

Late fees for belated annual ROC returns filed after 30th June 2018

Clarification regarding Late fees for belated annual roc returns filed after 30/06/2018.

All of us knows that the Ministry of Corporate affairs has amended certain sections of company's Act, one among those sections is **Section 403**. Amendment in this section has taken nights of many Chartered accountants and Company Secretaries. Who So !!! ? Let me try to analyze the amendment in detail in this write up.

[**Note:** filing of Annual return for the financial year 31/03/2017 or even before to that year are analyzed below]

Generally, the due date for filling the ROC returns for the year ended 31st March 2017 is 30th December 2017 as per section 92 (Annual return) and section 137 (annual financial statements). If any company fails to file the return within the specified date as given therein then the penalty would be levied as per **Section 403 and Companies (Registration Offices and Fees) Rule, 2014**

As per rule 12. For any belated filing of ROC return penalty or additional fees shall be levied as given in the table below (before amendment)

Sl.No	Period of delay	Additional fees
1.	Upto 30days	2 times the normal fees (NF)
2.	31 days to 60 days	4 times the NF
3.	61 days to 90 days	6 times the NF
4.	90 days to 180 days	10 time the NF
5.	Beyond 180 days	12 times the NF

This was applicable until the Ministry of Corporate affairs amended the section 403, but it is no so now, there is a serious amendment to this section.

The amendment is reproduced below:

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 ct,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.

So now if there is a delay then the applicable fees is not only the additional fees as given in the table it will be increased by Rs.100 per day W.e.f from 1st of July 2018.

There is a confusion among the professionals and other stakeholders about the drafting and applicability of Rs.100 per day as to retrospective (meaning applicable from 31st Dec 2017) or prospective (that is from 1st of July).

If it is retrospective and the annual returns (MGT-7 and AOC-4) is filed on 1st of July then fees payable by a company having Rs 10 Lakhs of equity capital will be Rs 18600 +3600 = 21,800 for each of the forms. (that is additional fees as given in the above table and Rs. 100 for 182 days)

If it is prospective and the annual returns (MGT-7 and AOC-4)is filed on 1st of July then fees payable by a company having Rs 10 Lakhs of equity capital will be Rs 3600+100 = 3,700 for each of the forms. (that is additional fees as given in the above table and Rs. 100 for 1 day)

Let us look into the new table of the annexure to the applicable rules..

Fees Table (after amendment)

Sl.No	Period of delay	Additional Fees Upto 30/06/2018	
1	Upto 30days	2 times the normal fees (NF)	Plus Rs.100 with effect from 1/07/2018
2	31 days to 60 days	4 times the NF	
3	61 days to 90 days	6 times the NF	
4	90 days to 180 days	10 time the NF	
5	Beyond 180 days	12 times the NF	

Based on the above table, if a return for the period 31.3.2017 is filed after the due date (after 31.12.2017) then upto 180 days that is 28/06/2018 applicable additional fees is Rs 3000. If it is filed on 29th or 30th then applicable additional fees will be Rs. 3600. However, if it is filed on 1st of July then additional fees will be Rs. 3700/- (3600+100)

In my view and as per the amended section and also the amended table as annexed to the applicable rules, it is crystal clear that Rs.100 additional fees applicable prospectively.

Source courtesy:caclubindia.com