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Integrated Association of Micro, Small & Medium Enterprises of India

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<p>Rajive Chawla Chairman, IamSMEofIndia</p>		<p>Sangeet Kr Gupta Hon. Consultant, IamSMEofIndia & FSIA</p>

Dear Members,

Finally, Relaxation done.
Now you can take
Unsecured Loans from Your relatives



The Companies Act 2013 had tightened too many bolts. One of them was banning Deposits and Unsecured Loans from anybody (almost !!) . Except after a long detailed procedure. The exceptions to the rules were quite few.

Finally, a big relaxation has been given.

Thus, you are now free to take Unsecured loans from “relatives” freely. Subject to some limits.

Remember “must be by Account payee cheque/NEFT/RTGS only”





Source : Companies (Acceptance of Deposits) Second Amendment Rules, 2015

[File No 1/8/2013-CL-V]

**Government of India
Ministry of Corporate Affairs
Notification**

New Delhi dated, 15th September, 2015

G.S.R. – (E). – In exercise of the powers conferred by sections 73 and 76 read with subsection (1) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Acceptance of Deposits) Rules, 2014, namely:

1. (1) These rules may be called the Companies (Acceptance of Deposits) Second Amendment Rules, 2015

(2) They shall come into force on the date of their Publication in the Official Gazette.

2. In the Companies (Acceptance of Deposits) Rules, 2014 (hereinafter referred to as said rules), in rule 2, in sub-rule (1), in clause (c), for sub-clause (viii), the following shall be substituted, namely:-

“(viii) any amount received from a Person who, at the time of the receipt of the amount,
was a director of the company
or
a relative of the director of the Private Company.

Provided that the director of the company or relative of the director of the private company, as the case may be, from whom money is received, furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others and the company shall disclose the details of money so accepted in the Board’s report;.

[File No 1/8/2013-CL-V]
Amardeep Singh Bhatia
Joint Secretary

Who is the “Relative” ?

Under section 2(77), “Relative”, with reference to any person, means any one who is related to another, if—

- (i) they are members of a Hindu Undivided Family;
- (ii) they are husband and wife; or
- (iii) one person is related to the other in such manner as may be prescribed

What are the other relations prescribed ?

The Companies (Specification of definitions details) Rules, 2014
Government of India Ministry of Corporate Affairs
NOTIFICATION New Delhi, dated 31.03.2014 G.S.R 238 (E).

4. List of relatives in terms of clause (77) of section 2.- A person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:-

- (1) Father
- (2) Mother
- (3) Son
- (4) Son’s wife.
- (5) Daughter.
- (6) Daughter’s husband.
- (7) Brother
- (8) Sister



Law was enacted in 2013

Relief given first for
Pre 31 3 2014 loans

Now relief given to all
Private Limited
companies



Some quick FAQ for the I-am-SME of india members ?

- Can I get Loans after taking a loan from somebody in personal bank account ?
 - NO, that is expressedly **DISALLOWED**
- I had repaid the loans, in 2014, and 2015, due to law at that time. Can I bring them back ?
 - Yes, of course
- Can somebody give me cash Loan ?
 - No, Of course **NOT**
- Is a public Limited company also allowed ? (small, closely held)
 - No, The ban remains valid for your company
- Can I pay interest to them on these unsecured loans
 - Yes, you can. There is no such condition that it has to be “interest free”

For queries, suggestions and feedback , you can e-mail us

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