



The Companies Act 2013

Enlightening Nation

E-newsletter

MAY, 2016

About the E-newsletter

Dear Users,

To keep you updated about the latest notifications, circulars & orders issued during the month, thecompaniesact2013.com present herewith its monthly e-newsletter. This is the issue of the May month comprising contemporary articles & monthly amendments.

The notion is to render all the updates in a compiled format and serve a better pavement for easy accessibility.

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CHANGES IN THE AUDITORS REPORT

FOR THE F.Y.2015-16



Applicability Of Auditor's Report:

The applicability as per CARO 2016 is same as CARO 2015, except that CARO, 2016 is not applicable on private limited company, not being a subsidiary or holding of a public company, when its:

- i. Total revenue, including revenue from discontinuing operations, does not exceed Rs. 10 crore.
- ii. Paid up capital and reserves and surplus does not exceed Rs. 1 crore as at balance sheet date; and
- iii. Total borrowings from banks or financial institution at any point of time during financial year does not exceed Rs. 1 crore; and

Also, CARO, 2016 shall not apply to the auditor's report on consolidated financial statements like CARO,2015.

Reporting Requirements:

Some of the reporting requirements are same in CARO, 2016 and CARO, 2015. But there are few differences between CARO, 2016 and CARO, 2015 which are as follows:

I. Additional matters to be reported as per CARO, 2016

1. Auditor should report whether title deeds of immovable properties are held in the name of the company. If not, provide details thereof.[**Clause 3 (i) (c) of CARO, 2016**]
2. Auditor should report whether the terms and conditions of the grant of loans are not prejudicial to the company's interest ,If company has granted any loans, secured or unsecured to companies, firms or other parties covered by clause (76) of Section 2 of the Companies Act, 2013. [**Clause 3 (ii)(a) of CARO, 2016**]
3. Auditor should report in respect of loans, investment and guarantees, whether provisions of section 185 and 186 of the Companies Act, 2013 have been complied with. If not, details should be provided. [**Clause 3(iv) of CARO, 2016**]
4. Auditor should report whether managerial remuneration has been paid / provided in accordance with the requisite approvals mandated by the provisions of section 197 read with Schedule V to the Companies

Act? If not, state the amount involved and steps taken by the company for securing refund of the same. **[Clause 3 (xi) of CARO, 2016]**

5. Auditor should report whether the Nidhi Company has complied with the Net Owned Fund in the ratio of 1: 20 to meet out the liability and whether the Nidhi Company is maintaining 10% liquid assets to meet out the unencumbered liability. **[Clause 3 (xii) of CARO, 2016]**

6. Auditor should report whether all transactions with the related parties are in compliance with Section 188 and 177 of Companies Act, 2013 where applicable and the details have been disclosed in the Financial Statements etc. as required by the accounting standards and Companies Act, 2013. **[Clause 3 (xiii) of CARO, 2016]**

7. Auditor should report whether the company has made any preferential allotment / private placement of shares or fully or partly convertible debentures during the year under review and if so, as to whether the requirement of Section 42 of the Companies Act, 2013 have been complied and the amount raised have been used for the purposes for which the funds were raised. If not, provide details thereof. **[Clause 3 (xiv) of CARO, 2016]**

8. Auditor should report whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether provisions of Section 192 of Companies Act, 2013 have been complied with. **[Clause 3 (xv) of CARO, 2016]**

II. Modification in reporting requirements as per CARO, 2016 from CARO,2015

1. Auditor should report whether moneys raised by way of public issue/ follow-on offer (including debt instruments) and term loans were applied for the purposes for which those are raised. If not, the details together with delays / default and subsequent rectification, if any, as may be applicable, be reported. **[Clause 3(ix) of CARO, 2016]**

2. Auditor should report whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered by clause (76) of Section 2 of the Companies Act, 2013. If so, if overdue amount is more than rupees five lakhs, whether reasonable steps have been taken by the company for recovery of the principal and interest. **[Clause 3 (ii)(c) of CARO, 2016]**

III. Deletion in reporting requirements from CARO, 2015

1. Auditor should report whether the procedures of physical verification followed by the management is reasonable and adequate in relation to the size of the company and the nature of its business. If not, the inadequacies should be reported. **[Clause 3 (ii) (b) of CARO, 2015]**

2. Auditor should report is there an adequate internal control system commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods and services. Whether there is a continuing failure to correct major weaknesses in internal control system. **[Clause 3(iv) of CARO, 2015]**

3. Auditor should report whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made there under has been transferred to such fund within time.**[Clause 3(vii)(c) of CARO, 2015]**

4. Auditor should report whether in case of a company which has been registered for a period not less than five years, its accumulated losses at the end of the financial year are not less than fifty per cent of its net worth and whether it has incurred cash losses in such financial year and in the immediately preceding financial year. **[Clause 3(viii) of CARO, 2015]**

5. Auditor should report whether the company has given any guarantee for loans taken by others from bank or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company. [Clause 3(x) of CARO, 2015]

READ THE CARO, 2016 ISSUED BY MINISTRY OF CORPORATE AFFAIRS IN DETAIL

- [S.O.\(E\):-Companies \(Auditor's Report\) Order, 2016,Dated 29.03.2016](#)

FORMAT FOR AUDITORS REPORT along with CARO for F.Y. 2015-16

INDEPENDENT AUDITOR'S REPORT

TO THE MEMBERS OF XYZ COMPANY LIMITED

Report on the Standalone Financial Statements

We have audited the accompanying (standalone) financial statements of **XYZ COMPANY LIMITED** ("the Company"), which comprise the Balance Sheet as at 31st March, 2016, the Statement of Profit and Loss, the Cash Flow Statement for the year then ended, and a summary of the significant accounting policies and other explanatory information.

Management's Responsibility for the (Standalone) Financial Statements

The Company's Board of Directors is responsible for the matters stated in Section 134(5) of the Companies Act, 2013 ("the Act") with respect to the preparation of these standalone financial statements that give a true and fair view of the financial position, financial performance and cash flows of the Company in accordance with the accounting principles generally accepted in India, including the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014. This responsibility also includes maintenance of adequate accounting records in accordance with the provisions of the Act for safeguarding of the assets of the Company and for preventing and detecting frauds and other irregularities; selection and application of appropriate accounting policies; making judgments and estimates that are reasonable and prudent; and design, implementation and maintenance of adequate internal financial controls, that were operating effectively for ensuring the accuracy and completeness of the accounting records, relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these (standalone) financial statements based on our audit.

We have taken into account the provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made there under.

We conducted our audit in accordance with the Standards on Auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and the disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers **internal financial control** relevant to the Company's preparation of the financial statements that give a true and Fair view in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of the accounting estimates made by the Company's Directors, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion on the (*standalone*) financial statements.

Opinion

In our opinion and to the best of our information and according to the explanations given to us, the aforesaid (*standalone*) financial statements give the information required by the Act in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India, of the state of affairs of the Company as at 31st March, 2016, and its profit/loss and its cash flows for the year ended on that date.

Report on Other Legal and Regulatory Requirements

As required by the Companies (Auditor's Report) Order, 2016 (the Order) issued by the Central Government in terms of Section 143(11) of the Act, we enclose in the "**Annexure A**" a statement on matters specified in paragraph 3 & 4 of the said order.

As required by Section 143(3) of the Act, we report that:

- a) We have sought and obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of our audit.
- b) In our opinion, proper books of account as required by law have been kept by the Company so far as it appears from our examination of those books
- c) The Balance Sheet, the Statement of Profit and Loss, and the Cash Flow Statement dealt with by this Report are in agreement with the books of account.
- d) In our opinion, the aforesaid *standalone* financial statements comply with the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014.
- e). On the basis of the written representations received from the directors as on 31st March, 2016 taken on record by the Board of Directors, none of the directors is disqualified as on 31st March, 2016 from being appointed as a director in terms of Section 164 (2) of the Act.
- f). With respect to the adequacy of the **internal financial controls** over financial reporting of the Company and the operating effectiveness of such controls, refer to our separate Report in "**Annexure B**".
- g) With respect to the other matters to be included in the Auditor's Report in accordance with Rule 11 of the Companies (Audit and Auditors) Rules, 2014, in our opinion and to the best of our information and according to the explanations given to us:
 - i. The Company has disclosed the impact of pending litigations on its financial position in its financial statements or;
the Company does not have any pending litigations which would impact its financial position
 - ii. The Company has made provision, as required under the applicable law or accounting standards, for material foreseeable losses, if any, on long-term contracts including derivative contracts –or ;
the Company did not have any long-term contracts including derivative contracts for which there were any material foreseeable losses.

iii There has been no delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the Company or;

Following are the instances of delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the Company or;

There were no amounts which were required to be transferred to the Investor Education and Protection Fund by the Company.

For XYZ & Co

Chartered Accountants

(Firm's Registration No.)

(Signature)

Name of partner

(Designation)

(Membership No. XXXXX)

Place Of Signature:

Date:

“Annexure A” to the Independent Auditors’ Report

In terms of the information and explanations sought by us and given by the company and the books and records examined by us in the normal course of audit and to the best of our knowledge and belief, we state that: –

1 (a) The company has maintained proper records showing full particulars including quantitative details and situation of fixed assets.

(b) As explained to us, all the assets have not been physically verified by the management during the year but there is a regular programme of verification which, in our opinion, is reasonable having regard to the size of the company and the nature of its assets. No material discrepancies were noticed on such verification.

(c). The company does not have any immoveable property, or

The title deeds of immoveable properties are held in the name of the company, or

The title deeds of immoveable properties are not held in the name of the company as per details given here under

2.(i)As explained to us, the inventory has been physically verified at reasonable intervals during the year by the management. In our opinion, the frequency of verification is reasonable.

(ii)The discrepancies noticed on verification between the physical stocks and the book records were not material. (The discrepancies have been properly dealt with in the books of accounts)

3. As explained to us, the company had not granted any loans, secured or unsecured, to any companies, firms, Limited Liability Partnerships or other parties covered in the register maintained under section 189 of the Act., or

The company had granted loan to companies, firms, Limited Liability Partnerships or other parties covered in the register maintained under section 189 of the Act.

a) The terms and conditions of the grant of such loans are not prejudicial to the company’s interest.

b) No Schedule of repayment of principal and payment of interest has been stipulated.

c) No Schedule of repayment of principal and payment of interest has been stipulated and therefore the question of overdue amounts does not arise. Though Company has informed that the reasonable steps have been taken for recovery of the principal and interest.

4. In our opinion and according to the information and explanations given to us, the company has complied with the provisions of section 185 and 186 of the Companies Act, 2013 In respect of loans, investments, guarantees, and security.

5. The Company has not accepted any deposits from the public and hence the directives issued by the Reserve Bank of India and the provisions of Sections 73 to 76 or any other relevant provisions of the Act and the Companies (Acceptance of Deposit) Rules, 2015 with regard to the deposits accepted from the public are not applicable.

6. It has been explained to us that the maintenance of cost records has not been prescribed under section 148(1) of the Act, or

We have broadly reviewed the books of accounts and records maintained by the company pursuant to the rules prescribed under section 148(1) of the Act for maintenance of cost records in

respect of _____ and are of the opinion that, prima facie, the prescribed accounts and records have been made and maintained. However, we have not made a detailed examination of records.

7 (a) According to information and explanations given to us and on the basis of our examination of the books of account, and records, the Company has been generally regular in depositing undisputed statutory dues including Provident Fund, Employees State Insurance, Income-Tax, Sales tax, Service Tax, Duty of Customs, Duty of Excise, Value added Tax, Cess and any other statutory dues with the appropriate authorities. According to the information and explanations given to us, no undisputed amounts payable in respect of the above were in arrears as at March 31, 2016 for a period of more than six months from the date on when they become payable.

b) According to the information and explanation given to us, there are no dues of income tax, sales tax, service tax, duty of customs, duty of excise, value added tax outstanding on account of any dispute.

8. Based on our audit procedures and according to the information and explanations given to us, we are of the opinion, the company has not defaulted in repayment of dues to a financial institution, bank, Government or dues to debenture holders, or

Based on our audit procedures and according to the information and explanations given to us, we are of the opinion, the company has defaulted in repayment of dues to a financial institution, bank, Government or dues to debenture holders. The detail of period and the amount of default as ascertained by the management is as follows: –

9. The company has not raised moneys by way of initial public offer or further public offer (including debt instrument) and term loans, or

The company has not raised moneys by way of initial public offer or further public offer (including debt instrument). However the moneys were raised by way of term loans which were applied for the purposes for which those were raised.

10. Based upon the audit procedures performed and according to the information and explanations given to us, no fraud by the company or any fraud on the company by its officers or employees has been noticed or reported during the course of our audit, that causes the financial statements to be materially misstated.

11. The Managerial remuneration has been paid or provided in accordance with the requisite approvals mandated by the provisions of section 197 read with Schedule V to the Companies Act, or ;No Managerial remuneration has been paid or provided.

12. The company is not a Nidhi Company hence this clause is not applicable.

13. Based upon the audit procedures performed and according to the information and explanations given to us, All transactions with related parties are in compliance with sections 177 and 188 of Companies Act, 2013 where applicable and the details have been disclosed in the Financial statements etc. as required by the applicable accounting standards.

14. The company has not made any preferential allotment or private placement of shares or fully or partly convertible debentures during the year under review, or

The company has made preferential allotment or private placement of shares or fully or partly convertible debentures during the year under review. The requirement of Section 42 of the Companies Act, 2013 have been complied with and the amounts raised have been used for the purposes for which the funds were raised.

15. The company has not entered into any non-cash transactions with directors or persons connected with him, or; the company has entered into non-cash transactions with directors or persons connected with him. The provisions of section 192 of Companies Act, 2013 have been complied with.

16. The company is not required to be registered under section 45-IA of the Reserve Bank of India Act, 1934.

For XYZ & Co

Chartered Accountants

(Firm's Registration No.)

Signature

(Name of partner)

(Designation)

(Membership No. XXXXX)

Place of Signature:

Date:



NOTIFICATIONS

A. G.S.R.....(E) Notification regarding Companies (Registration Offices and Fees) Amendment Rules 2016

Dated 06.05.2016

In exercise of the powers conferred by section 399 read with subsections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registration Offices and Fees) Rules, 20'14, namely: -

1. (1) These rules may be called the Companies (Registration Offices and Fees)Amendment Rules, 2016.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Registration Offices and Fees) Rules, 2014,
 - (i) For Form No. GNL-1 and Form No. GNL-4, shall respectively be substituted.

B. S.O.(E) notification regarding Special courts under section 435 of Companies Act, 2013

Dated 18.05.2016

In exercise of the powers conferred by sub-section (1) of section 435 of the Companies Act, 2013 (18 of 2013), the Central government hereby, after obtaining the concurrence of the respective Chief justices of the High Courts, designates the following Courts mentioned in the Table below as Special Courts for the purposes of trial of offences Punishable under the Companies Act, 2013 with imprisonment of two years or more in terms of section 435 of the Companies Act, 2013, namely:-

TABLE

Sl. No.(1)	Existing Court(2)	Jurisdiction As Special Court (3)
1	Courts Of Additional Special Judge, Anti-Corruption At Jammu And Srinagar	State Of Jammu And Kashmir
2	Presiding Officers Of Court No's. 37 And 58 Of The City Civil And Sessions Court, Greater Mumbai	State Of Maharashtra

3	Court Of Principal District And Sessions Judge, Union Territory Of Dadra And Nagar Haveli At Silvassa.	Union Territories Of Dadra And Nagar Haveli And Daman And Diu
4	Court Of District Judge-L And Additional Session Judge, Panaji.	State Of Goa
5	Court Of Principal District And Sessions Judge, Ahmedabad (Rural), Situated At Mirzapur, Ahmedabad.	State Of Gujarat
6	9th Additional Sessions Judge, Gwalior ,Madhya Pradesh	State Of Madhya Pradesh
7	Court Of Additional District And Session Judge, Port Blair, Andaman And Nicobar Islands.	Union Territory Of Andaman And Nicobar Islands
8	2nd Special Court, Calcutta.	State Of West Bengal

2. The aforesaid Courts mentioned in column number (2) shall exercise the jurisdiction as Special Courts in respect of jurisdiction mentioned in column number (3)

C. S.O.(E) Notification regarding commencement of section 2(29), sections 435 to 438 and 440 of Companies Act, 2013

Dated 18.05.2016

S.O..... (E)-In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013 (18 of 2013), the Central government hereby appoints the 18th day of May, 2016 as the date on which the provisions of clause (iv) of sub-section (29) of section 2, sections 435 to 438 (both sections inclusive) and section 440 of the said Act shall come into force.

D. G.S.R. 540(E) Notification regarding Companies (Corporate Social Responsibility Policy) Rules, 2014

Dated 23.05.2016

G.S.R. 540(E).—In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:—

1. Short title and commencement. –

(1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, for sub-rule (2), the following sub-rule shall be substituted, namely:—
- “(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through
- (a) a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or
 - (b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature :
- Provided that- if, the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects; and the company has specified the projects or programs to be undertaken, the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism”.



CIRCULARS

A. General Circular No.5/2016

DATED 16.05.2016

Subject: Clarification with regard to provisions of Corporate Social Responsibility under section 135 of the Companies Act, 2013

In continuation to this Ministry's General Circular 01 of 2016 dated 12.01.2016, it is clarified that companies, while undertaking Corporate Social Responsibility activities under provision of the Companies Act, 2013, shall not contravene any other prevailing laws of the land including Cigarettes and Other Tobacco Products Act (COTPA), 2003.

This issues with the approval of Competent Authority.

B. General Circular No.6/2016

DATED 16.05.2016

Subject: Relaxation of additional fees and extension of last date of filing of various e-Forms under the Companies Act – reg.

In continuation of this Ministry's 'general Circular No.03/2016 doted 12.04.2016, keeping in view of requests received from various stakeholders, it has been decided lo extend the period for which the one time wavier of additional fees is applicable to all e-forms which ore due for filing by companies between the 25th March 2016 up to 31st May 2016 as well as extend the last date for filing such documents and availing the benefit of waiver to 10.06.2016.

This issues with the approval of the Competent Authority.

C. General Circular No.7/2016

DATED 31.05.2016

Subject: Relaxation of additional fees and extension of time for filing of e-Forms by the Companies under Companies Act,2013 and for filing of Annual Return (Form 11) by the LLP8 under the Limited Liability Partnership Act,2008.

In continuation of this Ministry's General Circular No.03/2016 dated I2.04.2016 and General Circular No.06 /2016 dated 16.05.2016, keeping in view requests received from vadous stakeholders, it has been decided to extend the period for which the one time waiver of additional fees is applicable to all e-forms which are due for filing by companies between 25.O3.2016 to

30.06.2016 as well as extend the last date for filing such documents and availing the benefit of waiver to 10.07.2016

2. Further, in view of the requests received from stakeholders, it has been decided to extend the time limit prescribed under the provisions of section 35 of LLP Act, for filing of Form 11 of LLIJ in respect of Financial Year ending on 31.3.2016 upto 30.06.2016, without additional fees.

3. This issues with the approval of competent authority.

LATEST UPDATES ON thecompaniesact2013.com

- [S.O. \(E\) dated 29.04.2016,Sub-section \(1\) of section 458 of the companies Act\(18 of 2013\)](#)
- [SEBI/HO/CFD/DCR1/CIR/P/2016/52:Revised Formats under SEBI \(Substantial Acquisition of Shares and Takeovers\) Regulations, 2011,dated 02.05.2016](#)
- [News Highlights: MCA completes consultation for norms on revival of sick companies](#)
- [G.S.R.\(E\) dated 06.05.2016 Companies \(Registration Offices and Fees\) Amendment Rules 2016](#)
- [General Circular No.05/2016:Clarification with regard to provisions of Corporate Social Responsibility under section 135 of the Companies Act, 2013.](#)
- [General Circular No.06/2016:Relaxation of additional fees and extension of last date of filing of various e-Forms under the companies Act.](#)
- [News highlights: Ministry of corporate affairs cracking down on those who are directors at more than 20 companies](#)
- [S.O.\(E\) dated 18.05.2016,commencement of section 2\(29\), sections 435 to 438 and 440 of Companies Act, 2013](#)
- [S.O.\(E\) dated 18.05.2016,special courts under section 435 of Companies Act, 2013](#)
- [G.S.R 540\(E\) dated 23.05.2016,Companies \(Corporate Social Responsibility Policy\) Rules, 2014](#)
- [News highlights: SEBI to draft proposals on high frequency trading soon](#)
- [SEBI CIRCULAR:SEBI/ LAD-NRO/GN/2016-17/001,Dated 25.05.2016,SECURITIES AND EXCHANGE BOARD OF INDIA \(LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS\) \(AMENDMENT\) REGULATIONS, 2016](#)
- [SEBI CIRCULAR:CIR/CFD/CMD/56/2016 Dated 27.05.2016,Disclosure of the Impact of Audit Qualifications by the Listed Entities](#)

- [General Circular No.07/2016,dated 31.05.2016,Relaxation of additional fees and extension of time and filing of e-Forms by the Companies under Companies Act, 2013 and for filing of Annual Return \(Form 11\) by the LLPs under the Limited Liability Partnership Act, 2008](#)
- [G.S.R Notification dated 31.05.2016,The Companies \(Authorised to Register\) Amendment Rules, 2016](#)

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