

## Notifications as on 30<sup>th</sup> April, 2019

Ministry of Corporate Affairs (MCA) vide Notification dated 30<sup>th</sup> April, 2019 has notified following notifications

### **1. E-Form DPT-3** ( Form is attached herewith for your ready reference)

Vide Notification No. G.S.R 341 ( E ) dated 30<sup>th</sup> April, 2019 MCA had amended Rule 16A ( 3 ) of the Companies (Acceptance of Deposits) Rules, 2014 , which reads that

:

- (a) the due date of **data** of receipt of money or borrowings to be given by each company in Form DPT 3 **from 1<sup>st</sup> April, 2014 to 31<sup>st</sup> March 2019** (earlier the same was from 1<sup>st</sup> April, 2014 to 22<sup>nd</sup> January 2019) and
  - (b) also amended the **date of filing** Form DPT 3 from 90 days from 22<sup>nd</sup> January 2019 to 90 days from 31<sup>st</sup> March 2019 that is **by 29<sup>th</sup> June 2019**
1. Details of all outstanding receipt of money or loan which are either Deposit or exempted Deposit.
  2. Applicability to company: e-Form DPT-3 is required to be filed by all the companies (Private, Public, OPC, etc.) other than a Government Company, a Banking Company, a Non-Banking Financial Company and a Housing Finance Company.

**Note: Company which has no outstanding receipt of money as on 31<sup>st</sup> March, 2019, is also required to file form DPT-3 as NIL Return of Deposit.**

### **2. E-Form MSME-I** ( Form is attached herewith for your ready reference)

MCA vide General Circular No. 01/2019 dated 21<sup>st</sup> February 2019 had extended the last date of **filing of** (Initial Return) in Form MSME-I as 30 days from the date of deployment of e-Form MSME-I on MCA website that is on or before **30<sup>th</sup> May 2019**.

**(a) Initial Return :** On 1<sup>st</sup> May 2019 Form MSME-I has been deployed on MCA website and hence all companies which has outstanding payment as on 22<sup>nd</sup> January 2019 to Small or Micro Enterprises, exceeding 45 days from the date of Acceptance or Deemed Acceptance of Goods or Services are required to file this Initial Return in MSME-I .

**(b) Regular half yearly return** to be filed by every company which avails services or goods from Small or Micro Enterprises and whose payment remain outstanding beyond 45 days from the Date of Acceptance or Date of Deemed Acceptance

- (i) for the period April to September ----- on /before 31<sup>st</sup> October every year and
- (ii) for the period October to March----- on /before 30<sup>th</sup> April every year

**Note: Company which has no outstanding payment toward any MSME exceeding 45 days as on 22<sup>nd</sup> January, 2019 is not required to file form MSME-I**

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**3.E-Form DIR-3 KYC (Director KYC):***The said Form DIR – 3KYC is yet to be made available on the portal of MCA.*

MCA Vide Notification No. G.S.R 339(E ) dated 30<sup>th</sup> April, 2019 had amended Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014 , which reads that every individual who has been allotted a Director Identification Number (DIN) as on 31st March of a Financial Year shall submit e-Form DIR 3 KYC to MCA on or before 30<sup>th</sup> June of the immediate next financial year.

Hence all Directors who has DIN as on 31<sup>st</sup> March 2019 need **to file DIR 3 KYC by 30<sup>th</sup> June 2019 and then every 30<sup>th</sup> June in next financial year.**

**4. E-Form CHG 1, CHG 8 and CHG -9 and filing fees for the same :**

*The new forms will be substituted wef 1<sup>st</sup> August 2019*

MCA had also notified the Companies (Registration of Charges) Amendment Rule, 2019 and amended **Rule 3, 4 and 12** of the Companies (Registration of Charges) Rules, 2014(hereinafter referred to as “Original Rules”).

1. **In Rule 3** of the Original Rules, Sub-rule (2) and (3) are substituted and details are as under:

(a) The Charge is required to be created in time as per section 77 (1) read with section 79, that is in 30 days of its creation or modification and with the approval of RoC the Charge can be filed in 300 days from the date of creation/ modification, if the Charge is created/ modified before the Companies (Amendment) Ordinance, 2018 ( which was effective from 2<sup>nd</sup> Nov 2018) and if the same is filed after the Companies (Amendment) Ordinance, 2018 (that is after 2<sup>nd</sup> Nov 2018), it can be filed in 60 days from the date of creation/modification, by filing additional fees.

**However, after 30<sup>th</sup> April, 2019 amendment by MCA,** if there is delay in filing the Charge the same can be **filed with additional fees or advalorem fees** as prescribed in the Companies (Registration Offices and Fees) Rules, 2014 (mentioned in the table below in **Point 5** below )

(b) Where the company fails to register the charge as referred above and the registration is effected **on the application of the charge-holder**, such charge-holder shall be entitled to recover from the company the amount of any fees or additional fees or **advalorem fees paid by him** 'to the Registrar for the purpose of registration of charge. This is in line with the provisions of section 78 of the CA 2013.

**However, after 30<sup>th</sup> April, 2019 amendment by MCA,** the Charge can be registered by Charge Holder by paying **any fees, additional fees or advalorem fees.**

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2. **Rule 4** of the Original Rules is substituted as follow :

**Application to Registrar.-** ( earlier it was **Condonation of Delay by Registrar**)

- (1) The Registrar may, on being satisfied that the company had sufficient cause for not filing the particulars and instrument of charge, if any, within a period of 30 days from the date of creation or modification or as per first proviso (300 or 60 days ) and clause (b) of the second proviso to section 77 (1) ( 60 days with payment of advalorem fees), **allow the registration of Charge after 30 days** but within the period as specified in the said provisos, on **payment of fee, additional fee or advalorem fee**, as may be applicable, as prescribed in the Companies (Registration Offices and Fees) Rules, 2014. ( mentioned in the table below in **Point 5** below )
- (2) The **application to RoC shall be made in Form No. CHG-1 & Form No.CHG-9** supported by a declaration from the company signed by its company secretary or a director that such belated filing shall not adversely affect the rights of any other intervening creditors of the company.

3. **Rule 12** of the Original Rules is substituted as follow :

**Rectification in register of charges on account of omission or misstatement of particulars in charge previously recorded and extension of time in filing of satisfaction of charge.**(earlier it was **condonation of delay and rectification of Register of Charges**)

The Central Government ( powers are with Regional Director) may on an application filed in Form No. CHG-8 in accordance with section 87 (**on such terms and conditions**)-

- (a) direct rectification of the omission or misstatement of any particulars, in any filing, previously recorded with the Registrar with respect to any charge or modification thereof, or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,
- (b) direct extension of time for satisfaction of charge, if such filing is not made within a period of 300 days from the date of such payment or satisfaction." .

**Note: Now the delay is not condoned by Central Government which was in Rule 12 earlier.**

**5. Fees for filing Charge Documents**(as per the Companies ( Registration Offices and Fees) Third Amendment Rules, 2019 )

MCA vide Notification No. G S R 340 (E ) dated 30<sup>th</sup> April, 2019 has notified the Companies Registration Offices and Fees) Third Amendment Rules, 2019) and amended the Original the Companies (Registration Offices and Fees) Rules 2014 as follow:

1. In the Companies (Registration Offices and Fees) Rules 2014, **in Annexure** , in **item I in sub-item (B)**, where additional fees are prescribed for delay in filing in third column, read as **“Forms including Charge Documents”**, now with this amendment, it will be read as **“Forms Excluding Charge Documents”**
2. In the Companies (Registration Offices and Fees) Rules 2014, **in Annexure** , after sub-item **(D), sub-item (E) – Fees for filing charge documents** is inserted which is as follow :

**E. – Fees for filing charge documents**

- (a) charges created or modified **before the 2<sup>nd</sup> November, 2018**, and allowed to be filed within a period of 300 days of such creation or 6 months from **the 2<sup>nd</sup> November, 2018**, as the case may be, the following additional fees shall be payable:-

Sl. No.	Period of delay	Additional Fee applicable
1.	Up to 30 days	2 times of normal fees
2.	More than 30 days and up to 60 days	4 times of normal fees
3.	More than 60 days and up to 90 days	6 times of normal fees
4.	More than 90 days and up to 180 days	10 time of normal fees
5.	More than 180 days	12 time of normal fees

- (b) For the charges created or modified **on or after the 2<sup>nd</sup> November, 2018:-**

(A) The **following additional fees or advalorem fees**, as the case may be, shall be payable up to **31<sup>st</sup> July, 2019**, by all companies:-

Sl. No.	Period of delay	Additional/Advalorem Fees applicable
1.	Up to 30 days	2 times of normal fees
2.	More than 30 days and up to 60 days	4 times of normal fees
3.	More than 60 days and up to 90 days	6 times of normal fees

(B) The following **additional fees or advalorem fees** as the case may be, shall be payable **with effect from 1<sup>st</sup> August, 2019:-**

Sl.No.	Period of delay	Small Companies and One Person Company	Other than Small Companies and One Person Company
1.	Up to 30 days	3 times of normal fees	6 times of normal fees
2.	More than 30 days and up to 90 days	3 times of normal fees plus an ad valorem fee of 0.025% of the amount secured by the charge, subject to the <b>maximum of Rs.1 Lac.</b>	6 times of normal fees, plus an ad valorem fee of 0.05% of the amount secured by the charge, subject to the <b>maximum of Rs.5 Lacs</b>

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