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EXEMPTIONS TO SECTION 8

A Brief Note To The Exemptions To Sec-8

- **Section 2(24)** which relates to company secretary do not applies to sec-8 companies
- The requirement of having minimum paid-up share capital as per **sec 2(68) and sec 2(71)** of companies act 2013 shall not apply to sec-8 companies
- The **section-118** related with minutes of proceedings of general Meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot shall not apply to a Section 8 company as a whole except that minutes may be recorded within thirty days of the conclusion of every meeting in case of companies where the articles of association provide for confirmation of minutes by circulation;.
- **Section 149(1) & 1st proviso to sub-section (1)** related with company to have board of directors :-The requirement related to number of directors and permission of shareholders for having director beyond 15 Shall not apply.
- **Section 149 (4), (5), (6), (7), (8), (9), (10), (11), clause (i) of subsection (12) and sub-section (13)** which deals with the requirement related to independent director and all connected provisions shall not apply.
- Provisions of **Section 150** which relates with the manner of selection of Independent directors and Maintenance of databank of independent directors shall not apply to sec-8 companies

- **Appointment of directors 152 (5)** A person appointed as a director shall not act as a director unless he gives his consent to hold the office as director and such consent has been filed with the Registrar within thirty days of his appointment in such manner as may be prescribed:

Provided that in the case of appointment of an independent director in the general meeting, an explanatory statement for such appointment, annexed to the notice for the general meeting, shall include a statement that in the opinion of the Board, he fulfills the conditions specified in this Act for such an appointment.

Proviso to sub-section (5) of section 152 shall not apply to Section 8 company i.e.

The requirement related to justification in explanatory statement for appointment of independent director shall not apply.

- **Section 160** which relates with *Right of persons other than retiring directors to stand for Directorship* shall not apply to Section 8 Company whose articles provide for election of directors by ballot.
- Section 8 company shall not be counted for the purpose of counting the directorships as provided in **Section 165 (1)** dealing with *number of directorships*.
- **Section 173 (1)** related with *meetings of board* shall apply to Section 8 company, only to the extent that the Board of Directors, of such Companies shall hold at least one meeting within every six calendar months.
- **Section 178 related with the Nomination And Remuneration Committee and Stakeholders Relationship Committee** shall not apply to section 8 companies.
- **Section 184 (2)** related to *Disclosure Of Interest By Director* shall apply to a Section 8 company only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one Lakh rupees.
- **Section 189** which relates with the *Register of Contracts or Arrangements in Which Directors Are Interested* shall apply to a Section 8 company only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one Lakh rupees.

MODIFICATIONS

- ❖ **Sec 96(2)** which relates with *Annual General Meeting*
In sub-section (2), after the proviso and before the explanation, the following proviso shall be inserted, namely:-
Provided further that the time, date and place of each annual general meeting are decided upon before-hand by the board of directors having regard to the directions, if any, given in this regard by the company in its general meeting .

- ❖ **Section 101 (1) - Notice Of Meeting** :-A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as may be prescribed: -

Provided that a general meeting may be called after giving a shorter notice if consent is given in writing or by electronic mode by not less than ninety-five per cent. of the members entitled to vote at such meeting.

The words "twenty one days", shall be substituted by the words "fourteen days" for Section 8 company

- ❖ **Section 174 (Quoram For Meetings Of Board)** The words "one-third of its total strength or two directors, whichever is higher", shall be substituted by the words "either eight members or twenty five per cent, of its total strength whichever is less" for Section 8 company, The following proviso shall be applicable only for Section 8 company, "Provided that the quorum shall not be less than two members".
- ❖ In **Section 177** which relates to *Audit Committee* the words "with independent directors forming a majority" shall be omitted for Section 8 company.

- ❖ **Section 179 (Powers Of Board):-**Following matter may be decided by the Board by circulation instead of at a meeting.
 - to borrow monies
 - to invest funds of the company
 - to grant loan or give guarantee or provide security in respect of loans
for a Section 8 company.

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