

May 2019

E- News letter

Alleppey Branch of SIRC of ICAI



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

Alleppey Branch of SIRC of ICAI



E- News
letter

INSIDE

1. MESSAGE FROM BRANCH CHAIRPERSON
2. ROC FORMS – MORE COMPLIANCE FOR EASY GOVERNANCE
3. MANDATORY FILING OF RETURN OF OUTSTANDING NON- DEPOSITS IN FORM DPT-3
4. PHOTO GALLERY



Dear Professional Colleagues,

Greetings!

Bank audits, another responsibility shouldered by our fellow professionals, just concluded. We all are now gearing up for Statutory and other audit assignments for various organizations. I wish everyone a very happy audit season!

We are witnessing major transformational reforms and new regulations such as Banning of unregulated Deposits Schemes Ordinance 2019 are coming on Play.

As a coveted Institution, we have to withstand the challenge that is being thrown at us and demonstrate the fact to all the stakeholders that there is no alternative to the Chartered Accountant in terms of fiscal management, value addition, statutory compliance in a capricious tax regime and of course, quality attestation.

These changes are challenging but at the same time are bringing lots of professional opportunities to the members. To equip members with these changes many initiatives are being taken at the branch level, relevant seminars and certification courses are being organized at the branch for the benefit of the members.

An one day Seminar on GST Audit is planned to be organized on May 18th 2019. Request all members to attend the program.

The three days Residential Refresher Course organized by Committee for Members in Industry & Business and hosted by the Alleppey Branch of SIRC of ICAI is from May 24th to 26th at Vasundara Sarovar Premiere Resorts, Vayalar, Alleppey. This Seminar will give us an opportunity to network with members, and to take a break from our busy work schedule. The best of the speakers, handpicked from all over the country, in the field of Taxation, GST, Audit and allied laws including speakers on special topics such as Block Chain Concepts --- relating to the future of our profession are invited to present papers.

We at the branch level are committed to put in our best efforts for giving the best to the members and students under the branch, the success of initiative depends upon active participation of the members. I appeal the members for active participation in the programs and put forward their suggestion and valuable guidance in the activities.

“Alone we can do so little, together we can do so much”.
Regards,

CA. Indhu S N



CA Rengarajan

ROC Forms – More Compliance for easy governance

We are in the era of compliance, where more compliance leads to effective and easy governance. Gone are the days when hardcopy documents were used for compliance and possible manipulation. In the last 10 years the form filing and the reporting requirements have taken a huge leap which ensures timely filing, easy processing, better compliance and effective monitoring.

The new financial year has welcomed us professionals with a few more additional documentation forms filing for the companies. These forms more or less carry the same information that has been filed during the annual filing of ROC forms, however the same has to be resubmitted to ensure proper compliance.

The Forms are as follows:

Forms / Filing mode	Due Dates	Compliance Particulars	Applicable Laws/ Acts
Companies Act, 2013	Within 180 Days from The Date of Incorporation of The Company	As per Section 10 A (Commencement of Business) of the Companies Act, 2013, inserted vide the Companies (Amendment) Ordinance, 2018 w.e.f. 2nd November, 2018, a Company Incorporated after the ordinance and having share capital shall not commence its business or exercise any borrowing powers unless a declaration is filed by the Director within 180 days from the date of	MCA E- Form INC 20A
Companies Act, 2013	30 Days from The Date of Deployment of E-Form on MCA Portal	Every existing body corporate other than a company governed by the NFRA Rules (Rule 3(1)), shall inform the ("NFRA") about details of the auditor(s) as on 13th November 2018.	Form NFRA-1 (e-form not yet deployed Ministry (ROC))
Companies Act, 2013	within 30 days of the form being made available by the MCA (Form forms yet to be released – Due date based on	All Specified Companies (i.e. Companies who get supplies of goods or services from micro and small enterprises and whose payments to micro and small enterprise suppliers exceed 45 days from the date of acceptance or the date of deemed acceptance of the goods or services as per section 9 of the Micro, Small and Medium Enterprises Development Act, 2006) to file details of all outstanding dues to Micro or small enterprises suppliers existing on 22nd January,	Form MSME -1 One-time return is required to be filed within 30 days of the form being made available by the MCA (earlier within 30 days of publication of this order i.e. 21.02.2019.) Due date of subsequent returns is mentioned below: a) For Half year period 'April to September' – 31st October b) For half year period 'October to March' – 30th, April

Forms / Filing mode	Due Dates	Compliance Particulars	Applicable Laws/ Acts
Companies Act, 2013	On or before 8th of May, 2019 (i.e. within 90 days from the date of notification)	A person having Significant beneficial owner shall file a declaration to the reporting company	Form BEN-1
Companies Act, 2013	Within 30 Days	Filing of form BEN-2 under the Companies (Significant Beneficial Owners) Rules, 2018. (Within 30 days from the date of receipt of declaration in BEN-1)	Form BEN – 2 (e-form not yet deployed by Ministry (ROC))
Companies Act, 2013	On or before 25.04.2019 Extended to 15.06.2019	Filing of the particulars of the Company & its registered office. (by every company incorporated on or before the 31.12.2017.)	ActiveFormINC-22A
Companies Act, 2013	On or before 30.04.2019 (new forms yet to be released – Due date based on new form release)	Every Person holding DIN as on 31.03.2019 (including Directors having disqualified DIN) Penalty after due date is Rs. 5000/-	ActiveFormINC-22A
Companies Act, 2013	On or before 22.04.2019 (new forms yet to be released – Due date based on new form release)	All Companies (Private, Public, OPC, etc.) except Government Companies	One-time return in E-Form DPT-3 is required to be filed within 90 days of publication of this notification in Official Gazette (22nd January, 2019+ 90 days i.e. by 22nd April, 2019)

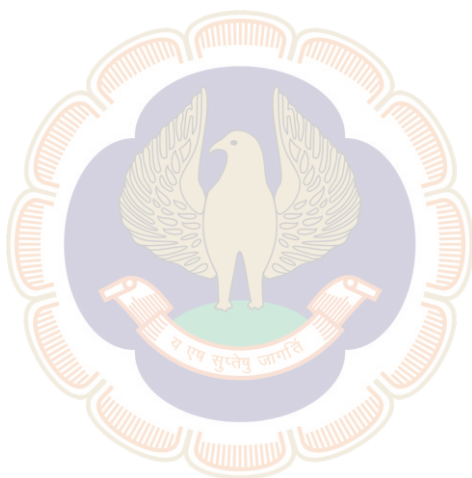
The MCA has been issuing a series of notifications which needs to be monitored on a regular basis. If we look at forms of DPT 3, MSME 1 and DIR 3 the due dates are already lapsed or going to be lapsed but since the forms have not been made available for the compliance. The revised dates have been mentioned as 30 days from the time the forms are available in the site.

ROC Forms – More Compliance for easy governanceCA G Rengarajan, Ernakulam Compliance now is to check the site for availability of forms to know the possible due dates. These kinds of notifications cause a lot of ambiguity in the mind of the professionals and the clients. Considering the heavy penalty that is possible to be levied by MCA for non-compliance the professional has to be on their toes to ensure the clients requirements are satisfied.

The other form which is of very high importance is form INC 22A. There were quite a few issues raised in filing this form as well and based on representations from the professionals and trade the form has now been extended to 15th June 2019.

In a nut shell the compliance is increasing year by year and so is the penalty and interest cost for non-compliance. The Professionals need to be tech savvy and quick to act to ensure that the client's requirements are complied with.

The challenges are more in this era but our will to fight and comply is much higher. The government knowing our capabilities is giving more and more responsibilities to ensure that proper governance is achieved. Well, we all have one bigger role in the days to come, which is comply to more and more compliances to ensure better governance.



Mandatory Filing of Return of Outstanding Non- Deposits in Form DPT-3



CA Biju Narayanan

The Companies (Acceptance of Deposits) Amendment Rules, 2019, entails the filing of return and reporting regarding particulars of the transactions not considered as deposit under Rule 2(1)(c) of the Companies (Acceptance of Deposits) Rules 2014 in e-form DPT -3 to Registrar of Companies by all companies.

MCA vide its notification dated 22nd January, 2019 notified Companies (Acceptance of Deposits) Amendment Rules, 2019, in which 'sub-rule 3' in Rule 16A is inserted to file e-form DPT-3 mandatorily for information of Loan to ROC.

The said amendment rules have widened the reporting requirements for all companies except Government Companies. Earlier only items which are in the nature of deposits were required to be reported, but vide this amendment, all companies are required to report outstanding receipt of money or loan by a Company not considered as deposits, in terms of clause (c) of sub-rule 1 of rule 2 from the 01st April, 2014 to 31st March 2019 (as opposed to 22nd January 2019, which was original indicated in the said Rules later amended under General Circular 05/2019), as specified in Form DPT-3 within 30th May 2019 along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

KEY POINTS OF THE NEW NOTIFICATION AND ITS APPLICABILITY

1. Applicability

E-form DPT 3 is applicable to all Companies, ie:

- a. Private Limited Company
- b. Public Limited Company
- c. One Person Company

The same is not applicable to following types of Companies:

- a. Government Companies
- b. Banking and Non Banking Financials Companies [NBFC] &
- c. Housing Finance Companies are required to file DPT-3.

2. Due Date of Filing

- a). One-time return in E-Form DPT-3 for the period from 01st April 2014 to 31st March 2019 is required to be filed within 30th May 2019.
- b) A periodic return which will give the details of particulars of transactions which are not considered as deposits as per Rule 2(1)(c) of the Rules within 30th June of every year containing details as on 31st March.

3. Amount not to be considered as Deposits

According to Section 2(31) of the Companies Act, 2013, Deposit includes any receipt of money by way of deposits or loan or in any other form by a company, but would not include such categories of amount as may be prescribed in consultation with RBI.

Companies (Acceptance of Deposits) Rules 2014 clearly states that certain borrowings specified under Rule 2(1)(c)(i) to 2(1)(c)(xiv) will not constitute deposits. Below is the list of the items that are excluded from the term 'deposit' subject to the conditions/ exceptions mentioned there under-

A. Amount received from Governments:

Any amount received from Central Government, State Government, local authority or statutory authority constituted under Central or State legislation is not a deposit. Further, amount received from any other source where repayment is guaranteed by Central or State Government is not a deposit

B. Amount received from foreign governments/banks etc, subject to compliance of FEMA 1999:

Any amount received from (i) Foreign Governments (ii) Lateral Foreign Banks (iii) International Banks (iv) Multilateral financial institutions (such as, International Financial Finance Corporate, Asian Development Bank, Commonwealth Development Corporation, International Monetary Fund, World Bank, International Bank for Industrial and Financial Reconstruction etc.) (v) Foreign Government owned development Financial Institutions (vi) Foreign Export credit agencies (vii) Foreign collaborators (It can be equity participation or technology collaboration) (viii) Foreign Bodies corporate (ix) Foreign citizen (x) Foreign Authorities (xi) Persons resident outside India

C. Amount received as loan from banks, banking companies etc

D. Amount received as loan from Private Finance institutions (PFIs), any regional Financial Institutions or insurance companies or scheduled banks;

E. Amount raised through issuance of commercial paper;

F. Inter- corporate deposits;

G. Amount received as subscription money for securities pending allotment;

Any amount which is received and held towards subscription of securities including share application money and money due on allotment is not a deposit subject to following conditions:

- a. The amount is appropriated only against amount due on allotment of securities.
- b. Such allotment shall be made within a period of 60 days. If not made, the amount shall be refunded within a period of 15 days from the end of such 60 days. (such refund cannot be made by way of adjusting the amount for any other purpose).

H. Amount received from directors/ relative of directors in case of a private company

Any amount received from a person who was a Director of the company at the time of receipt. As per Notification dated 15.09.2015, which amended the rule, any amount received from a director of a company or in case of a private company, from the relative of the director, shall also be exempt, provided that such person furnishes a written declaration that the amount is not given out of any borrowing or accepting loans or deposits from others and the same is disclosed in the Board's Report.

I. Amount raised by issue of secured bonds/ debentures;

J. Amount raised through issuance of unsecured listed NCDs;

K. Non-interest bearing security deposit received from employees;

L. Non-interest bearing amount held in trust

The criteria to decide is whether the non-interest bearing amount received is in trust or not. If amount received or held is not in trust, then it is a deposit. "In trust" means, the company receiving and holding the amount is acting as trustee or custodian and not appropriating the money for its use. When a company receives money in trust, there is no obligation on the company to pay interest on the same.

m. Amount received in the course of, or, for the purposes of business of the Company

This clause includes:

- i) Advance from customers - Any amount received in the course of business of the company, as a trade advance, which is adjusted within a period of 365 days is exempt from the definition of deposit.
- ii) Security Deposit - Any amount received as security deposit for performance of supply of goods or provision of services is not a deposit.
- iii) Advance for Capital Assets - Any amount received as an advance for consideration of an immovable property which is adjusted in accordance with the terms of agreement or arrangement under which it is received will not amount to a deposit.
- iv) Any amount received as advance for supply of capital goods under long term projects except monies covered under clause (b) relating to exemption given to immovable property are exempt from deposits.

N. Amount brought by the promoters, subject to certain conditions viz;

- (a) the loan is brought in pursuance of the stipulation imposed by the lending institutions on the promoters to contribute such finance;
- (b) the loan is provided by the promoters themselves or by their relatives or by both; and
- (c) the exemption under this sub-clause shall be available only till the loans of financial institution or bank are repaid and not thereafter;

O. **Any amount accepted by a Nidhi Company**

P. **Any amount received by way of subscription in respect of a chit**

Q. **Any amount received by the company under any collective investment scheme**

R. **Amount received by start- up company by way of convertible note**

S. **Amount received from Alternate Investment Funds (AIFs), venture capital funds (VCFs) real estate investment trusts (REITs) etc.**

4.Filing of Return of Deposits

Every Company, other than Government Companies, Banking and Non Banking Financials Companies [NBFC] & Housing Finance Companies are required to file One Time Return of DPT-3 in respect of outstanding receipt of money or loan by a company but not considered as deposits from 01st April 2014 to 31st March 2019. Afterwards Rule 16 of the existing set of Rules requires filing of the return of deposits (e- form DPT-3) within 30th June every year by the companies accepting deposits.

Apparently, till date, the reporting requirement was applicable only to those companies which have accepted money considered as deposits as per the definition. Therefore, the reporting by other companies was not required. However, the amendment includes those other companies too within its purview.

5.Filing Fees

Fees shall be payable as per the Companies (Registration Offices and Fees) Rules.

6.Consequences for Non-Filing DPT-3

If the company is non-compliant with the provisions of the law i.e. does not file DPT-3 and still accepts deposits then it shall

On the Company:-

A fine of minimum INR. 1 crore or twice the amount of deposit so accepted, whichever is lower, which may extend to INR.10 crore; and

On the officers of the Company:-

Who is in default: imprisonment up to seven years and with a fine of not less than INR. 25 lakh which may extend to INR.2 crore.

Photo Gallery

Installation Ceremony



Bank Audit Seminar



Seminar on banning of Unregulated deposit schemes Ordinance 2019



Womens Day Celebration



Inaugural session and Valedictory session ADV -ICITSS-MCS -09

