

Amendments in Companies (Accounts) Rules, 2022

➤ COMPANIES (ACCOUNTS) AMENDMENT RULES, 2021

Ministry of Corporate Affairs (MCA) vide the Companies (Accounts) Amendment Rules, 2021 dated 24th March, 2021 and effective from 01st April, 2023 has mandated to use the accounting software having following features:

- a. Recording of audit trail;
- b. Creating an edit log with the date;

The text of inserted proviso after sub-rule (1) in Rule 3 of Companies (Accounts) Rules, 2014 is as under:

“Provided that for the financial year commencing on or after the 1st day of April, 2021, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.”

Further, the auditor shall also include their views and comments on the above matter in its auditor’s report.

Link for amendment rule: -

https://www.mca.gov.in/Ministry/pdf/AccountsAmendmentRules_24032021.pdf

➤ COMPANIES (ACCOUNTS) FOURTH AMENDMENT RULES, 2022

Ministry of Corporate Affairs (**hereinafter referred as “MCA”**) has amended the Companies (Accounts) Rules, 2014 (**“Original Rule”**) vide the Companies (Accounts) Fourth Amendment Rules, 2022 (**“Amended Rule”**) dated August 05, 2022.

Link for amendment rule: - <https://egazette.nic.in/WriteReadData/2022/238055.pdf>

The above amended rules came into force on the date of their publication in the Official Gazette i.e. August 12, 2022

I. HIGHLIGHTS OF THE COMPANIES (ACCOUNTS) FOURTH AMENDMENT RULES, 2022

- a) The books of account and other relevant books and papers maintained in electronic mode shall remain “accessible in India, **at all times**”.
- b) The back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a **daily basis**.
- c) If the service provider is located outside India, the name and address of the person in control of the books of account and other books and papers in India.

II. KEY DEFINITIONS

- a) **“books of account”** includes records maintained in respect of—
- i. all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;
 - ii. all sales and purchases of goods and services by the company;
 - iii. the assets and liabilities of the company; and
 - iv. the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section;
- b) **“book and paper”** and **“book or paper”** include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form;

III. ANALYSIS OF THE AMENDMENT

- a) MCA has clarified that the books of account and other relevant books and papers maintained in electronic mode shall remain “accessible in India, at all times”. Earlier, there was no specific time was prescribed regarding the accessibility of the books of account and other relevant books and papers maintained in electronic mode.
- b) The term “periodic basis” was not defined under the provisions of the Companies Act, 2013 for the purpose of the back-up books of account and other books and papers of the company maintained in electronic mode, including at a place outside India if any.

Now, MCA has clarified that the back-up books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, should be done on the daily basis from the effective date of this amendment.

- c) As per original rule, the Companies, maintaining the books of account and other relevant books and papers in electronic mode, are required to intimate to the Registrar on an annual basis at the time of filing of financial statement-
- (i) the name of the service provider;
 - (ii) the internet protocol address of service provider;
 - (iii) the location of the service provider (wherever applicable);
 - (iv) where the books of account and other books and papers are maintained on cloud, such address as provided by the service provider.

Now, as per amended rule and in addition to above requirement, the Companies are also require to intimate the name and address of the person in control of the books of account and other books and papers in India, in case the service provider is located outside India.

IV. ACTIONABLES

- a) The Companies should ensure that books of account and other relevant books and papers maintained out India in electronic mode shall remain accessible in India, at all times;
- b) Back-up of the books of account and other books and papers of the company maintained in electronic mode in server should be done on daily basis.
- c) If the service provider is located outside India, then Companies should identify the person in control of the books of account and other books and papers in India, maintained in electronic mode.

For this purpose, the Company should obtain the consent of person to act as person in control of books of account and other books and papers in India and board resolution should be passed for appointing such person as “Controlling Person”.

Further, the name and address of the person in control should be given at time of filing of financial statements with the Registrar of Companies through Form AOC-4, Form AOC-4 XBRL or AOC-4 NBFC.

Suggestions may be send to rupesh@cacsindia.com

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