# LIMITED LIABILITY PARTNERSHIP


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# Contents

# Forms of Business Organizations

**Company**

**Sole Proprietorship**

**Partnership**

**Limited Liability Partnership**

**Which Form Will You Choose?**

## COMPANY

A *business entity* which acts as an artificial legal person, formed by a legal person or a group of legal persons to engage in or carry on a business or industrial enterprise.

## SOLE PROPRIETORSHIP

Simplest, oldest, and most common form of business ownership in which only one individual acquires all the benefits and risks of running an enterprise.

## PARTNERSHIP

A type of business organization in which two or more individuals pool money, skills, and other resources, and share profit and loss in accordance with terms of the partnership agreement.



## LIMITED LIABILITY PARTNERSHIP

A limited liability partnership in which all partners have limited liability. It has same elements as partnerships and corporations, although one partner is not responsible for the misconduct of other.

# BENEFITS AS COMPARED TO CORPORATE FIRM

- Easy to Form
- Easy to Run & Manage
- Less Compliances
- Low cost of Formation
- Minimum Contribution of Rs. 1Lakh.
- Less Government Intervention
- Less requirement as to maintenance of statutory records
- No Dividend Distribution Tax
- Easy to withdraw Profit and Capital.
- Can distribute Remuneration to partners.
- Easy to exit and wind up

# BENEFITS AS COMPARED TO PARTNERSHIP FIRM

- Highest no. of partners ( upto 200 )
- Limited Liability of Partners (except in cases of fraud or where the no. of Designated Partners is reduced to 1 and LLP continues for 6
- months).
- No liability for the wrongful act of the other partner.
- Less exposure to personal assets of the partners.
- Easy Registration.


Partnership
Partners
Directors not required.
LIMITED LIABILITY PARTNERSHIP
Limited Liability
Less compliances
Company

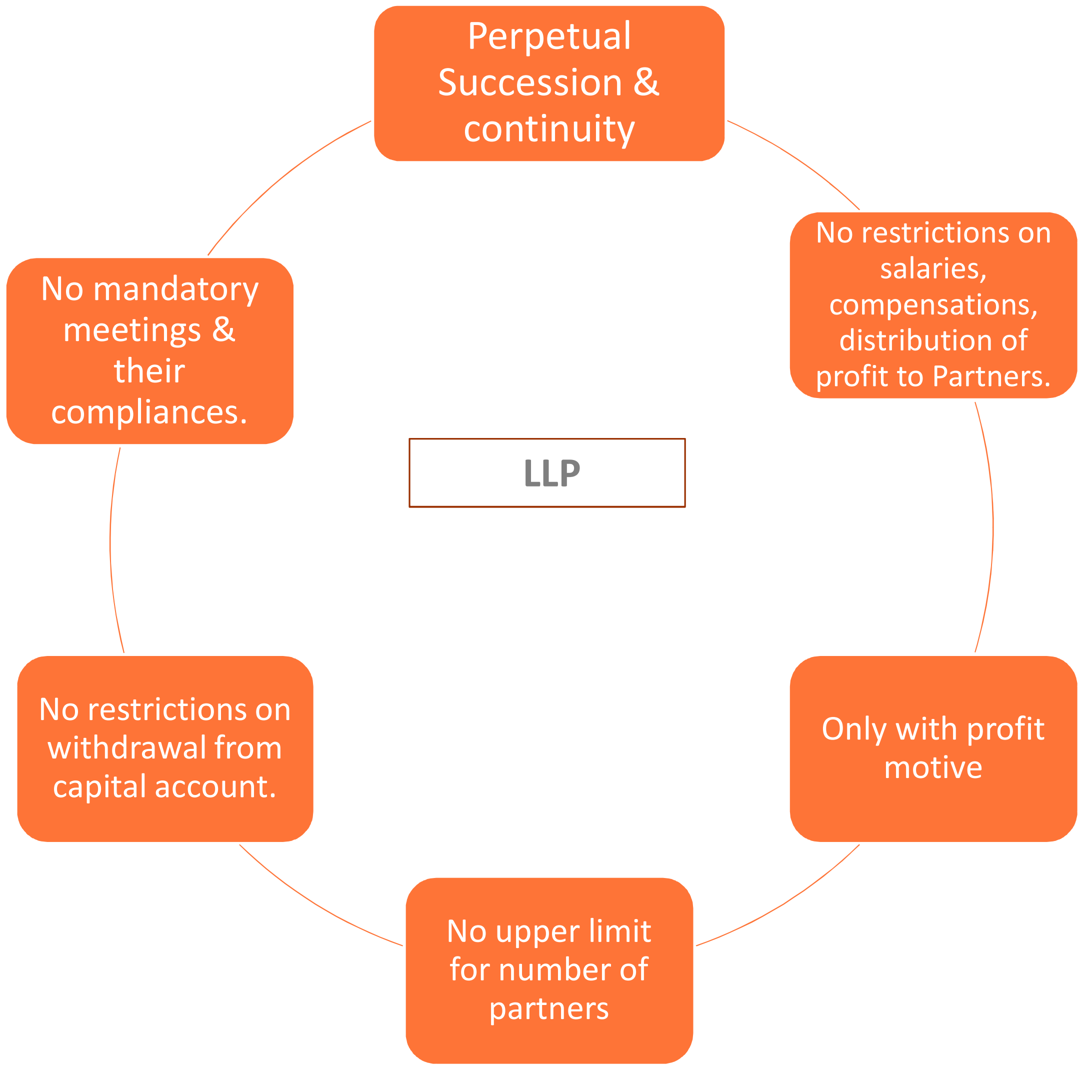
# ALLOWABLE BUSINESS IN LLP

- All profit making activities
- LLP can be a member of Stock Exchange
- LLP can undertake profession - CA, CS, CWA, Architect, Doctors etc.
- LLP formed with other objectives may undertake group Investment activity. Provided it limits to a 50% criteria of RBI.
- For CS both Attestation & Non Attestation Services are permitted

# WHAT IS LLP?

A limited liability partnership(**Hybrid Structure with advantages of Partnership and Corporate Entities**) is a newer form of business partnership where all of the owners have limited personal liability for the financial obligations of the business, but allows its partners the flexibility for organizing their internal structure as partnership.

## OVERWIEW OF LLP



# REQUIREMENTS FOR FORMATION OF LLP

1. Contribution:- there is no concept of any share capital but every partner is required to contribute towards the LLP in some manner which he cannot withdraw ( i.e. fixed capital )

2.Minimum 2 Designated Partners:-Every limited liability partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India

(Designated Partner' means a partner who is designated as such in the incorporation documents or who become a designated partner by and in accordance with the Limited Liability Partnership Agreement)

3. Designated Partner Identification Number (DPIN)

4. LLP Name (at Least 2 Name (With its Meaning/ Reason of Name)

5. LLP Agreement (After Incorporation Certificate)

6. Registered Office

7.Sharing Ratio

1.Profit

2.Remuneration

3.Fixed Capital/Contribution

8.Signed on Subscription Sheet (After Name Aproval)

DPIN

Designated Partner Identification Number (DPIN) is a registration required for any person who wishes to be appointed as a Designated Partners of a Limited Liability Partnership (LLP).

The documents mentioned must be attested or certified by a Gazetted Officer or Notary Public or **Company Secretary** or **Chartered Accountant** or **Cost Accountant.**

# DOCUMENTS REQUIRED FOR FORMATION OF LLP

## A. Documents of Partners

i. PAN

ii. ADHAAR

iii. Email id

iv. Mobile No.

v. Digital Signature

1. **Identity Proof (Any One of Below)**

a. Voter id

b. Passport

c. Driving License

**2. Address Proof (Any One of Below)**

a. Bank Statement

b. Electricity Bill (on Own Name)

c. Telephone Bill (on Own Name)

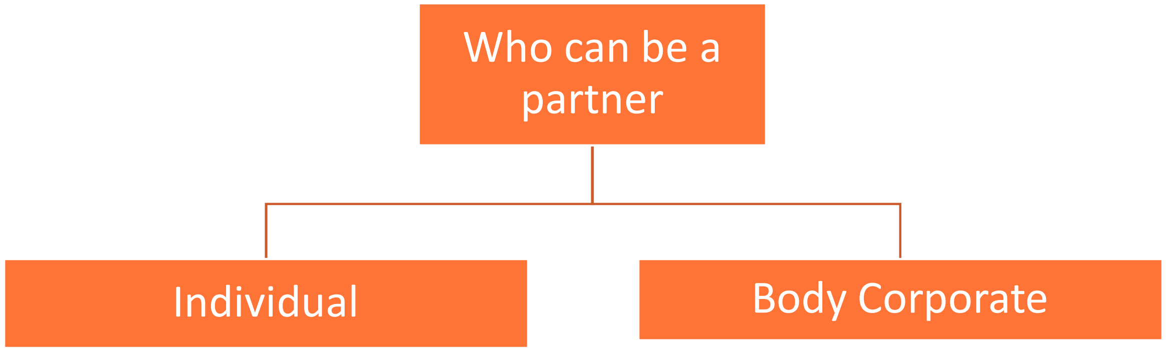
d. Mobile Bill (on Own Name)

## B. Documents of LLP

1.Address of Registered Office

2.Proof of Registered Office

3. LLP Agreement




**Body Corporate Includes**

1.Limited liability partnership registered under LLP Act

2.Limited liability partnership incorporated outside India and

3.Company incorporated outside India

**Even Foreigners can form a LLP in India. Since a partner need not to be resident in India except a designated Partner who should be resident in India**

# Process of Incorporation of a LLP.

# STEPS FOR INCORPORATION OF A LLP

I
- Register a unique LLP name (applicant can indicate up to 2 choices)

II
- Appoint/nominate partners and designated partners.

III
- Obtain Digital Signature Certificates (DSCs) and to fill all the Documents as mentioned above, electronically.

IV
- Draft the LLP Agreement and file the same.

V
- At this Stage Formation Process is complete.

# THE CONTENTS OF LLP AGREEMENT.

- Name Clause
- Names and addresses of the partners and designated partners
- The form of contribution and interest on contribution
- Profit sharing ratio
- Remuneration of partners
- Rights and duties of partners
- The proposed business
- Rules for governing the LLP
- Duration of the LLP

# LLP AGREEMENT.

- LLP agreement is very CRUCIAL constitutional document – governing relationship between LLP & its partners & inter se among the partners.
- It can be executed after name availability before formation i.e. filing of LLP Form No. 2 - LLP can't be a party.
- Stamp duty on LLP agreement is to be paid as per relevant state stamp act for Partnership entry based on capital contribution slabs. (Entry 47 of schedule I of Bombay stamp act, 1958.)

  (a) No share of contribution in partnership, or by way of cash does not exceed 50,000 : Five hundred rupees.

  b) Brought in by way of cash is in excess of rupees 50,000 : 1% of the amount of share contribution subject to maximum of rupees fifteen thousand. (earlier Rs. 500 for every Rs. 50,000 or part thereof of contribution, subject to maximum duty of Rs. 5,000))
- If the LLP Agreement is not executed, Schedule 1 to the LLP Act shall apply as regards the mutual rights and obligations of the partners.

# COMPLIANCES AFTER REGISTRATION.


- Execute LLP Agreement, file LLP Form No. 3, if not done at time of incorporation
- Obtain PAN, TAN, registrations under other Acts
- Open Bank Account
- Print letterheads with LLPIN
- Prepare rubber stamps
- Prepare Common Seal of the LLP, if it decides to have one (Section 14(c))
- Obtain all required registrations, licenses and permissions
- Maintain necessary registers if specified by LLP agreement
- Maintain proper books of accounts (mandatory requirement)

# ROUTINE COMPLIANCES.

i. LLP shall maintain books of accounts on accrual basis and according to double entry system of accounting.(Rule 24(2))

ii. Audit of books of accounts of the LLP is not mandatory **if the turnover does not exceed Rs 40 lacs in any FY or contribution does not exceed Rs 25 Lakhs** (Rule 24(8))

iii. An LLP has to close its **financial year** on 31st March every year.

iv. All the Books of accounts, other documents and annual forms shall be **preserved** at its registered office for 8 years from the date on which they are made

v. Every Designated Partner to file DIR KYC-3 Form upto 30th April , annually.

# ROUTINE COMPLIANCES

- **Statement of Account and Solvency Declaration**

Every LLP shall prepare Statement of Account and Solvency declaration within 6 months from the end of the financial year and file the same with ROC in **LLP Form No. 8 within 30 days of expiry of 6 months from the end of the financial year i.e. by 30th October every year.**

- **Returns to be filed under all other applicable laws**

- **Annual return**

Every LLP shall file an annual return to the Registrar in LLP Form No. 11 **within 60 days of completion of its Financial Year i.e. by 30th May every year**

- **Filing of Income Tax Returns**

Every LLP is required to file their returns with the Income Tax Department as per time schedule prescribed

i) If covered under Audit : 30th September

ii) If not covered under Audit : 31st July

# TAX ASPECTS.

- LLP's is **treated as Partnership Firms** for the purpose of Income Tax
- There is **no surcharge** on income tax of LLP.
- **Minimum Alternate Tax (MAT) (Sec. 115JB) :** The provisions are not applicable to LLP.
- **Alternate Minimum Tax (AMT) (Sec.115JC to Sec.115JF):**
- With effect from A.Y. 2011-12, LLPs are required to pay Alternate Minimum Tax (AMT) @ 18.5% on their Book Profit

- **Dividend Distribution Tax Sec 115O :** NO dual taxation on distribution of its profits as DDT is not applicable
- **Deemed Dividend [Section 2(22) (e)]:** Any loan given by LLP to its partners out of its accumulated Profits/ Reserves is not liable to be taxed as Deemed Dividend unlike in the case of closely held companies.
- As per Finance Bill , 2015 LLP's will be taxed @ 30%.

# DEDUCTIONS ALLOWED TO A LLP

- . Interest paid to partners, provided such interest is authorized by the **LLP Agreement** (Section 40(b)) rate of interest being 12% per annum.

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- Any salary, bonus, commission, or remuneration (by whatever name called) to a partner will be allowed as a deduction if it is **paid to a working partner** who is an individual.

- The remuneration paid to such **working partner** must be authorized by the LLP Agreement and the amount of remuneration must **not exceed** the given limits. ((Section 40(b)).

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| Particulars | Salary Allowed |
|---|---|
| a. On the first 3,00,000 of book profits or in case of a loss | Rs. 1,50,000 or at the rate of 90% of the book profit (whichever is higher) |
| b. On the balance of book profits | at the rate of 60% |

# AUDIT OF LLP

**Under IT Act 1961**

**Tax Audit u/s 44AB would be applicable if Total Sales, Turnover or Gross Receipts exceed Rs.100 Lakhs with effect from A.Y. 2013-14.**

**Under LLP Act 2018**

Audit of books of accounts of the LLP is not mandatory **if the turnover does not exceed Rs 40 lacs in any FY or contribution does not exceed Rs 25 Lakhs** (Rule 24(8))

# PENALTIES AND FINES

- For defaults/ non-compliance on procedural matters such as filing through the levy of a default fee for every day for which the default continues.

- Such default fee would be payable at the rate of Rs.100 per day after the expiry of the date of filing upto a period of 300 days (section 69). This is to be paid at the time of filing only with out any discretion.

- The offences under the act can be punished either
  - through payment of fine or
  - through payment of fine as well as imprisonmen

- The Judicial Magistrate of the first class or Metropolitan Magistrate shall have jurisdiction to try offences under the LLP Act.
- It also provides for imprisonment penalty for following violations
- making by any person a false statement at the time of incorporation of LLP
- carrying on business of LLP with intent to defraud or for any fraudulent purposes and
- making, knowingly, false statements or omitting any material fact, in any return, documents etc. under the act.
- The offences which are punishable with fine only can be compounded by the Central Government, by collecting a sum not exceeding the amount of maximum fine prescribed for the offence.

# THANKS!

## ANY QUESTIONS?

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