

**CAPITAL ISSUES (EXEMPTION OF CAPITALISATION)
ORDER, 1991**

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1. Short title and commencement

**CAPITAL ISSUES (EXEMPTION OF CAPITALISATION)
ORDER, 1991**

S.O. 31(E), dated 17th January, 1991.1-In exercise of the powers conferred by sub-section (1) of Sec. 6 of the Capital Issues (Control) Act, 1947 (29 of 1947), the Central Government hereby makes the following order, namely :

1. Short title and commencement :-

(1)

(i) This Order may be called the Capital Issues (Exemption of Capitalisation) Order, 1991.

(ii) It shall come into force on the date ¹its publication in the official Gazette.

²[(2)] Notwithstanding anything contained in sub-clause (i) of Cl. 8 and sub-clause (i) of Cl. 9 of Capital Issues (Exemption) Order, 1969 , issue of capital upto an amount of rupees one crore by way of the capitalisation of profits or reserves ³ [***] shall be exempt from the provisions of Sec. 3 of the Capital Issues (Control) Act, 1947 :

Provided that :

(i) the bonus issue is made out of free reserves built out of the genuine profits or share premium collected in cash only ;

(ii) reserves created by revaluation of fixed assets are not capitalised ;

(iii) the Development Rebate Reserve or the Investment Allowance Reserve is considered as free reserve for the purpose of calculation of residual reserves test only;

- (iv) all contingent liabilities disclosed in the audited accounts which have bearing on the net profits, shall be taken into account in the calculation of the residual reserves;
- (v) the residual reserves after the proposed capitalisation shall be at least 40 per cent. of the increased paid-up capital ;
- (vi) 30 per cent. of the average profits before tax of the company for the previous three years should yield a rate of dividend on the expanded capital base of the company at 10 per cent. ;
- (vii) the capital reserves appearing in the balance-sheet of the company as a result of revaluation of assets or without accrual of cash resources are neither capitalised nor taken into account in the computation of the residual reserves of 40 per cent. for the purpose of bonus issues ;
- (viii) the declaration of bonus issue in lieu of dividend is not made ;
- (ix) the company may make a further issue of bonus shares only after 12 months from the date of allotment of an earlier bonus issue, if any ;
- (x) the bonus issue is not made unless the partly-paid shares, if any existing, are made fully paid-up ;
- (xi) no bonus issue shall be made if the company has sufficient reason to believe that it has defaulted in respect of the payment of statutory dues of the employees such as contribution of provident fund, gratuity, bonus, etc. :
- (xii) in cases where there is any default in the payment of any term loans outstanding to any public financial institution, a no-objection letter from that institution in respect of the issue of bonus shares shall be obtained by the company proposing the bonus issue ;
- (xiii) at any one time the total amount to be capitalised for issue of bonus shares out of free reserves shall not exceed the total amount of paid-up equity capital of the company;
- (xiv) a company which announces its bonus issue after the approval of the Board of Directors must implement the proposals within a period of six months from the date of such approval and shall not have the option of changing the decision ;
- (xv) there should be a provision in the articles of association of the company for capitalisation of reserves, etc., and if not, the

company shall pass a resolution at its general body meeting making provisions in the articles of association for capitalisation;

(xvi) consequent to the issue of bonus shares if the subscribed and paid-up capital exceeds the authorised capital, a resolution shall be passed by the company at its general body meeting for increasing the authorised capital ;

(xvii) the company shall get a resolution passed at its general body meeting for bonus issue and in the said resolution the management's intention regarding the rate of dividend to be declared in the year immediately after the bonus issue should be indicated:

Provided further that,-

(i) a company satisfying the conditions specified in the above proviso shall file with the Controller of Capital Issues a statement of the bonus issue proposals in the form specified in Sch. B annexed to Capital Issues (Application for Consent) Rules, 1966, notified vide G.S.R. 600, dated the 29th March, 1966, together with the enclosures mentioned therein, except the treasury challan within 45 days of the bonus issue announcement by the Board of Directors of the company and such statement shall be signed by the managing director or chief executive of the company, and a copy thereof shall be sent to the Securities and Exchange Board of India conveying the details of the bonus issue and certifying that the conditions specified in the above proviso have been complied with ;

(ii) a statement of bonus issue proposals mentioned above should also be accompanied by a certificate from the auditors of the company as well as a practising company secretary who should be a member of the Institute of Company Secretaries of India;

(iii) as soon as the issue of bonus shares has been made, a report thereon is sent to the Controller of Capital Issues, indicating the details of the bonus issue made.

1. Enforced w.e.f.. 21st January, 1991.

2. Renumbered by S.O. 224 (E), dated 25th March, 1991 (w.e.f. 25th March, 1991).

3. The words for the purpose of converting partly paid up shares or increasing par value of shares already issued" omitted by dated 25th March, 1991 (w.e.f. 25th March, 1991).