

CORPORATE SOCIAL RESPONSIBILITY (CSR)



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Note: Provisions of Companies Act, 2013 are considered for the purposes of this note/circulation.

I. INTRODUCTION

A “Company” is an association of individuals formed for some common purpose. It means a company incorporated under this Act or under any previous companies act. It has a legal identity which is separate from that of its members.

In India, a Company is incorporated by complying with the procedure stated in the Companies Act 2013. A Company thus incorporated is registered with the Registrar of Companies which is under The Ministry of Corporate Affairs.\

II. CSR - WHAT IT MEANS:

Rule 2(c) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, defines CSR as:

“The activities undertaken by a company in pursuance of its statutory obligation laid down in Section 135 of the Act in accordance with the provisions contained in these rules.”

This highlights that CSR includes activities and initiatives undertaken by companies to fulfil their legal responsibilities under Section 135, which aim to contribute to sustainable development, address social, environmental, and economic issues, and improve the well-being of society.

III. APPLICABILITY:

Section 135 applies to companies meeting any of the following criteria during the immediately preceding financial year:

1.Net worth of ₹500 crore or more. **2 Turnover** of ₹1,000 crore or more and **3.Net profit** of ₹5 crore or more.

Types of Companies Covered:

- 1.Indian Companies: Both private and public limited companies.
- 2.Foreign Companies: If they have a branch office or project office in India.

IV. KEY PROVISIONS

1. CSR Committee:

- Companies liable must form a CSR Committee consisting of at least 3 directors, including one independent director.
- The committee formulates and recommends CSR policies and monitors their implementation.
- In case of Private Limited Company this provision automatically gets relaxed.
- The existing committee must continue to exist even if no spending in the year.

- **Functions of CSR Committee:** The CSR Committee shall formulate and recommend a CSR policy to the Board.

1. CSR Committee shall recommend the amount of expenditure to be incurred on the CSR activities to be undertaken by the company.

2. CSR Committee shall monitor the CSR policy of the Company from time to time.

3. The committee shall establish a transparent controlling mechanism for the implementation of the CSR projects or programs or activities undertaken by the company.

2. **CSR Expenditure:**

- Companies must spend at least **2% of the average net profits** (As calculated u/s 198 of Companies Act, 2013) of the last 3 financial years on CSR activities.
- The Companies (Amendment) Act, 2019 and 2020 introduced stricter penalties for non-compliance and provisions to transfer unspent CSR funds to a designated fund or a separate CSR account.

3. **Permitted Activities:** CSR activities must align with Schedule VII of the Companies Act, which includes:

- Eradicating hunger, poverty, and malnutrition.
- Promoting education and gender equality.
- Ensuring environmental sustainability.
- Supporting rural development projects.
- Contributions to government funds like the PM's National Relief Fund.

V. **CSR EXPENDITURE REQUIREMENTS:**

- **Minimum CSR Spending:**

Companies meeting the above criteria must spend at least **2% of their average net profits** (calculated based on the last three financial years) on CSR activities.

- **Unspent CSR Funds:**

If the funds remain **unspent**, they must either:

- a) Be allocated to an ongoing CSR project (within 3 years), OR
- b) Be transferred to a government-approved fund (like the PM's National Relief Fund) within **6 months from the end of the financial year.**

- **Administrative Costs:**

Companies can spend a maximum of **5% of their total CSR expenditure** on administrative overheads.

- **CSR Penalties for Non-Compliance (Amendments of 2020):**

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If a company doesn't spend the required CSR amount and fails to provide valid reasons, it may face penalties: **For the company:** ₹50,000 to ₹25 lakh and **for officers in default:** Up to ₹2 lakh

VI. Treatment of Unspent CSR Amount

If a company spends less than the amount required to be spent under their CSR obligation, the Board shall specify the reasons for not spending in the Board's report and shall deal with the unspent amount in the following manner:

Nature of unspent amount	Action required	Timelines
Unspent amount pertains to 'ongoing projects'	Transfer such unspent amount to a separate bank account of the company to be called as 'Unspent CSR Account'.	Within 30 days from the end of the financial year.
Unspent amount pertains to 'other than ongoing projects'	Transfer unspent amount to any fund included in Schedule VII of the Act	Within 6 months from the end of the financial year.

Similarly, excess spent is permitted to be set off.

VII. CSR REPORTING

- Companies must create a **CSR Policy** and disclose it in the **Board's Report**.
- A **CSR Committee** must be formed to plan and monitor activities (only required for companies above certain thresholds).
- CSR spending and activities should align with **Schedule VII** of the Companies Act.

CSR ensures that companies contribute to the welfare of the society, promoting sustainable growth alongside business success.

- **What are the details required in Annual report?**
 - Details of Impact assessment of CSR projects
 - Details of the amount available for set off and amount required for set off for the financial year
 - Details of CSR amount spent against ongoing projects
 - Details of CSR amount spent against other than ongoing projects
 - Details of amount spent in Administrative Overheads
 - Details of Unspent CSR amount for the preceding three financial years and so on

Annual report to specify the reason for not spending the CSR amount even after transfer of unspent CSR amount to the required fund or account.

VIII. REGULATORY COMPLIANCE

• CSR-1

It is a mandatory e-form required by the **Ministry of Corporate Affairs (MCA), India**, for **NGOs and other entities** that want to undertake **CSR activities** on behalf of companies.

Key Points:

- **Purpose:** Registration of CSR-implementing agencies.
- **Who Files It?** Trusts, Societies, Section 8 Companies, or entities under State/Central Acts.
- **Mandatory Since:** April 1, 2021.
- **Process:** Submit CSR-1 via the MCA portal with **Digital Signature Certificate (DSC)** and professional certification (CA/CS/CMA).
- **Outcome:** A **Unique CSR Registration Number** is issued for tracking CSR projects.

• CSR-2

It is a mandatory compliance form introduced by the Ministry of Corporate Affairs (MCA) in India. It is used by companies to report details of their **Corporate Social Responsibility (CSR) activities**, including CSR spending, projects undertaken, and unspent amounts.

Key Points:

- **CSR-2:** Compliance form for reporting Corporate Social Responsibility (CSR) activities.
- **Mandated by:** Companies Act, 2013 (India).
- **Required for:** Companies filing MGT-7 (Annual Return) with CSR obligations.
- **Includes:** CSR spending, projects, and unspent amounts.
- **Filing Sequence:** After AOC-4, before MGT-7.
- **Purpose:** Ensures transparency and accountability in CSR compliance.

IX. CSR IMPLEMENTATION:

What are the ways of implementing the CSR activities? There are 3 ways of implementing CSR activities:

- Implementation by company itself
- Implementation with one or more companies (Rule 4(4))
- Implementation through agencies.

2. What are the types of agencies through which CSR can be implemented?

- Established by Company- Section 8, Trust or Society
- Government agencies - Section 8, Trust or Society
- Statutory Bodies - entity under Act of Parliament or state legislature
- Public agencies - Section 8, Trust or Society having 3 years track record

3. What types of agencies require registrations with MCA?

- Agencies as mentioned Rule 4(1) of the Companies (CSR Policy) Rules, 2014.
- IT registrations (Section 12AA & Section 80G of IT Act: (i) and (iv)
- Registrar of Assurances: Trusts.

4. Can a company collaborate with other companies for CSR?

Company can now collaborate with one or more companies for taking up a common project on CSR, provided the companies should be able to report the CSR expenditure in their CSR annual report separately as per the provisions of Section 135 of the Act on such common CSR project.

X. INCOME TAX PROVISIONS ON CSR EXPENDITURE

The amount spent by a company towards CSR cannot be claimed as business expenditure. The Finance Act, 2014 provides that any expenditure incurred by the Company on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the Private Limited Company for the purposes of the business or profession.

Disclaimer:

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