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Procedures for Conversion of Private Company into OPC

Dear Professional Colleagues,

Procedures for Conversion of Private Company into One Person Company (OPC) are regulated by Rule 7 of Companies (Incorporation) Rules, 2014. Before going through the procedure it is necessary to understand about the concept of One Person Company and the advantages expected after conversion of Private Company into One Person Company (OPC).

Concept of One Person Company (OPC) (Section – 3)

The concept of One Person Company (OPC) is a new concept of business. The Companies Act, 2013 has recognized this concept. Now sole-Proprietor form of business may convert themselves into corporate form of business with less compliances and formalities.

Some features of One Person Company form of business are:

1. Only one shareholder required for formation of One person Company. However this one person must be a natural person with Indian citizenship.
2. Only one Director required for formation of One person Company. One Person Company (OPC) can have maximum 15 Directors.
3. Shareholder and Director can be same person.
4. Appointment of Nominee through Memorandum is must.
5. Such nominee shall give his/her consent before being appointed as Nominee.
6. Only a natural person, who is an Indian citizen and resident in India shall be a nominee for the sole member of a One Person Company.
7. One Person Company (OPC) cannot convert voluntarily into any kind of company unless two years have expired from the date of incorporation of One Person Company.
8. However in case paid up share capital is increased beyond Rs.50 Lakhs or average annual turnover exceeds Rs.2 Crores, then the One Person Company (OPC) shall ceased to be a One Person Company and has to initiate the process for conversion in to a Private or Public Company, with in a period of Six Months.

Advantages of One Person Company (OPC) Business form

1. Limited Liability

There may be various unforeseen events, beyond our control, during the course of business which can destroy the entire business and put personal assets of the proprietor at risk, in case form of business is proprietor ship business.

However, in case of a One Person Private Limited Company, the liability of a shareholder is limited to the extent of his/her shareholding in the Company. As per corporate form of business any business loss will not affect personal property of the owner and it will be the Company which will bear the entire loss.

2. Legal status with complete control

Companies Act 2013 recognized the concept of One Person Company as a Private Limited business structure. As we all are aware that company form of business is a widely used business form and creates a confidences in parties doing business with the company. It is a simple fact to understand that any dealer, suppliers or customers feel more comfortable to deal with private limited companies as compare to proprietorship firm.

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One of the major advantages One Person Private Limited Company business form is that here owner is one person who can take quick decisions w.r.t. the business of the Company and enjoy complete control.

3. Easy Banking Operations

Banks also prefer companies for providing their services rather than proprietorship firm. It is comparatively easy for One Person Companies to get loan from banks rather than proprietorship firm. In short we can say that One Person Company is a successful substitute of proprietorship business.

4. Taxation relaxation

Companies Act 2013, have given ample powers to One Person Company to run its business as a Company and enter into valid business contract with customers and management. Thus all the provisions of tax planning are available to a One Person Company.

5. Less Compliance and Management

After above mentioned points one can easily understand that the concept of One Person Company form of business is the easiest forms of business to manage. It is easy to manage compliances of One Person Company as they are less in comparison to routine Public or Private Company business.

Law related to Conversion of Private Company into One Person Company (OPC)

In a broad way law related to Conversion of Private Company into One Person Company (OPC) is given in **Rule 7** of Companies (Incorporation) Rules, 2014. Main points related to procedure, ROC filings and compliances are given below:

(1) A Private Company, other than a company registered under section 8 of the Act, having paid up share capital of fifty lakhs rupees or less or average annual turnover during the relevant period is two crore rupees or less may convert itself into one person company by passing a Special Resolution in the General Meeting.

In other words a Private Company with paid up capital of more than 50 Lacs or average annual turnover of more than Rs.2 Crores, cannot convert itself into One person Company.

(2) Before passing such special resolution, the company shall obtain No objection in writing from existing members and creditors.

It is important to note that No objection in writing from existing members and creditors is required shall be collected before passing Special Resolution.

Procedure for Conversion of Private Company into One Person Company (OPC)

Secretarial procedure for Conversion of Private Company into One Person Company (OPC) is given below:

1. **Calling of Board Meeting:** Issue notice in accordance with the provisions of section 173(3) of the Companies Act, 2013, for convening a meeting of the Board of Directors. Main agenda for this Board meeting would be:

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- a. To Get in-principal approval of Directors for Conversion of Private Company into One Person Company (OPC);
 - b. Fix date, time and place for holding Extra-ordinary General meeting (EGM) to get approval of shareholders, by way of Special Resolution, for Conversion of Private Company into One Person Company (OPC). This Conversion shall be in accordance with **Rule 7** of Companies (Incorporation) Rules, 2014;
 - c. To approve notice of EGM along with Agenda and Explanatory Statement to be annexed to the notice of General Meeting as per section 102(1) of the Companies Act, 2013;
 - d. To authorise the Director or Company Secretary to issue Notice of the Extra-ordinary General meeting (EGM) as approved by the board.
2. Issue Notice of the Extra-ordinary General meeting (EGM) to all Members, Directors and the Auditors of the company in accordance with the provisions of Section 101 of the Companies Act, 2013;
 3. **Holding of General Meeting:** Hold the Extra-ordinary General meeting (EGM) on due date and pass the necessary Special Resolution, for Conversion of Private Company into One Person Company (OPC).
 4. **ROC Form filing:** As per Rule 7(3), Company is required to file Special Resolution passed by shareholders for Conversion of Private Company into One Person Company (OPC) with concerned Registrar of Companies. Hence, file form **MGT.14** within 30 days of passing of Special Resolution with the concerned Registrar of Companies, with prescribed fees and along with following **attachments**:
 - a. Notice of EGM;
 - b. Certified True copy of Special Resolution;
 5. The company shall file an application in **Form No.INC.6** for its conversion into **One Person Company** along with fees as provided in the **Companies (Registration offices and fees) Rules, 2014**, by attaching the following documents, namely:-
 - (i) The directors of the company shall give a declaration by way of affidavit duly sworn in confirming that all members and creditors of the company have given their consent for conversion, the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees, as the case may be;
 - (ii) the list of members and list of creditors;
 - (iii) the latest Audited Balance Sheet and the Profit and Loss Account; and
 - (iv) the copy of No Objection letter of secured creditors.
 6. **Duty of ROC:** Concerned Registrar of Companies (ROC) will check the E-forms and attached documents filed by the Company for Conversion of Private Company into One Person Company (OPC). On being satisfied that Company has complied with prescribed requirements the Registrar shall issue the Certificate to the effect of Conversion of Private Company into One Person Company (OPC).

Other Corporate Secretarial work under Companies Act, 2013

For my other Corporate Law Articles on Companies Act, 2013, kindly refer the links mentioned below:

1. [Useful Interpretations about Companies Act, 2013 - Part-1](#)
2. [List of Resolutions to be filed with ROC in Form MGT.14](#)
3. [Procedure for Appointment of Additional Director in CA 2013](#)

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4. [Different Monetary Limits under Companies Act 2013](#)
5. [Companies to have Uniform Financial year under CA 2013](#)
6. [Procedure for Increase in Authorise Share Capital under Companies Act, 2013.](#)
7. [Intimation to ROC for Auditor appointment in form ADT.1](#)
8. [Procedure for Resignation of Director under Companies Act, 2013](#)
9. [Useful Corporate Board Resolutions under Companies Act, 2013](#)
10. [Checklist for Action Points under Companies Act 2013](#)
11. [Company Law some useful Main Object Clause-III](#)
12. [Useful Interpretations about Companies Act, 2013- Part-2](#)
13. [Company Law some useful Main Object Clause-IV](#)
14. [Procedure for Incorporation of a Company under Companies Act, 2013](#)
15. [Procedure for Change in Object clause of the Company](#)

Disclaimer:

This write up is intended to start academic discussion on few significant interpretations under Companies Act, 2013. It is not intended to be a professional advice and should not be relied upon for real time professional facts. Readers are advised to refer relevant provision of law before applying or accepting any of the point mentioned above. Author accepts no responsibility whatsoever and will not be liable for any losses, claims or damages which may arise because of the contents of this write up.

I am hopeful that this write up would be of some help w.r.t. your professional working and endeavors under Companies Act, 2013. Kindly share your opinion.

Thanks

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