

Issue and Redemption of Preference Shares

A. ISSUE OF PREFERENCE SHARES

1. Board Meeting for Issue of Preference Shares

- ☞ Board meeting is to be necessarily conducted.
- ☞ At least 7 days' prior notice is to be issued to all the directors.
- ☞ Agenda of such board meeting is to be attached along with the notice

2. General Meeting, Special Resolution and Explanatory Statement

- ☞ Annual / Extra Ordinary General meeting is to be conducted
- ☞ At least 21 days' prior notice is to be issued to all the members (Shorter Notice of not less than 7 days' can be given, provided such clause is stated in the Article of Association (AoA) of the company).
- ☞ Special resolution is to be passed in the General Meeting:
 - a. For Increase in Authorized Capital (*If required*)
 - b. For Issue of Preference shares, containing following details:
 - Priority with respect to payment of dividend/repayment of the capital.
 - Participation in surplus funds, assets or profits on winding-up.
 - Payment of dividend on cumulative/non-cumulative basis.
 - Conversion of preference into equity.
 - Voting rights (limited to the matters related to preference shareholders only).
 - Terms & Conditions of redemption.
- ☞ An explanatory statement needs to be annexed with notice calling general meeting and it shall contain relevant facts such as:
 - Intimation for increase in Authorized Capital to a certain limit.
 - Intimation for Issue of Preference shares.
 - Size of the Issue, No. of Preference Shares, Nominal Value of the Shares
 - Nature of the shares i.e. Cumulative/Non-cumulative, Participating/Non-participating, Convertible/Non-convertible etc.
 - Objective & Manner of the issue.
 - Price at which shares are proposed to be issued & basis on which price has been arrived i.e. method of valuation etc.
 - Terms of issue, rate of dividend, terms & tenure of redemption.

- Current shareholding pattern of the Company
- Expected dilution of Equity Shares upon conversion (only if the nature of the issue is convertible preference shares).

3. Board Meeting for Allotment of Preference Shares

- ☞ Board Meeting for Allotment of Preference Shares is to be conducted for which 7 days' prior notice is to be issued

4. Forms

- ☞ SH - 7: Form for Alteration of Share Capital due to Increase in Authorized Share Capital
 - Time Limit
 - Within 30 Days of Annual / Extra Ordinary General Meeting
 - Attachments
 - Copy of special resolution for Increase of Authorized Share Capital
 - Altered MOA
- ☞ MGT - 14: Form for filing Special Resolution with Registrar of Companies (ROC) for (a) Increase in authorized share capital and (b) Issue of preference shares
 - Time Duration
 - Within 30 days of Annual / Extra Ordinary General Meeting
- ☞ PAS – 5: Form for Private placement offer to be kept on records by the company, if the preference shares are issued by way of private placement
- ☞ PAS – 3: Form for allotment of Shares
 - Time Duration
 - Within 15 days of Board Meeting for Allotment of Shares

5. Register of Members

- ☞ Company must maintain Register of Members in MGT-1 separately for each class of equity and preference shares held by each member.

6. Issue of Share Certificate

- ☞ Share Certificate i.e. (Form SH-1) is to be issued to the prospective preference shareholders within 2 months from date of allotment.

7. Filing Fees:

- ☞ Nominal amount of filing fees is applicable for filing different Forms with ROC.

8. Stamp Duty

- ☞ For Increase in Authorized Share Capital

- Stamp duty shall be Rs. 1000 on every Rs. 5 Lakhs of amount of increase in authorized capital or part thereof subject to a maximum of 50 Lakhs of stamp duty.
- However, in the case of increase of Authorized Capital beyond Rs. 250 Crores, no Stamp duty shall be payable.

- ☞ For Issue of Shares

- Stamp Duty @ 0.10% is to be paid towards issue of Share Certificates to Preference Shareholders.

Point to be noted:

If preference shares are issued by way of:

<i>Rights Issue</i>	<i>Private Placement</i>
No need to open a separate bank for depositing the monies received on such issue	Separate Bank A/c needs to be opened and monies received should be deposited in such A/c
Monies received from shareholders can be immediately utilized by the company	Monies received, can be utilized by the company only after the filing of Form PAS-3
Offer letter must be sent to the shareholders	Offer letter must be sent to the shareholders
Need to keep the renunciation document (Incase shares are renounced)	

B. REDEMPTION OF PREFERENCE SHARES

1. Conditions for redemption of Preference shares

- ☞ Preference shares shall be redeemed either out of
 - Free reserves of the company or,
 - Out of the proceeds of the fresh issue of shares made for the purpose of such redemption.
- ☞ Redemption is to be carried after considering the terms and conditions of issue of preference shares
- ☞ Shares which are to be redeemed, must be fully paid up.
- ☞ If the preference shares are redeemed out of reserves of the Company, then a sum equal to the nominal amount of shares is to be transferred to CRR (Capital Redemption Reserve Account)
- ☞ CRR can be utilized only for the purpose of Issue of Bonus Shares
- ☞ At present, if the preference shares are to be redeemed at premium, then such premium can be paid out of the free reserves or securities premium of the company.

2. Board Meeting for redemption of Preference Shares

- ☞ Board meeting is to be conducted.
 - At least 7 days' prior notice and agenda is to be issued to all the directors.

3. Form

- ☞ Form SH – 7: Form for Notice to Registrar about alteration of share capital on redemption of Preference Shares
 - Time Limit
 - Within 30 Days of Board Meeting
 - Attachments
 - Copy of Board resolution, authorizing Redemption of Preference Shares

4. Surrender of Share Certificate

- ☞ Share Certificate is to be surrendered by the respective preference shareholder and is to be cancelled within 7 days by the company.

5. Taxation in case of redeeming Preference Shares at premium:

☞ Head of Income for Tax:

- Income from Capital Gains

☞ Holding Period:

- Long Term: Shares held for more than 24 months
- Short Term: Shares held for 24 months or less.

☞ Benefit of Indexation:

- LTCG: ✓
- STCG: ✗

☞ Tax Rate

- LTCG: 20% with Indexation benefit
- STCG: Applicable Slab Rate

Disclaimer:

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