

# Callidus News

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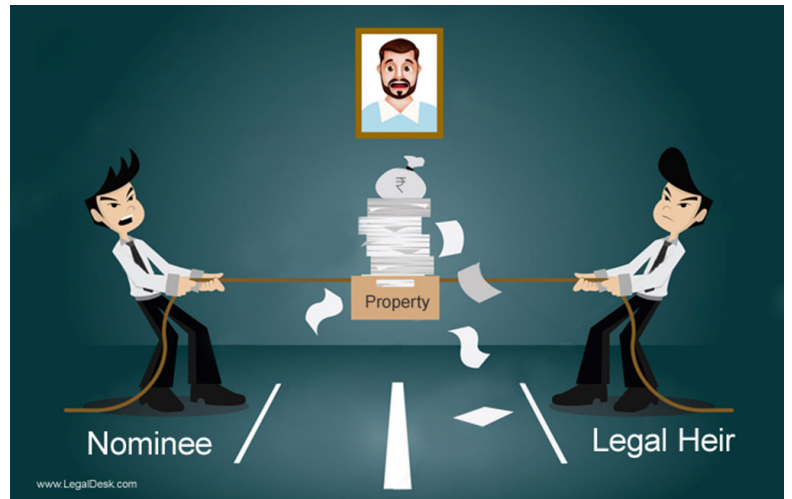
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## THE LEGAL POSITION OF A NOMINEE



It is the common perception among the general public that a nominee enjoys absolute legal right over the money under the Life Insurance Policy and Mutual Funds Investments. Apparently, the law on nomination is quite contrary to this general understanding of ours.

According to law, a nominee is a trustee and not the owner of the assets. In other words, he is only a caretaker of the assets. The nominee only holds the money/asset as a trustee and will be legally bound to transfer it to the legal heirs. For most investments, a legal heir is entitled to the deceased's assets. For instance, section 39 of the Insurance Act provides that the appointed nominee will be paid, though he may not be the legal heir. The nominee, in turn, is supposed to hold the proceeds in trust and the legal heir can claim the money. A legal heir will be the one who is mentioned in the will. However, if a will is not made, then the legal heirs of the assets are decided according to the succession laws, where the structure is predefined on who gets how much.

The concept of nomination was evolved to ensure that on the death of the actual owner, his interests on the properties passes smoothly to his legal heirs through the nominee. A policyholder can appoint multiple nominees and

can also specify their shares in the policy proceeds. Nomination in life insurance has one limitation, as insurance policies are brought to secure the financial dependents, the first choice of nominees has to be the family members. In cases, where a non-family member or a third party is nominated, the insurable interest of such a third party has to be proved before the insurance company.

However, in the case of Shares there is a change in the position of law. In cases where there is no will, anyone who has been nominated for the shares will be the ultimate owner of those stocks. The succession laws on inheritance will not be applicable in such cases. However, if a will is made then the will shall have predominance over the nomination. It is interesting to note that the failure to mention the nominee with respect to the amount lying in the provident fund account can turn to be highly disadvantageous. For example, if there is Rs. 10 lakh in the provident fund account and if no one is mentioned as the nominee for the provident fund account, then the legal heirs will get a maximum of Rs. 1 lakh only. Thus, nomination is one important aspect you should seriously consider, when checking for the financial products you have bought or plan to buy in future.



# MCA TO EXAMINE GREY AREAS IN COMPANIES ACT

The Ministry of Corporate Affairs, while exercising its power conferred under Section 164 of the Companies Act, 2013 had disqualified more than 300,000 Directors and cancelled the registration of 200,000 defaulting companies for non-filing of annual returns. The said act of disqualification had led to a great challenge for the Government, as the same has been challenged in the High Courts of Delhi and Madras. Notice has been ordered to the Ministry of Corporate Affairs and Registrar of Companies, on the order challenging the disqualification and some big giants have also managed to get an interim relief against the said order of the government.

As to Section 164(2)(a) of the Companies Act, it clearly states that no person shall be eligible to be appointed as Director of a company or any other company if he has not filed financial statements or annual returns for 3 continuous years. The said provision does not have any notice period and it contradicts our constitution-



al rights. Though interim relief's has been granted to many big corporate directors against their disqualification, yet the main problem persists as the act done by the Ministry of Corporate Affairs contradicts the rights guaranteed under the constitution.

The said provision is a replacement of Section 274 of Companies Act, 1956 which provides disqualification of Directors of public limited companies alone, whereas the new provision under Section 164 of the Companies Act, 2013 provides power to disqualify even Directors under private limited companies. The disqualification also ensures that the said Directors are not allowed to use their digital signatures henceforth.

The said act by the government is in total violation of the provisions envisaged in the constitution of India, as they have not been provided with an opportunity to defend themselves. The Ministry of Corporate Affairs has summoned its officials, as they want to review the said provision.



## TIPS & HOT NEWS

### 10 Tips to Prepare and Organize Yourself for the Holidays

With the holidays less than six weeks away, the anticipation and preparation can be both exciting yet stressful at times. The Professional Organizers in Canada is taking the stress out of the pre-holiday rush with 10 easy tips to follow -- leaving you organized, energized and ready to enjoy this joyous time without a gift or a meal left unplanned:

- 1 It is important to make a to-do list, but also to assign a day and time when the items on the list will be taken care of, otherwise it will just stay a wish list and will be handled last minute and you will be back to the top stress level.
- 2 Plan your gift buying budget and stick to it. It will keep your purchases more focused and easier on your wallet.
- 3 Make your to do lists and plan every day, remember to schedule enough time -- always schedule more time than you think it will take. Most people forget that there is more traffic than usual, parking is limited and everybody is out doing their shopping so anticipate more time at the cashier.
- 4 If you have to do your shopping in various areas of the city, make sure you plan your shopping route that is most productive and efficient instead of having to go back and forth. Park at the most central place that makes it easy to coordinate your shopping at various stores.

- 5 Look at various malls and select a mall based on the amount of stores, how many gifts you would be able to purchase in one shopping trip. Even look at a map of the mall in advance to plan the most efficient shopping route.
- 6 Being overscheduled will wear you out and increase your chances of both getting sick and going into and coming out of the holidays feeling grumpy.
- 7 Speaking of overscheduling when it comes to Christmas parties and invitations, remember that you always have the choice of saying no to invitations. Important is how you say it without hurting feelings; providing an alternative date is an option.
- 8 Setting up proper boundaries is crucial, which also goes for the gift giving as expectations will create unnecessary stress as well.
- 9 Most important schedule "You" days -- to relax and regain energy.
- 10 Make appointments with yourself for personal time, workouts or going for a walk regularly, napping, reading, bubble bath or getting a pedicure. Because you too want to be at your best during the holidays and enjoy the festivities instead of sitting exhausted and grumpy at the dinner table.

**Huff Post**

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