

IC 23-1-28

Chapter 28. Distributions to Shareholders

IC 23-1-28-1

Distributions

Sec. 1. A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in section 3 of this chapter.

As added by P.L.149-1986, SEC.12.

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Record date, declaration date, and payment date

Sec. 2. The board of directors may fix a record date, declaration date, and payment date with respect to any share dividend or distribution to a corporation's shareholders. If the board of directors does not fix the record date for determining shareholders entitled to a distribution (other than one involving a repurchase or reacquisition of shares), it is the date the board of directors authorizes the distribution.

As added by P.L.149-1986, SEC.12.

IC 23-1-28-3

Prohibited distributions

Sec. 3. A distribution may not be made if, after giving it effect:

- (1) the corporation would not be able to pay its debts as they become due in the usual course of business; or
- (2) the corporation's total assets would be less than the sum of its total liabilities plus (unless the articles of incorporation permit otherwise) the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

As added by P.L.149-1986, SEC.12.

IC 23-1-28-4

Basis for determination that distribution not prohibited

Sec. 4. The board of directors may base a determination that a distribution is not prohibited under section 3 of this chapter either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

As added by P.L.149-1986, SEC.12.

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Measuring effect of distribution; date

Sec. 5. The effect of a distribution under section 3 of this chapter

is measured:

- (1) in the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of:
 - (A) the date money or other property is transferred or debt incurred by the corporation; or
 - (B) the date the shareholder ceases to be a shareholder with respect to the acquired shares;
- (2) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
- (3) in all other cases, as of:
 - (A) the date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or
 - (B) the date the payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

As added by P.L.149-1986, SEC.12.

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Indebtedness to shareholder; priority

Sec. 6. A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this chapter is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

As added by P.L.149-1986, SEC.12.