

CORPORATE SOCIAL RESPONSIBILITY

CSR is a concept of management whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders.



FOR WHOM IS CSR A MANDATORY EXPENSE?

According to Section 135 of the Companies Act, each and every company having net worth of rupees five hundred crores or more, or companies having a turnover of rupees one thousand crores or more or entities having a net profit of rupees five crore or more has to spend 2% of its average net profit during the three immediately preceding financial years in eligible CSR activities. If company fails to spend such amount, the Board shall in its report specify the reasons for not spending the amount under Section 134(3) (o).

To make CSR as mandatory expense item, the central government notified Section 135 and Schedule VII of the Companies Act 2013 as well as the provisions of the Companies (Corporate Social Responsibility Policy) Rules, 2014. Now, CSR spending has been made Mandatory from Voluntary. Hence now it is Spend or penalized. Earlier it was spend or explain.

ELIGIBLE ACTIVITIES FOR CSR POLICY

- Eradicating hunger, poverty and malnutrition/sanitation (including contribution to Swach Bharat Kosh)
- Promotion of education including employment enhancing vocational skills
- Promotion of gender equality/empowering women
- Ensuring environmental sustainability (incl. contribution to the Clean Ganga Fund)
- Protecting national heritage, art and culture
- Measures for benefit of armed forces veterans, war widows and dependents
- Training to promote sports
- Contribution to PM's National Relief Fund/ any specified fund
- Funds provided to technology incubators within academic institutions
- Rural development projects / slum area development
- Covid-19 Related areas

ACTIVITIES THAT WILL NOT QUALIFY AS CSR

- Activities that are meant exclusively for employees and/or their families will not qualify for CSR activities.
- Contribution to one-off events such as marathons, awards, charitable contribution, advertisement, sponsorship of TV programs, etc.
- Contribution of any amount directly or indirectly to any political party
- Expenses incurred for the fulfillment of any Act or Statute of regulations i.e., CSR expenditure should not be for an activity for which the company is already bound to do as an application of any other law
- Activities undertaken in pursuance of normal course of business of a company
- Projects or programmes or activities undertaken outside India

HOW CAN A COMPANY UNDERTAKE CSR ACTIVITIES?

A Company which is required to comply with CSR Regulations u/s 135 of the Companies Act, 2013, may undertake CSR activities, either directly or through a third Party Trust / Society or Section 8 Company / NGO.

ICAI, has advised that where a company undertakes the CSR activity through a third party, it should obtain an Independent Practitioner's Report on Utilisation of such CSR Funds from the auditor / CA in practice of the third party / NGO, to whom the funds are given by the Company for implementing CSR activity.

IF COMPANY FAILS TO COMPLY WITH CSR DISCLOSURES IN BOARD REPORT

- The company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account or 1 Crore, whichever is less.
- Every officer of the company who is in default shall be liable to a penalty of 1/10th of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or 2 Lakhs, whichever is less.

CSR AND INCOME TAX

As the CSR expenditure (being an application of income) is not incurred for the purposes of carrying on business, such expenditures cannot be allowed under the provisions of section 37 of the Income-tax Act.

The contention behind such a disallowance for deduction of CSR expenditure was that CSR expenditure is an application of income and thus is not incurred wholly and exclusively for the purposes of carrying on the business.

It may be noted that CSR expenditure can be disallowed if the same falls under the provisions of section 37(1). If any CSR expenditure falls within the provisions of sections 30 to 36 then such CSR expenditures cannot be disallowed under section 37(1). In other words, such CSR expenditure cannot be disallowed in general.