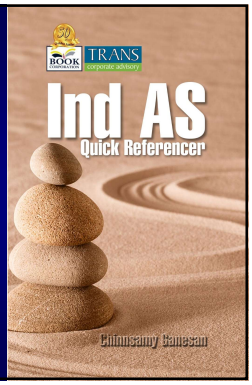
Computation of Managerial Remuneration and CSR - Issues

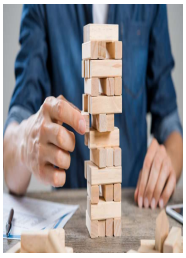
Presentation at the
Two days Company Law Conclave
organized by the
SIRC of ICAI at Chennai on June 20, 2025

CA. (Dr.) Chinnsamy Ganesan
FCA DISA(ICA)



1

Key managerial personnel (Sec 203)



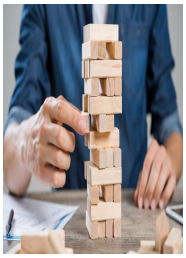
Every listed company and every other public company having a paid-up share capital of Rs.10 crore or more shall have whole-time key managerial personnel

Every such company shall have the following Key managerial personnel (a) Chief Executive Officer or the Managing Director or the manager or whole time director (b) Company Secretary; and (c) Chief Financial Officer

Designation also matters

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Key managerial personnel (Sec 203)



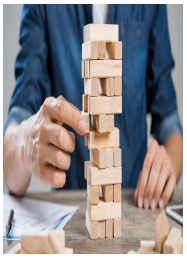
Chairperson cannot be the managing director or Chief Executive Officer of the company at the same time after the date of commencement of the Act unless
(a) the articles of such a company provide otherwise; or
(b) the company does not carry multiple businesses

To hold office in only one company except in its subsidiary company at the same time, except with the permission of the board

Transitional period to give up the appointment in more than one company is 6 months from the commencement of the Act

3

Key managerial personnel (Sec 203)



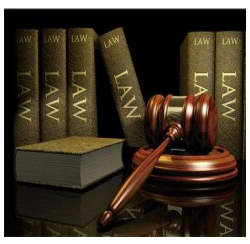
Vacancy in the office of KMP to be filled in by the board within 6 months of the date of vacation

Company contravening the provisions shall pay a penalty of Rs.1-5 Lakhs and every director/ KMP who is in default shall pay Rs.0.50 Lakhs

Where the contravention is continuing one, then further fine of Rs.1000 per day is payable

4

Appointment of managerial personnel

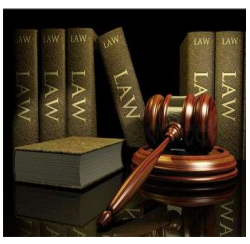


No company shall appoint or re-appoint any person as its managing director, whole-time director or manager for a term exceeding five years at a time

No re-appointment shall be made earlier than one year before the expiry of his term

5

Who cannot be appointed?



Who is below the age of twenty-one years or has attained the age of seventy years

Who is an un-discharged insolvent or has at any time been adjudged as an insolvent

Who has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them

Who has at any time been convicted by a court of an offence and sentenced for a period of more than six months

6

Frequently asked questions and Issues



- Whether it is possible for the Company to appoint a person who has attained the age of 70 as managerial person?
- Whether a non-resident can be appointed as Managing Director or Whole Time Director or Manager?

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Remuneration of managerial personnel



Sections Companies Act 2013	What is covered?
197	Provisions relating to overall maximum managerial remuneration, managerial remuneration in case of absence or inadequacy of profits, and increase in managerial remuneration
198	The manner of calculation of profits for the purpose of applying the limits on managerial remuneration
191 and 202	Deal with payment to directors for loss of office, etc

8

Remuneration of managerial personnel



Sections Companies Act 2013	What is covered?
199	Deals with recovery of excess remuneration from a managerial person (past or present) where the financial statements have been restated due to fraud or non compliance with the Act/ Rules
200	Powers of the Central Government/ Company to fix, at the time of according approval to their appointment/remuneration, the remuneration of managerial persons in the event of inadequacy or absence of profits

- Schedule V deals with the situation of managerial remuneration in case of inadequacy of profits or in case of losses

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Overall maximum remuneration payable



- 11% of net profits is the upper limit for the remuneration payable by a public company to its directors
- The term "director" also includes managing director(s) and whole-time director(s) and manager
- Remuneration in excess of 11% can be paid with the approval of shareholders in general meeting with the Central Government approval
- Sitting fee paid/ payable to directors is excluded in applying the above limit

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Cap on remuneration to MD/ WTD



- 5% of net profits if there is one MD/ whole-time director/ manager and 10% of net profits if the company has more than one MD/ whole-time director
- Remuneration to directors (not being managing or whole-time directors) is capped at 1% of net profits, if there are managing or whole-time director(s) and 3% of net profits in other cases
- Remuneration in excess of these limits (but within the overall limit of 11%) can be paid with the approval of shareholders in general meeting without Central Government approval

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Frequently asked questions and Issues



- Whether these limits apply to a private company?
- Whether these limits apply to a private company which is a subsidiary of a public company?
- Whether these limits apply to a private company which is a subsidiary of a body corporate incorporated outside India?
- Whether these limits apply to payments made to director in his professional capacity?

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Frequently asked questions and Issues



Whether the managing or whole-time director who is in receipt of any commission from the company can also receive remuneration from any holding company or subsidiary of such company?

Whether the managerial personnel can receive remuneration from two companies? If so, how the limits are to be computed?

Can the company pay premium towards an indemnity policy? If so, whether it will be considered as part of remuneration?

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Frequently asked questions and Issues



What is included in managerial remuneration?

Section 2(78) of the 2013 Act defines 'remuneration' to mean any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961

Whether payment of tax-free remuneration to any officer or employee is prohibited?

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Payment to other than MD/ WTD

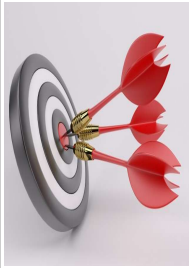


No requirement to obtain Central Government's approval for payment of a monthly remuneration

No requirement for special resolution to pay profit based commission (unless the Articles so require)

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Remuneration in case of inadequacy or absence of profits



Schedule V to the 2013 prescribes the amount that can generally be paid as managerial remuneration in case of inadequacy or absence of profit without Central Government's approval based on the 'effective capital' of the company concerned

Slabs based payment based on 'effective capital"

The number of slabs based on effective capital is Four

For each slab, the ceiling limit on managerial remuneration has been raised significantly

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Effective capital and the slabs



Effective Capital	Maximum remuneration under Companies Act 2013
Negative or less than 5 crores	30 Lakhs
5 crores and above but less than 100 crores	42 Lakhs
100 crores and above but less than 250 crores	60 Lakhs
250 crores and above	60 Lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores

The above limits shall be doubled if the resolution passed by the shareholders is a special resolution

For a period less than one year, the limits shall be pro-rated

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Frequently asked questions and Issues



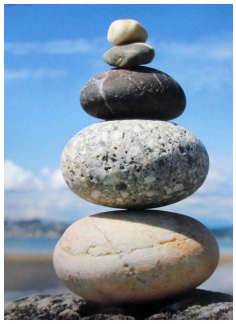
Any special limits prescribed for newly incorporated Companies?

Any special limits prescribed for a sick company?

Any special limits prescribed for company in relation to which a resolution plan has been approved by the NCLT under the Insolvency and Bankruptcy Code, 2016?

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Sitting fees



- Section 197 allows payment of fee to directors for attending meetings of board of directors or a committee of the board
- Section 197 empowers the Central Government to fix different fees for (i) different classes of companies and (ii) independent directors
- As per the Rules, the sitting fees payable cannot exceed Rs.1 Lakh per meeting

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Frequently asked questions and Issues



- Sec 197 also says "remuneration by way of fee can also be paid for such other purpose whatsoever as may be decided by the board". What does it mean?

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Remuneration to independent directors



- May receive fee for attending any meeting of the board or sub-committee or any other purpose as may be decided by the board
- May receive profit based commission
- Not entitled for stock options

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Excess remuneration drawn



- If the prior permission of Central Government was not obtained, then the managerial person has to refund or hold it in trust for the Company
- The company shall not waive the recovery of any sum refundable to it as above unless permitted by the Central Government
- In case of re-statement of financial statements due to fraud or non-compliance with the provisions of the Act/ Rules, the excess remuneration, if any, as per revised computation shall also be refunded

22

Corporate Social Responsibility



- CSR spending and unspent details to be disclosed with reasons
- CSR spending through related parties to be disclosed
- Disclosure of the nature of amounts paid
- Ongoing and other than ongoing projects

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Frequently asked questions and Issues



- What if Sec 135 of the Companies Act is not applicable to the Company?
- What if no ongoing projects are undertaken by the Company?
- What if the projects are implemented through a related party?

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Frequently asked questions and Issues



- Can a mere donation to a foundation run by a charitable organisation qualify as CSR spending?
- If not, can Companies form foundation or trust and contribute money to them for carrying out CSR activities?
- Can Companies jointly carry out CSR projects in the local area?
- Whether expenses incurred by companies for the fulfillment of any Act/ Statute of regulations qualify as CSR expenditure?

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Frequently asked questions and Issues



- Whether unspent money carried forward to succeeding years can be used for any other purpose?
- Whether excess spent can be carried forward and adjusted against next year CSR requirements?
- Whether the items enlisted in the amended Schedule VII of the Act is illustrative or exhaustive?

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Sample computation under Section 198



Computation u/s 198

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Questions?



?

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Thank you



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