

## **What is meaning of 'any financial year' mentioned in Section 135 (1) of the Companies Act, 2013?**

"Any Financial year" referred under Sub- Section (1) of Section 135 of the Act read with Rule 3(2) of Companies CSR Rule, 2014 implies any of the three preceding financial years ( may refer General Circular No. 21/2014, dated: 18.06.2014

## **Compliance under section 135 of the Act i.e. Corporate Social Responsibility, is applicable from which Financial Year?**

The compliance of the provisions of CSR under the Companies Act, 2013 i.e. constitution of CSR Committee, formulation of CSR Policy, the spending of requisite amount on CSR activities came into force from April, 2014.

## **Whether expenditure by Companies on activities covered under Schedule VII for the fulfillment of any Act/Statute of Regulations will count as CSR expenditure?**

This would not count as CSR expenditure. (may refer point no. (iii) of General Circular No. 21/2014, dated: 18.06.2014)

## **Can the expenditure incurred towards personnel exclusively appointed by the companies for implementing the CSR activities of the company, be included in the expenditure earmarked for CSR activities?**

Salary paid by the companies to regular CSR staff as well as employees, who render their services for CSR will be part of Administrative overheads and should not exceed 5% of the total CSR expenditure as per rule 4(6) of CSR Policy, Rules 2014.

## **Whether CSR expenditure of a company can be claimed as a business expenditure?**

The amount spent by a company towards CSR cannot be claimed as business expenditure. The Finance Act, 2014 provides that any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

## **Whether the 'average net profit' criteria for section 135(5) is Net profit before tax or Net profit after tax?**

Computation of net profit for section 135 is as per section 198 of the Companies Act, 2013 which primarily is NET PROFIT BEFORE TAX.

## **Can the CSR expenditure be spent on the activities beyond Schedule VII?**

General Circular No. 21/2014 dated June18, 2014 of MCA has clarified that the statutory provision and provisions of CSR Rules, 2014, is to ensure that while activities undertaken in pursuance of the CSR policy must be relatable to Schedule

VII of the Companies Act 2013. However, the entries in the said Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said Schedule. The items enlisted in the Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities.

### **What tax benefits can be availed under CSR?**

No specific tax exemptions have been extended to CSR expenditure per se. Finance Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure. While no specific tax exemption has been extended to expenditure incurred on CSR, spending on several activities like contributions to Prime Minister's Relief Fund, scientific research, rural development projects, skill development projects, agricultural extension projects, etc., which find place in Schedule VII, already enjoy exemptions under different sections of the Income Tax Act, 1961.

### **Which activities would not qualify as CSR Expenditure?**

The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act. • One-off events such as marathons/ awards/ charitable contribution/ advertisement/sponsorships of TV programmes etc. would not be qualified as part of CSR expenditure. • Expenses incurred by companies for the fulfillment of any Act/ Statute of regulations (such as Labour Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act. • Contribution of any amount directly or indirectly to any political party shall not be considered as a CSR activity. • Activities undertaken by the company in pursuance of its normal course of business.

### **Will being a holding or subsidiary company of a company which fulfils the criteria under section 135(1) make the company liable to comply with section 135, even if the company itself fulfills the criteria**

Being a holding or subsidiary company of a company which fulfils the criteria under section 135(1) doesn't make the company liable to comply with section 135, unless the company itself fulfills the criteria.

### **Whether provisions of CSR are applicable on Section 8 Company, if it fulfills the criteria of section 135(1) of the Act.**

Section 135 of the Act reads " Every company.....", i.e no specific exemption given to section 8 companies with regard to applicability of section 135, hence section 8 companies are required to follow CSR provisions

### **Can donation of money to a trust by a company be treated as CSR expenditure of the company?**

General Circular No. 21/2014 of MCA dated June 18, 2014 clarifies that Contribution to Corpus of a Trust/ Society/ Section 8 companies etc. will qualify as CSR expenditure as long as:

- (a) the Trust/ Society/ Section 8 company etc. is created exclusively for undertaking CSR activities or
- (b) where the corpus is created exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Act

**There is no need to prepare director's report for Foreign company so whether it is mandatory for foreign Company also to give reporting of CSR activity**

In case of a foreign company, the balance sheet filed under sub-clause (b) of sub-section (1) of section 381 shall contain an Annexure regarding report on CSR.

**Whether contribution to political party is considered as CSR activity?**

Contribution of any amount directly or indirectly to any political party under section 182 of the Act, shall not be considered as CSR activity. (May refer Rule 4(7) of CSR Policy, Rules 2014).

**Whether CSR projects or programmes for employee of the Company and their family will form part of CSR activity?**

NO, The CSR projects or programs or activities that benefit only the employees of the company and their Families shall not be considered as CSR activities in accordance with section 135 of the Act'. (May refer Rule 4(5) of CSR Policy, Rules 2014).

**Whether expenditure incurred on disaster relief qualifies for CSR or not?**

Disaster relief can cover wide range of activities that can be appropriately shown under various items listed in Schedule VII. For example,  
(i) medical aid can be covered under 'promoting health care including preventive health care.'  
(ii) food supply can be covered under eradicating hunger, poverty and malnutrition.  
(iii) supply of clean water can be covered under 'sanitation and making available safe drinking water'. (May refer to annexure to General Circular dated 18.06.2014)

**Whether contribution in kind is permissible as CSR or not?**

Section 135 prescribes "...shall ensure that company spends...".The company has to spend the amount.