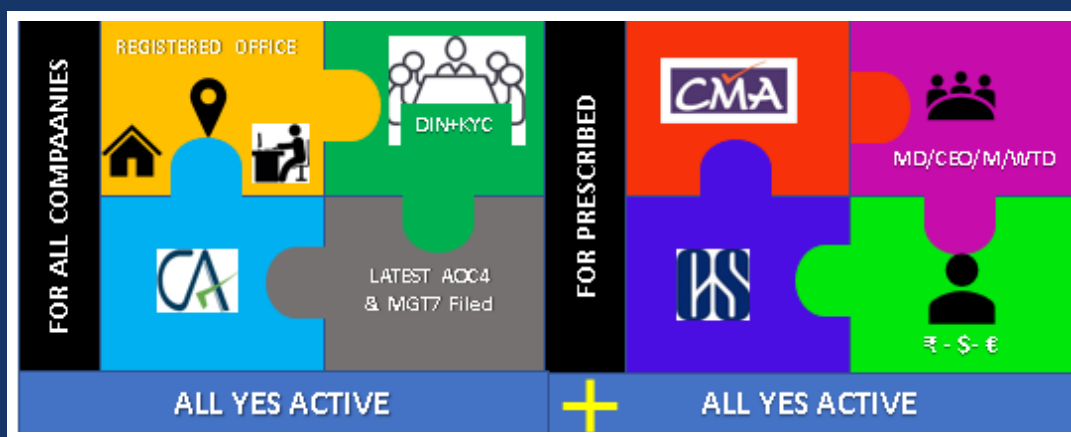




INC-22A PROCESS



Background

The Ministry of Corporate Affairs, on 21st February, 2019 introduced an amendment to the Companies Act, 2013 by inserting Rule 25A in the Companies (Incorporation) Rules, 2014. As per the said amendment, all companies who have been incorporated on or before 31st December, 2017, shall have to file form INC-22A (new form introduced pursuant to this amendment) with the Registrar of Companies (ROC) before 25th April 2019.

Objective:

Objective behind the amendment is to crack down on shell companies and also forcing the legally non-compliant companies to comply with the provisions of law or forced closure of a company by striking off name of a defaulting company with action for non-compliance.

Time Limit for Filing INC-22A

A Company shall file e- form INC-22A on MCA Portal before 25th April 2019 as certified, inter alia, by a Practising Company Secretary, without any filing fee.

If INC 22A is filed after April 25th, 2019 it shall have a normal government fee of Rs. 10,000.

FAQs on a Process Active - Compliant

Q-1 Which Companies are exempt from filing INC-22A

The following companies are exempt from filing INC-22A

- a. Companies either struck-off or under process of striking-off or under liquidation or amalgamated or dissolved, and such change in status has been registered in the Register of ROC.
- b. Companies incorporated on or after 1st January, 2018.

Q- What is active status of a Company Registered under Indian Companies Act?

As per rule 25A in the Companies (Incorporation) Rules, 2014 if any company complies with Four or Four Plus Four Parameters prescribed under Form 22A and files Form No 22A, it will be marked as "Active-Compliant" on MCA Portal (www.mca.nic.in). If a company is non-compliant with respect to Four or Four Plus Four Parameters or if a Company fails to file Form 22A, it will be shown on MCA portal as "Active- Non-Compliant".

Q- Whether all companies are in position to file Form INC-22A?

Defaulting companies will not be able to file Form INC-22A if they have failed to comply with any of the parameters as contained in Form INC-22A to the extent applicable to them. Four mandatory parameters have been fixed for marking companies as "Active Compliant. For certain companies' additional parameters have been fixed for marking companies as "Active Compliant. Unless companies are complaint on all the applicable parameters companies will not able to file INC-22A.

Q- What are the Specific situation when Companies will not be in position to file INC-22A

In case of the following situations, Companies will not be in position to file INC- 22A

- a. Companies who have not filed Financial Statements [AOC- 4 or AOC- 4 XBRL and AOC-4 CFS, if applicable] for any previous financial year or years.
- b. Companies who have not filed Annual Return [MGT-7] for any previous financial year or years.

Q-4 If non filing of AOC-4 and/or MGT-7 Forms is due to management disputes, whether such companies can file INC-22A?

The companies who are undergoing management dispute and if the same has been recorded by the ROC in its Register, shall not be restricted from filing form ACTIVE, even such companies have not filed AOC-4 and/or MGT-7 Forms for any previous financial year or years.

Q-5 Whether there are any other situations when companies will not be in position to file INC-22A

If Companies has defaulted with respect to the filing of the following forms, the companies will not be in position to files INC-22A, unless they complete the filing of the unfiled forms:

- 1) Appointment of Auditor: ADT-1
- 2) Appointment of Director: DIR-12
- 3) KYC of all Directors: DIR-3 KYC
- 4) Appointment of Company Secretary & CFO (if applicable): DIR-12
- 5) If more than 15 directors, Special Resolution: MGT-14
- 6) Appointment of Cost Auditor: CRA-2
- 7) Financial Statements: AOC-4/AOC-4 XBRL/AOC-4 CFS
- 8) Annual Return: MGT-7

Q- What are the steps to be taken for Filing of Form INC-22A , if a company is in position to file the said form

- a. Create e-mail id for the Company, unless the same has already been created and in use. Email like info@.....com can be treated as email id of a company. Create email id with precise word(s), e.g. legal.compliance@.....com . This is mandatory as OTP for the form submission will de sent on this email id. Do not use personal email id of director or employees or consultant.
- b. Take Photographs on Smart Phone which captures image with Latitude & Longitude of the Registered Office of the Company of the Registered Office of the Company as per the following specifications:
 - (i) External Building
 - (ii) Inside Registered Office showing the presence of at least 1 Director or KMP present at the place whose Digital Signature shall be attached to the form.
- c. Get the soft copy of the photographs taken as above for attaching to the INC-22A
- d. Provide original address proof of the registered office of the Company (Rent Agreement, Lease Deed, Conveyance deed, Index-II, Municipal Tax Bill, Utility Bill. This address shall match with the Company master data available on MCA Site.

Q- How to file Form INC-22A on MCA Portal

- a. Fill all the details. Attach mandatory and optional attachments.
- b. Carry out "Check Form" process on MCA website,
- c. Digitally signed the form. 2 Directors or 1 Director & 1 KMP, except in case of an OPC, where signature of only 1 Director shall be enough.
- d. Further, the form shall be required to be signed by a PCS/PCA/PCW.
- e. OTP will be sent on the e-mail of the Company mentioned in the Form Inc-22 A. OTP shall be valid approximately for 10 minutes only. On filling the correct OTP in the said form ACTIVE will be uploaded.
- f. On successful filing the status of the Company will appear as "Active Compliant"



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