MODULE I

TopicI

COMPANY

A joint stock company is an artificial person created by law having separate legal entity ,perpetual succession , limited liability and a common seal.

Definition:

* Section 2(20) of the Companies Act, 2013, defines the term 'Company' as "Company means a company incorporated under this Act or under any previous company law."

* " It is an association of persons who contribute money or money's worth to the common stock and employ it for some common purpose"- Lord Justice Lindley .

Types of Companies

1.Statutory Companies

The companies which are formed by a special act of Parliament Or under any State Legislature are called Statutory Companies.

Eg: State Bank of India, Life Insurance Corporation of India, Reserve Bank of India, Unit Trust of India etc.

2.Registered Companies

The companies which are formed or under any other earlier companies act are known as Registered Companies

Eg: Reliance Industries, Tata Motors, etc.

3.Chartered Companies

The companies which are registered under the special charter granted by the King or Queen of England are known as Chartered Companies

Eg; East India Company incorporated in 1600. Such companies are no longer in existence in India

B. On the Basis of Number of Members

1. Private Companies

Section 2(68) of the Companies Act, 2013 defines a Private Company. It prescribes that the following features must be included in the Articles of Association of every Private Company.

a) The number of members of a Private Company cannot exceed 200 (except in the case of one person company), not counting the employees and ex-employees of the company. Joint holders have to be counted as one member.

b) A Private Company cannot invite members of the public to subscribe to its securities such as shares, debentures, bonds, etc.

c) There must be some restrictions on the transfer of shares of the company.

All the requirements are cumulative in nature. Even if one is missing the company is deemed to be a public company. Minimum two members are required to form a

Edit with WPS Office

Private Company.

2. Public Company

Section 2(71) of the Act defines a Public Company as "a company which is not a Private Company".

The Companies Act 2013 provided that a public company must have a minimum paid up capital of Rs 5,00,000. This provision is amended by the companies AmendmentAct, 2015. It is now provided that, such companies must have a minimum paid up capital of such an amount as may be prescribed. The monetary limit has been deleted.

3)One Person Company

The companies act 2013 has introduced the concept of one person company. It is defined by section 2(62)of the act as "a company which has one person as its member".Only a natural person who is an Indian citizen and resident in India can be a member of OPC .It is a private limited company.

SHARE CAPITAL

Share capital means the capital raised by a company by the issue of shares. Total capital of the company is divided into units of small denominations. Each unit is called a "share". Under section 43 of the Companies Act, 2013 a company may issue two types of shares:

1. Preference Shares

Preference shares are those which carry the following two rights: This is called *pre-emptive right*

1) They have a right to receive dividend at a fixed rate before any dividend is paid on the Equity Shares.

2.. when the company is wound up, they have a right to the return of capital before that of Equity Shares.

In addition to the above, the preference shares may carry some more rights such as the right to participate in excess profits when a specified dividend has been paid On the equity shares or the right to receive a premium at the time of redemption.

2. Equity Shares

.As per section 43 of the Companies Act, 2013, equity share capital means share capital which is not preference share capital. Equity shares are those shares which are paid dividend only when profits are left after the preference shareholders have been paid a fixed rate of dividend. In a particular year, there are no profits, the equity shares will receive nothing. Ift he company earns more profits, they get a higher rate of dividend. As regards return of capital, equity share capital is returned only when preference share capital is returned in full. Equity shareholders have voting rights and control the affairs of the company

Sweat Equity Shares

Section 2(88) of the Act allows a company to issue sweat equity shares. These are the shares issued by a company to its employees or directors at a discount or for a consideration other than cash for providing technical knowhow or for intellectual property.

Edit with WPS Office

Kinds of share capital

The following are the divisions of share capital:

1. Authorised Capital or 'Nominal Capital' or Registered Capital'

Authorised capital refers to that amount which is stated in the Memorandum of Association. This is the maximum capital for which a company is authorised to issue shares during its life time. Section 2(8) says that it is the capital as it is authorised by Memorandum of Association to be the maximum capital. It is also called as 'NominalCapital' or Registered Capital'.

2. Issued Capital

It is that part of the authorised capital which is actually issued by the company for subscription. The remaining part of the authorised capital is known as "Unissued Capital.

3. Subscribed Capital

It is that part of the issued capital which is actually subscribed by the public.

4. Called up capital

It is that part of the subscribed capital with regard to which calls have been made.

5.Paid up capital

It is that part of the called up capital which is actually paid by the shareholders. The difference, if any, between the called up capital and paid up capital is "Calls in arrear"

Reserve Capital

A limited company may, by special resolution, determine that a portion of the uncalled share capital shall not be called up except in the event of and for the purpose of the winding up of the company. This portion of the share capital is called Reserve Capital. It is also termed as reserve liability. It is available only for the creditors on the winding up of the company.

Capital Reserve

Capital Reserve is created out of capital profits, which do not arise in the normal course of business. It cannot be legally distributed as dividend.

Eg: Securities premium, Capital Redemption Reserve, Profit Prior to incorporation, profit on sale of fixed assets, etc. Capital Reserve can be utilised for writing off preliminary expenses, intangible assets and issue of bonus shares. According to companies Act, 2013 "the expression 'Capital Reserve' shall not include any amount regarded as free for distribution through the surplus statement of Profit and Loss"

Capital Reserves are shown on the liabilities side of the Balance Sheet under the head "Reserves and Surplus".

DISTINCTION BETWEEN RESERVE CAPITAL AND CAPITAL RESERVE

RESERVE CAPITAL	CAPITAL RESERVE
It is that portion of uncalled capital which is capable of being called up for the purpose of winding up of the company.	It is that amount which Is not available for distribution as dividend to shareholders .
It is not disclosed in the balance sheet .	It is to be disclosed under 'reserves and surplus 'in balance sheet .
It can be used at the time of winding up.	It can be used during the life time of the

Edit with WPS Office

	company.
It cannot be used to write off capital loss .	It can be used to write off capital losses.
It cannot be used for bonus issue.	It can be used for bonus issue.
It is not realized .	It is always realized.
It is not necessary to create reserve capital	It is necessary to create capital reserve, in case of capital profits.
A resolution is required for its creation.	No resolution is required for the creation of capital reserve.

Issue of shares

Shares may be issued in any of the following ways:

1. Private placement of shares for cash.
2. Public subscription of shares for cash.
3. Shares issued for consideration other than cash.

1. Private placement of shares

As per section 42 of the companies Act, 2013 a company may issue shares on private placement basis also. *It is the issue of securities of a company direct to one investor or a small group of investors. Generally the investors are the financial institutions or other existing companies*. In this case the company does not invite public subscription but make private placement of shares to promoters, their friends and relatives, mutual funds, financial institutions like LIC, UTI, ICICI, etc.

Lock-in-Period. In case of private placement of shares, the allottees cannot sell their shares for a minimum period of three years from the date of allotment. This period is known as "*Lock-in-Period".*

2. Public subscription of shares

Following steps are to be taken by a public company for the issue of shares to public:

1. To Issue *Prospectus: Prospectus is an invitation to the public to subscribe its shares. A prospectus is an invitation of a company to the public to purchase its shares or debentures*

2. To Receive Applications: After reading the prospectus the public applies for shares with the necessary application money.

3. To Make Allotment of Shares: At this stage each allottee will be issued share certificates for eligible number of shares. In case of over subscription, the allotment shall be made on a proportionate basis according to the number of shares applied for. At this stage, each allottee has to pay the required allotment money.

NB:(Section 39(1) of the Companies Act 2013 provides that a company cannot allot shares to the public unless the amount stated in the prospectus as the minimum subscription has been subscribed.

(i) *Minimum subscription*

It means the amount which, in the opinion of the directors, is the minimum to be raised by the issue of shares so as to provide for the following:

1. For the payment of purchase price of any property.

Edit with WPS Office

2. For the payment of preliminary expenses.

3.For working capital.

4.For any other expenditure required for the smooth conduct of the business operations.

(iii) *Book Building*

Book Building is a systematic process of generating, capturing and recording investor demand for shares during an initial public offering (IPO), or other securities during their issuance process, in order to support efficient price discovery, It is basically a process used in IPO for efficient price discovery. Under book building process the issue price of shares is determined by the demand and supply forces in the capital market. Here, bids are invited from investors who place their bids at different prices. The issue price is determined by the issuing company on the basis of bids received. The main advantage of book building is that the issue price is realistic and fair.

Issue of shares at Par

When shares are issued at a price equal to the face value, it is called "shares issued at par". For example: If a share of 10 is issued by the company at 10 itself,1s said to be "par issue.

Issue of shares at a premium (Section 52)

When a company issues shares at a price higher than its face value, it is said to have been issued at a premium. Suppose, a share of Rs 100 is issued at 110, 10 is the amount of premium per share. The premium on issue of share is a capital profit and must be credited to "Securities Premium Reserve Account". It must be shown in the Balance Sheet liability side under the head "Reserves and Surplus".

Under section 52(2) of the companies Act, 2013, the securities premium maybe used for the following purposes:

1. For writing off the preliminary expenses of the company.
2. For issuing fully paid Bonus shares to the shareholders of the company.
3. For writing off the expenses, commission or discount allowed on issue of shares or debentures of the company.
4. For providing for the premium payable on redemption of redeemable preference shares or debentures of the company.
5. For buy back of its own shares or other specified securities under section 68.

NB: Securities premium cannot be utilised for adjustment of premium on redemption of preference shares in the case of companies governed by section133 of the Companies Act, 2013 which are required to comply with the Accounting Standards prescribed.)

Journal Entries

When Securities premium is payable with allotment:

Share Allotment A/C. Dr (with allotment money)
To Share Capital (with Capital)
To Securities premium (with premium)

Issue of shares at a Discount

When a share is issued at a price which is less than the face value is called issue of

Edit with WPS Office

shares at discount. When the shares are issued at a price lower than the face value, it is said be issued at a discount. If a share of 100 is issued at Rs 90 the discount will be Rs 10 per share. Section 53 of the Companies Act, 2013 provides that a company shall not issue shares at a discount, except when sweat equity shares are issued. Any shares issued by a company at a discounted price shall be void.

Conditions for issue at a discount

(a) Maximum discount should not exceed 10% of the face value of the shares.

(b) One year must have elapsed since the company was allowed to commence business.

(c) Company should pass a resolution for the effect.

(d) Sanction of the central govt. should be obtained.

Under subscription:

In this case, the number of applications received is less than the number of shares to be issued. The accounting for under subscription is taken care by the usual pattern of entries regarding share issue, but the entries are made on the basis of number of shares applied for by the public.

Over-subscription of shares

When the number of shares applied for is more than the number of shares offered to the public for subscription, it is said to be over-subscription of shares. However, as the company cannot allot shares more than that offered for subscription, the Board of Directors will have to allot shares on Pro-rata basis. It means that smaller number of shares are allotted to each applicant according to the number of shares applied by him

Edit with WPS Office