

## **Private Company cannot Accept Deposits from Relatives of Directors, Shareholders**

Now a Private Company cannot Accept Deposits from Relatives of Directors, Shareholders as was allowed under Companies Act, 1956 **unless** Section 73 of the Companies Act, 2013 and Companies (Acceptance of Deposit) Rules, 2014 are complied with.

As per Section 74(1)(a) and Companies (Acceptance of Deposit) Rules, 2014 every company who has accepted deposit before commencement of Companies Act, 2013 has to file a return in Form DPT-4 within ~~3 months~~ extended to 5 months wef 31/08/2014, from commencement of Companies Act, 2013 and further it has to be repaid within 1 year from commencement of this Act.

**PENALTY:-** Company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to Rs. 10,000/- and where the contravention is continuing one, with a further fine which may extend to Rs. 1,000/- for every day after the first during which the contravention continues.

### **IMMEDIATE ACTIONS TO BE TAKEN:-**

#### **NOTE**

1. **If company Accepted Any Deposit Under Previous Act:**
  - Require to file form DPT-4 till 31 August, with the registrar a statement of all the deposit accept by the company, and amount which remain unpaid along with amount of interest.
  - Such amount is to be repaid before 31st March, 2014 or on the date when such payment is due whichever is earlier. (If not able to repay then make application to Tribunal, now power delegated to CLB).
2. Amount which is received from director of the company shall be not be considered as deposit only if:
  - The director from whom money is received, furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others.



VASHISTA & ASSOCIATES  
ADVOCATES & SOLICITORS

3. **Passing of Ordinary Resolution** if accept from members but is accepting deposits from public Special Resolution require.
4. **Deposits From the Members:** shall not exceed 25% per cent of the aggregate of the paid up share capital and free reserves of the company. The amount of 25% limit is to be computed considering such deposit together with the amount of deposits outstanding as on the date of acceptance or renewal of such deposits.