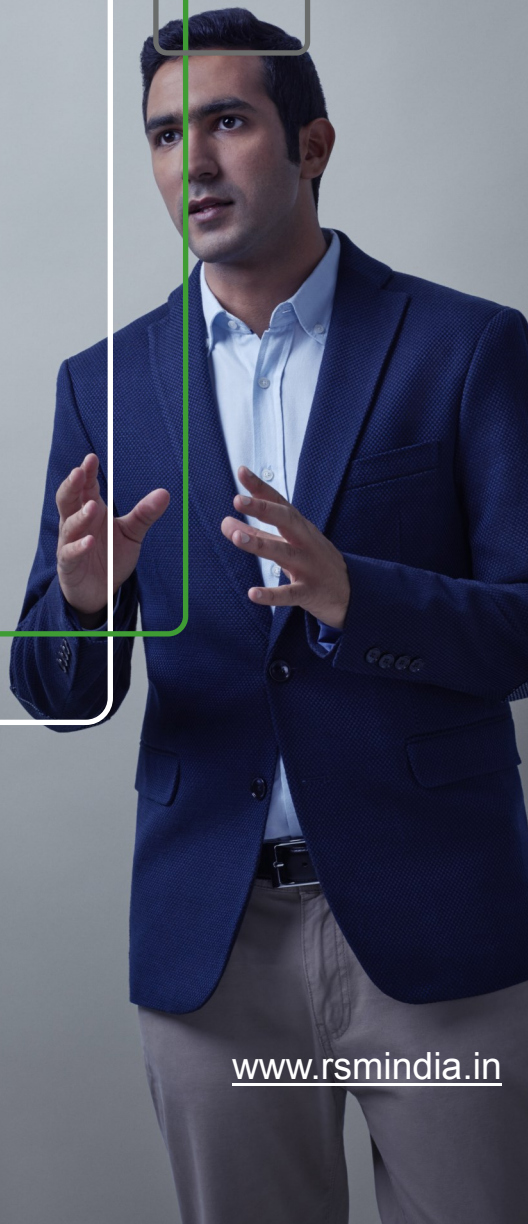


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Newsflash: Companies Act, 2013 – Rotation of auditors for Private Companies

The Ministry of Corporate Affairs (MCA) has come out with **Companies (Audit and Auditors) Second Amendment Rules, 2017** ('Amendment Rules') vide Notification dated 22nd June, 2017. In the aforesaid notification, MCA has amended Rule 5 (b) of Companies (Audit and Auditors) Rules, 2014 ('Rules'). **This amendment gives relief to private companies with paid up share capital of below Rupees fifty crores**, from the applicability of rotation of auditors under section 139 (2) of the Companies Act, 2013.

The new position regarding the rotation of auditors as per section 139 (2) of the Companies Act, 2013, read along with the Rules after the aforesaid amendment stands as follows:

- i) A listed company or
- ii) All unlisted public companies having paid up share capital of Rs. **10 crore** or more;
- iii) All private limited companies having paid up share capital of Rs. **50 crore** or more;
- iv) All companies having paid up share capital of below threshold limit mentioned in ii and iii above, but having public borrowings from financial institutions, banks or public deposits of Rs. **50 crores** or more

Shall not appoint or re-appoint

- a. an individual as auditor for more than one term of 5 consecutive years; and
- b. an audit firm as auditor for more than two terms of 5 consecutive years:

Provided that

- i) an individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;
- ii) an audit firm which has completed its term under clause (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:

Provided also that every company, existing on or before the commencement of this Act which is required to comply with the provisions of this sub-section, shall comply with requirements of this sub-section within a period which shall not be later than the date of the first annual general meeting of the company held, within the period specified under sub-section (1) of section 96, after three years from the date of commencement of this Act.

Thus, other provisions of section 139 (2) of the Act and the Rules remaining the same, the amendment rules have increased the threshold for the applicability of rotation of auditors based on the paid-up share capital of private companies from Rs. 20 crores to Rs. 50 crores.

Link to Notification dated 22nd June, 2017

<http://mca.gov.in/Ministry/pdf/CompaniesAuditandAuditorsSecondAmendmentRules2017.pdf>

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This newsflash is general in nature. In this newsflash, we have summarized the contents MCA notification dated 22 June 2017. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

23 June 2017