



Corporate Social Responsibility

A Compendium by: DRBM Corporate
Consulting Private Limited

Corporate Social Responsibility under the Companies Act, 2013

Meaning of CSR

Corporate social responsibility (CSR) refers to business practices involving initiatives that benefit society. A business's CSR can encompass a wide variety of tactics, from giving away a portion of a company's proceeds to charity. Social responsibility is an ethical framework and suggests that an entity, be it an organization or individual, has an obligation to act for the benefit of society at large. Social responsibility is a duty every individual has to perform so as to maintain a balance between the economy and the ecosystems.

Provisions of Companies Act, 2013

Provisions of the Companies Act, 2013 have mandated all the companies coming under the ambit of section 135, to follow Corporate Social Responsibility Guidelines. Section 135 of the Act¹ talks about the applicability of the CSR provisions, manner of calculating amount to be spent for CSR activities and compliance requirements. Schedule VII to the Act has listed out Activities which may be included by companies in their Corporate Social Responsibility Policies.

Applicability

CSR Provisions under the Companies Act are applicable to all the companies having:

- a. Net Worth of INR 500 Crores or more; or
- b. Turnover of INR 1,000 Crores or more; or
- c. Net Profit of INR 5 Crores or more

During any Financial Year

Any Financial Year as referred to in Section 135(1) of the Act and Rule 3(2) of the Companies (Corporate Social Responsibility) Rules, 2014 means any of the three preceding financial years. General Circular No. 21/2014 Dt. 18.06.2014 has been issued in this regard.

Quantum of CSR Expenditure

The Board of Directors of every company shall ensure that the company spends at least 2% of the Average Net Profits calculated as per the provisions of section 198 of the Act; for the last three years immediately preceding the ensuing financial year.

¹ The Act means Companies Act, 2013



Steps to be followed by every company to whom CSR provisions are applicable

- A] Constitute a CSR Committee
- B] CSR Committee to Formulate a CSR Policy, Recommend to the Board activities to be undertaken, recommend and allocate amounts to be spent for such activities and Monitor the CSR activities from time to time
- C] The Board of Directors needs to consider the CSR Policy, the recommendations of the CSR Committee and approve the activities. Such policy shall be made available on the website of the Company.
- D] The Board of Directors shall ensure that the activities as per the CSR Policy are being undertaken.
- E] Facts as to Composition of the CSR Committee, Activities undertaken and amounts spent for such activities shall be disclosed in the Board of Directors' Report. If the Company fails to spend required amount for CSR Activities, reasons for such failure shall be justified in the Board's Report.

Activities covered under Corporate Social Responsibility

Schedule VII to the Act has specified some activities covered under the CSR. These activities include -

- (i) Eradicating extreme hunger and poverty;
- (ii) Promotion of education;
- (iii) Promoting gender equality and empowering women;
- (iv) Reducing child mortality and improving maternal health;
- (v) Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- (vi) Ensuring environmental sustainability;
- (vii) Employment enhancing vocational skills;
- (viii) Social business projects;
- (ix) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socioeconomic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- (x) Such other matters as may be prescribed.



After the General Circular No. 21/2014, 'Slum Area Development' and 'Clean Ganga' Projects were also included in the above mentioned activities.

It is worth to be noted that that the above entries are to be interpreted liberally so as to capture the essence of the subjects enumerated in the schedule. These items are expected to cover a wide range of activities and the given list is merely an illustrative one. The Board of Directors needs to take a call on the same.

Important Points to be noted

- CSR Committee to have 3 members and one should be an independent director. Private Companies can have a CSR Committee of 2 members without an independent director. CSR Committee to meet at least twice a year.
 - CSR Activities through an independent NGO can be considered only if such NGO has a good track record of carrying out such CSR Activities.
 - Different Companies can come together and pool the funds to be spent for CSR Activities. This will also help them undertake bigger projects.
 - CSR Activities undertaken in India will only qualify under the provisions of the Companies Act, 2013.
 - CSR Provisions are applicable to all the companies covered under the ambit of the provisions of section 135 of the Act. Differentiation has not been made between Section 8 Company / Private Company / Foreign Company etc.
 - Amounts spent in excess of 2% shall not be carried forward to the next year. However, unspent amount out of minimum required CSR Expenditure can be carried forward to the next year which shall be over and above the allocated amount for that year.
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Business Expenditure and Tax Benefits on account of CSR Activities

The Net Profits considered for the calculation of minimum amount required to be spent for CSR Activities should be '**Net Profits Before Tax**'. As such, the Government's intention is clear to cover as much amount as possible under the CSR Activities.

Hon. Finance Minister was very much clear when he stated during the 2014 Budget Speech that the Government is not expected to be a 30% partner under various CSR Activities of the Companies. As such, Finance Act, 2014 clarified that CSR Expenses shall not be treated as Allowable Expenses for Business / Profession Activities of the Companies. As such, no tax benefit shall be available under section 37 of the Income-tax Act, 1961.

However, if the companies contribute to the NGOs / Section 8 Companies / Trusts registered under section 80G of the Income-tax Act, 1961, deduction to the tune of 100% / 50% with / without limit can be claimed under section 80G.

Important Legal Provisions to be considered

- Section 135 of the Companies Act, 2013
 - Section 197 and 198 of the Companies Act, 2013
 - Companies (Corporate Social Responsibility) Rules, 2014
 - MCA General Circular No. 21/2014 Dated June 18, 2014
 - Section 80G of the Income-tax Act, 1961
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How DRBM can help

- Identify Coverage and check applicability under the CSR Provisions
 - Assistance in forming CSR Committee
 - Identify and Check the existing activities and understand if the same are qualified as CSR Activities
 - Calculate the amount to be spent for CSR Activities
 - Draft a CSR Policy and establish a mechanism to spend the money on CSR Projects
 - Form a mechanism to monitor the CSR Activities and audit the amounts being spent on such CSR Activities
 - Decide an action plan to achieve compliances and optimum tax benefit
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Why DRBM

DRBM is an experienced team of Chartered Accounts, Company Secretaries and other experts in the domains of Finance and Corporate Laws. With a legacy of 30+ years, we can boast of having significant handholding experience for implementation of CSR policies. Apart from business benefits, we also aim to achieve contribution to the society by benefitting genuine and needy social welfare projects.



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