INTER CORPORATE LOANS & INVESTMENTS {SECTION=372 A}

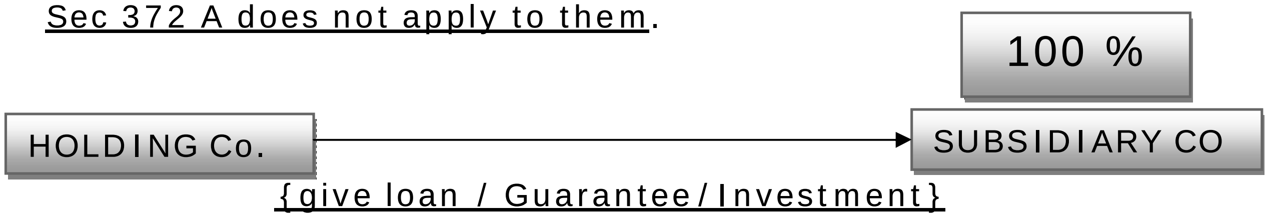
(1).Applicable only to PUBLIC Co. Even if It does not have any Share Capital.

(2).PRIVATE CO./ BANKING CO./INSURANCE CO./ FINANCE Co. Are not covered.

(3).Holding company can {give loan / Guarantee/Investment} in its

100 % Subsidiary

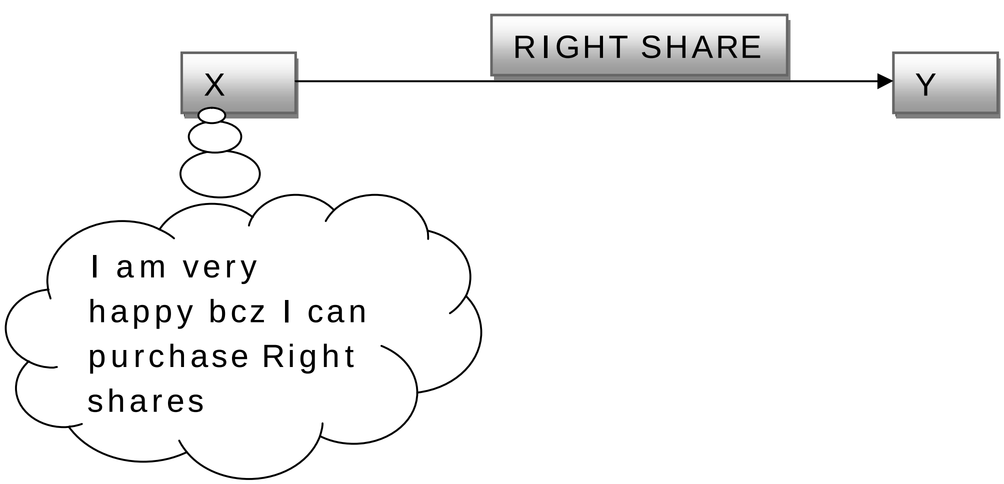
Sec 372 A does not apply to them.



{It means if holding % falls below 100 % then sec 372A shall be applicable}

(4).A public Co. can purchase RIGHT SHARES in other Co.

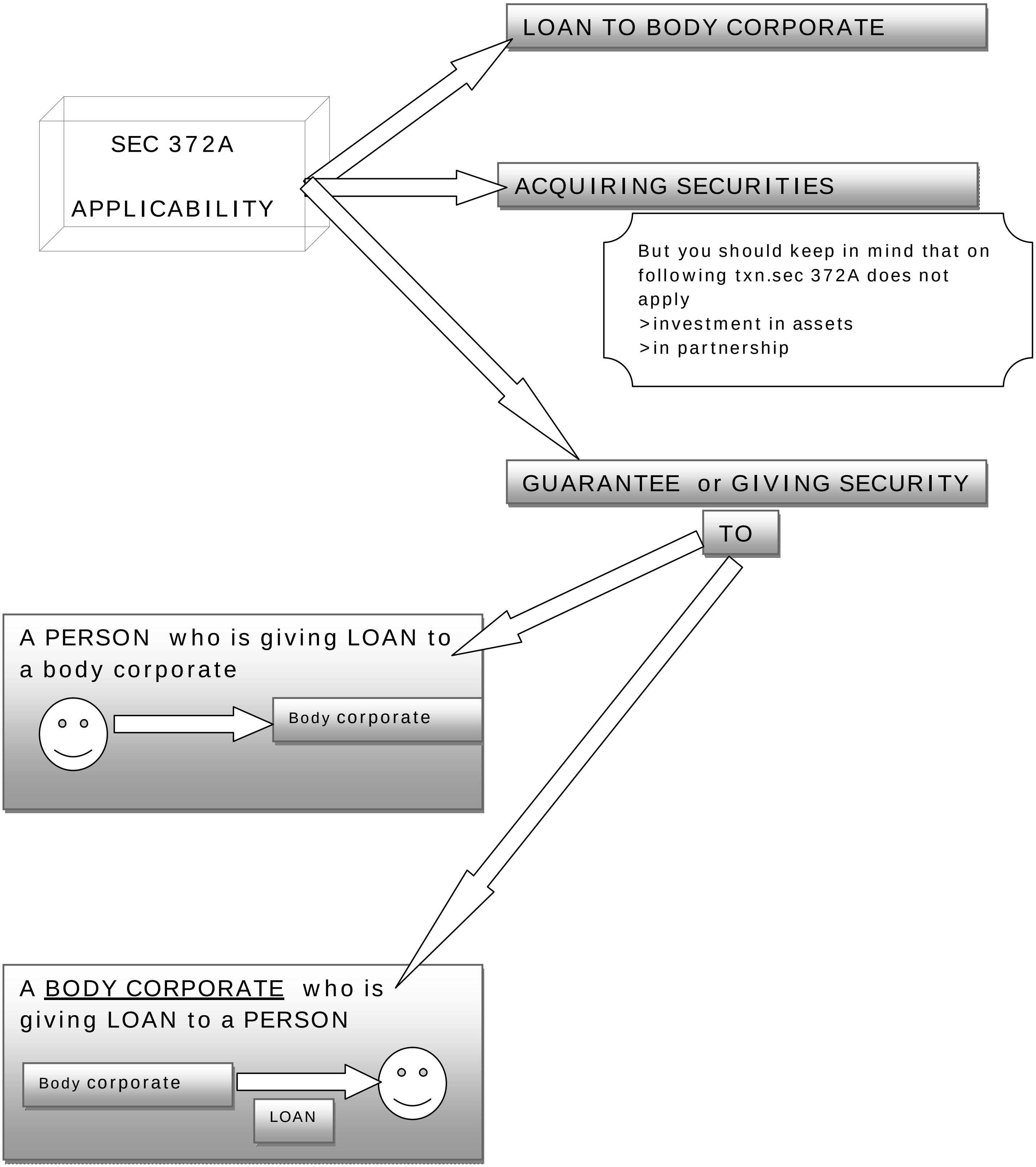
Sec 372 A does not apply on PURCHASE OF RIGHT SHARES because it's a statutory Right of given by ACT itself.



(5).There is no restriction on Investment in

ASSETS

IN PARTNERSHIP FIRM


LOAN TO BODY CORPORATE
SEC 372A
APPLICABILITY
ACQUIRING SECURITIES
But you should keep in mind that on following txn.sec 372A does not apply
>investment in assets
>in partnership
GUARANTEE or GIVING SECURITY
TO
A PERSON who is giving LOAN to a body corporate
Body corporate
A BODY CORPORATE who is giving LOAN to a PERSON
Body corporate
LOAN

HOW TO GIVE LOAN / INVESTMENTS / GURANTEES UNDER 372A

STEP-1

UNANIMUS APPROVAL

(OF ALL THE DIRECTORS PRESENTED IN MEETING,ALL MUST VOTE IN FAVOUR OF RESOLUTION)

- Power to take decision on the behalf of BOD(Board Of Director) can not be delegated to a particular Director or to a Committee Of Directors

- Resolution can not be passed by circulation,it means decision will be taken only by Physical presence of Directors

STEP-2

SPECIAL RESOLUTION
OF
SHAREHOLDERS
REQUIRE

ONLY IF

(EXISTING + PROPOSED) AMOUNT OF

LOAN+GURANTEE+SECURITY

EXCEEDS

60% (PAID UP CAPITAL+FREE RESERVES)

100 % OF (FREE RESERVES)

WHICHEVER IS HIGHER

(So, I would like to conclude that in exam question we need to check whether we need only UNANIMUS RESOLUTION OF BOD or along with this additional SPECIAL RESOLUTION OF SHAREHOLDERS)

STEP-3

APPROVAL OF PUBLIC FINANCIAL INSTITUTIONS
(ICICI ,IDBI,IFCI,LIC,UTI)

STEP-4

NO DEFAULT IN RESPECT OF PUBLIC DEPOSIT

STEP-5

ATLEAST CHARGE MINIMUM RATE OF INTEREST PRESCRIBED BY RBI

SOME RELAXATION PROVIDED UNDER SEC-372A

Relaxation -1 ONLY FOR GUARANTEE NOT FOR SECURITY

No need to pass SPECIAL RESOLUTION (SR) for GUARANTEE

IF *ALL* CONDITION IS SATISFIED

1. Unanimous Resolution of BOD
2. exceptional circumstances
3. Approval is taken within 12 months in GM / AGM whichever held earlier

Relaxation -2

NO APPROVAL OF PUBLIC FINANACIAL INSTITUTION

IF *ALL* CONDITION IS SATISFIED

1. No Default in Payment of Instalment/Interest
2. (Existing+Proposed) does not exceed 60 %(Paid Up Capital + Free Reserves)

Relaxation -2

NO SPECIAL RESOLUTION OF SHAREHOLDERS
In following Cases:-

1. Purchasing Right Shares
2. Purchase of STAKE in Partnership Firm
3. Investing in any ASSETS / PROJECTS

Till now whatever we discussed is just a supplementary part of our answer
And sound so much confusing ,what to do and what not
Formulas of this Chapter is totally different
from ACCOUNTING,therefore this is another BIG PROBLEM

In exam we need to do calculations , so now I am telling you The approach
Of handling EXAM QUESTIONS.

Ok hai !

STEP-1

PAID UP SHARE CAPITAL
(Means Excluding UNPAID CALLS)

→ EQUITY SHARE CAPITAL
→ PREFERENCE SHARE CAPITAL

STEP-2

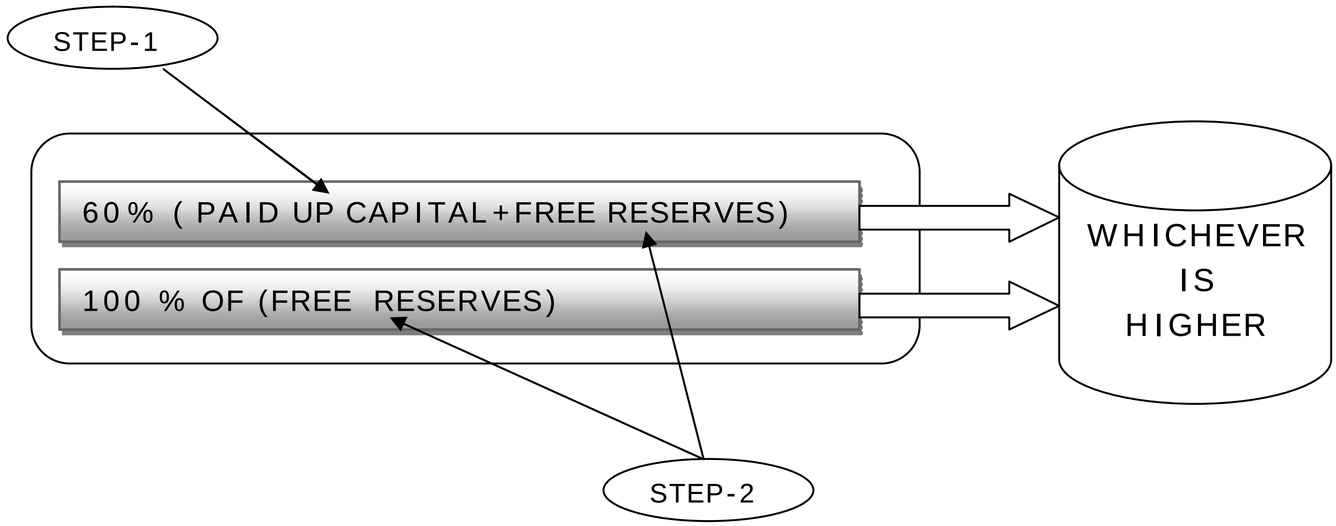
FREE RESERVE

→ P & L
→ G / R
→ DIVIDEND EQUILIZATION RESERVE
→ SECURITY PREMIUM

Please note that as per ACCOUNTS it is not Free Reserve
But in this Chapter it is treated as Free reserve

Don't take CRR / DRR /Sinking Fund/ Revaluation Reserve
While Calculating "FREE RESERVE" generally these are given in question to confuse .

STEP-3 FIND OUT THE MAX AMOUNT WHICH DOES NOT REQUIRE SR



STEP-4 FIND OUT EXISTING
{LOAN + GUARANTEE+DEPOSIT+INVESTMENT+SECURITY}

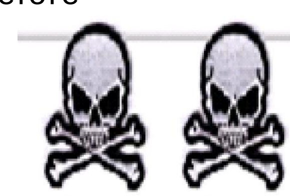
M.IMP

FOR DOING ABOVE CALCULATIONS PLEASE IGNORE FOLLOWINGS

{1} Transactions between
Holding → S (100% SUBSIDIARY)

{2} Investment in Partnership Firm

{3}Bonus / Right Shares ACQUIRED
Since these two are Statutory Rights of a Shareholder ,therefore
These are out of scope of sec-372A



In exam BONUS / RIGHT Shares can be on both side of B/S
Liabilities Side = In the form of Share Capital
Assets Side=In the form of INVESTMENT

So we are concern only about ASSETS SIDE (INVESTMENT)
Logic is that we are trying to exclude those Inter Corporate Investment

STEP-5 **FIND OUT PROPOSED**

{LOAN + GUARANTEE+DEPOSIT+INVESTMENT+SECURITY}

HELLO JI! AGAIN FOR DOING ABOVE CALCULATION 3 THINGS TO BE IGNORED, WHICH ARE SAME AS IN PREVIOUS POINT.

STEP-6 IF EXISTING + PROPOSED > MAX ALLOWED WITHOUT SR

EXISTING ← STEP-4

PROPOSED ← STEP-5

MAX ALLOWED WITHOUT SR ← STEP-3

THEN ONLY PASS **SR**

OTHERWISE ONLY UNANIMUS RESOLUTION OF BOD IS SUFFICIENT.

>>>

Additional Requirement { Very rarely comes in Exam,and will be clear only after studying DIRECTOR chapter }

If Loan is given to a Body Corporate in which Director are Interested Then there is need to take prior approval of CENTRAL GOVT.

Because this will be treated as Loan to director (SECTION-295)