THE COMPANIES ACT 2013 – ACCOUNTS & AUDIT FOR NOV 2014
CHAPTER 1
ACCOUNTS OF THE COMPANY

BOOKS OF ACCOUNTS

"BOOKS OF ACCOUNT"	1. Receipt & payment account 2. Assets & liabilities account 3. Purchase & sales account 4. The items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified
MAINTENANCE OF BOOKS OF ACCOUNTS [SECTION 128(1)]:	• Keep at its registered office • Which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any. • Kept on accrual basis and according to the double entry system of accounting
PLACE OF MAINTENANCE OF BOOKS OF ACCOUNTS [SEC 128(1)]:	• Kept at the registered office of the company. • At any other place in India as the Board of directors may decide. • In such a case, the company should file with the Registrar of Companies, a notice in writing giving the full address of that place within 7 days of the Boards' decision.
ELECTRONIC FORM OF BOOKS OF ACCOUNTS:	***(a) Co may keep its books of account or other relevant papers in electronic mode.*** ***(b) The books of account and other relevant books and papers maintained in electronic mode shall:*** ***(1) remain accessible in India*** ***(2) be retained completely and the shall remain complete and unaltered.*** ***(3) The information received from branch offices shall not be altered and shall be kept in a manner where it shall depict what was originally received from the branches.*** ***(4) displayed in a legible form.*** ***(5) There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any & such records shall not be disposed of or rendered unusable, unless permitted by law:*** ***(6) The back-up maintained in electronic mode, shall be kept in servers physically located in India on a***

<table>
<tr><td></td><td colspan="2">periodic basis.
(c) The company shall intimate to the Registrar on an annual basis at the time of filing of financial statement, <u>details of service provider</u>.</td></tr>
<tr><td>PROPER BOOKS OF ACCOUNT IN RELATION TO A BRANCH OF THE COMPANY:</td><td colspan="2">(a) Co shall be kept at that branch office.
(b) Proper summarised returns periodically must be sent by the branch office to the company</td></tr>
<tr><td rowspan="2">PERSONS WHO CAN INSPECT [SECTION 128(3) AND (4)]:</td><td><u>BOOKS AND PAPERS MAINTAINED WITHIN INDIA</u>:
At the registered office of the company or at such other place in India by any director during business hours.</td><td><u>BOOKS AND PAPERS MAINTAINED OUTSIDE INDIA:</u>
Shall be maintained and produced for inspection by any director subject to such conditions as prescribed under the Companies (Accounts) Rules, 2014 which provides that:
(1) The summarised returns of the books of account maintained outside India shall be sent to the RO at quarterly intervals and kept open to directors for inspection.
(2) Where any other financial information maintained outside the country is required by a director, the director shall furnish a request to the company setting out the full details of the financial information sought, the period for which such information is sought.
(3) The company shall produce such financial information to the director within 15 days of the date of receipt of the written request.
(4) The financial information required under sub-rules (2) and (3) shall be sought for by the director himself and not by or through his power of attorney holder or agent or representative.</td></tr>
<tr><td colspan="2">(A) The inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors.
(B) The officers and other employees of the company shall give all assistance in connection with the inspection which the company may reasonably be expected to give.</td></tr>
<tr><td>PERIOD OF MAINTENANCE [SECTION 128(5)]:</td><td colspan="2">(a) for a minimum period of 8 financial years immediately preceding a financial year.
(b) Where an investigation has been ordered in respect of the company, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.</td></tr>
<tr><td>PERSONS</td><td colspan="2">(a) The following persons are responsible for the maintenance of proper books of account-</td></tr>
</table>

RESPONSIBLE FOR MAINTENANCE & PENALTY [SECTION 128(6)]:	(1) The managing director, the whole-time director in charge of finance, the Chief Financial Officer; or (2) any other person of a company charged by the Board. (b) If any of the persons mentioned above contravenes such provisions, they shall be punishable with: (1) Imprisonment for a term which may extend to 1 year; or (2) Fine which shall not be less than `50,000 but which may extend to `5 lakh; or (3) Both with imprisonment or fine.

FINANCIAL STATEMENTS	
"FINANCIAL STATEMENT"	(i) a balance sheet as at the end of the financial year; (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year; ***(iii) cash flow statement for the financial year***; (iv) a statement of changes in equity, if applicable; and (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv) Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement. [Section 2(40)]
FORM OF FINANCIAL STATEMENTS	(1) give a true and fair view of the state of affairs of the company or companies, (2) comply with the accounting standards notified under section 133 and (3) shall be in the form prescribed **Schedule III** The above provisions relating to nature and content of financial statement shall not apply to following companies: (1) Insurance Companies (2) Banking companies (3) Company engaged in the generation or supply of electricity (4) Any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company.
LAYING OF FINANCIAL STATEMENTS	At every annual general meeting of a company, the Board of directors of the company shall lay before the company the financial statements for the financial year.
CONSOLIDATED	***(a) shall be in the same form and manner as that of its own.***

FINANCIAL STATEMENTS [SECTION 129(3) & (4)]:	***(b) shall also be laid before the annual general meeting of the company along with the laying of its own financial statement.*** ***(c) shall also attach Form AOC-1. (the salient features of the financial statement of its subsidiary or subsidiaries)*** ***(d) For the purposes of consolidated financial statements, "subsidiary" shall include associate company and joint venture.*** ***(e) shall be made in accordance with the provisions of Schedule III to the Act and the applicable accounting standards.***
DEVIATIONS FROM ACCOUNTING STANDARDS [SECTION 129(5)]:	The company shall disclose in its financial statements the following namely: (a) the deviation from the accounting standards, (b) the reasons for such deviation and (c) the financial effects, if any, arising out of such deviation
EXEMPTIONS [SECTION 129(6)]:	(a) The Central Government may, exempt any class or classes of companies from this section in the public interest. (b) Any such exemption may be granted either unconditionally or conditionally.
CONTRAVENTION [SECTION 129(7)]:	(1) Imprisonment for a term which may extend to 1 year; or (2) Fine which shall not be less than `50,000 but which may extend to ` 5 Lakhs; or (3) Both with imprisonment and fine.

NOTE:

- UNDER THE NEW ACT, PRIVATE COMPANIES ARE ALSO REQUIRED TO PREPARE CONSOLIDATED FINANCIAL STATEMENTS AND CASH FLOW STATEMENTS.
- THE NATIONAL ADVISORY COMMITTEE ON ACCOUNTING STANDARDS HAS BEEN REPLACED WITH **NATIONAL FINANCIAL REPORTING AUTHORITY** TO GIVE CONSULTATION TO THE CENTRAL GOVERNMENT ON THE ACCOUNTING STANDARDS RECOMMENDED BY ICAI.

FINANCIAL STATEMENT, BOARD'S REPORT, ETC (SECTION 134 OF THE COMPANIES ACT, 2013)

AUTHENTICATION OF FINANCIAL STATEMENTS	***(1) The chairperson of the company where he is authorised by the Board; or*** ***(2) By two directors out of which one shall be managing director and*** ***(3) The Chief Executive Officer, if he is a director in the company,*** ***(4) The Chief Financial Officer, wherever he is appointed; and*** ***(5) The company secretary of the company, wherever he is appointed.*** ***(A) In the case of a One Person Company, the financial statement shall be signed by only one director, for submission to the auditor for his report thereon.*** ***(B) The auditors' report shall be attached to every financial statement.***
BOARD'S REPORT [SECTION 134(3) & (4)]:	There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include — (1) The extract of the annual return as provided; (2) Number of meetings of the Board; (3) Directors' Responsibility Statement; (4) a statement on declaration given by independent directors (5) company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director (6) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made— (i) by the auditor in his report; and (ii) by the company secretary in practice in his secretarial audit report; (7) particulars of loans, guarantees or investments under section 186; (8) particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in *Form AOC-2*; (9) the state of the company's affairs; (10) the amounts, if any, which it proposes to carry to any reserves; (11) the amount, if any, which it recommends should be paid by way of dividend; (12) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report; (13) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as prescribed under the *Companies (Accounts) Rules, 2014* which provides for:

(A) Conservation of energy-
(i) the steps taken or impact on conservation of energy;
(ii) the steps taken by the company for utilising alternate sources of energy;
(iii) the capital investment on energy conservation equipments;
(B) Technology absorption-
(i) the efforts made towards technology absorption;
(ii) the benefits derived like product improvement, cost reduction, product development or import substitution;
(iii) in case of imported technology (imported during the last three years reckoned from the beginning of the financial year)-
(a) the details of technology imported;
(b) the year of import;
(c) whether the technology been fully absorbed;
(d) if not fully absorbed, areas where absorption has not taken place, and the reasons thereof;
(iv) the expenditure incurred on Research and Development.
(C) Foreign exchange earnings and Outgo-
The Foreign Exchange earned in terms of actual inflows during the year and the Foreign Exchange outgo during the year in terms of actual outflows.
(14) A statement indicating development and implementation of a risk management policy, if any, which in the opinion of the Board may threaten the existence of the company;
(15) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;
(16) Every listed company and every other public company having a paid up share capital of 25 crore rupees or more calculated at the end of the preceding financial year shall include (a statement indicating annual evaluation of its own performance and that of its committees and individual directors.
(17) The report of the Board shall also contain (as prescribed under the *Companies (Accounts) Rules, 2014 –*
(i) the financial summary or highlights;
(ii) the change in the nature of business, if any;
(iii) the details of directors or key managerial personnel who were appointed or have resigned during the year;
(iv) the names of companies which have become or ceased to be its subsidiaries, joint ventures or associate companies during the year;
(v) the details relating to deposits like-

(a) accepted during the year;
(b) remained unpaid or unclaimed as at the end of the year;
(c) whether there has been any default in repayment of deposits or payment of interest thereon during the year and if so, number of such cases.
(vi) the details of deposits which are not in compliance with the requirements of Chapter V of the Act;
(vii) the details of significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future;
(viii) the details in respect of adequacy of internal financial controls with reference to the Financial Statements.

(iv) Directors' Responsibility Statement [Section 134(5)]:

(a) The Directors' Responsibility Statement shall state that—
(1) the applicable accounting standards had been followed along with proper explanation relating to material departures;
(2) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;
(3) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;
(4) the directors had prepared the annual accounts on a going concern basis; and
(5) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.
(6) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate

(v) Signing of Board's Report [Section 134(6)]:

- shall be signed by its chairperson of the company if he is authorised by the Board and
- where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.

(vi) Contravention [Section 134(8)]:

(a) If a company contravenes any provisions of this section, the company shall be punishable with fine which shall not be less than `50,000 but which may extend to `25 Lacs.

	(b) Every officer of the company who is in default shall be punishable with: (1) Imprisonment for a term which may extend to 3 years; or (2) fine which shall not be less than `50,000 but which may extend to ` 5 Lacs; or (3) Both with imprisonment and fine	
CORPORATE SOCIAL RESPONSIBILITY (SECTION 135 OF THE COMPANIES ACT, 2013)	***Which Company is required to constitute CSR committee:***	***(a) Every company including its holding or subsidiary, and a foreign company having its branch office or project office in India, having (1) net worth of rupees 500 crore or more, or (2) turnover of rupees 1000 crore or more or (3) a net profit of rupees 5 crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board. (b) The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.***
	Exclusion of Companies	***Every company which ceases to be a company covered under sub- section (1) of section 135 of the Act for three consecutive financial years (1) shall not be required to constitute a CSR Committee, and (2) is not required to comply with the provisions as per section 135***
	Composition of CSR Committee:	***(a) The CSR Committee shall be consisting of three or more directors, out of which at least one director shall be an independent director. (b) An unlisted public company or a private company which is not required to appoint an independent director shall have its CSR Committee without such director. (c) A private company having only two directors on its Board shall constitute its CSR Committee with two such directors. (d) The Board's report under sub-section (3) of section 134 shall disclose the composition of the CSR Committee.***
	Duties of CSR Committee	***(a) formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII; (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and (c) monitor the CSR Policy of the company from time to time.***
	Contents of the CSR	***(a) List of CSR projects or programs which a company plans to undertake falling within the***

	Policy:	***purview of the Schedule VII of the Act, (b) monitoring process of such projects or programs: (c) The CSR Policy of the company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.***
	Duties of the Board in relation to CSR:	***(1) After taking into account the recommendations made by the CSR Committee, approve the CSR Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and (2) ensure that the activities as are included in CSR Policy of the company are undertaken by the company.***
	Amount of contribution towards CSR	***(a) The Board of every company shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its CSR Policy. (b) If the company fails to spend such amount, the Board shall, in its report, specify the reasons for not spending the amount (d) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years. However, such expenditure shall not exceed five percent. of total CSR expenditure of the company in one financial year.***
	Exceptions to CSR Activities:	***(1) The CSR projects or programs or activities undertaken outside India. (2) The CSR projects or programs or activities that benefit only the employees of the company and their families. (3) Contribution of any amount directly or indirectly to any*** **political party** ***under section 182 of the Act.***
	CSR Reporting	***(a) The Board's Report of a company covered under these rules pertaining to a financial year commencing on or after the 1st day of April, 2014 shall include an annual report on CSR. (b) In case of a foreign company, the balance sheet filed under section 381(1)(b) shall contain an Annexure regarding report on CSR.***
RIGHT OF MEMBER TO COPIES OF AUDITED	**Who are entitled for audited financial statement:**	(a) A copy of the financial statements, which are to be laid before a company in its general meeting, shall be sent to the following: (1) every member of the company, (2) to every trustee for the debenture-holder of any debentures issued by the company,

FINANCIAL STATEMENT (SECTION 136 OF THE COMPANIES ACT, 2013)		and (3) to all persons other than such member or trustee, being the person so entitled. (b) Consolidated financial statements, if any, auditor's report and every other document required by law to be annexed or attached to the financial statements shall be annexed with financial statements. (c) These financial statements shall be sent in not less than 21 days before the date of the meeting. (d) In the case of a listed company: (1) copies of the documents are made available for inspection at its registered office during working hours for a period of 21 days before the date of the meeting. (2) Along with it *Form AOC-3*, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company. (3) The statement is to be sent not less than 21 days before the date of the meeting unless the shareholders ask for full financial statements. (e) A company shall also allow every member or trustee of the debenture holder to inspect the audited Financial Statement at its registered office during business hours.
	Manner of circulation of financial statements in certain cases:	***In case of all listed companies and such public companies which have a <u>net worth of more than one crore rupees and turnover of more than ten crore rupees</u>, the financial statements may be sent-*** ***(1) by <u>electronic mode</u> to such members whose shareholding is in dematerialized format and whose email Ids are registered with Depository for communication purposes;*** ***(2) where Shareholding is held otherwise than by dematerialized format, to such members who have positively consented in writing for receiving by electronic mode; and*** ***(3) by despatch of <u>physical copies through any recognised mode of delivery</u> as specified under section 20 of the Act, in all other cases.*** ***A listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto<u>, on its website</u>, which is maintained by or on behalf of the company.***
	Contravention:	• If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of ` 25,000. • Every officer of the company who is in default shall be liable to a penalty of ` 5,000.

COPY OF FINANCIAL STATEMENT TO BE FILED WITH REGISTRAR (SECTION 137 OF THE COMPANIES ACT, 2013)	**Filing of financial statements**	A copy of the financial statements, duly adopted, shall be filed with the Registrar within 30 days of the date of annual general meeting
	If Financial Statement are not adopted [Section 137(1)]:	1. Such unadopted financial statements along with the required documents shall be filed with the Registrar within 30 days of the date of annual general meeting. 2.The Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose. 3. If the financial statements are adopted in the adjourned annual general meeting, then they shall be filed with the Registrar within 30 days of the date of such adjourned annual general meeting.
	Filing by One Person Company [Section 137(1)]:	***A One Person Company shall file a copy of the financial statements, within 180 days from the closure of the financial year.***
	Annual General meeting not held [Section 137(2)]:	The financial statements along with the documents required to be attached, duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held.
	Penalty [Section 137(3)]:	• If any of the provisions of this section are contravened, (a) The company shall be punishable with fine of `1,000 for every day during which the failure continues but which shall not be more than `10 Lacs, and • The managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with: o Imprisonment for a term which may extend to 6 months or o Fine which shall not be less than `1 lac but which may extend to `5 Lacs, or o Both with imprisonment and fine.

INTERNAL AUDIT (SECTION 138 OF THE COMPANIES ACT, 2013)

Companies required to appoint Internal Auditor:	***(a) The following class of companies shall be required to appoint an internal auditor or a firm of internal auditors, namely:- (1) every listed company; (2) every unlisted public company having- (A) paid up share capital of 50 crore rupees or more during the preceding financial year; or (B) turnover of 200 crore rupees or more during the preceding financial year; or (C) outstanding loans or borrowings from banks or public financial institutions exceeding 100 crore rupees or more at any point of time during the preceding financial year; or (D) outstanding deposits of 25 crore rupees or more at any point of timeduring the preceding financial year; and (3) every private company having- (A) turnover of 200 crore rupees or more during the preceding financial year; or (B) outstanding loans or borrowings from banks or public financial institutions exceeding 100 crore rupees or more at any point of time during the preceding financial year.***
Transitional period:	***An existing company covered under any of the above criteria shall comply with the requirements of section 138 and this rule within six months of commencement of such section.***
(iii) Who is Internal Auditor	***(a) Internal Auditor shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company. Here, the term "Chartered Accountant" shall mean a Chartered Accountant whether engaged in practice or not. (b) The internal auditor may or may not be an employee of the company.***

THE COMPANIES ACT 2013 – ACCOUNTS & AUDIT FOR NOV 2014
CHAPTER 2
AUDIT AND AUDITORS [SECTIONS 139 TO 148]

APPOINTMENT OF AUDITOR SEC 139

1ST AUDITOR

GOVT COMPANY
- By CAG within 60 days of DOI
- On failure by CAG, by BOD within next 30 days
- On failure by BOD, by company within next 60 days by convening EGM.

OTHER THAN GOVT COMPANY
- By BOD within 30 days of DOI
- On failure by BOD, by company within next 90 days by convening EGM.

SUBSEQUENT AUDITOR

GOVT COMPANY
By CAG
+
Within 180 days from commencement of FY

OTHER THAN GOVT COMPANY
At AGM
+
By passing OR

RECOMMENDATION OF NAME OF AUDITOR

CO HAVING AUDIT COMMITTEE U/S 177
Recommended by audit committee

CO NOT REQIURED TO HAVING AUDIT COMMITTEE U/S 177
Recommended by BOD

Considering the qualification & experience
+
Past records as regard any pending proceeding for misconduct before ICAI & call for information for the same.

Note:

(1) If the Board agrees with the recommendation of the Audit Committee, it shall further recommend the appointment of an individual or a firm as auditor to the members in the AGM.

(2) If the Board disagrees with the recommendation of the Audit Committee, it shall refer back the recommendation to the committee for reconsideration citing reasons for such disagreement.

(3) If the Audit Committee, after considering the reasons given by the Board, decides not to reconsider its original recommendation, the Board shall record reasons for its disagreement with the committee and send its own recommendation for consideration of the members in the annual general meeting; and if the Board agrees with the recommendations of the Audit Committee, it shall place the matter for consideration by members in the AGM.

TERM OF AUDITOR

1ST AUDITOR
Term = till the conclusion of 1st AGM

SUBSEQUENT AUDITOR

GOVT COMPANY
Term = Till the conclusion of AGM

OTHER THAN GOVT COMPANY

NOTIFIED COMPANIES includes:
- Listed co
- Unlisted co having PUC>= Rs 10 crs or
- Pvt co having PUC >= Rs 20 crs or
- Co having Borrowings >= Rs 50 crs

OTHER THAN NOTIFIED COMPANIES
Term = Till The Conclusion Of AGM

AUDITOR = INDIVIDUAL
A term of 5 consecutive years

AUDITOR = FIRM
2 term of 5 consecutive years

Subject to ratification every year in AGM

CERTIFICATE BY AUDITOR

According to this, the auditor appointed shall submit a certificate that –

(A) the individual or the firm, as the case may be, **is eligible for appointment** and is not disqualified for appointment under the Act, the Chartered Accountants Act, 1949 and the rules or regulations made thereunder;

(B) the proposed appointment **is as per the term provided under the Act**;

(C) the proposed appointment is within the limits laid down by or under the authority of the Act;

(D) the list of proceedings against the auditor or audit firm or any partner of the audit firm pending with respect to professional matters of conduct, as disclosed in the certificate, is true and correct.

The certificate shall also indicate whether the auditor satisfies the criteria provided in section 141 [Section 141 provides provisions on eligibility, qualification and disqualification of Auditor]

Further, the company shall inform the auditor concerned of his or its appointment, and also file a notice (in the *Form ADT-1*) of such appointment with the Registrar within 15 days of the meeting in which the auditor is appointed

COOLING PERIOD

The auditor shall not be eligible for re appointment for 5 yrs in same company from the completion of term

+

Any other audit firm having common partner of such audit firm shall also not be eligible for re appointment for 5 yrs in same company.

TRANSITIONAL PERIOD

3 YEARS from commencement of this ACT.

ROTATION OF AUDITOR [SECTION 139(3) AND (4)]:

(a) Members of a company may resolve to provide that—

(1) in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members; or

(2) the audit shall be conducted by more than one auditor.

(b) The Audit Committee shall recommend to the Board, the name of an individual auditor or of an audit firm who may replace the incumbent auditor on expiry of the term of such incumbent.

(c) Where a company is required to constitute an Audit Committee, the Board shall consider the recommendation of such committee, and in other cases, the Board shall itself consider the matter of rotation of auditors and make its recommendation for appointment of the next auditor by the members in annual general meeting.

(d) For the purpose of the rotation of auditors in case of an auditor (whether an individual or audit firm), the period for which the individual or the firm has held office as auditor prior to the commencement of the Act shall be taken into account for calculating the period of five consecutive years or ten consecutive years, as the case may be;
(e) a break in the term for a continuous period of five years shall be considered as fulfilling the requirement of rotation;
(f) if a partner, who is in charge of an audit firm and also certifies the financial statements of the company, retires from the said firm and joins another firm of chartered accountants, such other firm shall also be ineligible to be appointed for a period of five years.
(g) Where a company has appointed two or more individuals or firms or a combination thereof as joint auditors, the company may follow the rotation of auditors in such a manner that both or all of the joint auditors, as the case may be, do not complete their term in the same year.

FILLING UP CASUAL VACANCY [SECTION 139(8)]:

GOVT CO

Filled by CAG
+
Within 30 days
+
On failure, BOD shall fill the vacancy within next 30 days

OTHER CO

(a) Filled by **The Board within 30 days** but where such vacancy is caused by the **resignation** of an auditor, such appointment shall also be approved by the **company at a general meeting** convened within **three months** of the recommendation of the Board.
(b) Any auditor appointed in a casual vacancy shall hold office until the conclusion of the next annual general meeting.

RE-APPOINTMENT OF RETIRING AUDITOR [SECTION 139(9), (10) AND (11)]:

(a) At any annual general meeting, a retiring auditor may be re-appointed at an AGM, if—
(1) he is not disqualified for re-appointment;
(2) he has not given the company a notice in writing of his unwillingness to be re-appointed; and
(3) a special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re-appointed.
(b) Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company.

AUDIT COMMITTEE'S RECOMMENDATION [SECTION 139(11)]:

Where a company is required to constitute an Audit Committee under section 177, all appointments, including the filling of a casual vacancy of an auditor under this section shall be made after taking into account the recommendations of such committee.

AUDITOR

REMOVAL OF AUDITOR

Pass BR
+
Prior CG approval in Form ADT 2 within 30 days of BR
+
Pass SR within 60 days from receipt of permission from BOD
+
Removal after giving opportunity of being heard

RESIGNATION BY AUDITOR

He shall file within a period of 30 days from the date of resignation, a statement in the form ADT-3 with the company and the Registrar
+
In case of government companies the auditor shall also file such statement with the Comptroller and Auditor-General of India also along with company and the Registrar & Indicate the reasons and other facts as may be relevant with regard to his resignation, in the statement

APPOINTING AUDITOR OTHER THAN THE RETIRING AUDITOR [SECTION 140(4)]

If the retiring auditor has not completed a consecutive tenure of 5 years or, as the case may be, 10 years, special notice shall be required for a resolution at an annual general meeting appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be re-appointed.

(b) On receipt of notice of such a resolution, the company shall forthwith send a copy thereof to the retiring auditor.

(c) Where notice is given of such a resolution and the retiring auditor makes with respect thereto representation in writing to the company (not exceeding a reasonable length) and requests its notification to members of the company, the company shall, unless the representation is received by it too late for it to do so,—

(1) in any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(2) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company,

(d) If a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting.

(e) However, if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar.

QUALIFICATIONS OF AN AUDITOR [SECTION 141(1) & (2)]:

(a) A person shall be eligible to be appointed as auditor of a company only if he is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949.
(b) A firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.
(c) Where a firm including a Limited Liability Partnership is appointed as an auditor of a company, only the partners who are chartered accountants shall be authorised to act and sign on behalf of the firm.

DISQUALIFICATIONS OF AUDITORS [SECTION 141(3)]:

(1) A body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;
(2) an officer or employee of the company;
(3) a person who is a partner, or who is in the employment, of an officer or employee of the company;
(4) a person who, or his relative or partner—

(A) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company:
Provided that the relative **may hold security** or interest in the company of **face value not exceeding 1,00,000 rupees** as prescribed under the Company (*Audit and Auditors) Rules, 2014.*
(B) is i**ndebted** to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company**, in excess of ` 5 Lacs; or**
(C**) has given a guarantee or provided any security** in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, **in excess of ` 1 Lac.**

(5) a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company. "business relationship" shall be construed as any transaction entered into for a commercial purpose, except –

(A) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 and the rules or the regulations made under those Acts;
(B) commercial transactions which are in the ordinary course of business of the company at arm's length price - like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.

(6) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel;

(7) a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than 20 companies;
(8) a person who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction;
(9) any person whose subsidiary or associate company or any other form of entity, is engaged as on the date of appointment in consulting and specialized services as provided in section 144 (section 144 deals with certain services not to be tendered by auditor).

Prohibited services : An auditor appointed shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be. But such services shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company), namely:—

(a) accounting and book keeping services;	(b) internal audit;	(c) design and implementation of any financial information system;
(d) actuarial services;	(e) investment advisory services;	(f) investment banking services;
(g) rendering of outsourced financial services;	(h) management services; and	(i) any other kind of services as may be prescribed.

Transition period: If an auditor or audit firm who or which has been performing any non audit services on or before the commencement of the Companies Act, 2013, shall comply with the provisions of this section (i.e. section 144) before the closure of the first financial year after the date of such commencement.

CEILING NUMBERS OF AUDITS

The Council of the Institute of Chartered Accountants of India hereby specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he holds at any time appointment of more than **the "specified number of audit assignments of the companies under Section 141(3)(g) of the Companies Act, 2013 i.e. 20.**

REMUNERATION OF AUDITORS (SECTION 142 OF THE COMPANIES ACT, 2013)

(i) The remuneration of the auditors of a company shall be **fixed by the company in general meeting** or in such manner as the company in general meeting may determine.
(ii) In the case of **first auditor**, remuneration may be fixed by the **Board.**
(ii) The remuneration mentioned aforesaid shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him. But the remuneration does not include any remuneration paid to him for any other service rendered by him at the request of the company.

POWERS OF AUDITORS [SECTION 143(1)]:	
(a) Access to books of accounts and vouchers:	Every auditor of a company shall have a right of access at all times to the books of accounts and vouchers of the company, whether kept at the registered office of the company or at any other place.
(b) Entitled to have necessary information and explanation	He shall be entitled to require from the officers of the company such information and explanations as the auditor may consider necessary for the performance of his duties as auditor.
(c) Matters of inquiry:	The auditor may also inquire into the following matters, namely:— (1) Whether loans and advances made by the company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the company or its members; (2) Whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company; (3) Where the company not being an investment company or a banking company, whether so much of the assets of the company as consist of shares, debentures and other securities have been sold at a price less than that at which they were purchased by the company; (4) Whether loans and advances made by the company have been shown as deposits; (5) Whether personal expenses have been charged to revenue account; (6) Where it is stated in the books and documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading:
(d) Access to record of all its subsidiaries	The auditor of a company which is a holding company shall also have the right of access to the records of all its subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.

DUTIES OF AUDITORS [SECTION 143(2), (3) AND (4)]

(a) The auditor shall make a report to the members of the company on the following:
(1) On the accounts examined by him; and
(2) On every financial statements which are required by or under this Act to be laid before the company in general meeting; and

(b) The auditor while making the report shall take into account the provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of this Act or any rules made thereunder or under any order made under section 143(11).

(c) The auditor shall express his opinion of the accounts and financial statements examined by him. He shall express the opinion which according to him and to the best of his information and knowledge, the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year and such other matters as may be prescribed.

(d) The auditors' report shall also state—

(1) whether he has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements;

(2) whether, in his opinion, proper books of account as required by law have been kept by the company so far as appears from his examination of those books and proper returns adequate for the purposes of his audit have been received from branches not visited by him;

(3) whether the report on the accounts of any branch office of the company audited under sub-section (8) by a person other than the company's auditor has been sent to him under the proviso to that sub-section and the manner in which he has dealt with it in preparing his report;

(4) whether the company's balance sheet and profit and loss account dealt with in the report are in agreement with the books of account and returns;

(5) whether, in his opinion, the financial statements comply with the accounting standards;

(6) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;

(7) whether any director is disqualified from being appointed as a director under sub section (2) of section 164;

(8) any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith;

(9) whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;

(10) such other matters as may be prescribed.

(e) *The Companies (Audit and Auditors) Rules, 2014* provides that the auditor's report shall also include their views and comments on the following matters, namely:-

(1) whether the company has disclosed the impact, if any, of pending litigations on its financial position in its financial statement;

(2) 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;

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

(f) Where any of the matters is answered in the negative or with a qualification, the auditor's report shall state the reason for the answer.

(g) Compliance with auditing standards:

(1) Every auditor shall comply with the auditing standards

(2) The Central Government may prescribe the standards of auditing or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.

(3) It is further provided that until any auditing standards are notified, any standard or standards of auditing specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing standards.

(h) Additional matters to be reported in case of specified companies: In respect of such class or description of companies, as may be specified in the general or special order by the Central Government may, in consultation with the National Financial Reporting direct, the auditor's report shall also include a statement on such matters as may be specified therein.

(i) **Reporting of frauds by auditors [Section 143(12)]:**

(a) In the course of the performance of his duties as auditor, has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government immediately but not later than 60 days of his knowledge and after following the below mentioned procedure (as mentioned in *the Companies (Audit and Auditors) Rules, 2014*):

(1) Auditor shall forward his report to the Board or the Audit Committee, as the case may be, immediately after he comes to knowledge of the fraud, seeking their reply or observations within 45 days;

(2) on receipt of such reply or observations the auditor shall forward his report and the reply or observations of the Board or the Audit

Committee alongwith his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within 15 days of receipt of such reply or observations;

(3) In case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of 45 days, he shall forward his report to the Central Government alongwith a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he failed to receive any reply or observations within the stipulated time.

(4) The report shall be sent to the Secretary, Ministry of Corporate Affairs in a sealed cover by Registered Post with Acknowledgement Due or by Speed post followed by an e-mail in confirmation of the same.

(5) The report shall be on the letter-head of the auditor containing postal address, e-mail address and contact number and be signed by the auditor with his seal and shall indicate his Membership Number.

(6) The report shall be in the form of a statement as specified in *Form ADT-4*.

(b) No duty to which an auditor of a company may be subject to shall be regarded as having been contravened by reason of his reporting the matter referred above if it is done in good faith.

(c) Penalty for non compliance of section 143(12): If any auditor, the cost accountant in practice conducting cost audit under section 148 or the company secretary in practice conducting secretarial audit under section 204 do not comply with the provisions of section 143(12) (reporting about the offence to the Central Government), he shall be punishable with fine which shall not be less than ` 1 Lacs but which may extend to ` 25 Lacs.

AUDIT OF GOVERNMENT COMPANIES [SECTION 143(5), (6) & (7)]:

(a) The auditor of a Government company is appointed by the Comptroller and Auditor-General of India under section 139(5) or section 139(7).

(b) In the case of a Government company, the Comptroller and Auditor-General of India shall direct the auditor appointed by him, the manner in which the accounts of the Government company are required to be audited and thereupon the auditor so appointed shall submit a copy of the audit report to the Comptroller and Auditor-General of India.

(c) The audit report among other things, include the following:

(1) the directions, if any, issued by the Comptroller and Auditor-General of India,

(2) the action taken thereon and

(3) its impact on the accounts and financial statement of the company.

(d) The Comptroller and Auditor-General of India shall within 60 days from the date of receipt of the audit report have a right to,—

(1) conduct a supplementary audit of the financial statement of the company by such person or persons as he may authorise in this behalf; and for the purposes of such audit, require information or additional information to be furnished to any person or persons, so authorised, on such matters, by such person or persons, and in such form, as the Comptroller and Auditor-General of India may direct;

(2) comment upon or supplement such audit report.

(e) Any comments given by the Comptroller and Auditor-General of India upon, or supplement to, the audit report shall be sent by the company to every person entitled to copies of audited financial statements under section 136(1) and also be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.

(f) Test Audit: For Government Company or Company controlled by State Government or Central Government, the Comptroller and Auditor-General of India may, if he considers necessary, by an order, cause test audit to be conducted of the accounts of such company, without prejudice to the provisions related to Audit and Auditors. The provisions of section 19A of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, shall apply to the report of such test audit.

AUDIT OF ACCOUNTS OF BRANCH OFFICE OF COMPANY [SECTION 143(8)]:

(a) Branch office in India:

(1) Where a company has a branch office, the accounts of that office shall be audited either by:

(A) the company's auditor appointed under section 139, or

(B) by any other person qualified for appointment as an auditor of the company under section 139.

(b) Branch office outside India:

(1) If the branch office is situated in a country outside India, the accounts of the branch office shall be audited either by:

(A) the company's auditor or

(B) by an accountant or

(C) by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country.

(c) The duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor, if any, shall be as contained in sub-sections (1) to (4) of section 143.

(d) The branch auditor shall prepare a report on the accounts of the branch examined by him and send it to the auditor of the company who shall deal with it in his report in such manner as he considers necessary.

(e) The provisions of regarding reporting of fraud by the auditor shall also extend to such branch auditor to the extent it relates to the concerned branch.

The provisions of this section i.e. section 143 shall mutatis mutandis apply to—

(a) the cost accountant in practice conducting cost audit under section 148; or

(b) the company secretary in practice conducting secretarial audit under section 204.

AUDITORS TO SIGN AUDIT REPORTS, ETC. (SECTION 145 OF THE COMPANIES ACT, 2013)

(i) The person appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company in accordance with the provisions of sub-section (2) of section 141 (i.e. in case of firm including LLP, only Chartered Accountants are authorised to act and sign).

(ii) The qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

AUDITORS TO ATTEND GENERAL MEETING (SECTION 146 OF THE COMPANIES ACT, 2013)

(i) All notices of, and other communications relating to, any general meeting shall be forwarded to the auditor of the company.
(ii) The auditor shall, unless otherwise exempted by the company, attend either by himself or through his authorised representative, who shall also be qualified to be an auditor, any general meeting.
(iii) The auditor shall have right to be heard at such meeting on any part of the business which concerns him as the auditor.

CENTRAL GOVERNMENT TO SPECIFY AUDIT OF ITEMS OF COST IN RESPECT OF CERTAIN COMPANIES (SECTION 148 OF THE COMPANIES ACT, 2013)

(i) Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept under section 128 by that class of companies.
(ii) The Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.
(iii) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered aforesaid and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.
(iv) The cost audit shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed.
(v) *The Companies (Audit and Auditors) Rules, 2014* provides that-
(1) in the case of companies which are required to constitute an audit committee-

> **(A) the Board shall appoint an individual, who is a cost accountant in practice, or a firm of cost accountants in practice, as cost auditor on the recommendations of the Audit committee, which shall also recommend remuneration for such cost auditor;**
> **(B) the remuneration recommended by the Audit Committee under (A) shall be considered and approved by the Board of Directors and ratified subsequently by the shareholders;**

(2) in the case of other companies which are not required to constitute an audit committee, the Board shall appoint an individual who is a cost accountant in practice or a firm of cost accountants in practice as cost auditor and the remuneration of such cost auditor shall be ratified by shareholders subsequently.
(vi) No person appointed under section 139 as an auditor of the company (i.e. company auditor) shall be appointed for conducting the audit of cost records.
(vii) **Cost auditor to comply with cost auditing standards**: The auditor conducting the cost udit shall comply with the cost auditing standards.
(viii) An audit conducted under section 148 shall be in addition to the audit conducted under section 143.

(ix) The qualifications, disqualifications, rights, duties and obligations applicable to auditors (i.e. applicable to company auditor) shall, so far as may be applicable, apply to a cost auditor appointed under section 148 and it shall be the duty of the company to give all assistance and facilities to the cost auditor appointed under this section for auditing the cost records of the company.

(x) **The report on the audit of cost records shall be submitted by the cost accountant in practice to the Board of Directors (BOD) of the company.**

(xi) A company shall within 30 days from the date of receipt of a copy of the cost audit report furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(xii) If, after considering the cost audit report and the information and explanation furnished by the company, the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(xiii) Contravention: If any default is made in complying with the provisions of section 148,—

(a) The company and every officer of the company who is in default shall be punishable in the manner as provided in section 147(1);

(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections (2) to (4) of section 147.