

KNOWLEDGE FOCUS

INDIAN LIMITED LIABILITY PARTNERSHIP (LLP)

LLP is a blend of features of Corporate and Partnership. This form of business model has been available in countries such as US, UK, Singapore, Australia etc. In India LLP model was notified in the year 2009 and is governed by LLP Act 2008. Since then the structure has become quite popular, MSME, Professional Service and other small business prefer LLP over other forms of Business Models.

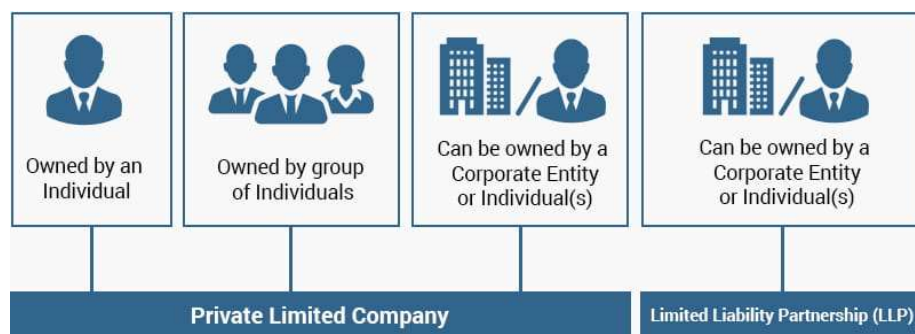
Some Salient Feature

Continue to exist regardless of change in partners.

LLP Can enter into contract and own property in its name.

Liability of Partners are limited to extent of contribution agreed.

Compliance is higher when compared with Partnership and lower when compared with Companies.



Since inception LLP encountered problems pooling investments from Angel Investors and VC. However from 2015 in line with "Ease of doing business in India" campaign

** FDI is permitted under automatic route in LLPs operating in sectors which have 100% FDI allowance under automatic route.*

** LLPs having FDI may downstream investments into another company or LLP in sector where 100% FDI is allowed under automatic route (read Press Note 12 of 2015 – DIPP)*

MYTH BUSTER

There are no compliance for LLP - Untrue

LLP Takes a corporate form hence prescribed set of compliance at various levels needs to be taken care.

No of forms filed is comparatively lesser when compared with companies.

Partners get Limited returns – Untrue

Partners are entitled to Share of Profit, Interest and Remuneration

All data accessible to public

LLP Agreement is kept private. Name, DIN, AR, FS are made public.

You should rather consider this as plus point.



COMPLIANCE AND INCORPORATION IN INDIA

One of the most difficult decision is to make choice of legal entity in which enterprise should be structured. The vehicle in which enterprise will run, takes a long way in determining success. Once a choice of LLP is made, compliance with its minimum prescribed set of filings needs to be checked.

Who can incorporate LLP

Members in LLP are known as Partners. Any Individual, Body corporate may be partner but A partnership firm cannot be partner in LLP.

Who cannot be a partner?

An individual who is declared unsound person by court. He is an undischarged insolvent or applied to be insolvent and his application is pending.

Minimum No. of Partners

There should be at least 2 partners. (if no. falls below 2 after incorporation LLP can run upto maximum of 6 months during such condition)

Designated Partners

A Partner designated to act on behalf. There shall be at least 2 designated partners, who should be individual and resident in India. (In case where LLP is constituted by corporate, then Partners of Nominees of such body corporate shall act as designate partners.)

Designated Partners

Designated partner can be specified in incorporation document or change from time to time. Prior consent from partner needs to be obtained. On obtaining consent, copy needs to be filed with Registrar. If there is vacancy needs to be filled within 30 days. Or if DP falls below 2 then all continuing partners become DP.

DPIN

Every designated partner needs to obtain DPIN. Designated Partner Identification Number (DPIN) can be obtained by filing e-Form and then digital signature needs to be obtained. This becomes first step of incorporation of LLP.

Incorporation

Apply for name of LLP to be registered, name should not be undesirable and/ or identical or too nearly resembling. On successfully getting the name approved or on obtaining SRN can proceed to file incorporation. The new form FiLLip along with the addendum form needs to be filled electronically.

LLP Agreement

After incorporation of LLP, an initial LLP agreement is to be filled within 30 days of incorporation of LLP.

Liability

The extent of liability of partners is restricted to the extent of contribution agreed. In case of fraud or exceptions, partners liability will be unlimited.

Financial Disclosure

Books of accounts shall be maintained as per cash or accrual basis and as per double entry system of accounting and maintained at registered office. Within 60 days from end of FY Annual returns and Within 30 days from end of 6 months from end of FY Statement of accounts and Solvency shall be filed.

Audit of LLP

Based on Contribution and Turnover as prescribed in rule 24 of LLP Rules 2009, Audit is made mandatory.

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