

How is One Person Company different from Sole Proprietorship?

A sole proprietorship is the simplest form of business that has no legal separate. It is a type of business entity that is owned and run by one individual and in which there is no legal distinction between the owner and the business. A sole proprietorship can operate under the name of its owner or it can do business under a fictitious name.

The Companies Act, 2013 introduced the concept of One Person Company (OPC) as a new form of business, thereby enabling Entrepreneur(s) carrying on the business in the Sole-Proprietor form of business to enter into a Corporate Framework. One Person Company is a hybrid of Sole-Proprietor and Company form of business, and has been provided with concessional/relaxed requirements under the Act. OPC provides a whole new bracket of opportunities for those who look forward to start their own ventures with a structure of organized business.

Let us analyze some of the differences between a Sole Proprietorship and One Person Company:

Legal Entity: OPC is a separate legal entity, distinct from its owner, whereas in sole proprietorship no difference exists between the business and its owner. A sole proprietorship can operate under the name of its owner.

Liability: In case of sole proprietorship, the owner remains personally liable for all the business's debts. So, if a sole proprietor business runs into **FINANCIAL** trouble, creditors can bring lawsuits against the business owner. Thus, the liability of the owner is unlimited. But this is not the case in OPC. In case of OPC the legal and financial liability is limited to the company.

Formation: The sole proprietorship is a popular business form due to its simplicity, ease of setup, and nominal cost. A sole proprietor need only register his or her name and secure local licenses, and the sole proprietor is ready for business. As long as there is only one owner, a person automatically becomes a sole proprietorship by conducting business. In case of OPC, an application is to be made to the Ministry of Corporate Office for availability of name MOA & AOA, sign and file various documents including MOA & AOA with the Registrar of Companies electronically and receipt of Certificate of Registration/Incorporation from ROC.

Maintenance of books of accounts: One Person Company is mandatorily required to maintain the books of accounts in accordance with section 128 of the Companies Act, 2013. But in case of Sole Proprietorship it is mandatory to maintain the books of accounts if income/turnover exceeds the monetary limit as prescribed under Sec. 44AA of the Income-tax Act.

Filing of Income Tax Return: E-filing of return is mandatory in case of One Person Company. In case of Sole Proprietorship, filing of Income Tax Return is compulsory only if gross total income of proprietorship exceeds the maximum exemption limit of Rs 2,00,000 and e-filing is mandatory only if income exceeds Rs 5,00,000.

Tax Rates: The net taxable income of a One Person Company is liable to tax at a flat rate of 30% as applicable to other companies. Sole Proprietorship is liable to tax as per tax slab applicable to individuals.

Audit: One Person Company is liable to compulsory audit under Companies Act and tax audit if the total sales/turnover exceeds Rs 1 crore. However, Sole Proprietorship is only liable to tax audit if the total sales/turnover from the business exceeds Rs 1 crore.

Deductions under chapter VI A: Deductions under chapter VI A (i.e. section 80C, 80D etc) is not available to One Person Company as is not applicable to private companies. However, Sole Proprietorship can claim such deductions out of the business income.