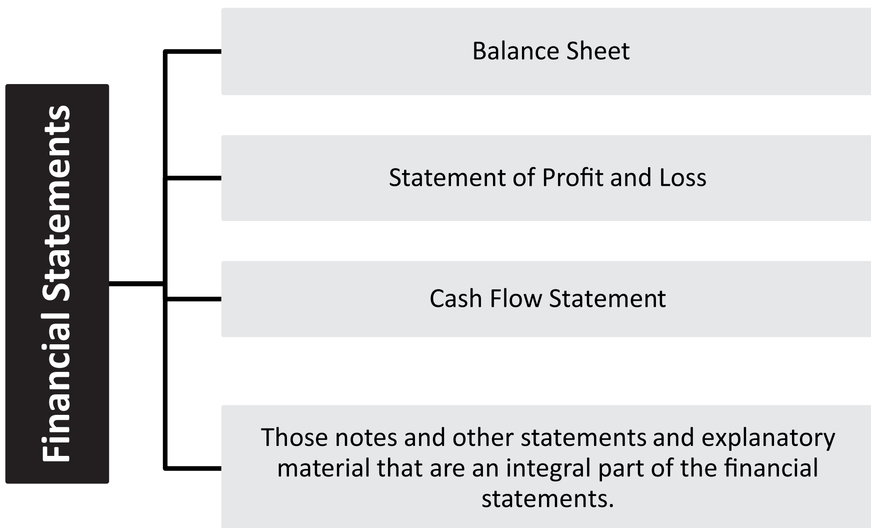
The Institute of Chartered Accountants of India (ICAI), issued Technical Guide on Financial Statements of Non-Corporate Entities

The objective of this Technical Guide is

(i) to deal with applicability of Accounting Standards to the non-corporate entities and

(ii) to prescribe format of the financial statements for the non-corporate entities.

The objective of financial statements is to provide information about the financial position, performance and cash flows of an entity. A complete set of financial statements normally includes:



Technical guidance note aims to provide a standard format of Balance sheet and P& L Account for non-company entities which constitutes major part of the business world of India and are actually presenting financial statements in a format what is comfortable or what they feel is required by a particular statute or by a bank requirement, whatever is the requirement they are try to comply that alone. There is no standard format by which there is comparability of statements. Technical Guide Note provides for four fundamentals i.e. comparability, transparency, completeness and unbiasedness while preparing financial statements of Non-Corporate Entities.

Financial Statements form the backbone for financial planning, analysis, benchmarking and decision making. If Non-Corporate entities follow high quality reporting framework, its financial statements faithfully represent its transactions and are more reliable, complete and comparable. Technical guide note is only recommendatory.

LESSON ROUND-UP
• Besides Financial Reporting, non-corporate entities such as Partnership Firms whether Registered Partnership Firms or Unregistered Partnership Firms, Society registered under any law for the time being in force, Trust (private or public) registered or unregistered under any law for the time being in force. are also required to submit non- financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.

- A statement for the registration of a firm shall be sent or delivered to the Registrar within a period of one year from the date of constitution of the firm, effected by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated.
- A society is a nonprofit membership organization formed by seven or more members for a literary, scientific, or charitable purpose. The definition of "society" and the scope of its permissible purposes may vary somewhat based on the relevant state law, though most state laws are based on the federal Societies Registration Act of 1860.
- In order to obtain charitable status and therefore be eligible for tax exemption and deductible donations under the Income Tax Act (see section on Tax Law), Non-Profit Organisation (NPO) must have religious or charitable purposes according to the definition provided by the Income Tax Act 1961.
- For non-corporate entities, if audit of financial statements is required under a statute (e.g. tax audit under the Income Tax Act,1961), the Auditor shall conduct the audit and issue the Auditors' Report in accordance with the Standards on Auditing issued by the ICAI.
- Besides Financial Reporting, non-company entities are also required to submit non- financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.
- Beyond financial reporting requirements, NPOs are generally not under direct supervision of or obligation to any government authorities. NPOs are generally independent with regard to their internal governance, as well. The government has the right to regulate but not control the internal affairs of an NPO. Fines and penalties may be imposed for certain irregularities such as not filing audit returns in time. NPOs may also be subject to random financial or tax assessments by the regulatory authorities, at their discretion.

TEST YOURSELF

(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)

1. Define non-corporate entities
2. What are the non-financial reporting requirement applicable to Societies under the Societies Registration Act, 1860?
3. What are the non-financial reporting requirement applicable to partnership firm under the Partnership Act, 1932?
4. State disclosure requirement under FCRA.
5. Enumerate the Accounting Standard applicable to non-corporate entities.

REFERENCES

- Scheme of Accounting Standards for Non-Corporate Entities issued by ICAI applicable in respect of accounting periods commencing on or after April 1, 2020.
- Technical Guide Note issued by ICAI on financial statements of non-corporate entities
- India-Philanthropy Law Report, 2021