

SECTION 185 OF COMPANIES ACT, 2013 - LOAN TO DIRECTORS, ETC.

- Applicable From: **12th September, 2013**
- Corresponding to Section 295 Of Companies Act, 1956
- Applicable to Private Limited Companies also

Restrictions

No Company shall directly or indirectly advance any loan, including any loan represented by a book debt, to any of its Directors or to any other person in whom the Director is interested, or give any guarantee or provide any security in connection with loan taken by Director or such other person.

Thus, a **Company** (hereinafter referred to as '*Lending Company*') **cannot advance a loan to:**

- Any Director;
- Any Director of Holding company of the Lending company;
- Any Partner or Relative of any such Directors mentioned above;
- Any Firm in which any such Director or Relative is partner;
- Any Private Company of which any such Director is a Director or Member of Lending Company;
- Any Body Corporate (i.e. Company or LLP) at a general meeting of which not less than 25% of total voting power may be exercised individually or jointly by any such Director/(s) of Lending company;
- Any Body Corporate, the Board of Directors of which is controlled by the any Director(s) of Lending Company.

Exemptions/Relaxations

The aforesaid restrictions are not applicable to:

- Giving of any loan to the Managing or Whole-time Director –
 - (i) as a part of the conditions of service extended by the company to all its employees;
 - (ii) pursuant to any scheme approved by members vide special resolution.
- A Company which provides loans in the ordinary course of its business and interest in respect of such loans is charged at a rate not less than Bank rate declared by RBI.

Penalties

- On Lending Company

In case of contravention of this section, the Lending Company shall be punishable with a minimum fine of Rs.5 lacs but which may extend to Rs.25 lacs;

- On Recipient Director/ Entity

In case of contravention of this section, the recipient Director or other entity shall be punishable with imprisonment which may extend to six months or with a minimum fine of Rs.5 lacs but which may extend to Rs.25 lacs, or with both.