

## Whether a person can Surrender DIN – After Strike off of Company

Rule 11 of Companies (Appointment and Qualification of Directors) Rules, 2014

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### **SHORT SUMMARY:**

In this editorial, the author shall discuss a very important question raised by the directors: whether they can surrender their DIN after striking off their Company. Many times, a person incorporates a company, but later on they don't continue the Company and file for a strike. Now, after striking off, they want to surrender their DIN. Whether they are allowed to do the same.

The power of approval of surrender of DIN vested with Regional Director Northern Region, Delhi.

### **A. LEGAL PROVISION:**

#### **As per Section 153:**

Every individual intending to be appointed as director of a Company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed.

#### **Rule 11 Surrender of DIN:**

The Central Government or Regional Director (Northern Region), Delhi or any officer authorized by the Regional Director may, upon being satisfied on verification of particulars or documentary proof attached with the application received along with fee as specified in Companies (Registration Offices and Fees) Rules, 2014] from any person, cancel or deactivate the DIN.

## **B. GROUNDS FOR SURRENDER OF DIN:**

As per provisions of Section 153 Companies Act read with Rule 11 a person can surrender his/ her DIN on below mentioned grounds.

- i. the DIN is found to be duplicated in respect of the same person provided the data related to both the DIN shall be merged with the validly retained number;
- ii. the DIN was obtained in a wrongful manner or by fraudulent means;
- iii. of the death of the concerned individual;
- iv. the concerned individual has been declared as a person of unsound mind by a competent Court;
- v. if the concerned individual has been adjudicated an insolvent;
- vi. on an application made in Form DIR-5 by the DIN holder to surrender his or her DIN along with declaration *that he has never been appointed as director in any company and the said DIN has never been used for filing of any document with any authority*, the Central Government may deactivate such DIN.

## **C. Question to be Discuss:**

- ✓ Whether, after striking off the company, a person can apply for surrender of DIN?  
Or, in other word
- ✓ Whether an individual (DIN holder) can surrender his DIN If such a person is not holding any directorship at present but held directorships in the past in any strike-off company or any active company?

#### **D. Discussion on the Questions:**

To understand the answer to the above-mentioned questions, we have to understand the grounds for surrender of DIN as mentioned above. As Hon'ble Regional Director Northern Region having power to approve Surrender of DIN of any person under Rule 11.

Above we have mentioned 6 (six) grounds as per Rule 11 for surrender of DIN. We have to focus on ground No. vi to find out the answer.

Rule 11(f) states when a person made application in DIR-5 for surrender of his DIN to RD has to ensure following conditions:

- ✓ That he has never been appointed as director in any company; and
- ✓ The said DIN never been used for filing of any document with any authority.

As per above provisions, a person can apply for surrender of DIN only in the situation when "DIN is unused and never used for appointment as director in any Company" (except situations like unsound mind, death, and insolvent).

Therefore, one can opine that, if a person held directorship in any company during his life using such DIN, that DIN can't be surrender before death, unsound mind etc.

#### **Conclusion:**

A person can't surrender their DIN even after striking off or resigning from the Company. If he ever gets an appointment at any Company, his DIN can be surrendered only after his or her death. Before death, they are required to file DIR-3 KYC every year to save themselves from non-compliance with the provisions of the Companies Act, 2013.

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