CAs must rely on audited LLP financials: ICAI

Chartered Accountants (CAs) will have to use audited financials of non-corporates, including limited liability partnerships (LLPs), to certify their adjusted total income figures so as to help them pay the mandatory alternate minimum tax (AMT). According to the latest guidance note released by the Institute of Chartered Accountants (ICAI), in case a CA is not satisfied with the prima facie correctness of the total income, as furnished by the non-corporate entity, he will have to provide either a disclaimer of opinion or a qualified report.

Since 2012, it is mandatory for non-corporates/LLPs pay AMT at the rate of 18.5% if their adjusted total income exceeds R20 lakh.

It is also mandatory for such entities to obtain a certificate of adjusted total income from a qualified CA, who will furnish these details in a prescribed format. The adjusted total income is qualified in law as total income of the assessees before the deductions are claimed under any section.

There are over 12,500 registered LLPs in India as on December 31, 2012, and all those LLPs whose turnover exceeds R40 lakh need to get their accounts audited.

As per provisions of the income tax laws, where the regular income tax payable by a LLP for a particular financial year is less than the corresponding AMT, such AMT shall be deemed to be their income tax liability.

According to a senior CA, “The note will help accountants in cases pertaining to unaudited accounts of a non-corporate assessee. For example, in respect of an individual having income from a house, the accountant will only need to verify the rent from rent receipts, municipal taxes from actual payment receipts, the amount of interest paid on loan taken on house property from interest certificates issued by the banks. However, the CA is not required to verify the fair rent of the property, where the annual value of the deemed let out property is to be computed.”

As per the guidance note, the provisions of the income tax laws on AMT may not apply on LLPs that are registered under the laws of a foreign country. “Those foreign LLPs which are not registered under any foreign laws and falling into the definition of the term 'firm' as per the Indian Partnership Act, 1932, will be subject to AMT,” said a senior member of ICAI's direct tax committee.

An LLP, as per definition given by the corporate affairs ministry, is a corporate business vehicle that enables professional expertise and entrepreneurial initiative to combine and operate in flexible, innovative and efficient manner, providing benefits of limited liability while allowing members the flexibility for organising internal structure as a partnership.

(Financial Express)