

Amendments: for CA Final

1.

Filling of balance sheet and profit and loss account

The following class of companies have to file their Balance Sheet, Profit and Loss Account and other documents as required under section 220 of the Companies Act, 1956 with the Registrar using the Extensible Business Reporting Language (XBRL) taxonomy given in Annexure enclosed to the rules for the financial year ending on or after 31st March, 2011 with e-Form no. 23AC-XBRL and 23ACA-XBRL specified under the Companies (Central Government) General Rules and Forms, 1956, namely:-

- (i) all Companies listed with any Stock Exchange(s) in India and their Indian subsidiaries; or
- (ii) all Companies having paid up capital of rupees five crore or above; or
- (iii) all companies having turnover of rupees hundred crore or above.

Provided that the companies in Banking, Insurance, Power Sectors and Non-Banking Financial companies are exempted for Extensible Business Reporting Language (XBRL) filing for the financial year 2010-11.

2.

Loan to public limited companies u/s 295

Companies are requested to note that when the beneficiary of the loan/guarantee/security is a Public Limited Company, approval of Central Government should only be sought if the provisions of sub-Section (d) or (e) of Section 295 of the Companies Act, 1956 are attracted. The application should also clearly bring out the facts in this regard.

Means :

d..a firm in which any such director or relative is a partner.

e. a private company of which any such director is a director or member.

Only for above two sub section approval of CG is required.

3.

Participate by directors in Board meetings.

directors of a company may participate in a meeting of Board / Committee of directors under the provisions of Companies Act, 1956 through electronic mode.

For this purpose, the company shall also comply with the following requirements and procedures, in addition to the normal procedures required under the Companies Act, 1956 for holding meetings of Board / Committee of directors: --

- (a) Electronic mode means video conference facility i.e. audio-visual electronic communication facility employed which enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.
- (b) Every director of the company must attend the meeting of Board/Committee of directors personally at least one meeting a financial year of the company.

4.

Clarification regarding Body corporate for the purpose of section 226(3)(a) of the companies act 1956.

It is hereby clarified that Limited Liability Partnership of chartered accountants will not be treated as body corporate for the limited purpose of Section 226(3)(a) of the Companies Act, 1956

5.

Depreciation for the purpose of declaration of Dividend under Section 205 in case of companies referred to in Section 616 (C) of the Companies Act, 1956 (the Act) .

it is clarified that companies referred to in Section 616(c) of the Companies Act can distribute dividend out of profit arrived at after providing for depreciation following the rates as well as methodology notified by CERC and the same shall be sufficient compliance of section 205 of the Companies Act, 1956.

6.

Waiver of approval of Central Government for payment of remuneration to professional managerial person by companies having no profits or inadequate profits

no approval of Central Government will be required by the listed companies and their subsidiary companies, which are not having profits or having inadequate profits for payment of remunerations exceeding Rs. 4 lakh p.m., if the managerial person:-

- (a) is not having any direct or indirect interest in the capital of the company or its holding company or through any other statutory structures at any time during last two years before or on the date of appointment and
- (b) is having a graduate level qualification with expert and specialized knowledge in the field of his profession.

The other general conditions specified in para (c) of Section II of Part II of Schedule XIII to the Act shall continue to be complied with.

7.

Simplified procedure for obtaining online approval of Central Government under section 297 of the Companies Act, 1956.

According to new procedure, application will be made in a new e-form with the prescribed fee. The relevant information like terms of contract and details of Board resolutions and special resolutions shall be captured in the e-form. The e-form shall also be certified by the practicing professional who shall specifically certify the correctness of the information and declarations given by the company in the e-form.

The company while seeking approval of the directors and shareholders in their meetings shall specifically take approval to the effect that: --

- (i) Proposed contract is competitive, at an arm's length, without conflict of interest and is not less advantageous to it as compared to similar contracts with other parties.

(ii) The company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable thereon and has filed its upto date Balance Sheets and Annual Returns with the Registrar of Companies;

(iii) The proposed contract is falling within the provisions of section 297 of the Act and provisions of sections 198, 269, 309, 314 and 295 are not applicable in the proposed contract.

(iv) The company and its Directors have complied with the provisions of sections 173, 287, 299, 300, 301 and other applicable provisions of the Companies Act, 1956 with regard to the proposed contract.

The application will be processed online and approval of Central Government shall also be made available to the applicant company online on the basis of declarations made by the company and certifications by the professionals given in the e-form.

If any of the information or declaration given by the company or certificate given by the professional in the e-form is found to be wrong, then the applicant company, its Directors and professional shall be liable for penal action under section 297 and 628 of the Companies Act, 1956 in addition to penal action prescribed in regulations of the respective professional institutes.

The process of online approval of Central Government under section 297 of the Companies Act, 1956 is likely to be implemented with effect from 24th September, 2011.