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Mahmud & Co.

# **WPPF and WWF (As per labour Law and Rules amended upto Sept 2015)**

## **Accountants Perspective**

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# Accounting impact for a company

5% of the Net Profit be distributed to Participation Fund, Welfare Fund and Bangladesh Workers' Welfare Foundation Fund in the ratio of 80:10:10.

Previous ratio: 80:20

The definition of the term “net profit” has been changed to mean such of the net profit as defined in section “119” of the Companies Act, 1994

# Who needs to pay WPPF and WWF?

- Under the previous law, the obligation to set up a “workers profit participation fund” only applied to “industrial undertakings”. The term “industrial undertakings” has been replaced by “Company”. A Company now only has to fulfil any one of the two conditions rather than three conditions under the old law.
- The Company either needs to have a paid up capital of more than Tk 10 million or fixed assets of more than Tk 20 million.
- There are separate rules for 100% Export Oriented Co and 100% FDI Companies

# Who is a beneficiary?

Pre-2006 : Basic salary not exceeding Tk 9,000/month

2006: an employee of the company, whatever be his/her designation or position, who has been in the employment of the company for a period of not less than six months; but does not include any manager/supervisor.

2013: the beneficiaries will be any person who is an employee including apprentice of the company for at least 9 months during the year and who is not owner or partner or member of the Board of Directors.

# Changes in the Definition of Industrial Undertaking



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The definition of the term “Industrial Undertaking” in the old section 233(g) has been replaced with “any organisation, business organisation, industry, bank, financial investment organisation, insurance company run with the motive of making profits or which falls within any one of the following heads:

- a) the subjection of goods or materials to any manufacturing,
- b) assembly, finishing or other artificial, natural process, which changes their original condition or adds to their value;

# Changes in the Definition of Industrial Undertaking



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- c) ship-building and recycling;
- d) the transformation, generation, conversion, transmission, or distribution of electrical energy including hydraulic power;
- e) the working of a mine, oil, well or any other source of mineral deposit, including blending, refining and purification of oils and gases;
- f) the marketing and distribution of gas or oil;
- g) the carriage of men or goods by sea or air;
- h) service providers such as mobile operator companies, building construction company and;
- i) includes any other operation which the Government may, by notification in the official gazette, declare to be an undertaking for the purposes of this Chapter.

# Management of the Funds



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- Trustee board shall manage the funds
- Board of Trustees shall comprise of four members:
  - a) Two persons nominated by the collective bargaining agent and if there be no collective bargaining agent in the company, two persons elected by the workers of the company from amongst themselves; and
  - b) two persons nominated by the management of the company of whom at least one shall be a person from the accounts department of the company
- Tenure of the Trustees will be for three years



# Computation



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Assumptions	
Profit before tax and before charging WPPF and WWF (Tk)	100,000,000
No of beneficiaries as on 31 December 2015	200

Statement of Profit or Loss (Extract)	Amount (Tk)
Profit before tax and before charging WPPF and WWF	100,000,000
Less: WPPF and WWF	4,761,905
Profit before tax	95,238,095

# Computation



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Allocation	Amount (Tk)
Participation Fund (80%)	3,809,524
Company Welfare Fund (10%)	476,190
Government Welfare Fund(10%)	476,190
<b>Total WPPF and WWF</b>	<b>4,761,905</b>

Distribution of Participation fund	Amount (Tk)	Remarks
Unit Fund (2/3)	2,539,683	To be distributed @ Tk 12,698/beneficiary
Investment Fund (1/3)	1,269,841	To be invested in eligible investments

# Compliance in Listed Co



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Sector	No of Co Reviewed	Complied	Not Complied
Bank	3	0	3
Insurance	3	0	3
Financial Institution	4	0	4
Cement	3	2	1
Engineering	3	3	0
Fuel and Power	4	2	2
IT	1	0	1
Pharmaceuticals	3	2	1
Telecommunication	2	2	0
Textile	2	2	0

# Reporting

- Trustee board shall maintain accounts and documents separately and statement of accounts of each member shall be provided to the member within 90 days after completion of audit.
- Board of trustees will report the yearly statement of funds as per form 81(neo) within 31 March next to the owner of the company.
- The company will report the same to the Department of Inspection- Factories and Industries

# Contradiction

Section 11 of the Bank Companies Act, 1991 states that no banking company shall employ or continue the employment of any person whose remuneration or part of whose remuneration takes the form of commission or a share in the profits of the company.

How can a banking company pay WPPF when it contradicts with their principal law?

# Contradiction

As per Rule 233, Trustee board shall distribute equally 80% of the fund as per sec 242 (1) and sec 233(1) (jha) in cash to the beneficiary of the fund **who have completed 9 months at the time of transfer of fund.**

This contradicts with Section 233 (jha) which states that the beneficiaries will be any person who is employed for at least 9 months during the year.

For example, WPPF for the year ended 30 June 2015 has been distributed in 15 November 2015. Shall we count 9 month period up to 30 June 2015 or 15 November 2015?

# Contradiction

As per Section 234, Company will directly deposit 10% of 5% profit to the Government Welfare Fund but as per section 14 (3) of the Bangladesh Labour Welfare Foundation Act, the Trustees of the welfare fund will have to transfer 50% of the amount to Government Welfare Fund within 45 days of receiving the amount from the company.

Who is going to make the payment to the Government Welfare Foundation? Company or Board of Trustees?

# Contradiction

All companies to whom WPPF and WWF applies shall be allowed the allocation made to the fund as a deduction to arrive at the taxable income (Section 244)

Section 29 of the ITO 1984 does not specify this type of expenses as an allowable expenses.



# Contradiction

All sums paid out of the funds shall be exempt from income-tax in the hands of the workers (Section 246)

Does this mean worker or beneficiary?

Para 21 of the Sixth Schedule Part A of the ITO, 1984 also states that worker as defined in section 2(65) is exempt from payment of tax.

Someone is exempt and someone is taxable on the same income. Is it rational?

# Contradiction

As per section 240(1) of the Labour law, 2006, the amount allocated or accruing to the fund shall be available to the company for its business operation.

However, as per Rule 236(3), company cannot take loans and advances from the fund.

# Hassle

The income of the funds including capital gains shall be exempt from income tax. (Section 245)

A company needs to collect tax exemption certificate from the NBR.

Unnecessary time and money need to be spent by the management of the company.

# Further development Utilisation of Welfare Fund



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As per section 243, the amounts deposited in the Welfare Fund shall be utilized for such purposes and in such manner as the board may decide in pursuant to the provision of this chapter; and the board shall inform the Government of such decisions.

Do we really need two welfare funds? Why cannot we abolish company welfare fund and make the allocation to 90:10 instead of 80:10:10?

# Further development Govt. Welfare Foundation



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No rules have been set for an independent audit by a chartered accountant firm. Only CAG audit has been mentioned.

# Further development Investment fund

The money belonging to participation fund (1/3) shall be invested with a public owned appropriate investment scheme.

Inconsistent with section 264 (12) of the Labour Law, 2006. At least half of the total accumulations in such provident fund shall be invested for the purpose of any of the following, namely:

- a. I.C.B Mutual Fund Certificates
- b. I.C.B Unit Certificates ; and
- c. Government securities including defense and postal savings certificate

# Export Oriented Co/ 100% FDI Co

There are supposed to be separate rules for:

- 100% export oriented industrial sector or
- Any industry investing 100% foreign exchange

# Export Oriented Co

- ❖ Establishment of central fund in collaboration with buyer and owner
- ❖ Management of fund and its office
- ❖ Sources of fund
- ❖ Eligibility/ beneficiary of fund and use of fund
- ❖ Investment of fund
- ❖ Formation of board
- ❖ Duration of member
- ❖ Allowance
- ❖ Meeting of board
- ❖ Accounting and audit
- ❖ Annual return

[Rules for 100% export oriented company.docx](#)



# Contradiction

No Rules have yet been introduced for 100% FDI Company [Section 232(3)]

How about the Deemed exporter?

Should they not be brought within the purview of WPPF and WWF?

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# Questions





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