

Summary of Notification dated 13th June, 2017 to exempt private companies as per Section 462 of the Companies Act 2013

Serial number	Chapter/ Section number/ Sub-section(s) in the Companies Act, 2013	Amendment	Section	Exceptions/ Modifications /Adaptations	Remarks
(1)	(2)			(3)	
1.	Chapter I, clause (40) of section 2- Financial Statement	New Exemption	<p>“financial statement” in relation to a company, includes—</p> <ul style="list-style-type: none"> (i) a balance sheet as at the end of the financial year; (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year; (iii) cash flow statement for the financial year; (iv) a statement of changes in equity, if applicable; and (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv): <p>Provided that the financial statement, with respect to One Person Company, small company and dormant</p>	<p>The proviso would apply as under:-</p> <p>Provided that the financial statement, with respect to One Person Company, small company, dormant company and private company (if such a private company)s a start-up), may not include the cash flow statement;</p>	<p>A Start up private company is not required to include the cash flow statement in the financial statements</p>

			company, may not include the cash flow statement;		
2.	Chapter V, clauses (a) to (e) of sub-section (2) of section 73.- Prohibition on Acceptance of Deposits from public	Amendment notification incorporated in the law after further modification	(2) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely:— (a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed; (b) filing a copy of the circular along with such statement with the	Shall not apply to a private company- (A) which accepts from its members monies not exceeding one hundred percent of aggregate of paid up share capital, free reserves and securities premium account; or (B) which is a start-up, for five years from the date of its incorporation; or (C) which fulfils all of the following conditions ; namely- (a) which is not an associate or a subsidiary company of any other company (b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and (c) such a company has no	(i) Substitution of the Clause 6 in the 5 th June, 2015 exemption Notification to a private company which provided for exemption from accepting from its members not exceeding 100% of the paid up capital and free reservesto 100% of the paid up capital, free reserves and securities premium. (ii) Exemption has been provided to a Start up private company for 5 years from its incorporation. (iii) Also, exemption has been provided to a private company which is

			<p>Registrar within thirty days before the date of issue of the circular;</p> <p>(c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;</p> <p>(d) providing such deposit insurance in such manner and to such extent as may be prescribed;</p> <p>(e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and</p> <p>(f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company:</p> <p>Provided that in case where a company does not secure the deposits or secures such</p>	<p>default in repayment of such borrowings subsisting at the time of accepting deposits under this section.</p> <p>Provided that the company referred to in Clause (A), (B) or (C) shall file the details of monies accepted to the Registrar in such manner as may be specified.</p>	<p>not an associate or a subsidiary of a company,</p> <p>having borrowings less than twice of its paid up share capital or Rs 50 crore which ever is less</p> <p>Default in repayment of borrowings is not subsisting at the time of acceptance of deposits</p> <p>Some exemptions are same as earlier Exemptions given to private companies in June, 2015 under Section 185.</p>
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3.	Chapter VII, clause (g) of sub-section (1) of section 92- Annual Return	New Exemption	(1) Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding— (g) remuneration of directors and key managerial personnel;	Shall apply to private companies which are small companies as under:- (g) aggregate amount of remuneration drawn by directors	Private companies which are small companies need to disclose aggregate amount of remuneration drawn by directors. They need not give details of remuneration of all the directors and key managerial personnel individually.
4.	Chapter VII, proviso to sub-section (1) of section 92- Annual Return	New Exemption	Provided that in relation to One Person Company and small company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.	The proviso shall apply as under:- Provided that in relation to One Person Company, small company <u>and a private company (if such private company is a start-up)</u> , the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.	In Start up companies, where there is no company secretary, the annual return may be signed by the director of the company.

5.	Chapter X, clause (i) of sub-section (3) of section 143.- Powers and Duties of auditors and Auditing Standards	New Exemption	The auditor's report shall also state whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;	Shall not apply to a <u>private company</u> (i) which is a one person company; or a small company; or (ii) which has turnover less than rupees fifty crores as per latest audited financial statement or which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than rupees twenty five crore;	Internal Financial Reporting is not required by a private company which is a One Person company or a small company or Which has Turnover- less than Rs 50 crore Borrowings- less than Rs 25 crore.
6.	Chapter XII, sub-section (5) of section 173- Meetings of Board	New Exemption	A One Person Company, small company and dormant company shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days: Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one director on its Board of Directors	For subsection (5), the following subsection shall be substituted:- (5) A One Person Company, small company, dormant company <u>and a private company</u> (if such <u>private company is a start-up</u>) shall be deemed to have complied with the provisions of this section if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap	Start up companies are required to hold only 2 meetings of the Board in an year

				<p>between the two meetings is not less than ninety days.</p> <p>Provided that nothing contained in this sub-section and in section 174 shall apply to One Person Company in which there is only one Director on its Board of directors.</p>	
7.	Chapter XII, sub-section (3) of section 174.- Quorum for meetings of Board	New Exemption	<p>Where at any time the number of interested directors exceeds or is equal to two thirds of the total strength of the Board of Directors, the number of directors who are not interested directors and present at the meeting, being not less than two, shall be the quorum during such time.</p> <p><i>Explanation.</i>—For the purposes of this sub-section, “interested director” means a director within the meaning of sub-section (2) of section 184.</p>	<p>Shall apply with the exception that the interested director may also be counted towards quorum in such meeting after disclosure of his interest pursuant to section 184.</p>	<p>For private companies interested director may also be counted for quorum in such meeting after disclosure of his interest pursuant to section 184.</p>