

Appointment, Removal & Role Of An Auditor

A private limited company is required to submit its audit reports every financial year, duly assessed and checked by an auditor. Hence, an auditor is a mandatory requirement of any private company to operate in India or to file its taxes, since each tax filing needs a comprehensive report from the auditor.

Sections 139 to 148 of the Companies Act, 2013 give a complete and detailed summary of the role of an auditor as well as the other requirements, such as their appointments or removal from the company payroll.

Let us look at each of these roles and responsibilities:

Auditor's Role and Responsibilities

The Companies Act, 2013 has revised and added new provisions under Role of Auditors as against the provisions made in the Companies Act, 1956. Accordingly, there are some very stringent norms and provisions made to the directors to make corporate governance clear and concise. The new norms also give an auditor a lot of additional responsibilities, and, therefore, liabilities under which, in case of any anomalies seen in the financial reports of the company, the auditor will come under the scanner too.

Appointment of Auditor

a. **Within 30 Days:** The first auditor of the company needs to be appointed within 30 days of registration of the company in a general meeting or within 90 days, in an Emergency General Body Meeting. The first auditor (or the auditing firm) appointed will hold office from the conclusion of the meeting (in which the appointment has been made) to the time when sixth annual general meeting is held (five years). Therein, the auditor appointments are reviewed every sixth year.

b. **Written Consent:** A written consent from the auditor, with a sufficient proof to suggest that the person (or firm) qualifies the criteria provided in Section 141 of the Act, needs to be submitted before an appointment.

c. **Appointment Notice:** The company should issue an appointment notice to the auditor, and a Form, ADT- 1 is required to be submitted with the registrar within 15 days of the meeting in which the auditor is appointed.

d. **Section 139:** The companies listed in Section 139 (belonging to the class or classes of companies as mentioned in the section) and Rule 5 of the companies (audit and auditor) rules, 2014, will not:

1. Appoint an individual as auditor for more than one consecutive five year tenure;
2. An auditing firm for more than two terms of five consecutive years

Provided, the auditor who has finished his term will not be eligible for reappointment in the same company or the auditing firm who has completed a two year tenure is not eligible for appointment in the same company for five years.

A three-year transition period is given to comply with this requirement. Although, according to the rules, the five year period is calculated with the retrospective effect.

Reappointment of an Auditor

Reappointment of auditors/renewal of auditors. An auditor or an auditing firm will be re-appointed at the AGM, unless:

1. The auditor has shown his unwillingness to continue
2. A resolution has been passed at the general meeting to appoint a new auditor or an auditing firm
3. If, at the AGM, no auditor is appointed or reappointed, the existing auditor shall continue in the firm.
4. In case of death of the auditor (if it is an individual), the casual vacancy shall be filled within 30 days by the board. He will hold office till the next AGM.
5. In case of resignation of the auditor, the casual vacancy is again filled by the BOD within 30 days, and same approved at the meeting held within 3 months of the appointment.
6. The auditor who has resigned from the company needs to file a Form – ADT 3 stating the

resignation and the reasons for the same. If not, the auditor will be deemed responsible for the same.

Removal of Auditor

An auditor or the auditing firm, can be removed from their office, before their expiry, by passing a special resolution and getting an approval from the central government by submitting Form ADT-2 (Rule 7).

Roles & Responsibilities of Auditor

Roles and responsibilities of an auditor as prescribed by the Act:

1. Make sure that all the auditing standards are maintained and complied.
2. Exercise rights to access to all records in all subsidiaries, if required.
3. Make sure that you have all desired information, and have backups for the same, in certified copies.
4. Ensure you report qualifications, reservations, or adverse remark after auditing the records.
5. Report any fraud or disqualifications in the company records within 30 days of coming across such information and substantial evidence. If not reported, and found later by the authorities, the auditor will be fined up to Rs. 25 lakh for an error in judgment.
6. The auditor should not provide services such as internal audits, bookkeeping, investment advisory or banking services and so on, to the company wherein he holds the position of 'Auditor' of annual financial records.
7. The Act prescribes several such essential responsibilities for auditors, and thereby giving enough liability and the role of the auditors to perform as per the rules set by the Act.