
*Companies Act, 2013- Implications on
Audit -Year end Perspective*

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Important as an Auditors

In conducting an audit of a company, the auditor is required to ensure compliance with the standards on auditing (SAs) and other authoritative pronouncements issued by the Institute of Chartered Accountants of India ('ICAI'). SA 250(Revised), Consideration of Laws and Regulations in an Audit of Financial Statements, deals with the auditor's responsibility to consider laws and regulations when performing an audit of financial statements. Similarly, another SA which would need to be considered by the auditor while discharging his reporting obligation, is SA 720, The Auditor's Responsibility in Relation to Other Information in Documents Containing Audited Financial Statements.

Key Sections on Companies Act, 2013

- 1. Books of Accounts**
- 2. Financial Statement & Reporting**
- 3. Related Parties**
- 4. Key Managerial Personnel**
- 5. Loans, Investments and Acceptance and Repayment of deposits**
- 6. Dividend**
- 7. Depreciation**
- 8. Fraud**
- 9. Corporate Social Responsibility**

Books of Accounts

Background, Books of Accounts in Electronic mode,
Server Physically Located Outside India and Branch
Accounts

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Companies Act., 1956 V/s Companies Act., 2013

Section 128 (1) of Companies Act., 2013 which talks about maintenance of Books of Account and other relevant books and papers is similar to Section 209 of Companies Act, 1956 with following exception.

- ✓ The 2013 Act is giving cognizance to Information Technology with respect to maintenance of books of accounts.

Books of Accounts in Electronic Mode

➤ *Are companies now mandatorily required to maintain their books of account and other relevant books and papers in electronic mode?*

- NO

However, the following need to be maintained in electronic form by all listed companies and companies having not less than 1000 shareholder.

1. Documents as defined under Section 2 (36)
2. Records- Any register, index, agreement, memorandum, Minutes etc.

Books of Accounts in Electronic Mode

- *Whether a company can maintain books of account in electronic mode on a server physically located outside India?*

As per Rule 3 of Companies (Accounts) Rules, 2014 , the books of account and other relevant books and papers can be maintained in electronic mode **provided it remains accessible in India** so as to be usable for subsequent reference. Further Rule 4 prescribes certain conditions with respect to circumstances where the books of account of the company are **kept and maintained outside India**. These rules clearly indicate that the books of account can be maintained in an electronic mode outside India.

Books of Accounts in Electronic Mode

- *Conditions prescribed under Rule 4 for maintaining books of account in electronic mode on a server physically located outside India?*

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, to be kept in servers physically located in India on a periodic basis. However, the frequency of back-ups to be taken has not been specified either in the 2013 Act or in the Rules and company would need to formulate a specific policy in this regard.

Books of Accounts in Electronic Mode

- *What is the reporting implication if a Company does not maintain back –up of books of account on servers physically located in India ?*

As per Section 128, it can be concluded that proper books are maintained when it gives a true and fair view of the state of affairs of the company and explains the transactions effected and when such books are kept on accrual basis and according to the double entry system of accounting. Accordingly, non maintenance of the back up of books of account on servers physically located in India will not render books of accounts as improper and consequently the auditors report should not be modified as it is unlikely to impact the true and fair of the financial statement. An illustrative example of such reporting could be on following lines

“In our opinion, proper books of account as required by law have been kept by the Company so far as it appears from our examination of those , except that the back up of the books of account and other books and papers maintained in electronic mode has not been maintained on servers physically located in India”

Books of Accounts in Electronic Mode

- *What are the new filing requirements with Registrar of Companies in respect of books of account kept in electronic mode ?*

As required by Rule 3(6) of the Companies (Accounts) Rules, 2014, a company is 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.

Branch Accounts

- *Whether Company can maintain separate set of books of accounts at branch ?*

Yes, Board has to pass a resolution and within 7 days of such decision intimate the ROC, location of such declared branch office. If separate books of account are maintained in India or outside India, it would be deemed to be compliance of Section 128(1) if summarized returns are sent at regular intervals to the Registered office or at place where books of account are maintained if it is maintained at, other than registered office.

Financial Statement & Reporting

Accounting Year, Consolidated Financial Statement, Cash Flow Statement and Reporting.

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Accounting Year

- “financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year.
- For newly incorporated Company where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year
- Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:
- Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause.

Consolidated Financial Statement

- Preparation of the Consolidated Financial Statements is mandatory for all the companies who have one or more subsidiaries [Section 129]. There are no transitional provisions for this.
- Definition of “subsidiary company” includes a joint venture and associate. Hence all the companies would be required to prepare CFS even if they have only an associate or joint venture as per AS-23 and As-27 respectively.
- Exemption in case of Company having only foreign Subsidiaries – Rule 6 has been amended and in rule 6, after the third proviso, the following proviso shall be inserted, namely:- "Provided also that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1" April, 2014." (Notification dated January 16, 2015)

Consolidated Financial Statement

- Exemption in case of Companies which have only one or more associate companies or joint ventures – Amended Rule 6 state that “ Provided also that nothing contained in this rule shall, subject to any other law or regulation, apply for the financial year commencing from 1st day of April, 2014 and ending on the 31st March, 2015, in case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or Joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, as the case may be.
- Provided further that nothing in this rule shall apply in respect of preparation of consolidated financial statement by an intermediate wholly owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is company incorporated outside India
(Notification dated October 14, 2014)

Consolidated Financial Statement

- Clarification on matters relating to Consolidated Financial Statement (General circular No. 39/2014)

It is clarified that Schedule III to the Act read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.

Cash Flow Statement

- “Financial Statements” have been defined to include the following:
 - Balance Sheet at the end of financial year
 - Statement of Profit & Loss for the financial year
 - **Cash Flow statement** (not mandatory for small companies, OPCs & Dormant companies) for the financial year
 - Statement of Changes in equity, if applicable
 - Explanatory statement Note annexed to & forming part of Financial statements.[Section 2(40)]

Impact - Cash Flow Statement which was not mandatory for SMC is now mandatory for all Companies except Small Companies, One Person Company and Dormant Companies.

- Section 143 – subsection 3 :

The auditor's report shall also state—

- (a) Para (i) of auditor's report - whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;

Exemption – Amendment to Companies (Audit and Auditors) Rules, 2014

Deferment of reporting on internal control and operating effectiveness to financial years commencing on or after April 1, 2015 Auditor may voluntarily include in this report for the year beginning on or after April 1, 2014 and ending on or before March 31, 2015.

(b) **Other**

- Under the 1956 Act, the Central Government issued the CARO 2003. CARO 2003 contains various matters on which the auditors of companies (except exempted companies) have to make a statement in their audit report. The Audit Rules issued under the 2013 Act do not contain a similar order.
- The Audit Rules require an auditor to comment on the following three additional matters:
 - Whether the company has disclosed the impact, if any, of pending litigations on its financial position in the financial statements
 - Whether the company has made provision, as required under any law or accounting standards, for material foreseeable losses, if any, on long-term contracts including derivative contracts

(b) **Other Contd....**

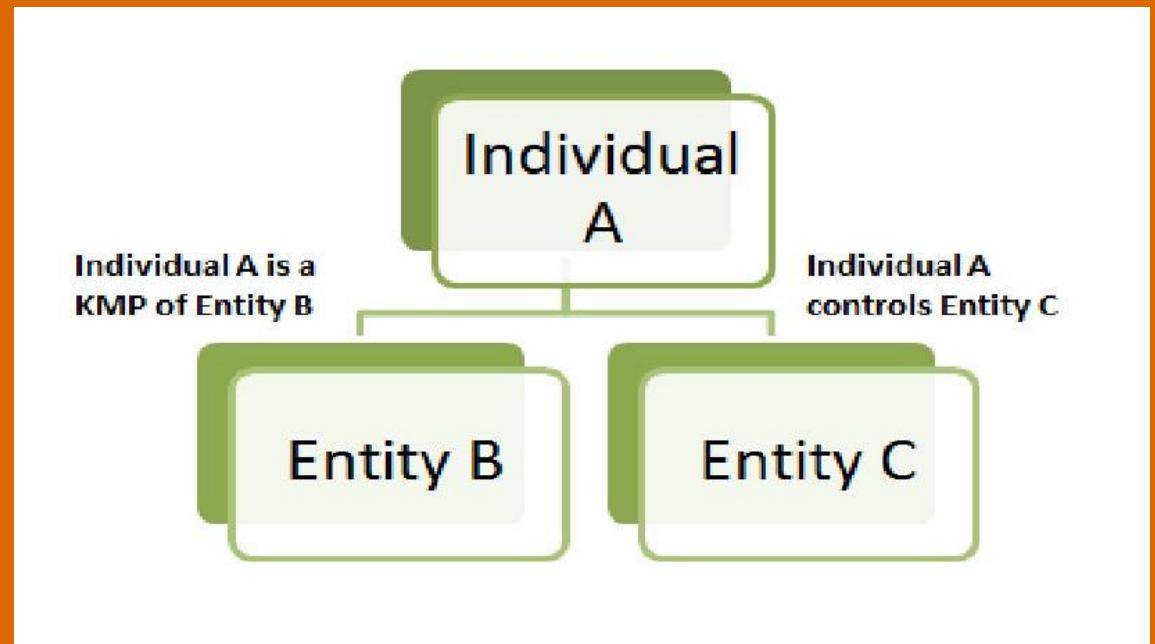
-Whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund (IEPF) by the company.

Considering the above, it appears that CARO type reporting may no longer be required under the 2013 Act. However, one should not rule out the possibility that the Central Government may prescribe such reporting requirements in due course.

Interestingly, whilst the MCA has so far not prescribed the CARO or its equivalent under the 2013 Act, Form AOC-4 (for filing financial statements and other documents with the Registrar) requires details regarding Auditors' Reporting under the CARO 2003.

Related Parties

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Related Parties to be evaluated under the following regulations:

- Companies Act, 2013 (the “2013 Act”; the “Act”)
- Accounting Standard (AS) 18, Related Party Disclosures (“AS 18”; the “Standard”) notified under Companies (Accounting Standard) Rules, 2006 of the 1956 Act.
- Revised Clause 49 of the Equity Listing Agreement (“Clause 49”: the “Listing Agreement”) issued by Securities Exchange Board of India (“SEBI”)

Evaluation should be in the following sequence:

- Identification of related parties
- Related party transactions
- Approval process
- Disclosure requirements

Identification of Related parties :

U/s 2 (76) read with rule 2(e) of Companies (Meetings of Board and its powers) Rules, 2014 following are categories considered as related parties:

- There are main 23 categories of relationship which meet criteria mentioned in section, like Director, KMP, relatives of director and KMP, Partnership firm & Companies in which they are interested as prescribed for each category, etc.
- Person of Holding company will be considered as related party for subsidiary as defined below:
 - Any director other than an independent director of the holding company
 - Any relative of director other than an independent director of holding company
 - Any KMP or relative of KMP of holding company

Identification of Related parties : (cont....)

Related party as per AS 18 : parties are considered to be related if at any time during the reporting period one party has the ability to control the other party or exercise significant influence over the other party in making financial and/or operating decisions.

Related parties as identified as per Companies Act, 2013 but not specifically covered in AS 18:

- Non-executive Directors of the Company
- CFO and Company secretary of the Company
- Relatives of CFO and Company secretary of the Company
- Private company in which Director/ Manager of the Company or their relatives is member/director unless they have significant influence
- Director / KMP of the holding company or their relative unless they have significant influence in their personnel capacity

Identification of Related parties : (cont....)

Related parties for Listed Companies as per Clause 49(VII)(B):

- Such entity is a related party under Section 2(76) of the 2013 Act; or
- Such entity is a related party under the applicable accounting standards. Thus, this requirement covers all relationships that are envisaged in both 2013 Act as well as under AS 18.

Related Party Transactions

Related party transactions categories as mentioned in section 188 of Companies Act, 2013:

- Sale, purchase or supply of any goods or materials
- Selling or otherwise disposing of, or buying, property of any kind
- Leasing of property of any kind
- Availing or rendering of any services
- Appointment of any agent for purchase or sale of goods, materials, services or property
- Such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company
- Underwriting the subscription of any securities or derivatives thereof, of the company

Related Parties

Approval Process:

When does the company need to go to its shareholders?

Transactions (not in ordinary course of business or not at Arm's length) exceeding specified limits

OR

Appointment to any office or place of profit (including subsidiary/associate) for >INR 2.5 lakh p.m

OR

Underwriting fees exceeding INR 1% of the net worth



Transactions	Limits#
Sale, purchase or supply of any goods or material	10% of turnover or Rs. 100 crores, whichever is lower
Selling or otherwise disposing of or buying property of any kind	10% of net worth or Rs. 100 crores, whichever is lower
Leasing of property of any kind	10% of net worth or 10% of turnover or Rs. 100 crores, whichever is lower
Availing or rendering any services/ Appointment of any agent for purchase or sale of goods, materials, services or property	10% of turnover or Rs. 50 crores, whichever is lower

Approval Process – Board and Audit Committee

Forum	2013 Act	Clause 49
Audit Committee	All transactions with related parties whether or not covered under section 188(1) (i.e. whether entered in the ordinary course of business and/or at arm's length basis), need to be approved by the audit committee, however, there is no specific requirement for prior approval under section 188 / section 177(4).	All related party transactions shall require prior approval of the audit committee.
Board	Approval of the Board is required only for specified transactions which are not in the ordinary course of business and/or are not on an arm's length basis.	All related party transactions irrespective of materiality level are required to be approved by the Board.

Related Parties

Disclosure requirements - Board Report/Annual Report/website

2013 Act	Clause 49	AS 18
<ul style="list-style-type: none">• Details of contracts or arrangements or transactions not at arm's length basis.• Details of material contracts or arrangements or transactions at arm's length basis. <p>Note: the term 'material' has not been defined. [Refer section 188(2), 134(3)(h), Rule 8 of Companies (Accounts) Rules, 2014; Form AOC -2]</p>	<ul style="list-style-type: none">• Details of all material transactions with related parties shall be disclosed quarterly along with the compliance report on corporate governance.• The policy on related party transactions should be disclosed on its website and a web link thereto should be provided in the Annual Report.	<p>Disclosure for the Board Report are not envisaged by the Standard.</p>

Disclosure requirements – Financial Statement

Section 188 read with section 2(76) of the 2013 Act and Clause 49, does not specify any disclosure for related parties and transactions with them in the financial statements. The requirement for disclosure of a company's related parties and transaction with them is set out in AS 18.

Auditors v/s Arm's length transactions

AS 18 does not require a specific disclosure of the basis of pricing of all transactions entered into with the related parties, para 23(v) of AS 18 requires that *any other elements of the related party transactions necessary for an understanding of the financial statements* should be disclosed.

Auditor should obtain the board and shareholder's minutes to understand and evaluate Management's rationale for such transactions. Further, auditor should discuss and communicate any findings with those charged with governance.

Auditors need to obtain sufficient and appropriate audit evidence about Management's assertion that transactions entered into by the company with its related parties are on an arms' length basis to address the risk of material misstatement from such assertion by using professional judgment to design specific procedures and consider the appropriateness and completeness of the disclosures made by Management for related party transactions.

Auditor should note that the requirements of the various authoritative pronouncements (AS 18, SA 550, CARO and Companies Act 2013) are distinct and needs to be considered and evaluated separately for assessing their implications on the auditor's opinion.

Related Parties

Auditors v/s Arm's length transactions

Illustrative disclosures :

- a) Disclosure in the financial statements of a large consumer durable trading company-
“Transactions and balances with related parties in the ordinary course of business and on an arm's length basis- purchases of trade goods/ service spare parts”
- (b) A Limited, a related party of B Limited enters into a transaction for the sale of 60% of its annual sales to the latter at a fixed price realizing a margin of 5% from such sales. The margin derived from sales made by A Limited to unrelated parties is 45%. In this case, the disclosure in the financial statements may include a reference that the transaction has been entered into “under terms of arrangements, as a result of which prices are lower than those with unrelated parties”.
- (c) The fact that no price is charged with a related party for example, free provision of management services and the extension of free credit on a loan.

Key Managerial Personnel

Definition, Applicability, disclosure requirement



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Key Managerial Personnel (KMP)...

	Companies Act 2013	Accounting Standard
Definition	<p>As per section 2(51) of the 2013 Act, a key managerial personnel , in relation to a company, means—</p> <ul style="list-style-type: none">(i) the Chief Executive Officer or the managing director or the manager;(ii) the company secretary;(iii) the whole-time director;(iv) the Chief Financial Officer	<p>The definition of KMP under the 2013 Act is driven by the designation/positions held by them in a company; however, as per AS 18, KMP are those persons who have the authority and responsibility for planning, directing and controlling the activities of the reporting enterprise. Accordingly, a KMP under the 2013 Act need not be a KMP under AS 18</p>

Key Managerial Personnel (KMP)...

Companies Required to appoint KMP?

Rule 8 Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 requires listed companies and public companies having a paid up share capital of Rs. 10 crores or more to have the following wholetime KMP:

- (i) managing director ("MD"), or Chief Executive Officer ("CEO") or manager and in their absence, a whole-time director ("WTD");
- (ii) company secretary ("CS"); and
- (iii) Chief Financial Officer ("CFO")

Further, Rule 8A of the Rules referred to above require all companies which have a paid up share capital of Rs. 5 crore or more to have a whole-time company secretary.

Key Managerial Personnel (KMP)....

Disclosure Requirements in the Board Report

All companies:

Section 134(3)(a) requires an extract of the annual return to be included in the Board's Report as prescribed in Section 92(3), which further refers to Rule 12(1) of the Companies (Management and Administration) Rules, 2014, wherein Form No MGT-9 requires the following details relating to KMP:

- (i) The shareholding of KMP at the beginning of the year and cumulative shareholding as at end of the year;
- (ii) The remuneration paid to KMP.

Key Managerial Personnel (KMP)

Disclosure Requirements in the Board Report

Listed companies:

Section 197(12) read with Rule 5 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 requires listed companies to make certain disclosures relating to employee remuneration and include:

- Comparison of the remuneration of the KMP against the performance of the company and other disclosures.

Listed companies and public companies having a paid up share capital > Rs. 25 crore, calculated at the end of the preceding financial year:

Section 134(3)(q) read with Rule 8(5)(iii) of the Companies (Accounts) Rules, 2014 require disclosure of details of KMP who were appointed or have resigned during the year.

Loans, Investments and Acceptance and Repayment of deposits

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Loans to directors/ any other person in whom director is interested *[Section 185]*

Section 185 of the Companies Act., 2013 which has by far been the most debated section of Companies Act., 2013, imposes a total prohibition on companies providing loans, guarantee or security to the director or any other person in whom the director is interested.

Exemption for private companies taken away

Exemptions provided for:

- Certain categories of loans to a managing/ whole time director,
- Companies which provide loans/ give guarantees or securities in the ordinary course of its business
- Loans, guarantees given or security provided by holding company to its wholly owned subsidiary#
- Guarantees given or security provided in respect of loan made by any bank or financial institution to its subsidiary#
- MCA has clarified that loans and/or advances made by the companies to their employees, other than the MD or WTD (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013. (Notification dated March 10, 2015)

Exemptions only if loans made under these rules have to be utilised by subsidiary company for its principal business activities

The said change is anticipated to bring the better governance & transparency in the affairs of the Companies in the light of the applicable laws keeping in view the fiduciary character of the directors of the Company.

Loans and Investments by a company [Section 186]

Layers of Subsidiaries

- Maximum **2 'layers'** of investment companies; subject to relaxations for overseas acquisitions or compliance with legal requirements

Applicability

- To all companies including **private companies**

Exemptions given in Rules (only with respect to prior approval)

- Loans / guarantees / security to wholly owned subsidiary or joint venture
- Acquisition made by holding company by way of subscription, purchase or otherwise of the securities of its wholly owned subsidiaries

Other requirements

- Loans exceeding the limits require special resolution [**comply within 1yr**]
- **Interest rate** –not to be lower than prevailing yield of 1/3/5/10 yr government securities closest to tenure of loan

Restrictions on number of 'Layers'

- New concept introduced
- Concept of layer defined in section 2(87) which defines the term 'subsidiary'
- Restriction on **2 'layers'** of investment companies (layers refers to subsidiaries)
- Government can prescribe limits on layers of subsidiaries for other companies as well (*not yet prescribed*)

Loans and Investments by a company [Section 186]

Applicability

- To all companies including private companies

No proposal for exempting private companies in draft notification

Transactions covered

- Giving loans to any person or other body corporate
- Giving guarantee/providing security in connection with loan to any body corporate or person
- Acquiring securities of any other body corporate by subscription, purchase or otherwise

60% of paid up share capital + free reserves + securities premium
OR
100% of free reserves + securities premium;
Whichever is **more**

Loans and Investments by a company [Section 186]

Conditions to be complied with:

Prior approval of members in general meeting where it is > limits

Disclosure in financial statements of particulars in all cases and purpose of utilisation by recipient in case of loan/ guarantee / security

Unanimous resolution for sanctioning by the Board

Prior approval of public financial institution, where a term loan subsists

Loans: Interest to be charged at prevailing yield of government securities

Company which has defaulted in repayment of deposits or interest thereon cannot give loans / guarantee / security or make investment

Maintenance of prescribed register

Acceptance/Repayment of Deposits

Public Companies :

- *Eligibility:* Public companies with net worth of not less 100 crore rupees or turnover not less than 500 crore rupees
- Mandatory Credit rating and deposit insurance
- Limit for acceptance/ renewal of deposits from members/ others by eligible criteria's as defined

All other companies-

- Can only accept deposits from members, stringent conditions prescribed in all cases
- Deposits accepted before commencement of 2013 Act: *The Company is required to repay such deposit and the interest due within (i) one year from the commencement of CA 2013 or (ii) one year from the date when the payments are due.* [Rules further clarified that it would be considered to sufficient compliance if eligible company continues to repay earlier deposit as per the provision of 1956 Act]

Other Significant Provisions

- ***Reduction of share capital***
 - › Not permitted in case of arrears in repayment of deposits
- ***Declaration and Payment of Dividend:***
 - › Companies cannot declare dividend on equity shares in case of failure to comply with the provisions of acceptance / repayment of public deposits prior to the commencement of the Act

Dividend

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Free Reserves

- Available for distribution as dividend (*as per latest audited FS*), excludes:
 - **Unrealised gains, notional gains** or revaluation of assets
 - **Fair value** movements

Interim dividend

- In case, a company is incurring loss as per financials of latest quarter, interim dividend shall not be higher than **average dividend declared by the company during last three financial years**.

Declaration and Payment of Dividend

- Companies cannot declare dividend on equity shares in case of **failure to comply** with the provisions of **acceptance / repayment of public deposits** prior to the commencement of the Act

Dividend (Inadequacy / Absence of profits)

- The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by it in the three years immediately preceding that year. However, this condition shall not apply to a company, which has not declared any dividend in each of the three preceding financial year.
- The total amount to be drawn from such accumulated profits shall not exceed one-tenth of the paid-up share capital and free reserves as appearing in the latest audited financial statement.
- The amount so drawn shall first be utilised to set off the losses incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared.
- Balance of reserves after withdrawal shall not fall below 15% of paid up share capital (per latest balance sheet)
- Dividend not to be declared unless c/f losses and depreciation not provided for are not set off

Dividend (Inadequacy / Absence of profits)

Example:

Paid up Share Capital	Rs. 100
Free Reserves	Rs. 100
Total	Rs. 200
Available amount	Rs. 20 (1/10 th of the Paid up Share Capital and Free Reserves)
Less: Current year's losses	Rs. 10
So amount available	Rs. 10

Also after declaration of dividend amount of Rs. 80 is also not below 15% of paid up share capital.

Depreciation



Schedule II

Maximum
Useful lives

Component
Accounting

Transition
Provision

No Low value
assets (<
Rs.5000)

Method of
Depreciation

Prospective or
Retrospective

Useful life of Assets:

Schedule II : Part 'A', in paragraph 3, for sub-paragraphs (i)-

"(i) The useful life of an asset shall **not ordinarily be different** from, the useful life specified in Part 'C' and the residual value of an asset shall not be more than five per cent of the original cost of the asset:

Provided that where a company adopts a useful life different from what is specified in Part C or uses a residual value different from limit specified above, the financial statements shall disclose such difference and provide justification in this behalf duly **supported by technical advice.**"

Depreciation

Useful life of Assets: (Cont....)

Major Changes in Useful Life:

Class of Asset	Schedule XIV – Companies Act, 1956 (years)*	Schedule II – Companies Act, 2013 (years)	Change in Useful life (years)
Plant & Machinery (continuous processing plant)	19	25	+6
Plant & Machinery (Other)	21	15	-6
Motor Cars (Vehicles)	11	8	-3
Computers (other than servers)	7	3	-4
Computers (Servers)	7	6	-1

* Considered years based on SLM for single shift

Depreciation

Component Accounting:

Part C for paragraph 4

- (a) Useful life specified in Part C of the Schedule is for whole of the asset and where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.
- (b) **The requirement under sub-paragraph (a) shall be voluntary** in respect of the financial year commencing on or after the 1st April 2014 **and mandatory** for financial statements in respect of financial years commencing on or after 1st April 2015.

Para 9 of AS 6: Any addition or extension to an existing asset which is of a capital nature and which becomes an integral part of the existing asset is depreciated over the remaining useful life of that asset. As a practical measure, however, depreciation is sometimes provided on such addition or extension at the rate which is applied to an existing asset. Any addition or extension which retains a separate identity and is capable of being used after the existing asset is disposed of, is depreciated independently on the basis of an estimate of its own useful life.

Depreciation

Transitional provisions:

Part C, Note 7

"From the date this Schedule comes into effect, the carrying amount of the asset as on that date

(a) shall be depreciated over the remaining useful life of the asset as per this Schedule;

(b) after retaining the residual value, **may be recognised in the opening balance of retained earnings where the remaining useful life of an asset is nil.**"

Accordingly, where a Company opts for not recognizing the difference in the retained earnings, the same should be accounted for in the Statement of Profit and loss.

No Low value assets (< Rs.5000)?

- Schedule II does not contain any provisions for either charging 100% depreciation on low value assets whose actual cost does not exceed Rs. 5,000 and rate of depreciation applicable to the aggregate actual cost of individual items of plant and machinery costing Rs. 5,000 or less but constituting more than 10% of the total actual cost of such plant and machinery as was specified in Schedule XIV of the 1956 Act.
- It is suggested that for such items, Companies should consistently follow the existing accounting policy as per AS 6 which states that in respect of depreciable assets which do not have material value. the depreciation is often allocated fully in the accounting period in which they are acquired. The existing accounting policy of the Company for depreciation should include sufficient appropriate disclosures in this regard.

Method of Depreciation: SLM / WDV ?

- Although the SLM and WDV method of depreciation have not been specifically included in Schedule II, the depreciation method(s) used is required to be disclosed in the financial statements as per the said Schedule. This is also consistent with the disclosure requirement of AS 6.

Shifts?

- Under Part C of Schedule II, the useful lives of assets working on shift basis have been specified in the said Schedule based on the assumption of a single shift working. Accordingly, for asset(s) that have worked on a double shift or triple shift basis, for any time during the year ('the period'), the corresponding depreciation for such asset(s) would be increased by 50% and 100% respectively for the period.

Prospective / Retrospective ?

Consequent to change in the estimated useful life of an asset from Schedule XIV or a life lower than it to Schedule II, the unamortised depreciable amount should be charged to the Statement of profit and loss over the revised remaining useful life of the asset in accordance with Schedule II and AS 6.

Further, the change in the estimated useful life constitutes a change in an accounting estimate, in accordance with Accounting Standard (AS) 5 Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies ('AS 5'), and the effect of such change should be included in the determination of net profit or loss in: (a) the period of the change, if the change affects the period only or (b) the period of the change and future periods, if the change affects both.

Depreciation

Examples:

1. ABC Ltd. has purchased Machinery whose 12 years of life has already expired. Now up to 12 years company was providing depreciation at the rate of 4.52% (95/21). That means ABC Ltd. has already provided 54% (4.52×12 years). So, now as per Schedule II the remaining useful life is only 3 years. Hence, for these 3 years it will have to provide depreciation at a higher rate of 13.33% ($40/3$ years).

Examples:

2. Under Schedule II, no separate rates/ lives are prescribed for extra shift working. Rather, it states that for the period of time, an asset is used in double shift and triple shift depreciation will increase by 50% and by 100% respectively.

Let us assume that a company has purchased one plant and machinery three years prior to the commencement of the 2013 Act. Under Schedule XIV, single, double and triple shift depreciation rates applicable to the asset are 4.75%, 7.42% and 10.34%, respectively.

Under Schedule II, its life is 15 years. For all three years, the company has used the asset on a triple shift basis and therefore, depreciated 31.02% of its cost over three years. For simplicity, residual value is ignored.

Examples:

On transition to Schedule II, the asset has remaining Schedule II life of 12 years, (i.e., $15 - 3$). The management has estimated that on single shift basis, remaining AS 6 life is also 12 years. The company will depreciate carrying amount of the asset over 12 years on a straight-line basis. If the company uses the asset on double shift or triple shift basis then depreciation so computed will be increased by 50% and 100% respectively.

Fraud

Definition, reporting requirement

8



Fraud...

- Fraud' now defined as any act of omission, concealment of any fact, abuse of position, connivance with intent to injure the interests of the company, shareholders, creditors, any other person
- Penal Consequences
- Imprisonment for a term not be less than 6 months but which may extend to 10 years and
- Fine which not less than the amount involved in the fraud, but which may extend to 3 times the amount involved in the fraud
- Further, where the fraud in question involves public interest, the term of imprisonment shall not be less than 3 years.

Guidance Note on Reporting on Fraud

Persons Covered for Reporting on Fraud under Section 143(12) of the Companies Act, 2013:

Section – 143(12) of the Act states, if an auditor of a company,

- in the course of performance of his duties
- reason to believe
- an offence involving fraud is being or has been committed against the company
- by officers or employees of the company
- report to Central Government within such time as may be prescribed

Section 143(12) includes **only** fraud by **officers or employees** of the company and does not include fraud by third parties such as vendors and customers.

Guidance Note on Reporting on Fraud

Auditors' Responsibility for Consideration of Fraud in an Audit of Financial Statements:

Definition of fraud as per SA 240 and as per Section 447 of the Act is similar, except:

under Section 447, fraud includes 'acts with an intent to injure the interests of the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss.

Guidance Note on Reporting on Fraud

Auditors' Responsibility for Consideration of Fraud in an Audit of Financial Statements:

- Auditor has to comply with SAs and hence can apply the concept of materiality
- Where amount is not quantifiable, auditor to apply his professional judgement to estimate the likelihood of the amount
- Sufficient reason to believe then report to the Audit Committee and the Board
- If the amount is above the specified threshold, then Board/ Audit Committee to respond within 45 days
- Report to Central Government within 15 days from the date of response by the Board/ Audit Committee
- Reporting by auditors is required only if auditor has identified the matter. If it was identified by somebody else, then his responsibility is restricted to guidance in SA240

Corporate Social Responsibility (CSR)

Applicability, requirements and clarifications



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Applicability :

- Every company having net worth of INR 500 Crores or more, or turnover of INR 1000 Crores or more or a net profit of INR 5 Crores or more during any financial year shall constitute a CSR Committee. (Section 135)
- A company is required to comply with this provision based on the threshold limits in the audited financials commencing from 1st April, 2014.
- A CSR Committee consisting of three (3) or more directors, out of which at least one (1) director should be an independent director is required to be constituted in the ensuing Board Meeting.

Corporate Social Responsibility

Requirements :

- Endeavor to spend at least 2% of average net profits (before tax) preceding 3 years- computed in accordance with sec 198
- In case of failure to spend, board to give reasons for non compliance
- Preference to be given to local areas and areas around where it operates
- Broad areas to be as per Schedule VII
- Only activities within India can be considered
- Additional disclosure requirements

Corporate Social Responsibility

Clarifications :

- *One time events* will not qualify as CSR expenditure
- Expenses mandated *under any other law* will not qualify as CSR expenditure
- *Employee cost* for hours spent on CSR will be considered as CSR expenditure
- Expense incurred by *foreign holding company* on CSR activities in India can be considered as CSR expenditure subject to routing through Indian company
- In states where trusts are not required to be registered, *registration under Income Tax Act* will suffice
- Contribution to *corpus* of a trust / society / section 8 companies considered as CSR expenditure

Illustrative Disclosures in financial statement:

As per the provisions of the Companies Act, 2013, the Company is required to spend atleast 2% of its average net profits of immediately three preceding years on CSR activities eligible under the said Act.

- ABC Inc., parent of the Company, as part of its global CSR initiatives, commenced a hospital construction project through its "Seva Foundation" in FY 2013-14 for local population of Manesar, Haryana. The construction of the hospital was successfully completed in September 2014. Contribution made by the parent company for this project (via XYX Company) aggregated INR XXX in FY 2014-15.
- Pursuant to MCA Circular No. 21/2014 dated June 18, 2014, the Company has considered this amount in computation of CSR expenditure incurred by the Company in FY 2014-15 for Section 135 purposes.

Illustrative Disclosures in financial statement Contd.....

- As part of the above discussed Hospital Project, the Company also donates medical equipment every year; cost of such in-house manufactured donated equipment aggregated INR XXX in FY 2014-15.
- Further, certain employees of marketing and accounting department of the Company, provide services to the hospital as volunteers for the purpose of arranging awareness campaigns and maintaining the accounting books and records of the hospital. Proportionate salary costs of these employees aggregated INR XXX in FY 2014-15. The hospital has paid token service fees of INR XXX for these services in FY 2014-15.
- Pursuant to Rule 6(2) of Companies (Corporate Social Responsibility Policy) Rules, 2014 , such income has been disclosed as "CSR liability" forming part of Other Current Liabilities, proposed to be spent in FY 2015-16.

Key Takeaways

Books of Accounts:

- Books of Accounts in Electronic mode where server is out India.
 - ✓ Allowed Subject to Back-up Conditions

Financial Statement and Reporting:

- Cash flow statement.
 - ✓ Applicable to all Companies other than Small Company and OPC

Key Takeaways

Related Party :

- Disclosure Requirements:
 - ✓ As auditor to comply with AS – 18 (which do not warrant us to disclose CFO and Company Secretary as KMP)
 - ✓ To comply with SA 250/ SA 720 to check whether board disclosure complies with the CA2013 disclosure

Key Managerial Personnel:

- Applicability of CS and CFO.
 - ✓ All companies which have a paid up share capital of Rs. 5 crore or more to have a whole-time company secretary. No time-limit prescribed.
 - ✓ CFO is not compulsory for Private Limited Companies

Loans, Investments and Acceptance and Repayment of deposits:

- Repayment of Deposit accepted prior to CA 2013:
 - ✓ The Company is required to repay such deposit and the interest due within (i) one year from the commencement of CA 2013 or (ii) one year from the date when the payments are due. If it complied with CA 2013 act than payable when due.

Dividend :

- Payment:
 - ✓ Can be paid out of opening reserve.

Key Takeaways

Depreciation:

- Useful life:
 - ✓ Life mentioned in Schedule II is indicative. The Company can adopt higher / lower useful life subject to technical assessment.

Fraud:

- Responsibility of auditor:
 - ✓ Only to a Fraud which has been found during the course of audit by auditor.

Key Takeaways

Corporate Social Responsibility:

- Profit before tax :
 - ✓ To compute CSR on 2% of Profit before tax.

Thank You