

Managerial Remuneration

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Description of Module

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Managerial Remuneration

Introduction

The executive management of a company is responsible for the day to day management of a company. The companies Act, 2013 has used the term key management personnel to define the executive management. The key management personnel are the point of first contact between the company and its stakeholders. While the Board of Directors are responsible for providing the oversight, it is the key management personnel who are responsible for not just laying down

the strategies as well as its implementation. Chapter XIII of the Companies Act, 2013 read with Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 deal with the legal and procedural aspects of appointment of Key Managerial Personnel including Managing Director, Whole-time Director or Manager, managerial remuneration, secretarial audit etc.

Key Managerial Personnel

The Companies Act, 2013 has for the first time recognized the concept of Key Managerial Personnel. As per section 2(51) “key managerial personnel”, in relation to a company, means—

- (i) the Chief Executive Officer or the managing director or the manager;
- (ii) the company secretary;
- (iii) the whole-time director;
- (iv) the Chief Financial Officer; and
- (v) such other officer as may be prescribed.

MANAGERIAL REMUNERATION

Just as profits drive business, incentives drive the managers of business. Not surprisingly then, in a fiercely competitive corporate environment, managerial remuneration is an important piece in the management puzzle. While it is important to incentivize the workforce performing the challenging role of managing companies, it is equally important not to go overboard with the perks and the pay. In India, to keep a check on unnecessary profit squandering by companies and, at the same time, to ensure adequate and reasonable compensation to managerial personnel, the law intervenes to do the balancing act.

Remuneration to Managerial Personnel

Section 197 of the Companies Act, 2013 prescribed the maximum ceiling for payment of managerial remuneration by a public company to its managing director whole-time director and manager which shall not exceed 11% of the net profit of the company in that financial year

computed in accordance with section 198 except that the remuneration of the directors shall not be deducted from the gross profits.

Further, the company in general meeting may, with the approval of the Central Government, authorise the payment of remuneration exceeding 11% of the net profits of the company.

The remuneration payable to any one managing director or whole-time director or manager shall not exceed 5% of the net profits of the company and if there are more than one such director remuneration

shall not exceed 10% of the net profits to all such directors and manager taken together.

Except with the approval of the company in general meeting, the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—

— 1% of the net profits of the company, if there is a managing or whole-time director or manager;

— 3% of the net profits in any other case.

Remuneration by a Company having no Profit or Inadequate Profit

If, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including managing or whole time director or manager, any remuneration

exclusive of any fees payable to directors except in accordance with the provisions of Schedule V and if it is not able to comply with Schedule V, with the previous approval of the Central Government.

Sitting Fees to Directors for Attending the Meetings

[Section 197(5)]

The Central Government through rules prescribed that the amount of sitting fees payable to a director for attending meetings of the Board or committees thereof may be such as may be decided by the Board of directors or the Remuneration Committee thereof which shall not exceed the sum of rupees 1 lakh per meeting of the Board or committee thereof.

Monthly Remuneration to Director or Manager

A director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other. [Section 197 (6)]

Remuneration Drawn in Excess of Prescribed Limit

If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed or without the prior sanction of the Central Government, where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company. [Section 197(9)]

Insurance Premium as Part of Remuneration

Where any insurance is taken by a company on behalf of its managing director, whole-time director, manager, Chief Executive Officer, Chief Financial Officer or Company Secretary for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to any such personnel.

However, if such person is proved to be guilty, the premium paid on such insurance shall be treated as part of the remuneration.

[Section 197(13)]

Managerial Remuneration under Schedule V

Section II : Remuneration by Companies having no profits or inadequate profits without Central Government approval

(A):

Where the effective capital is Limit of yearly remuneration payable shall not exceed (Rs)

Negative or less than 5 Crore 30 Lakhs

5 Crore and above but less 42 Lakhs
than 100 Crore

100 Crore and above but 60 Lakhs
less than 250 Crore

250 Crore and above 60 Lakhs plus 0.01% of the
effective capital in excess of
Rs. 250 Crore