

**India**

**May 2010**

## **Corporate Update – May 2010\***

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TAX

Income-Tax

**Notification 41/2010  
Income-tax Rules (6th Amendment) 2010**

The following are major amendments which are effective from 1st April 2010.

1.	Form 16	Form is modified to included: <ul style="list-style-type: none"> <li>• Receipt Number of TDS Return as filed by deductor (Employer)</li> <li>• A separate annexure showing particulars of Challan Identification Number (CIN)</li> </ul>
2.	Form 16A	<p><u>Periodicity:</u></p> <p>Earlier it was optional for issue of Form 16A either monthly, quarterly or annual; Now it is compulsory to issue it only quarterly.</p> <p><u>Change in particulars:</u></p> <p>Form 16A should also include the particulars shown against Form 16 above.</p>
3.	TDS Payment Dates	<p>Any tax deducted at source either from salary or non-salary payments, made in the month of March including 31st March, the tax is to be deposited by deductor on or before 30th April.</p> <p>The earlier provision was as under:</p> <p><u>Salary Payments:</u></p> <p>Payment in March, to be deposited by 7th April.</p> <p><u>Non-salary payments:</u></p> <p>(a) payment in March other than 31st March. To be deposited by 7th April.</p> <p>(b) Payment on 31st March: To be deposited by 31st May.</p>
4.	Due Date for furnishing TDS Return	Due date for furnishing TDS Return for the last quarter of a financial year has been changed to 15th May instead of 15th June.

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## LEGAL

### COMPANY LAW

#### Easy Exit Scheme, 2010 (“The Scheme”)

**Applicability:**

The Scheme has been introduced by the Ministry of Corporate Affairs under Section 560 of the Companies Act, 1956 vide General Circular 2/2010 dated 26th May, 2010 in order to provide an opportunity to defunct companies for getting their names struck off from the Register of Companies. The Scheme shall remain in force from 31st May, 2010 to 31st August, 2010. The scheme covers private as well as unlisted public companies.

However, the Scheme is not applicable to specified class of companies such as listed companies, companies registered under Section 25 of the Act, companies against which prosecution for a non-compoundable offence is pending in court, companies which have defaulted in repayment of public deposits, companies having secured loan, companies having management dispute, companies having dues towards income tax, sales tax, central excise or to banks and financial institutions or any other Central Government or State Government Departments or authorities or any local authorities.

**Salient Features:**

A defunct company desirous of availing the Scheme has to make an application electronically in the Form EES, 2010.

A “defunct company” has been defined for the purpose, as under:

A Company:

- which has remained inoperative since incorporation;

OR

- which after having carried on business for some time, have become inoperative and have not carried on any business on or after 1st April, 2008.

OR

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- which has not raised its paid up capital to threshold limit of Rs. 1 lakh/Rs. 5 lakhs prescribed under Section 3 of the Companies Act.

### Documents to be filed:

Following documents are required to be filed along with the said Form:

- (a) An affidavit in the prescribed form by each of the existing director(s) of the company to the effect that the company has not carried on any business since incorporation or that the company did some business for a period up to a date (which should be specified) and then discontinued its operations and has not carried on any business after 1st April, 2008, as the case may be.
- (b) An Indemnity Bond in the prescribed form, duly notarized, to be given by every director individually or collectively, to the effect that any losses, claim and liabilities of the company, will be met in full by every director individually or collectively, even after the name of the company is struck off the register of Companies.
- (c) Statement of Account, in the prescribed form prepared as on date not prior to more than one month preceding the date of filing of application in Form EES, 2010, duly certified by a statutory auditor or Chartered Accountant in whole time practice, as the case may be.

### Action by Registrar of Companies:

The Registrar of Companies, upon receipt of an application under the Scheme, shall give an intimation of 30 days either through notice or announcement, to the company, shareholders, Govt. departments.

After the expiry of 30 days, if the Registrar is satisfied that the application is in order, he shall strike the name of the company from the Register of Companies and get a notice published in the Official Gazette and the company shall stand dissolved from the date of publication of the said notice in the Official Gazette.

*The detailed scheme is attached herewith*



EES, 2010.pdf

## **Company Law Settlement Scheme, 2010 (“The Scheme”)**

### **Applicability:**

**The Scheme** has been introduced by the Ministry of Corporate Affairs vide General Circular No. 1/2010 dated 26th May, 2010 with the objective of providing an opportunity to the defaulting companies to enable them to make good their default. “Defaulting company” means a company registered under the Companies Act or a foreign company falling under Section 591 of the Act. The Scheme is, therefore, applicable to all private limited companies, public limited companies as well as foreign companies (Project office / branch office / liaison office) falling under section 591 of the Companies Act. The Scheme shall remain in force from 31st May, 2010 to 31st August, 2010.

The following default of foreign companies are covered:

A. Default in filing Form 49 for alteration/change in any of the following:

- (1) Charter;
- (2) Statutes, memorandum and articles of association;
- (3) Address of registered/principal office;
- (4) Director or corporate Secretary.

B. Default in filing Form 52 for:

- (1) Change in authorized person to accept service on its behalf;
- (2) annual accounts;
- (3) change in principal or other places of business.

However, those private limited companies and public limited companies which have not increased their paid up capital up to the threshold limit of Rs 1 lac and 5 lacs respectively are required to first file documents to increase their paid up capital up to the threshold limit and thereafter would be allowed to avail of the benefits of the Scheme.

### **Salient Features:**

1. A defaulting company is required to pay the following fees:
  - (a) statutory filing fees as prescribed under the Companies Act and rules made thereunder;
  - (b) an additional fee of 25 percent of the actual additional fee payable, the remaining 75% of additional fees being waived.

2. Upon closure of Scheme and after the document(s) are taken on record/filed or approved by the Registrar of Companies the company has to file an application (in the prescribed form) electronically for seeking immunity in respect of belated documents filed under the Scheme.

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3. After granting the immunity, the Registrar shall withdraw the prosecutions pending, if any, against the company.

*The detailed scheme is attached herewith*



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### Important Dates To Remember

	Due Date
Last Date for filing of TDS/TCS returns for the quarter ending March 2010	15th June, 2010
Due date of payment of Advance Tax, installment of Income-Tax in respect of Corporate assesseees	15th June, 2010

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