

# WHY SHOULD A STATE-OWNED COMPANY TURN INTO A ONE-MEMBER LIMITED COMPANY?

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One of new features of the Companies Law is the introduction of the one-member company. Article 46 of the Law allows 17 kinds of state-run organizations, offices and companies to form or change into one-member companies.

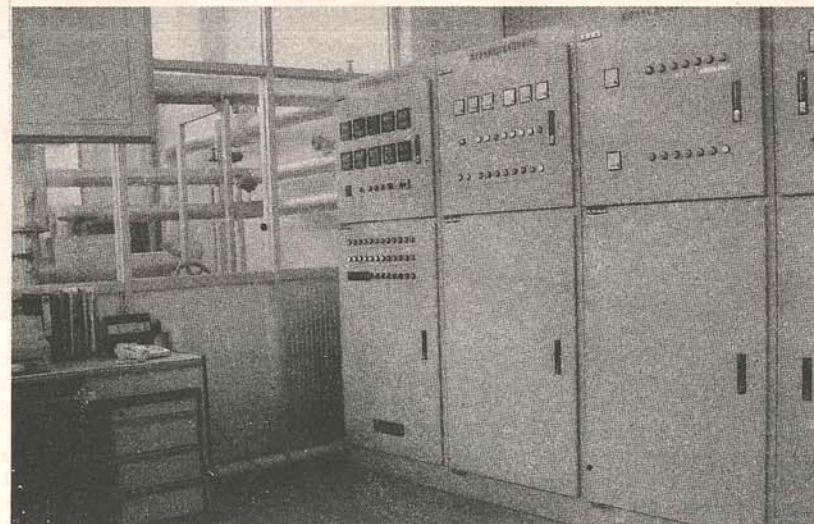
This article not only provides legal infrastructure but also encourages state-run organizations (including public offices, organizations run by the armed forces, civic organizations, etc.) to invest more capital in business.

The transformation from state-owned companies to one-member companies according to the Companies Law and Decree 63/2001/NĐ-CP dated Sep. 14, 2001) is necessary and has many benefits. The following are some of them:

1. Besides privatization, the transformation to the one-member company is a feasible way to improve business performance and competitiveness of the public sector in the market economy, which is suitable to the [program to reform the system of state-owned companies.

2. The notion and legal regulation that 'the one-member limited company is a concern owned by an organization that is responsible for all liabilities and obligations of the company with its registered capital,' will ensure equal trading relations without causing trouble for the owner of the company in case of loss because the state or organization authorized to represent the owner has its liability limited by the registered capital only. It also gets rid of unnecessary joint responsibility that usually bears on the governmental body forming the one-member company, especially if the company becomes insolvent.

3. The transformation also provides necessary and convenient conditions for the company to engage more actively in the competition and business and get free from restraints and unreasonable regulations. The Companies Law allows the one-member company to enjoy a more open mechanism and possibilities of taking business opportunities, adopting bolder business plans and becoming more cautious because fuller re-



sponsibility bears on the board, chairperson and directors. In short, the transformation encourages the company to obtain better performance and competitiveness.

4. The transformation creates conditions for the owner to adopt technical and managerial innovations, recruit and give preferential treatment to skilled laborers, give incentives to better performance and creativity, thereby getting rid of indifferent behavior that is common among government workers and the management of state-owned companies. Workers of companies to be transformed will feel surer about their future in comparison with their counterparts in privatized companies because Article 7 of the Decree 63 states, 'The one-member company is responsible for employing all workers after the transformation.' (not including those who want to terminate their labor contract and receive their allowance as allowed by law.)

5. The transformation paves the way for the application of the Companies Law to all sectors (there will be no more distinction between Companies Law and State-Owned Companies Law), introduction of Competition and Anti-Trust Law in the near future, and establishment of a level playing field in which all companies, both privately- and publicly-run ones, enjoy equal opportunity and

treatment from the State and state-owned banks.

6. The one-member company after the transformation enjoys autonomy in business to a certain extent. The State, as the owner, only intervenes in such major problems as the making of by-law, development strategy, investment projects that are worth some 50% of the company assets, usage of profit, etc. This practice allows the board of directors, chairperson and directors to have a free hand in making decisions and doing business for profit. The one-member companies will diversify activities in the public sector and make them more effective and active. This is also a precondition for beefing up corporations 90 and 91 and paving the way for the establishment of strong groups needed for dealing with foreign competition and orienting the economy towards the socialism. ■

## Reference:

- Companies Law
- Decree 63/2001/NĐ-CP dated Sep. 14, 2001
- Circular 01/2002/TT - BKH issued by the MPI on Jan. 28, 2002
- Circular 09/2002/TT- BLĐTBXH issued by the Ministry of Labor, War Invalids and Social Affairs on June 11, 2002.