

Increase in Penalty for Not Filing Annual Return

The Companies (Registration Offices and Fees) Second Amendment Rules, 2018 was notified by the Ministry of Corporate Affairs on 7th May, 2018. This rule is a very important rule for all professionals and Entrepreneurs who are Directors of a company. By implementing this rule, there will be a very significant increase in penalty for not filing annual return from 1st July 2018. Hence, any person who is a shareholder or Director in a private limited company must take steps to immediately file any overdue compliance to prevent heavy penalty which would become due from 1st July 2018.

Announcement by MCA

The Ministry of Corporate Affairs on 8th May 2018 announced the following on their home page:

"The Companies (Registration Offices and Fees) Second Amendment Rules 2018 has been notified on **7th May 2018**. Accordingly, in case the due date of filings under Section 92 (Annual Return) or 137 (Annual Financial Statement) of the Companies Act, 2013 expires after **30/06/2018**, the additional fee @**Rs.100 per day** shall become payable in respect of **MGT-7, AoC-4, AoC-4 XBRL and AoC-4 CFS**.

In all other cases where the belated annual returns or balance sheet/financial statement which were due to be filed whether under the Companies Act,1956 (**23AC,23ACA,23AC XBRL,23ACA XBRL,20B,21A**)or the Companies Act, 2013 (**MGT-7, AoC-4, AoC-4 XBRL and AoC-4 CFS**) additional fee as per the applicable slab for the period of delay up to 30th June 2018 plus @**Rs.100 per day** w.e.f 1st July 2018 shall become payable. Stakeholders are advised to take note and plan accordingly."

MGT-7 & AOC-4

Form MGT-7 & Form AOC-4 must be filed by all companies in India as a part of their annual compliance. Even companies that have no activity are required to file Form MGT-7 and Form AOC-4.

Form MGT-7 is the form for filing annual return by a company. The due date for filing MGT-7 is 60 days from date of Annual General Meeting. The due date for conducting annual general meeting is on or before the 30th September following end of a financial year. Hence, the due date for filing form MGT-7 is normally the 29th of November. (Know more about MGT-7)

The MCA form for filing financial statements is AOC-4. Hence, Form AOC-4 is submitted with the MCA for each Financial Year within 30 days of a company's annual general meeting. Know more about Form AOC-4.

Increase in Penalty for Not Filing MGT-7 & AOC-4

With the above announcement, MCA has significantly increased the penalty for not filing annual return of a company. The penalty for not filing annual return of a company after 1st July 2018 would be Rs.100 per

day per form. Since, a company must file both MGT-7 and AOC-4, the penalty would be Rs.200 per day for not filing annual return. If a company that was incorporated under Companies Act, 1956 or Companies Act, 2013 has so far not filed its annual return, it can file annual return paying the reduced penalty under the old regulations upto 30th June 2018. From 1st July 2018, the penalty would be increased multi-fold to Rs.100 per day per form. A comparison of penalty under present regulations and proposed rules from 1st July 2018 is reproduced below:

Period of Delay	Current Penalty	Proposed Penalty
Upto 15 days (sections 93,139 and 157)	Rs.400	Upto Rs.3000
More than 15 days and upto 30 days (Sections 93, 139 and 157) and upto 30 days in remaining forms.	Rs.800	Upto Rs.6000
More than 30 days and upto 60 days	Rs.1600	Upto Rs.12000
More than 60 days and upto 90 days	Rs.2400	Upto Rs.18000
More than 90 days and upto 180 days	Rs.4000	Upto Rs.36000
More than 180 days and upto 270 days	Rs.4800	Upto Rs.54,000
Delay beyond 270 days	Rs.100 per day	Rs. 100 per day per form

Filing Annual Return of Company

In 2018, the penalty for not filing MCA return and income tax return of a company has been significantly increased by the Government. Read our guides to know more about the changes in regulation:

- [2018 Penalty for Not Filing Annual Return or Income Tax Return of Company](#)
- [2018 Income Tax and MCA Return Due Dates for Company.](#)

To file the income tax return and annual return of a company and the financial statements must be prepared, directors report must be prepared and the annual general meeting must be conducted.

Source courtesy:caclubindia.com