

Date 29/04/24

Lecture-42

Chapter-7 "Deposits"

(4-10m)

73 Define Deposit what are Exempted deposit?

74 X It means any receipt of money by way of

75 RTP

76

76(A)

Deposits

Loan

any other form
by CB

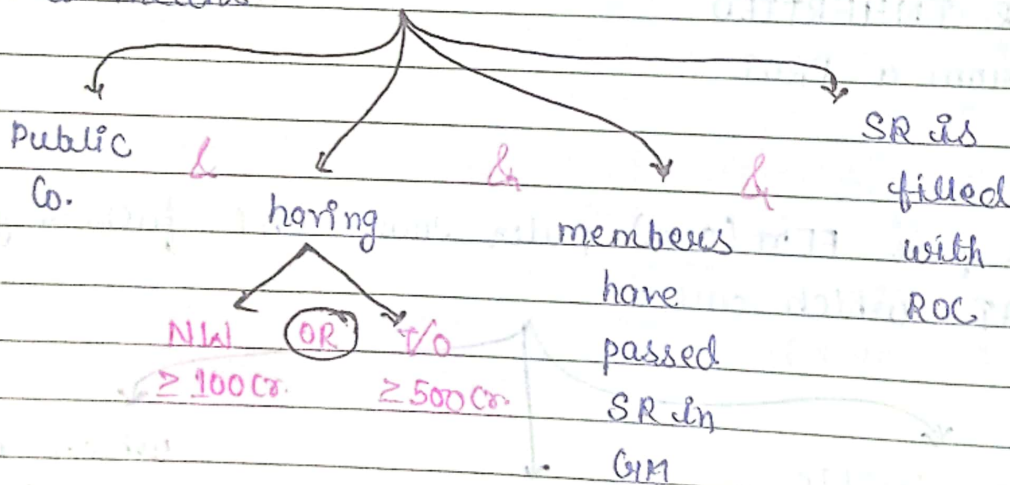
AND

does not include such categories of amount
as prescribed by RBI

Refer Page 107 main book (g, h, i, j, k, m) - Imp

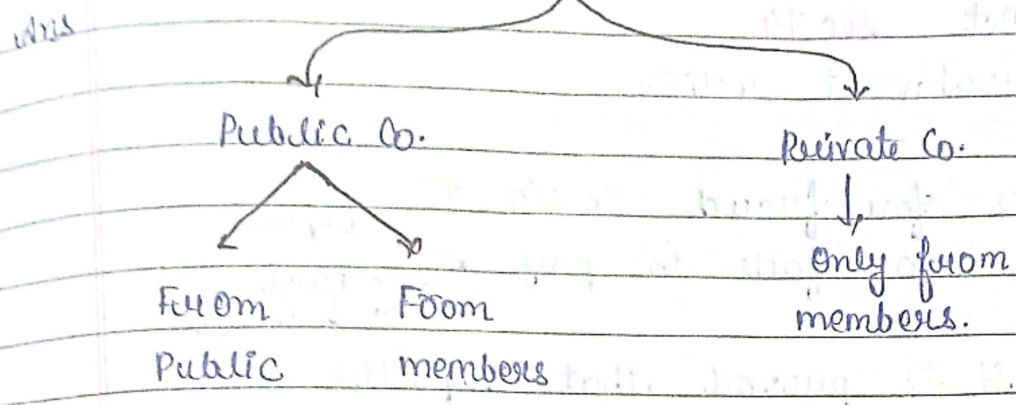
Que-2 Explain eligible company

Ans It means



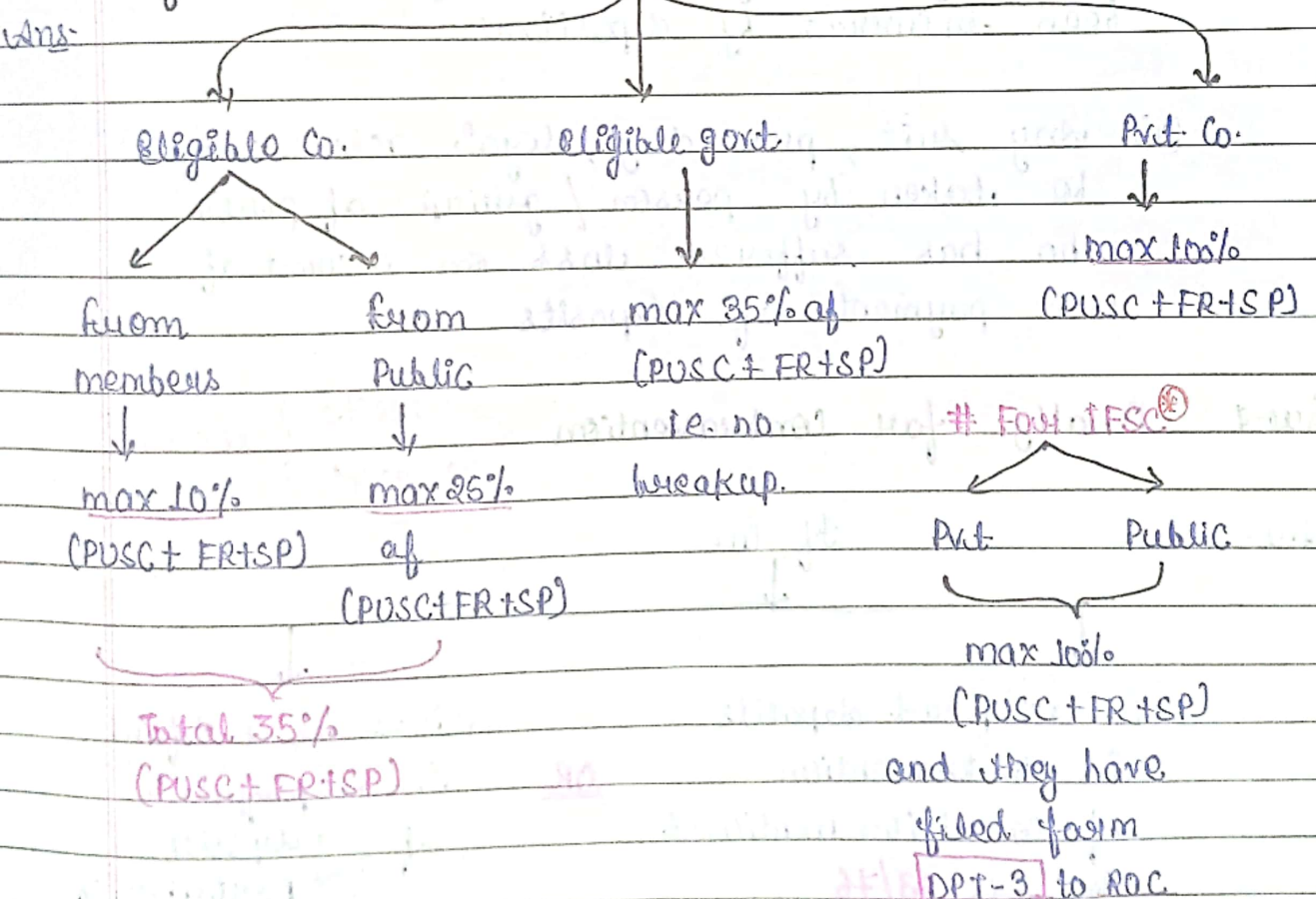
An eligible company which is accepting
deposits within limits of sec 180(1)(c) →
deposits can be accepted by OR.

Ques 3 from whom deposits can be accepted?



The person / members who give money is called as depositors.

Ques 4 what is the limit for max amount of deposits from members?



(*) International Financial Service Centre

Date ____/____/____

Ques-5 Repayment of deposits before Commencement of Act Sec 74
 ↳ irrelevant section.

Ques-6 Damages for fraud Section 75
 Ans- (i) If a co. fails to pay
 ↳ Deposit
 ↳ Part
 ↳ Interest

and it is proved that deposits were accepted to defraud the depositors or for any fraudulent purpose, then every officer of co. who was responsible, shall be liable u/s 447 and shall be unlimited and personally liable for all / any damage that may have been incurred by depositors.

(ii) Any suit, proceeding, legal action may be taken by person / group of person who has suffered loss on account of non payment of deposits.

Ques-7 Penalty for contravention
 ↳ Sec 73
 ↳ Sec 76
 } Sec 76A

Ans-

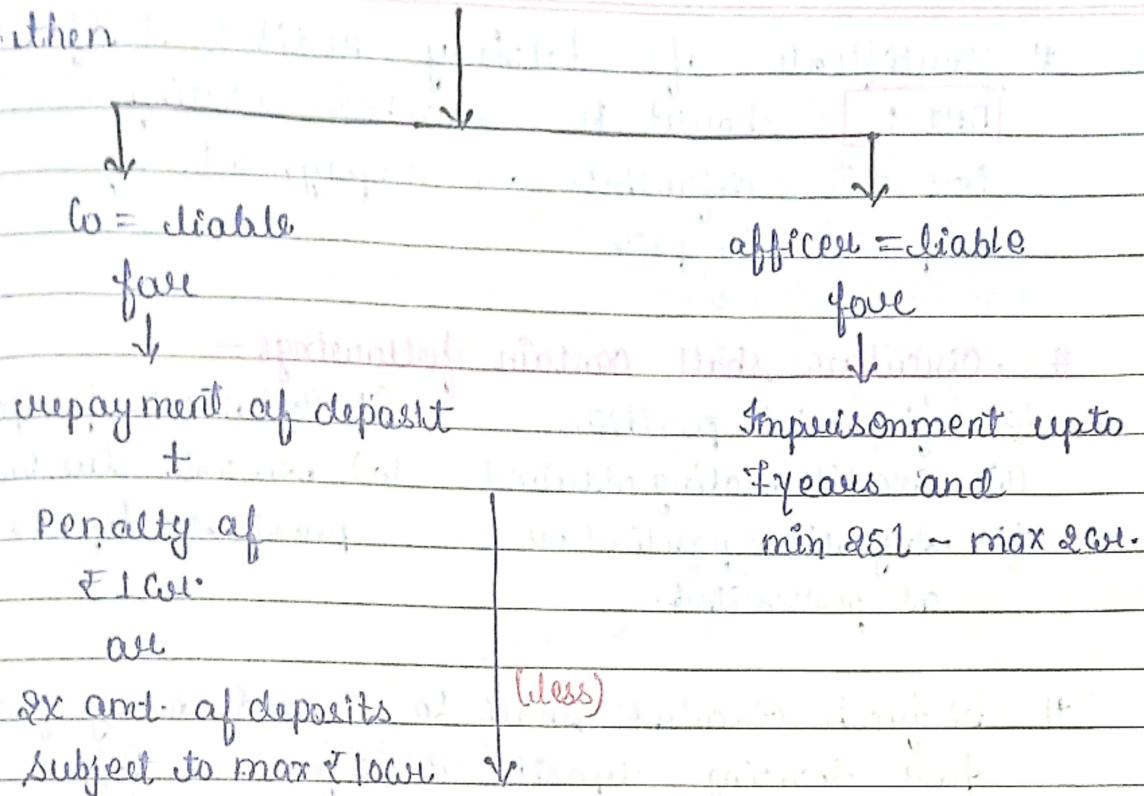
If Co.

↓
 Co. accepted deposits in contravention of condition mentioned in Sec 73/76

OR

↓
 there is a default in repayment of
 ↳ deposits
 ↳ part thereof
 ↳ interest

then



(ii) If it is proved that officer of Co. who is in default, contravened such provision ^{knowingly or} willfully

intention to deceive ^{SHS} ^{creditors} ^{depositors}

he shall be liable v/s 447

Ques-8 Procedure for acceptance of deposits — sec 73

Ans (i) A Co. is required to pass a resolution at GM for accepting deposits.

(ii) Co. shall issue → Circular ^{English} ^{vernacular language}

before accepting deposits.

Date _____

Certificate of statutory auditor in form **DP1-1** should be attached stating co. has not defaulted in repayment of deposits in past.

Circular shall contain followings -

- | | |
|--|--|
| (a) financial position | (c) Total no. of depositors |
| (b) Credit rating obtained | (d) Amount due towards previous deposits |
| (e) any other particulars as prescribed. | |

A fresh circular shall be issued every year for inviting deposits during that F.Y.

Co $\rightarrow$ file $\rightarrow$ circular $\rightarrow$ ROC $\leq$ **30 days** before date of issue of circulars.

Imp (III) Co $\rightarrow$ deposits $\rightarrow$ **min 20%** of amount of **deposits** maturing during the following financial year.

- It shall be deposited in a separate bank in a schedule bank called deposits repayment reserve account **(DRRA)**.
- It should be deposited on/ before **30th April** each year.
- It cannot be used for any other purpose except repayment of deposits.

(iv) Co. → Certify that there is no default of deposits / interest.

If defaulted ✓

default rectified ✓
and 5 years passed ✓
then only they can
accept deposits.

(v) Co. → provide security for repayment of deposits and for this they will create charge on assets.

If deposits are unsecured all circular / advertisement shall state it as unsecured deposits.

(vi) If deposits are unpaid → the depositors can apply to tribunal.

Tribunal will take necessary action.

(vii) Deposits can be accepted for $\begin{matrix} \nearrow \text{min } 6m \\ \searrow \text{max } 36m \end{matrix}$

It can be less than for 6m also if

Such deposits are
max. 10% (PUSC + FR + SP)
not exceed

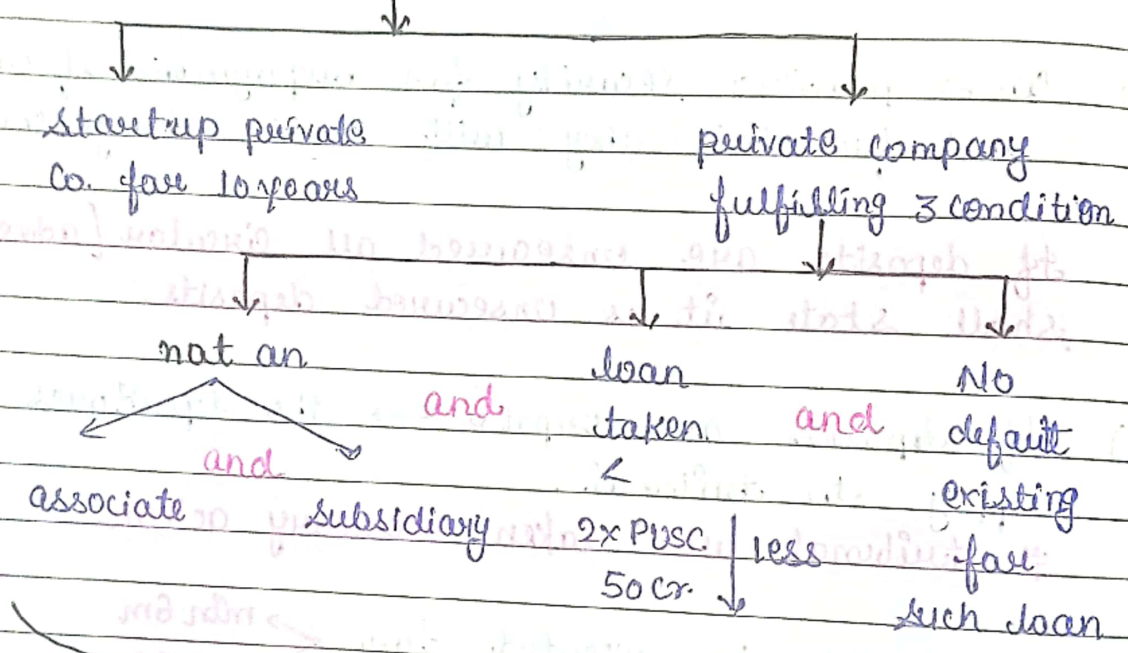
Such deposits are
accepted for
min. 3m

(viii) If Co. fails to repay deposits (secured / unsecured) they are liable for 10% interest p.a. for overdue period.

Date / /

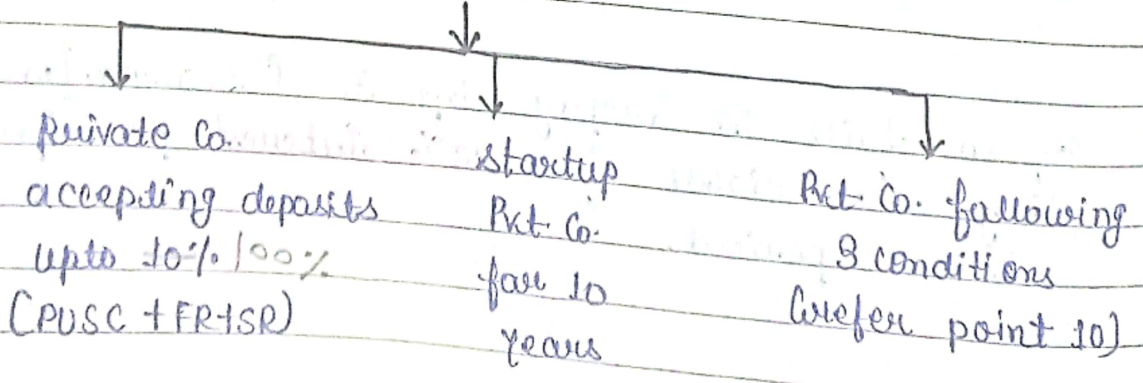
(ix) A Co. can pay $\left\{ \begin{array}{l} \text{brokerage} \\ \text{interest} \end{array} \right\}$ but it shall not exceed the max rate prescribed by RBI in case of NBFC for acceptance of deposits.

(x) Max limit of deposits (as per Q-4) is not applicable to following -



Co. $\rightarrow$ file $\rightarrow$ DPT-3 to ROC (i.e. they can accept more than 100%)

NOTE: Point (i) to (iv) are not applicable to i.e. they can accept deposits without following (i) to (iv)



Lecture-43

3-4

Que-9 Appointment of trustee

Ans. 1. Minimum 1 trustee shall be appointed by the company for creating security for the deposits

2. Written consent shall be obtained from the trustee before their appointment

3. Company shall execute a deposit trust deed in form DPT-2 atleast 7 days before issuing the circular/ advertisements.

4. Following person cannot be appointed as trustee-

(a) director, key managerial person, officer, employee of the company or its holding company, subsidiary, associate or a depositor in the company.

(b) It is indebted to the company / subsidiary / Holding / associate.

(c) has material pecuniary relationship with the company

(d) has entered into any guarantee arrangement.

(e) is related to any person specify in clause (a)

Date

5. A depositor trustee shall be removed before the expiry of this term only with the consent of all the directors present at the Board meeting. In case the company have Independent director then atleast 1 ID (Independent Director) shall be present at such meeting.

Que-10

Register of Deposits -

Ans-

Every company shall maintained a deposit register containing the following details-

- (a) Name, address and PAN of the depositor's
- (b) deposits receipts
- (c) particulars of the guardian, in case of a minor.
- (d) particulars of nominee.
- (e) date and the amount of each deposit.
- (f) rate of interest on such deposits to be payable to the depositor.
- (g) due date for payment of interest.
- (h) any other particulars as may be prescribed.

2. The entries in the register shall be made within **7 days** of issuance of receipt which is authenticated by a director or a CA or a CS or an officer authorised by the board.

3. The said register shall be preserve for **8 years** from the financial year in which the latest entry is made in

the register

Ques- What are the provision relating to credit public deposits shall be required making if a company wants to raise a public deposits?

Ans-

(1) An eligible company which desire to raise public deposits shall be required to obtain the rating, including its net worth, liquidity and ability to pay its deposits on due date from from a recognised credit rating agency.

(2) The rating shall be informed to Public at the time of invitation of deposits from the public.

(3) The rating shall be obtained every year during tenure of deposits.

(4) Copy of the credit rating which is being obtained at least once in a year shall be sent to the RoC along with the return of deposits in Form DPT-3.

(5) The credit rating shall not be below the minimum investment grade rating or other specified credit rating for fixed deposits.

(6) It shall be obtained from any one of the approved credit rating agencies.