

ONE PERSON COMPANY-A NEW TREND

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The concept of One Person Company (OPC) has now been introduced in India, through Section 2(62) of Companies Act 2013, which was first recommended by Dr. JJ Irani Committee in the year 2005. Though this concept is new in India but is already a part of many other countries like China, Australia, Pakistan and UK etc. Experts feel that the key challenge for such companies will be to ensure that they will be recognized as an entity, and not just an extension of a Sole Proprietorship. This apprehension will not only bring flexibility to an Individual or Professional to manage his business efficiently but at the same time allows them to enjoy the benefits of a Company. It will be easier for business man to approach Banks, Financial Institutions, for funding and will also provide protection for business Limited Liability etc. in the name of a separate legal entity.

An Individual intending to incorporate OPC has to provide the following information:

- Name of the One Person Company
- Nature of the activities of One Person Company
- A nominee to take place of the single member

The member of an OPC has to nominate a nominee with the nominee's written consent, and file it with the Registrar of Companies (ROC). This nominee in the event of death or in event of any other incapacity of the member shall become a member of an OPC. The member of an OPC at any time can change the name of the nominee providing a notice to the ROC in such manner as prescribed. On account of Death of a member, the nominee is automatically entitled for all shares and liabilities of OPC.

Business of the OPC will not come to an end on the death of the Member of OPC

OPC can be formed as a Company limited by shares or Company limited by guarantee. If limited by shares, it has to comply with the following requirements:

- Shall have minimum paid up capital of INR 100 Thousand
- Restricts the right to transfer its shares
- Prohibits any invitation to the public to subscribe for the securities of the Company

It is important to note that new Act classifies OPC as a Private Company for all the legal purposes; therefore all the provisions related to a private Company are applicable to an OPC unless otherwise expressly excluded. But, there are certain privileges' and exemptions which are not available to private companies. Some of the exemptions are:

- As per Section 92 of the Companies Act, 2013, the annual returns in case of One Person Company shall be signed by the Company Secretary or where there is no Company Secretary, then by the Director of the Company.
- OPC shall file with the ROC a copy of financial statements duly adopted by its members along with all the documents which are required to be attached to such financial statement, within 180 days from the closure of the financial year along with cash flow statements.
- The financial statement shall be signed by only one director and Annual Return shall be signed by Company Secretary and Director, and in case if there is no Company Secretary then only by the Director.
- An OPC having more than one Director shall be deemed to have complied with the provisions of the Section 173 if at least one meeting of the Board of directors has been

conducted in each of half calendar year and the gap between the two meetings is not less than ninety days.

However, if an OPC fails to file its annual return with the Registrar in accordance with the provisions of the Act, the company shall be punishable with fine and every officer of the company who is in default shall be punishable imprisonment or with fine or with both.

The concept of OPC is set to systematize the segment of proprietors, enabling them to commence business with limited personal liability as compare to unlimited personal liability as in case of Sole Proprietorship. it will open various avenues for more favorable banking facilities, particularly loans, to such proprietors and will reduce the paper work as well. Proprietors always have unlimited liability. If such a proprietor does business through an OPC, then liability of the member is limited. It will give solution to Entrepreneurs under one roof, with the best suitable options available for business and will also provide confidence to all types of entrepreneurs (Small & Medium) to enter into the Corporate World.

OPC`S are imperative because they will provide a platform to participate in the Economic activities of the country and are expected to attract investors who were earlier afraid to take risk in doing investments in Sole Proprietorship Business due to unlimited liability.

EFFECTIVE

The Ministry of Corporate Affairs (MCA) has notified OPC concept vide notification dated 26th March, 2014 w.e.f. 1st April, 2014 i.e. OPC concept is now a reality in India also like other foreign countries. Further MCA has notified new e-forms mentioned in Table “C” of General Circular no 6/2014 and same will be available on MCA portal for filing from 14/04/2014.

The forms structure is as follows:

Sr. No	Form No.	Purpose of Form
1	INC-1	Application for Reservation of name
2	INC-2	OPC- Application for Incorporation
3	INC-3	OPC- Nominee consent form
4	INC-4	OPC- Change in Member/Nominee
5	INC-5	OPC- Intimation of cessation
6	INC-6	OPC- Application for Conversion

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