All about on e - Form BEN - 2 in FAQs Format

Prepared & Presented by: -

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1. What is Form BEN – 2??

According to Section 90 of Companies Act, 2013; ***every company*** is required to file the declaration to the concerned RoC i.r.o. Significant Beneficial Owners of the company,

- Disclosing their interest in the company by way of : -
  - shareholding or
  - voting rights

Within 30 days of acquiring or changes in interest made by such beneficial owner in that company.

In simple words, Beneficial Owners are the shareholders holding Significant Beneficial Ownership (SBO) of not less than 10% of the shareholdings or voting rights of the company either directly or indirectly.

As per the notification issued by MCA on dated 29th July, 2019, relaxation in fee and extension of filing BEN - 2 was announced. After a lot of representation received from many stakeholders on Significant Beneficial Owners – Second Amendment Rules, 2019, the time limit for filing of BEN – 2 form was extended to 30.09.2019.

But as per latest notification issued by MCA on dated 24th September, 2019, the time limit for filing of Form BEN-2 is extended upto 31-12-2019 (31st December 2019) without any additional fee.

2. What is the definition of Significant Beneficial Owner (SBO)??

Significant Beneficial Owner means an individual referred to in section 90(1) of the Companies Act, 2013, who is acting alone or together, or through one or more persons or trust, possesses one or more of the following rights or entitlements in such reporting company, namely:-

(i) holds indirectly, or together with any direct holdings, more than or equal to 10% of the shares

(ii) holds indirectly, or together with any direct holdings, more than or equal to 10% of the voting rights in the shares;

(iii) has right to receive or participate in more than or equal to 10% of the total distributable dividend, or any other distribution, in a financial year through indirect holdings alone, or together with any direct holdings;

(iv) has the following: -

a. Right to exercise, or actually exercises,

b. Significant influence or control, in any manner other than through direct holdings alone.

c. Significant (Indirect) Control: Control by owners through one or more layers of companies in Reporting Company.

d. Significant (Indirect) Influence: Owner has influence in those entities, which influence Reporting Company.

3. Applicability of filing of form BEN 2 to RoC??

Filing of Form BEN – 2 is applicable on all Companies in which there are SBOs. But section 90 of Companies Act, 2013 provides exemptions to some transactions which are mentioned below for filing of Form BEN – 2 to the concerned RoC.

4. Non- applicability of filing of form BEN 2 to RoC??

Filing of Form BEN – 2 are not applicable to the extent the share of the reporting company if held by: -

1. The authority constituted under sub-section (5) of section 125 of the Act;
2. Its holding reporting company, Provided that the details of such holding reporting company shall be reported in Form No. BEN-2;
3. The Central Government, State Government or any local Authority;
4. A reporting company, or a body corporate, or an entity, controlled by the Central Government or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;
5. Securities and Exchange Board of India registered Investment Vehicles such as mutual funds, alternative investment funds (AIF), Real Estate Investment Trusts (REITs), Infrastructure Investment Trust (InVITs) regulated by the Securities and Exchange Board of India,
6. Investment Vehicles regulated by Reserve Bank of India, or Insurance Regulatory and Development Authority of India, or Pension Fund Regulatory and Development Authority.

5. What are the fees for filing of form BEN 2 to ROC??

Following are the description of Fees on various circumstances: -

a. In case of company have share capital

Nominal Share Capital	Fees Applicable
Upto Rs. 1,00,000	Rs. 200
Rs. 1,00,000 to Rs. 4,99,999	Rs. 300
Rs. 5,00,000 to Rs. 24,99,999	Rs. 400
Rs. 25,00,000 to Rs. 99,99,999	Rs. 500
More than or equal to Rs. 1,00,00,000	Rs. 600

b. In case of company not have share capital - Fee applicable - Rupees 200

c. Additional fee rules –

Period of Delays	Additional Fees Applicable
Up to 30 Days	2 times of Normal Fees
More than 30 Days and up to 60 Days	4 times of Normal Fees
More than 60 Days and up to 90 Days	6 times of Normal Fees
More than 90 Days and up to 180 Days	10 times of Normal Fees
More than 180 Days	12 times of Normal Fees

6. What are the consequences and penalty will be imposed in case of not filing of form BEN 2??

<u>In case of Registered Member & Beneficial Owner: -</u>

If any person (both the registered member & beneficial owner) fails to do so shall be punishable with: -

a. fine which may extend to Rs.50,000/- and

b. With a further fine of Rs. 1000/- for every day during which the failure continues.

<u>In case of the Company: -</u>

The Company & every officer in default shall be punishable with fine

a. which shall not be less than Rs.500/- and

b. may extend to Rs. 1000/-and

c. with a further fine of Rs. 1000/- for every day during which the failure continues

Format of e Form - BEN - 2

FORM NO. BEN-2

[Pursuant to section 90(4) of The Companies Act, 2013 and rule 4 and rule 8 of the Companies (Significant Beneficial Owners) Rules, 2018]

सत्यमेव जयते

Return to the Registrar in respect of declaration under section 90

Form language ◉ English ○ Hindi

Refer the instruction kit for filing the form.

1. (a) * Corporate identity Number (CIN) of company [Pre-fill]

2. (a) Name of the company

(b) Registered Office Address

(c) * email Id

3. * Purpose of filing the form

☐ For declaration of holding reporting company

☐ For declaration of Significant Beneficial Ownership under Section 90

☐ For change in Significant Beneficial Ownership under Section 90

Significant Beneficial Owner	Number of Members through whom indirect holding or right in reporting company is being exercised
SBO1	

(A).Details of the Member

*Manner in which significant beneficial interest is being held or exercised either indirectly or together with any direct holding or right (select one or more as may be applicable)

☐ By virtue of shares %

☐ By virtue of voting rights in shares %

☐ By virtue of rights on distributable dividend or any other distribution %

☐ By virtue of exercise of control (attach copy of agreement)

☐ By virtue of exercise of significant influence (attach copy of agreement)

Particulars of the Member

(a) Type of Member

(b) Corporate Identity number(CIN) or Foreign Company Registration Number (FCRN) or Limited Liability partnership Identification number (LLPIN) or any other registration number [Pre-fill]

(c) Name of the Member

(d) Address

Line I

Line II

City State

Country Pin Code

(e) Email ID of the Member

(f) Date of entry of name in register u/s 88 (DD/MM/YYYY)

(B). Status of the SBO

(C). Whether individual (SBO) has majority stake in the

- Member of the Reporting Company
- Ultimate Holding Company of the member of the reporting company

Corporate Identity number (CIN) or FCRN or other registration number [Pre-fill]

Name of the ultimate holding company

(D). Whether the individual (SBO):

- is a Partner of the member
- holds majority stake in the body corporate partner
- holds majority stake in the ultimate holding company of the body corporate partner

Corporate Identity number (CIN) or FCRN or other registration number [Pre-fill]

Name of the body corporate partner / ultimate holding company

(E). Particulars of the Significant Beneficial Owner

ID of the Significant Beneficial Owner [Pre-fill]

(a) Name

First Name

Middle Name

Last Name

(b) Father's Name (Even married women must give father's name)

First Name

Middle Name

Last Name

(c) Date of Birth (DD/MM/YYYY)

(d) Nationality

(e) Whether a citizen of India ◯ Yes ◯ No

(f) Income Tax PAN [Verify Income-tax PAN details]

(g) Passport Number

(h) Address

Line I

Line II

City State

Country Pin Code

(i) Email ID of the Significant Beneficial Owner

(j) Date of acquiring Significant Beneficial Interest (DD/MM/YYYY)

(k) Date of declarations under sub-section (1) of Section 90 (DD/MM/YYYY)

(l) Date of receipt of the declaration by the company (DD/MM/YYYY)

(m) Whether Significant Beneficial Owner has any direct holding or right in the reporting company

◯ Yes ◯ No

If yes, enter details below:

- ☐ By virtue of shares %
- ☐ By virtue of voting rights in shares %
- ☐ By virtue of rights on distributable dividend or any other distribution %
- ☐ By virtue of exercise of control (attach copy of agreement)

By virtue of exercise of significant influence (attach copy of agreement)

Attachments:

List of attachments

1. *Declaration under Section 90 — Attach
2. Optional attachments, if any — Attach

Remove attachment

Declaration

To the best of my knowledge and belief, the information given in this form and attachments is correct and complete.

I have been authorized by board of directors' resolution dated * (DD/MM/YYYY) to sign and submit this form.

*To be digitally signed by

*Designation

*Director identification number of the director; or DIN or PAN of the manager or CEO or CFO; or Membership number of the company secretary.

Certificate by Practicing professional

It is here by certified that I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachments(s)) from the original records maintained by the Company which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.

Chartered accountant (in whole-time practice) or Cost accountant (in whole-time practice) or

Company secretary (in whole-time practice)

Whether associate or fellow — Associate — Fellow

Membership Number

Certificate of Practice Number

Modify — Check Form — Prescrutiny — Submit

Note: Attention is also drawn to provisions of Section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

This e-Form has been taken on file maintained by the register of companies through electronic mode and on the basis of statement of correctness given by the Director and professional.

Contact Information

For more information, kindly contact at:

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