

Fast Track Exit Scheme

Ministry of Company Affairs (MCA). MCA has issued Guidelines for “Fast Track Exit (FTE) Mode” to give opportunity to the defunct companies to get their names struck off from the register under Section 560 of the Companies Act, 1956 in time bound manner. As per MCA circular No. 36/2011 dated 7 June 2011, following are the main criteria for making an application under FTE:-

A. Main criteria

- The company applying under FTE should not have any asset and liability.
- The company should not have commenced any business activity or operation since incorporation or at least one year must have been passed since last business activity or operation.

B. Companies to whom FTE is not applicable:

The guidelines do not inter-alia cover

- the listed companies,
- companies that have been de-listed due to non-compliance of listing agreement or any other statutory Laws,
- section 25 companies,
- vanishing companies,
- companies under inspection/investigation,
- companies against which prosecution for a non-compoundable offence is pending in court,
- companies having outstanding public deposits or secured loan or dues towards banks and financial institutions or any other Government Departments etc. or having management dispute or
- Company in respect of which filing of documents have been stayed by court or CLB or Central Government or any other competent authority.

C. Documents Required:

Applicant is required to file an application in the prescribed Form FTE along with prescribed fee of Rs. 5,000/-. The attachments to Form FTE are as follows:-

- **An affidavit** sworn by each of the existing director(s) of the company to the effect that the company has not carried on any business since incorporation or that the company did some business for a period up to a date (which should be specified) and then discontinued its operations and has not carried on any business since last one year, as the case may be. An affidavit should be sworn by each of the existing director(s) of the Company before a First Class Judicial Magistrate or Executive Magistrate or Oath Commissioner or Notary. An Indemnity bond shall be duly notarized. In case of foreign nationals and NRIs, Indemnity Bond and Affidavit may be notarized as per their respective country's law.
- **Indemnity Bond**, duly notarized, to be given by every director individually or collectively, to the effect that any losses, claim and liabilities on the company, will be met in full by

every director individually or collectively, even after the name of the company is struck off the register of Companies

- **Statement of Account** prepared as on date not prior to more than one month preceding the date of filing of application in Form FTE duly certified by a statutory auditor or Chartered Accountant in whole time practice, as the case may be. It is to be attached to e-form shall not be older than 30 days preceding the date of application in e-Form FTE.
- **Copy of Board resolution** showing authorization for filing the application.

D. Important Points/Conditions:

- **Litigation:** Fast track exit mode does not mention anywhere that a Company against which litigation is pending cannot apply for striking off the name of the Company from the Register maintained by the ROC. Hence, a Company against which litigation is pending can apply under fast track mode. Further, details of pending litigations are required to be filled up in e-form FTE which has a reference in affidavit format too. Any pending litigations involving the company should be disclosed while applying under this Scheme;
- NOC is not required from **Income Tax / Sales Tax / Central Excise / other Govt authorities**. But all directors need to confirm that there are no dues pending against Company with any such authorities. And MCA will send letter confirming that Income Tax has no objection for striking off the name of the said Company.
- **Objections:** The applicant Company can reply to the objections raised by RBI, Income Tax Department or any other department. There is no time period specified by ROC for giving reply by the applicant Company. If RBI, Income Tax or the relevant Department is satisfied with the reply given by the applicant Company, ROC will allow the striking off name of such Company.

E. Brief Procedure:

The procedure for getting the name of a Company struck off under Fast Track Exit mode is as follows:-

- A Company eligible to apply for striking off its name needs to apply to Registrar of Companies in Form FTE,
- The Form FTE should be filed electronically on the Ministry of Corporate Affairs portal and by making payment of Rs. 5000/- as the ROC fees;
- The Registrar of Companies shall examine the same and if found in order, shall give a notice to the Company under section 560(3) of the Companies Act, 1956 by e-mail on its e-mail address intimated in the Form, giving thirty days time, stating that unless cause is shown to the contrary, its name be struck off from the Register and the company will be dissolved;
- The Registrar of companies shall put the name of applicant(s) and date of making the application(s) under Fast Track Exit mode, on daily basis, on the MCA portal www.mca.gov.in, giving thirty days time for raising objection, if any, by the stakeholders to the concerned Registrar;

- The Registrar of Companies shall send intimation of such Companies availing Fast Track Exit mode to the office of the Income Tax Department giving thirty days time for their objection, if any;
- The Registrar of Companies on being satisfied that the case is otherwise in order, shall strike its name off the Register and shall send notice under Section 560(5) of the Companies Act, 1956 for publication in the Official Gazette.

F. *Stamp Duty*

Stamp Duty is required to be paid on Affidavit and Indemnity Bond as per respective State Stamp Act. As per Delhi Stamp Act, affidavit should be on non-judicial stamp paper of Rs. 10/- and Indemnity Bond on non-judicial stamp paper of Rs. 200/- or franking of equivalent value for both.

G. *Points of consideration post-strike off*

Following are the liabilities of directors after striking off the name of the Company by ROC:-

- To pay and settle all lawful claims arising in future after the striking off the name of the Company.
- To indemnify any person for any losses that may arise pursuant to striking off the name of the Company.
- To settle all lawful claims and liabilities which have not come to notice even after striking off the name of the Company.

Visit/Reach:

camohitsharma.com/ info@camohitsharma.com/ 09999442846

Rs 10/- Stamp Paper
(to be given individually by every director)

AFFIDAVIT

1. I/, Director of _____ , (hereinafter called “ the Company”), incorporated on ____/____/____ under the Companies Act, 1956 having its Registered Office at _____and having CIN No _____ do solemnly affirm and state as under:
2. I/ _____, S/o/ D/o Shri/Smt._____, holder of DIN /Income Tax PAN /Passport number: _____ (copy of Income Tax PAN /Passport duly attested by a Gazetted Officer or a whole time practicing professional (Chartered Accountant/ Company Secretary/Cost Accountant) or a Company Secretary in full time employment of the company is enclosed) am Director of the company stated above since_____ (mention date of appointment).
3. My present residential address is _____ (Copy of documentary evidence duly attested by a Gazetted Officer or a whole time practicing professional (Chartered Accountant/ Company Secretary/Cost Accountant) or a Company Secretary in full time employment of the company is enclosed. Alternatively, an affidavit sworn before Magistrate may be enclosed)
4. My permanent address is _____ (Copy of documentary evidence duly attested by a Gazetted Officer or a whole time practicing professional (Chartered Accountant/ Company Secretary/Cost Accountant) or a Company Secretary in full time employment of the

company is enclosed. Alternatively, an affidavit sworn before Magistrate may be enclosed)

5. The company does not maintain any bank account as on date.
6. I affirm that the Company _____ (mention name of the company) do not have any assets and liabilities as on date.
7. The Company has been inoperative from the date of its incorporation / The company commenced business/operations/commercial activity after incorporation but has been inoperative for the past _____ year(s) due to following reasons*._____ (Give the reasons here)
8. As on date, the Company does not have any dues towards Income Tax / Sales Tax / Central Excise/ Banks and Financial Institutions; any other Central or State Government Departments/Authorities or any Local Authorities.
9. Strike out whichever is not applicable:-
 - a) There is no litigation pending against or involving the company.
 - b) There are litigations pending against the company, details of which are mentioned under serial number 9 of Form FTE.
10. In case of any loss(es) to any person or any valid claim and liability arising from any person after the striking off the name of the Company_____ (mention name) from the Register of Companies, I, the director of the company, undertake to indemnify any person for such losses, valid claim and liability and the indemnity bond to this effect is being submitted separately with the application Form.

I solemnly state that the contents of this affidavit are true to the best of my knowledge and belief and that it conceals nothing and that no part of it is false.

Signature: _____
(Deponent)

Verification:-

I verify that the contents of this affidavit are true to the best of my knowledge and belief.

Place: _____

Signature: _____
(Deponent)

Date:

(to be given individually or collectively by every director)

INDEMNITY BOND

To
The Registrar of Companies,

1. I/ We, the director (s) of _____ (mention name of the company), incorporated on ____/____/____ under the Companies Act, 1956, having its Registered Office at _____ do hereby declare that:
2. I/ We _____, S/o D/o Shri/Smt. _____ am/are Director (s) of this company.
3. That I/We have made an affidavit dated the _____, duly sworn before First Class Judicial Magistrate or Executive Magistrate or Oath Commissioner or Notary, affirming that the Company _____ Private/ Limited have nil assets and liabilities as on date.
4. Further, the Company has been inoperative from the date of its incorporation. The company commenced business/ operations/ commercial activity after incorporation but has been inoperative for the past _____ year(s)*. And the company is not intending to do any business or commercial activity. Thus the Company is defunct and I request the Registrar of Companies, _____ to strike off the name of the Company from the Register of Companies under Section 560 of the Companies Act, 1956.

* Strike out whichever is not applicable.

5. I /We do hereby undertake and indemnify in writing:
- a) To pay and settle all lawful claims arising in future after the striking off the name of the Company.
 - b) To indemnify any person for any losses that may arise pursuant to striking off the name of the Company.
 - c) To settle all lawful claims and liabilities which have not come to our notice up to this stage, even after the name of the Company has been struck off in terms of Section 560 of the Companies Act, 1956.

Place: (Name, Father's name, Address & Signature)
Date: (To be given by every director)

WITNESSES:

- | | |
|----------------|------------|
| 1. Name: | Signature: |
| Father's name: | |
| Address: | |
| Occupation: | |
| | |
| 2. Name: | Signature: |
| Father's name: | |
| Address: | |
| Occupation: | |

Statement of Account

Name of the Company:

CIN No.

Statement of Account as on date: :

Particulars : (Brief break up in respect of each item needs to be given).

Amount (Rs.)

I. Sources of Funds

(1) Capital

(2) Reserves & Surplus (including balance in Profit and Loss Account)

(3) Loan Funds

Secured loans from Financial Institutions

Secured loans from Banks

Secured loans from Govt.

Others Secured loans

Debentures

Unsecured Loans

Deposits & interest thereon

Total Loan Funds

Total of (1) to (3)

II. Application of Funds

(1) Fixed Assets

(2) Investments

(3) (i) Current Assets, loans and Advances

Less : (ii) Current Liabilities & provisions

Creditors

Unpaid Dividend

Payables		
Others		
Total Current Liabilities & provisions		
Net Current assets (i –ii)		
(4) Miscellaneous expenditure to the extent not written off or adjusted		
(5) Profit & Loss Account (Debit balance)		
Total of 1 to 5		

Date :	Name and
Place:	Signature of
Name and	(Managing Director)*
Signature	Name and Signature of
(Secretary)*	(Directors)

* Applicable only if there is MD/Secretary

Duly certified by Statutory Auditor or Chartered Accountant in whole time practice.

Membership No/Certificate of Practice Number with seal