

Dividend

TEAM MEHTA & MEHTA

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LEGAL & ADVISORY SERVICES

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What is Dividend ?

- ▶ The word “Dividend” has origin from the Latin word “**Dividendum**”.
- ▶ It means a thing to be divided.
- ▶ Dividend means the portion of the profit received by the shareholders from the company’s net profit, which is legally available for distribution among the members.
- ▶ Therefore, dividend is a return on the share capital subscribed for and paid to its shareholders by a company.

Provisions of Dividend under Companies Act 2013

Sources of Fund available for Declaration of Dividend

- ▶ Dividend can be declare out of
 - a) Current year profits after providing depreciation of current year or
 - b) Previous year or years profit after providing depreciation of previous year or years or
 - c) Combination of both

[in computing profits any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; or"]

- d) Guarantee money provided by the Central Government or State Government

- ▶ No dividend shall be declared or paid by a company from its reserves other than free reserves.
- ▶ No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.

Declaration of Dividend Out of Free Reserves

► In the event of inadequacy or absence of profits in any year, a company may declare dividend out of free reserves subject to the fulfillment of the following conditions, namely:-

(1) 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:

Provided that this sub-rule shall not apply to a company, which has not declared any dividend in each of the three preceding financial year.

- (2) The total amount to be drawn from such accumulated profits shall not exceed one-tenth of the sum of its paid-up share capital and free reserves as appearing in the latest audited financial statement.
- (3) The amount so drawn shall first be utilized 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.
- (4) The balance of reserves after such withdrawal shall not fall below fifteen per cent of its paid up share capital as appearing in the latest audited financial statement.

Interim Dividend VS Final Dividend

- ▶ Interim dividend - refers to declaration of dividend between two annual general meetings and such dividend is declared by the Board of Director, in short interim dividend can be declared by the board and paid
- ▶ Final dividend - refers to dividend declared by the company after closure of financial year and approved by shareholders in Annual General Meeting.
- ▶ In case of Final Dividend the Board of Directors only recommend and the final approval shall be given by the shareholder at AGM
- ▶ Interim dividend can be paid only from the current year's profits while final dividend can be paid from past year's profit

Preference Dividend

- ▶ Preference dividend is paid to the preference shareholders
- ▶ The preference shareholder are entitle to receive dividend prior to the equity shareholder
- ▶ The rate of dividend on preference shareholder is fixed rate of dividend
- ▶ Arrears of Dividend on cumulative preference shares for previous years may, however, be declared and paid

To whom Dividend is paid

Dividend is paid

To Register Holder

or to his order

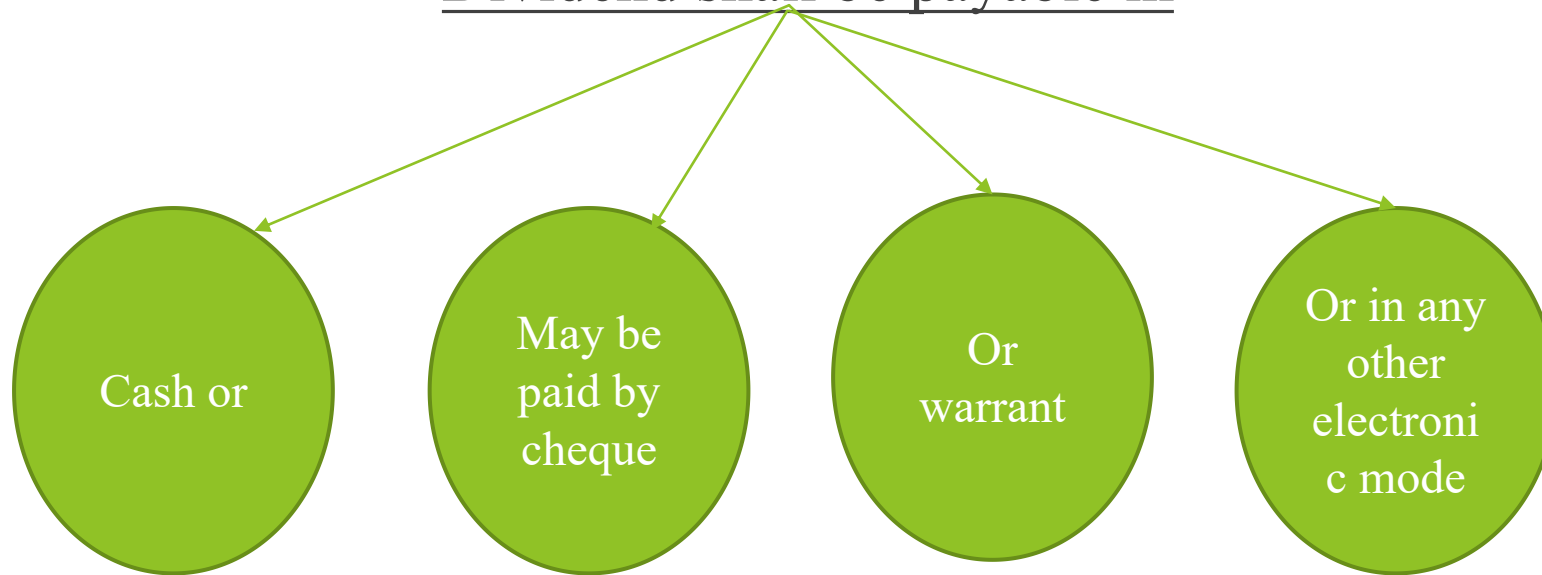
or to his banker

Time Limit for payment of Dividend

- ▶ The time limit for payment of dividend is 30 days from the date of its declaration, however the amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within 5 days from the date of declaration of such dividend such

The Manner in which dividend Is Paid

Dividend shall be payable in



Section 124: Unpaid Dividend

1. Where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within 7 days from the date of expiry of 30 days, transfer the total amount of dividend to Unpaid Dividend Account.
2. The company shall, within a 90 days of making any transfer of an amount to the Unpaid Dividend Account, shall prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid shall place on website if any or other website prescribed by CG.
3. If company made a default on transfer of such amount then the the company shall be liable to pay interest @ 12% p.a on such amount.
4. Any person claiming to be entitled to any money transferred to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.

- 5) Any money transferred to the Unpaid Dividend Account of a company and such amount remain unclaimed for a period of 7 years then such amount shall be transferred to Investor Education and Protection Fund (IEPF)
- 6) All the shares on which dividend is not claimed for 7 years shall be also be transferred to IEPF
- 7) If a company fails to comply with above provision following shall be penalty
 - ▶ For Company = Rs. 1,00,000 and Rs. 500 per day if default continue subject to max Rs. 10,00,000
 - ▶ For officer-in-default = Rs.25,000 and Rs. 100 per day if default continue subject to max Rs. 2,00,000

Sec 125: Investor Education and protection Fund (IEPF)

- ▶ The Central Government shall establish a Fund to be called the Investor Education and Protection Fund (IEPF)
- ▶ For example the Fund shall be credited with the following —
 - a) Grants and donation by government
 - b) Donation given by the company
 - c) Unclaimed dividend amount
 - d) Unclaimed application money
 - e) Matured deposits with companies other than banking companies
 - f) Matured debentures with companies
 - g) Interest accrued on the amount specified in point (c to g)
 - h) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for seven or more years
 - i) redemption amount of preference shares remaining unpaid or unclaimed for seven or more yearsor any other specified by government

- ▶ The fund shall be used for the following purposes
 - a) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon;
 - b) promotion of investors' education, awareness and protection;
 - c) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement;
 - d) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and
 - e) any other purpose incidental thereto,
- ▶ The fund shall be administered by the central government

Section 126: Dividend which is Kept in Abeyance

- ▶ Dividend is to be paid to the registered shareholder, if the registered shareholder has transferred the shares and the transferee has made an application for the transfer of shares and such transfer is not registered by the company then the company shall not pay the dividend to both either transferee and transferor and shall transfer such share to dividend unclaimed account, hence such dividend shall be kept in abeyance
- ▶ However if the transferor has authorized the company to pay dividend to the transferee then keeping dividend in abeyance is not required

Section 127: Punishment for failure to Distribute Dividend

Where the dividend is declared by the company but failed to pay the shareholders within the period of 30 days then every director of the company shall be

Punishable with the following:

Imprisonment = up to 3 years and

Fine = not less than Rs. 1000 for every day during which default continues

And the Company shall be liable to pay simple interest @ 18% p.a. during the period of such default

Secretarial Standards on Dividend SS-3

Some Highlights on Dividend from SEBI Regulations

- ▶ Reg 12 of SEBI LODR says that the listed entity shall pay dividend through electronic mode of payment facility approved by RBI

However if not possible through electronic mode the 'payable-at-par' warrantor cheque may be issued

And where the payment of such warrant or cheque exceeds Rs.1500 the it shall be sent through speed post

- ▶ As per Reg 29 of SEBI LODR Listed companies are required to notify stock exchange (s) where the securities of the company are listed at least 2 working days in advance excluding the date of the intimation and date of the board meeting where the proposal for declaring of dividend is to be considered

- ▶ Due to the recent amendment dated 05.05.2021 under SEBI LODR Regulations Top 1000 listed companies based on their market capitalization as on 31st march shall formulate dividend distribution policy (prior to amendment it was top 500 listed companies)

A recent amendment on Dividend Distribution Tax

- ▶ Prior to April 1, 2020, companies were to pay Dividend Distribution Tax (DDT) @ 20.56 percent to the Government. In Budget 2020-21, Dividend Distribution Tax (DDT) has been abolished and dividends received by shareholders after April 1, 2020 will now be taxed in their hands. However, tax will be deducted at source (TDS) on such dividend incomes in excess of Rs 5,000 per annum at the rate of 10%.

CASE STUDY

- ▶ In Foseco India Limited, the directors have recommended a final dividend in addition to two interim dividends paid already and fixed the AGM on 10th September 2020. Later due to pandemic situation, the board decided to withdraw the final dividend and accordingly they intimated the regulators and also issued addendum to directors report, corporate governance report, auditors report and notes to accounts etc.

Thank You

KNOWLEDGE MANAGEMENT TEAM OF MEHTA & MEHTA

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