

**Class: B.Com (Hons) Semester III**

**Subject : BCH 3.1 AUDITING AND CORPORATE GOVERNANCE**

**9.Topic: APPOINTMENT , REAPPOINTMENT AND REMOVAL OF COMPANY AUDITOR**

**9.1:Appointment of Company Auditor**

1. Every company, whether public or private company, must appoint an auditor to audit its account.
2. The Board of Directors are empowered to appoint the first auditors of a company who shall hold office until the conclusion of the first annual general meeting. Such powers must be exercised by the board within one month of the date of registration of the company.
3. If the board fails to exercise this power, the company in general meeting may appoint the first auditor.
4. Every company shall, at each annual general meeting, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting and shall within seven days of the appointment, give intimation thereof to every auditors so appointed unless he is a retiring auditor.
5. An auditor so appointed unless he is a retiring auditor, shall within 30 days of the receipt from the company of the intimation of his appointment, inform the Registrar in writing that he has accepted/refused to accept the appointment.
6. In the case of government companies, special provisions have been made by section 619. The auditor of such company shall be appointed or re-appointed by the Central Government on the advice of the Comptroller and Auditor General of India.

### **9.2: Re-appointment of an Auditor:–**

At the annual general meeting, the retiring auditor by whatever authority appointed (board, annual general meeting or central government) shall be re-appointed except the following cases:-

- If he/she is not disqualified for re-appointment.
- If he/she has given a notice in writing of his/her unwillingness to be re-appointed.
- A resolution is passed to that effect that he/she shall not be re-appointed or that somebody else be appointed at his/her place.
- Where a notice has been given to appoint someone else and the resolution can be proceeded with, on account of death, incapacity or disqualification of the proposed auditor.

### **9.3: Appointment of Auditor by Special Resolution:**

In the case of company in which 25% or more of the subscribed capital is held. whether singly or jointly by: \_

- Public financial institution or a Government company or the Central Government or any State Government or
- Any financial or other institution established by any Provincial or State Act, in which a State Government holds not less than 51% of the subscribed share capital or
- A nationalized bank or an insurance company carrying on general insurance business, the appointment of re-appointment (at each annual general meeting) of an auditor shall be made by special resolution.

If the company fails to pass a special resolution, it will be assumed that the company is without an auditor. In such a case the Central Government shall have power to fill the vacancy.

If 25% of the subscribed capital of the company is held by the specified institution on the date of the annual general meeting at which the special resolution is to be passed, it will suffice to attract the provision of section 224A.

#### **9.4: Removal of Company Auditor:**

The auditor may be removed from the office before the expiry of his term in the following cases:-

1. **Removal of First Auditor:**— When the first auditor is appointed by the board of directors before the first annual general meeting, such auditor may be removed by the members in general meeting. The general meeting may, in their place, appoint any other person whose nomination notice has been given by any member not less than 14 days before the date of meeting.
  2. **Removal of Other Auditor:**— In any other case, the auditor may be removed from the office before the expiry of his tenure only by the company in its general meeting after obtaining the previous approval of the Central Government.
1. Section 225 of the companies act has laid down the following procedures for removal of auditors:-
- A special notice of intention to move such resolution to remove the existing auditor must be given to the company by the shareholders, not less than 14 days before the annual general meeting.
  - A copy of such resolution shall be forthwith sent to the retiring auditor.
  - The retiring auditor has got a right to make written representation to the company.

- His representation should not exceed a reasonable length and he can request the company to notify such representation to the members of the company.
- In case the copy of representation has not been sent to the members because it was received too late or because of the company default, the auditor may request that this representation may be read out in the meeting.
- The auditor has got a right to attend the meeting where his removal is being discussed.

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