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Disclaimer:

The publication is summary in nature and detailed consultation is required before decision made by the person reading this publication.

Section I

Companies Fresh Start Scheme, 2020

(notified by Ministry of Corporate Affairs, Government of India, vide general circular No. 12/2020, dated March 30, 2020)

Companies Fresh Start Scheme, 2020 a relief under Companies Act, 2013:

Ministry of Corporate Affairs, Government of India, vide general circular No. 12/2020, dated March 30, 2020 notified "Companies Fresh Start Scheme, 2020" (the "Scheme") where all Companies have been given opportunity to file over due forms with Registrar of Companies without:

- Late fee and;
- Granting immunity from prosecution and proceedings for imposing penalty.

Applicable time: This scheme shall be in force from on the April 1, 2020 and shall remain in force till September 30, 2020.

Applicability of this Scheme:

- To all defaulting companies i.e. Public, Private, one person companies etc;
- Applicable to all e-forms except for the ones mentioned in not applicable section. All e-forms include annual filings, DIR 3 KYC, Form 22A etc;
- Opportunity to inactive companies to get their companies declared as dormant companies;
- The normal fee payable for uploading the e-forms shall be paid at the time of filing the e-forms.

relief under Companies Act, 2013, contd:

Non- applicability of this Scheme:

- to companies against which final strike off notice of the name is issued;
- Strike off of name application filed by the companies;
- Companies which are amalgamated under a scheme of arrangement or compromise;
- Companies which have already filed application for obtaining dormant status;
- to Vanishing companies; and
- to e-forms such as SH-7 (e-form for increase in authorized capital), CHG-1, CHG-4, CHG-8 and CHG-9 (Charge related e-forms).

Scheme for Inactive Companies: the defaulting inactive companies, while filing due documents under this Scheme can, simultaneously, either:

- Apply in form MSC-1 with normal fee to declare them as dormant company; or
- Apply for striking off of name of the company by filing e-form STK-2 by paying normal fee applicable.

relief under Companies Act, 2013, contd:

Immunity: Defaulting companies need to file application for issue of immunity in respect of documents filed under this Scheme in e-form **CFSS-2020** after closure of the Scheme and after the documents are taken on file or record or approved by the designated authority within 6 months from the date of closure of the Scheme. An Immunity certificate will be issued by the designated authority.

Immunity not applicable in certain cases:

- Proceedings involving interest of any shareholders or any other person qua the company or its directors or key managerial personnel.

The companies can withdraw appeals filed and pending relating to any prosecution launched or proceedings for imposition of penalties initiated and can apply for immunity under this Scheme.

Cases where the order for adjudicating authority was passed but appeal could not be filed, the following would apply:

- Additional 120 days will be allowed to file the appeal where the above order date falls between March 1, 2020 to May 31, 2020; and
- During such additional period of 120 days, prosecution under section 458(8) for non-compliance of the order of the adjudicating authority, no further action will be initiated against such companies or their officers.

Section II

LLP Settlement Scheme, 2020

(notified by Ministry of Corporate Affairs, Government of India, vide general circular No. 13/2020, dated March 30, 2020)

LLP Settlement Scheme, 2020 relief under Limited Liability Partnership Act, 2008:

Ministry of Corporate Affairs, Government of India vide general circular No. 13/2020, dated March 30, 2020 notified LLP Settlement Scheme, 2020 (the "Scheme") where all Limited Liability Partnerships (the "LLP" or "LLP's") have been given opportunity to file over due forms with Registrar of Companies without:

- Late fee and;
- Granting immunity from prosecution and proceedings for imposing penalty.

Applicable time: with effect from April 1, 2020 and shall remain in force till September 30, 2020.

Applicability of this Scheme:

- To all defaulting LLP's
- Applicable to all e-forms due for filing till August 31, 2020.
- The normal fee payable for uploading the e-forms shall be paid at the time of filing the e-forms.

relief under Limited Liability Partnership Act, 2008, contd:

Non- applicability of this Scheme:

- Strike off of name application filed by the LLP's.

Immunity: Defaulting LLP's filing their belated e-forms till September 30, 2020 and made good default shall not be subjected to prosecution.



OUR LOCATIONS



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Global Vision

