

Limited Liability Partnership

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Abstract: If you are going to start a new business or already involved in a business organization, there are number of different ways to structure a new business organization. The most common types are sole proprietorships, Partnerships, and company form of organization. The new concept, new form of organization LLP introduced in India from 2008 called as – Limited Liability Partnership Act, 2008.

Keywords: Limited Liability Partnership.

1. INTRODUCTION

LLP is an alternative form of business organization to carry out business which combines the characteristics of a private company and a conventional partnership. LLP provides limited liability status to its partners and offers the flexibility of internal arrangement through an agreement between the partners.

LLP is a business organization which would offer simple and flexible procedures in terms of its formation, maintenance and termination while simultaneously has the necessary dynamics and appeal to be able to compete domestically and internationally. The LLP was also introduced in countries such as the United States of America, United Kingdom, Singapore, Japan and now in India as a form of alternative business organization.

LLP is a form of business organization which would blend the flexibility of traditional partnership firm with that of corporate form with limited liability which shall govern by a separate and a unique statute.

2. MEANING OF LLP

Any two or more person joined together to carry on any lawful business with a view to profit subscribing their names to an incorporation document and filling with concerned registrar of LLP.

Salient features of LLP:

- LLP is a body corporate, perpetual succession and separate legal entity are two main characteristics
- There must be two or more person and must run some lawful business with the motive of profit. Out of which two individual must be Designated partners.
- The agreement of LLP firm subject to LLP Act 2008
- Right and duties between partners and firm should be specified at the time of agreement.
- If there is no agreement between the partners provision of LLP Act 2008 will be applicable.
- Liabilities of partners are limited to their agreed contribution amount in LLP. However intention of partners must be genuine. In case of partners acted fraudulently and with intention to defraud creditors shall convert LLP to unlimited liability for all the partners. Just like corporate veil in Companies act, 1956.

- LLP shall have to maintain proper books of account just like company form of organization. Proper books of accounts states that it must be prepared by adopting Indian GAAPs and Accounting standards and following double entry system. Account should reflect true and fair view of its state of affairs. Statement of account and solvency shall be filled with registrar every year.
- Adjustment including merger, amalgamation and acquisition governed by LLP Act 2008 and central government has power to investigate affairs of LLP if required.
- A firm, private company or an unlimited company is allowed to be converted to LLP subject to provision of LLP Act 2008.
- LLP has unlimited capacity and capable of suing and being sued, acquiring, owning, holding and developing or disposing of property.
- The Indian Partnership Act does not apply to LLP's

Suitable For:

- Professionals
- Small and medium sized businesses
- Joint venture
- Venture capitals

3. REGISTRATION AND INCORPORATION OF NEW LLP

An LLP may be registered by an application made to the Registrar by furnishing following information.

- Name of proposed LLP
- General nature of the proposed business of LLP
- Proposed registered office of LLP
- Name and details of every person who is to be partners of LLP
- Such other relevant information as may be specified by the Registrar of LLP

One can register himself for LLP through Website

- User registration
 - By accessing website www.llp.gov.in register your self and upload digital signature certificate
- Obtain Designated Partner identification Number
 - Obtain DPIN by filling online application in Form No.7 individually by paying necessary fees
 - After online application and paying necessary fees a provisional DPIN is generated and take print, attach photograph, proof of identity, proof of address and dispatch to the address mentioned in the form
- Reservation of Names
 - In Form No.1 fill the proposed names up to six choices and upload with digital signature with any one of the designated partner.
- Incorporation of LLP
 - Once the name is reserved fill up Form No.2 and pay necessary fees based on money contributed by partners.
 - On submission of complete document the registrar after satisfying himself about compliance with registration process, within fourteen days after filling form No.2 and will issue certificate of incorporation.
- Filing of LLP Agreement and Partner details

- After incorporation within thirty days it is required to fill Form no. 3 and Form No.4 regarding changes and appointment of designated partner.

4. COMPARATIVE ANALYSIS BETWEEN SOLE PROPRIETORSHIP, PARTNERSHIP, LLP AND COMPANIES

Sole Proprietorship	Partnership	LLP	Company
There is no Act	Indian Partnership Act, 1932	The limited liability partnership Act, 2008	The companies Act, 2013
Registration Not compulsory	Registration not compulsory	Compulsory	Compulsory
No documentation	Partnership Deed	LLP Agreement	Memorandum and Article of Association
Only single Member	Minimum 2, maximum 20, 10 in case of financial institute	Minimum 2, Maximum Not specified	Minimum 2, Maximum 200 for private ltd co.
Maintenance of accounts are not compulsory	As per partnership deed	Accounts are required to be maintained	Compulsory maintenance of accounts
Unlimited Liability	Unlimited liability	Limited to contribution	Limited to capital of the company
No separate legal entity	No separate legal entity	Formed as body corporate, separate legal entity	Formed as body corporate, Separate legal entity
Self management	By any one partner	Any two partners	Minimum two directors
Own capital	Partner's contribution	Partner's contribution	Share capital

5. CONVERSION IN TO LLP

An application to convert from a conventional partnership or a private company into an LLP may be made to the Registrar by furnishing the following information. A firm can be converted into LLP, once converted all the assets and liabilities shall be transferred to LLP.

- Register in the website www.llp.gov.in
- Apply and get Designated Partner Identification Number
- Apply and reserve name in Form No.1
- Apply to registrar in Form No. 17 duly signed by Designated Partner and attach Consent of Partners
- Registrar will register the firm and issue incorporation Certificate in Form No. 19
- The new LLP shall inform in Form No.14 to the registrar of companies about the conversion in to LLP within 15 days from registration.

6. WINDING UP OF LLP

An LLP can be dissolved by way of Court Ordered Winding Up, Voluntary Winding Up or Striking off. The central government may make rules and provision for winding up and dissolution of LLP in the following circumstances

- If the LLP unable to pay its debts,
- If the LLP is defaulting in filing accounts and annual return with registrar for five consecutive financial years

- If the court opinions that it is just and equitable to wind up a LLP
- If the Partners in the LLP reduced below two and LLP continues for a period of more than six months.
- The LLP contravened the Act
- The LLP no longer carrying on business

7. CONCLUSION

A limited partnership has one or more "limited partners". Limited partners are liable only for the amount equivalent to their contribution or promised contribution to the capital of the business. A limited partnership often requires a disclosure document to be filed with limited partnership agreement signed by all. The advantage of a limited partnership is that it allows the limited partners to obtain the tax advantages that a partnership may provide, while limiting their personal liability. However, they may still be liable for their own actions or for the obligations of the LLP in certain situations. To form an LLP, a registration statement must be filed with the Registrar. The partners will generally also enter into an extensive partnership agreement which governs their respective rights and obligations.

REFERENCES

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