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A Brief Analysis: IEPF (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012

Ministry of Corporate Affairs vide Notification dated 10th May, 2012 and in exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of Section 642 of the companies Act 1956 read with sub-section (3) of Section 205C of the Act, the Rules called the Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012.

The notification shall come into force with effect from 20th May, 2012. The important provisions of the notification are discussed as hereunder:

Filing of information regarding unpaid and unclaimed amounts:

As per the provision of this Notification, Every company including Non-banking Financial Companies and Residuary Non-banking Companies are required to file a statement or information regarding unpaid and unclaimed amounts as referred to sub-section (2) of section 205C of the Companies Act, 1956 within 90 days after the holding of Annual General Meeting or the date on which it should have been held as provision of 166 of the Act.

The statement or information as mentioned above is filed through e-form 5INV by uploading on its own website (www.iepf.gov.in) as also on MCA21 portal or any other website as may be specified by the Government. After the Form 5- INV is filled and uploaded on the MCA21 portal, are required to provide the investor wise details of unclaimed and unpaid amount in an excel file which is downloaded the excel template from the IEPF Portal.

The information required in excel file……. are as:- Name, address, amount to which each person is entitled, nature of amount, due date for transfer into the IEPF and such other information as considered relevant for the purpose.

The information for the financial year ended March 31, 2011 is required to file **upto july 31, 2012** and information for the financial year ended March 31, 2012 and subsequent year shall be filed within **90 days** of AGM as mentioned above.

Verification of e-form

The above information verified and certified by PCA or PCS or PCWA or by statutory auditors of the company If a company fails to furnish and upload information or furnishes and uploads false information on the website, the company who is in default, shall be punishable with fine, which extend to Rs.5000 and the contravention is a continuing one, further fine may extend to Rs.500 for every day after the first during which the contravention continues.

Clarification sought under the notification, Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies)Rules, 2012.

Ministry of Corporate Affairs vide Office Memorandum No. 05/10/2011-IEPF dated 12th May, 2012 has made some clarification towrds Notification dated 10th May, 2012 relating to Investor Education and Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012 as discussed hereunder:

1. Clarification sought for the Cut-off date for filing the return

As per rule 3 of above mentioned rule, the cut off date for filing the return through e-form 5INV is within 90 days from the date of AGM of the relevant financial year.

Example: For the financial year ended 31.03.2012, AGM should be held upto 30.09.2012. The complete information regarding unpaid and unclaimed amount till the date of AGM i.e. 30.09.2012 is required to file within 90 days i.e. 29.12.2012.

2. Whether the amount as shown in Balance Sheet of March 31, 2011 is required to be filed till 31st July, 2012

As per the provision of this notification the information as shown in Balance Sheet on March 31, 2011 is required to be updated till the date of AGM and then it will be filed by 31st July, 2012.

3. Whether the information regarding month of October 2011 is required to be included in this return.

In the notification, the cut-off date for filing the return has been fixed for the information updated till the AGM. Thus the unclaimed dividend or amount occurred in month of October are not to be included in the information which is to be filed upto 31st July, 2012.

Comments:

For filing the information upto the date specified by Central Government july 31, 2012, The corporate may suffer the problem regarding gather of information e.g. the address of shareholder, existence of shareholders etc.

In excel form, the limitation of characters eg. for name is 35 characters or less, for address is 300 characters or less and for the folio equal to 20 character is not practical.