

ONE PERSON COMPANY

INTRODUCTION:

As per provisions of section 2(62) of The Companies Act, 2013, "One Person Company" means a company which has only one person as a member".

The concept of One Person Company was introduced by The Companies Act, 2013. In a Private Company, a minimum of 2 Directors and Members are required whereas in a Public Company, a minimum of 3 Directors and a minimum of 7 members. A single person could not incorporate a Company previously. But now as per Section 2(62) of the Company's Act 2013, a company can be formed with just 1 Director and 1 member. One Person Company (OPC) is a business entity in which there is only one owner with limited liabilities who can act both as a shareholder as well as the director. It was introduced to support entrepreneurs who on their own are capable of starting a venture by allowing them to create a single person economic entity. The concept of OPC is basically to eradicate the limitation of a sole proprietorship, which is the most popular form for small businesses in India. The liability of owner is limited to the invested capital in this form.

One person company is suitable for small companies where the turnover is not likely to cross Rs. 2 Crores, and the maximum amount of capital is limited to Rs. 50 Lac. An OPC can have more than one director. However, one of them must be an Indian Resident. The OPC can be registered by Indian Citizen Only, and FDI is not allowed in an OPC.

SALIENT FEATURES OF ONE PERSON COMPANY:

1. **Only One Person Required:** An OPC can be registered in India, by only one person, who shall act as the directors/shareholders of the company. The maximum number of directors of an OPC is 15 and the number of shareholder cannot go beyond one.
2. **Resident Director:** One director of the company must be resident in India. A person is said to be resident if he or she stays in India for at least 182 days during the preceding financial year irrespective of their citizenship. The days of stay can be in phases.
3. **Requirement of Minimum Capital:** Invest as per requirement of your business, and there is no minimum capital requirement as such to be maintained in the company. However, the government fee on company registration is calculated on the amount of capital invested in company.

ADVANTAGES OF ONE PERSON COMPANY:

1. **Separate Legal Entity:** One Person company is a separate legal entity and capable of doing everything that an entrepreneur would do.
2. **Easy Funding:** Like a Private company, One Person Company can raise funds through venture capital, financial institutions, angel investors etc. A One Person Company can raise funds thus graduating itself to a private limited company.
3. **Limited Liability:** Since the liability of the One Person Company is limited to the extent of the value of the share you hold, the individual could take more risk in business without affecting or suffering loss of personal assets. It is the encouragement to new, young and innovative start-ups.
4. **Minimum Compliances:** One Person Company have to face little compliance burden as compared to private limited companies , hence One Person Company can more focus on other functional and core areas.
5. **Other benefits:** An One Person Company can avail the various benefits provided to Small Scale Industries like lower rate of Interest on loans, easy funding from bank without depositing any security to a certain limit, manifold benefits under Foreign Trade policy and others. All these benefits can be boon to any business in initial years.
6. **Greater Credibility:** As an OPC needs to have its books audited annually, it has greater credibility among vendors and lending institutions.

MAJOR DRAWBACK / DISADVANTAGE OF ONE PERSON COMPANY:

The MCA is skeptical about a single person in charge of a large corporation. Therefore, it requires all OPCs to be converted into private limited or public limited companies on crossing a certain revenue number. Currently, in case of an average turnover of Rs. 2 crore or more for the three consecutive years or a paid-up capital of over Rs. 50 lakh, the OPC must mandatorily be converted into an OPC.

PROCESS OF REGISTRATION OF ONE PERSON COMPANY:

1. Apply for Digital Signature:

The first Step is to obtain the Digital Signature Certificate (DSC) of the proposed Director which required the following documents:

- Address Proof
- Aadhaar card
- PAN card
- Photo
- Email Id
- Phone Number

2. Application for DIN:

This option is now available only in integrated form Spice while applying for incorporation of a company.

3. Name Approval Application:

The next step while incorporating an OPC is to decide on the name of the Company. The name of the Company will be in the form of “ABC (OPC) Private Limited”.

There are 2 options available for getting name approved by making application in Form SPICE or by using RUN Web service of MCA by giving only 1 preferred name along with the significance of keeping that name.

4. Documents Required:

We have to prepare the following documents which are required to be submitted to the ROC:

- a. Since there are only 1 Director and a member, a nominee on behalf of such person has to be appointed because in case he becomes incapacitated or dies and cannot perform his duties the nominee will perform on behalf of the director and take his place. His consent in Form INC – 3 will be taken along with his PAN card, Voter ID/ Passport as ID proof and Bank Statement / Utility bill as Address proof.
- b. Proof of the Registered office of the proposed Company along with the proof of ownership and a NOC from the owner.
- e. Consent of the proposed Director in Form DIR – 2.
- f. A declaration by the professional certifying that all compliances have been made.

5. Filing of Forms with MCA:

All these documents will be attached to SPICe Form, SPICe-MOA, SPICe-AOA and AGILE form along with the DSC of the Director and the professional, and will be uploaded to the MCA site for approval.

6. Issue of Certificate of Incorporation:

On verification, the Registrar of Companies (ROC) will issue a Certificate of Incorporation and we can commence our business. Nowadays, the issue of Pan Number and TAN is done automatically at the time of incorporation of the Company. There is no need to make any separate application. The PAN Number and TAN come printed on the certificate of incorporation itself, and after the registration of the Company, E-Pan and Tan letter is sent via email.

COMPLIANCES FOR ONE PERSON COMPANY:

1. Obtaining Corporate Stationery

After you successfully incorporate your One Person Company, you would need certain items that you would need for effectively running the company.

Some of the necessary items that you would need are as follows;

- **Name Board:** All companies, including an OPC, is required to affix the name of the company and address of its registered office outside every office or place in which it carries on business.
- **Company Rubber Stamp:** A round rubber stamp bearing the name of the company and a straight rubber stamp bearing the name of the company along with the designation of the authorised signatory should be purchased. Company rubber stamp is required for executing various legal documents like Board Resolutions, bank account opening forms, cheques, etc.,
- **Letterhead:** The name and registered office address of the OPC must be printed on all letterhead, invoices, notices and other official documents of the company.

2. Opening OPC bank account

The process for opening a bank account for a One Person Company is relatively simple when compared to the proprietorship bank account opening. As an OPC is a corporate entity, no other additional tax registrations or documents are required to open a bank account for an OPC. As per the KYC norms prescribed by the Reserve Bank of India, the following are the documents required to open a current account in the name of your OPC;

- Self-attested copies of OPC Certificate of incorporation
- Memorandum of Association of OPC
- Articles of Association of OPC

- Resolution to open a bank account for company
- Copy of PAN allotment letter;
- Copy of the telephone bill;
- Identity proof of the director

Documents submitted for opening of the bank account must be self-attested with the seal of the company. Therefore, it is important to obtain company seal and company letterhead after incorporation of the OPC.

However, with the introduction of Spice+ forms, the opening of bank account is facilitated by the Ministry of Corporate Affairs through AGILE form.

3. Appointing an Auditor

All companies are required to appoint the first auditor of the company, within 30 days of incorporation. Also, in case of OPC as well, an Auditor must be appointed by the director of the OPC for auditing the financial statements of the company.

4. Maintaining Financial Statements

All companies need to prepare and file with the ROC, the following financial statements:

- A balance sheet as at the end of the financial year;
- Profit and loss account;
- Cash flow statement for the financial year;
- Statement of changes in equity, if applicable;
- Explanatory note forming part of any document.

In the case of an OPC or **One Person Company** small company and dormant company, the requirement for cash flow statement has been removed. So, an OPC does not need to prepare or submit a cash flow statement as a part of its financial statements.

5. Annual returns to be filed by a One Person Company

The annual return and annual accounts of an OPC shall be filed with ROC as an attachment with Form MGT-7 and Form AOC-4 respectively. Furthermore, such annual return has to be signed by the company secretary or where there is no CS, by the director of the company.

6. Compliance requirements under the Income Tax Act, 1961

One person company need to file their income tax return in Form ITR 6 for the financial year on or earlier than 30th September of the following financial year with the tax department.