

Dividends

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Transfer of Amount of Current Year Profits to Reserves > 10% - Conditions (any one)

1. **Rate Condition:**
 - Rate of Dividend for the year $\geq$ Average Rate of Dividend declared in immediately preceding 3 years;
2. **Bonus Issue Condition (if any bonus issue in current year or previous 3 years):**
 - Minimum Dividend to be distributed $\geq$ Average amount of dividend declared during immediately preceding 3 years;
3. **Inadequate Profits Criterion:**
 - Net Profit after tax for the year $\leq$ 80% of the Avg. Net Profit after tax of previous 2 years;
4. **Where No Dividend declared in current year:**
 - Transfer to Reserves $\leq$ Avg. Amount of dividend declared in previous 3 years.

Inadequacy or Absence of Profits

- Dividend may be declared by a company for that year out of **accumulated profits** earned by it in previous years and transferred by it to reserves;
- Some conditions are required to be fulfilled

Inadequacy or absence of Profits: Conditions (**all**)

1. Maximum Rate of Dividend is least of following:
 - 10% of Paid up capital;
 - Avg. Dividend Rates of previous 5 years
2. Withdrawal from Reserves $\leq$ 10% of Paid up Capital & Reserves;
3. Balance in Reserves after withdrawal $\geq$ 15% of Paid up Capital

Capital Profits and Capital Receipts

- **Capital Profits:**
 1. Can not be distributed as dividends until realised (*Lubbock vs. The British Bank of South America*); **and**
 2. AOA permits; **and**
 3. **Equity is adequately represented by remaining assets**
- **Capital Receipts** (such as securities premium, CRR, profit of reissue of forfeited shares) cannot be distributed as dividends
- **An unlisted public company or a private limited company can issue bonus shares even out of its revaluation reserve [SC in Bhagwati Developers vs. Peerless General Finance & Investment Company (2005)]**

Past Losses

- **Capital Losses:** Not obligatory to write off past capital losses before declaration of dividend;
- **Revenue Losses:** Mandatory Written Off Required u/s 205.
- A company has to write off accumulated loss or depreciation, whichever is lower as per its books of accounts, out of its current profits, before declaration of dividend in any year

Fictitious Assets

- Should be **written off** before declaration of dividends out of **Capital Profits**;
- Need **not be written off** before declaration of dividends from **Revenue Profits**

Special Points – CLB Clarifications

- Slab of t/f to Reserves uses the word “Not Less Than”. It means that so long as the t/f is within the cap of 10% even if more than 2.5% or 5% or 7.5%, there is no problem;
- Fixed Preference Dividend (except in case of Participating Preference Shares) is not to be considered in respect of Section 205(2A), i.e., Transfer to Reserves
- Investment Allowance Reserve is an item of prior deduction for determining Divisible Profits

Interim Dividend

- Dividend includes Interim Dividend [Section 2(14A)];
- Paid by BOD any time between two AGM;
- AOA authorization is must;
- Paid by BOD and subsequently regularized at AGM;
- **Mere resolution by BOD to pay Interim Dividend does not create an enforceable debt against the company [PNB Ltd vs. UOI];**
- BOD can rescind the resolution before payment
- All other conditions are applicable [Section 205(1C)]
