

F.No. 2(49)/98-DPE(WC)GL-XXIX
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhavan,
Block 14, CGO Complex,
Lodi Road, New Delhi-110003

Dated: 12th September, 2000

OFFICE MEMORANDUM

Subject: Clarification on 5% of the distributable profits.

The undersigned is directed to refer to DPE O.M. No. 2(49)/98-DPE(WC) dated 25th June, 1999 regarding revision of scale of pay of Board level and below Board level executives of Central Public Sector Enterprises.

Para 12 of the said OM reads as under:--

“Payment of perquisites and allowances may be upto a maximum of 50 per cent of the basic pay. Payments over and above the ceiling of 50 per cent should be entirely in the nature of Performance Related Payments which should not exceed 5 per cent of the distributable profits in an enterprise.”

In regard to the performance related payments, question has been raised on the exact definition of distributable profits. In this context it is clarified that distributable profit represents the profit after tax and providing for transfers to Statutory Reserves such as Foreign Project Reserve, Investment Allowance Reserve, General Reserve (u/s 205 2A of the Companies Act) etc.

The distributable profit is arrived as below:

	Rs/Cr
a) Profit after tax	XXX
Less: Transfer to reserves	
b) Foreign Project reserve	XXX
The reserve has to be created @ 50% of Export Profit. To be retained in the Books for 5 years and in the 6 th year to be transferred to the general reserve.	
c) Investment allowance reserve (Since withdrawn w.e.f. 1.4.88)	XXX
d) General reserve (to be transferred upto 10% of the net profit.	XXX

Under section 205 (2A) of the Companies' Act, "no dividend shall be declared by a company for any financial year out of the profits of the company for that year arrived at except after the transfer to the reserve of the company, such percentage of its profit for that year not exceeding 10% as may be prescribed".

e)	Any other statutory reserve	XXX
f)	Distributable profit [a – (b + c + d + e)]	XXX
g)	Dividend (including dividend tax)	XXX
h)	Balance profit transferred to the general reserve (f – g)	

A concrete example of the computation of distributable profit in respect of a PSU (X) for the year 1999-2000 and its applicability will clarify the position as Annexed.

The administrative Ministries/Departments are requested to bring it to the notice of the Central Public Sector Enterprises under their administrative control for compliance.


(DR. S. BANERJEE)
JOINT DIRECTOR (F)

To : All the administrative Ministries / Departments of the Government of India.

Copy to :

1. The Chief Executives of Central Public Sector Enterprises.
2. The Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi.
3. The Secretary (PE), Department of Public Enterprises.
4. All Financial Advisers in the Administrative Ministries.
5. The Additional Secretary, Insurance Division, Department of Economic Affairs, Nirvachan Sadan, New Delhi.
6. Department of Expenditure, E-II Branch, North Block, New Delhi.
7. The Secretary General, SCOPE Complex, Lodi Road, New Delhi.


(DR. S. BANERJEE)
JOINT DIRECTOR (F)

ANNEXURE**CONCRETE EXAMPLE**

Distributable Profit for PSU (X) for the year 1999-2000

		Rs/Cr.
1.	Profit after tax	(a) 587
2.	Less: Transfer to reserve	
	i. Foreign Project reserve	(b) 7
	ii. Statutory General Reserve (u/s 205 2A)	(c) 59
	Distributable amount of profit for dividend (including dividend tax)	(a-b-c) 521
3.	Dividend (incl. Dividend tax) provided (Interim dividend @ 15%+ Final dividend @ 15% + tax on Dividend) proposed.	(d) 85
4.	Balance profit transferred to general reserve	(a-b-d) 495

In this case, 5% of distributable profit will be related to Rs. 521 crore and not to the dividend payout of Rs. 85 crore. The transfer to general reserve comprises a statutory element (Rs. 59 crore) and a voluntary element (Rs. 436 crores).