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Lawyers & legal Consultants
INDIA LLP

FORMATION OF COMPANY

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FORMATION OF COMPANY

- **Private Limited Company**
- **One person company**
- **Limited liability partnership**
- **Public Limited Company**

PRIVATE LIMITED COMPANY

A Private Limited Company is a Company limited by shares in which there can be Maximum 200 shareholders and minimum number of shareholders is two. No invitation can be made to the public for subscription of shares or debentures cannot make or accept deposits from Public and there is restriction on the transfer of shares. The liability of each shareholder is limited to the extent of the unpaid amount of the shares face value and the premium thereon in respect of the shares held by him

Procedure for Incorporation of Private Limited Company:

1. Apply for Digital Signatures and Directors Identification Number for the proposed directors of the company.
2. Selection of name for the proposed company and applying for approval of name with the concerned ROC of the state.
3. Drafting of Memorandum and Articles of Association.
4. E-filing of various forms and documents with the Registrar.
5. Obtaining Certificate of Incorporation.

ONE PERSON COMPANY

The concept of One Person Company (OPC) is a new form of business, introduced by The Companies Act, 2013, thereby enabling Entrepreneur(s) carrying on the business in the Sole-Proprietor form of business to enter into a Corporate Framework. One Person Company is a hybrid of Sole-Proprietor and Company form of business

Features of One Person Company (OPC)

1. ONLY ONE SHAREHOLDER
Only a natural person, who is an Indian citizen and resident in India shall be eligible to incorporate a One Person Company.
2. Nominee for the Shareholder:
The Shareholder shall nominate another person who shall become the shareholders in case of death/incapacity of the original shareholder. Such nominee shall give his/her consent and such consent for being appointed as the Nominee for the sole Shareholder. Only a natural person, who is an Indian citizen and resident in India shall be a nominee for the sole member of a One Person Company.
3. Director:
Must have a minimum of One Director, the Sole Shareholder can himself be the Sole Director.

Steps to Incorporate One Person Company (OPC)

1. Apply for Digital Signatures and Directors Identification Number for proposed directors of the company.
2. Selection of name for the proposed company and applying for approval of name with the concerned ROC of the state.
3. Draft Memorandum of Association and Articles of Association (MOA & AOA).
4. Sign and file various documents including MOA & AOA with the Registrar of Companies electronically.
5. Payment of Requisite fee to Ministry of Corporate Affairs and also Stamp Duty.
6. Receipt of Certificate of Registration/Incorporation from ROC

LIMITED LIABILITY PARTNERSHIP:

Limited Liability Partnership entities, the world wide recognized form of business organization has been introduced in India by way of Limited Liability Partnership Act, 2008. A Limited Liability Partnership, popularly known as LLP combines the advantages of both the Company and Partnership into a single form of organization. In an LLP one partner is not responsible or liable for another partner's misconduct or negligence; this is an important difference from that of a unlimited partnership. Limited Liability Partnership is managed as per the LLP Agreement.

LLP has a separate legal entity, liable to the full extent of its assets; the liability of the partners would be limited to their agreed contribution in the LLP. Further, no partner would be liable on account of the in-dependent or un-authorized actions of other partners, thus allowing individual partners to be shielded from joint liability created by another partner's wrongful business decisions or misconduct.

ADVANTAGES

- Low cost of Formation.
- Easy to establish, manage & run
- No requirement of any minimum capital contribution.
- No restrictions as to maximum number of partners.
- LLP & its partners are distinct from each other.
- Partners are not liable for Act of partners.
- Less Compliance level.
- Fewer requirements as to maintenance of statutory records.
- Audit requirement only in case of contributions exceeding Rs. 25 lakh or turnover exceeding Rs. 40 lakh.
- LLPs are taxed like general partnership firms, The tax will be imposed only on 10% or 40% of the LLP's income, since the firm will be allowed to pay the balance 90% or 60% to the partners as remuneration

DISADVANTAGES

- Any act of the partner without the other partner, may bind the LLP.
- Under some cases, liability may extend to personal assets of partners.
- Cannot raise money from Public.

Steps to Incorporate Limited Liability Partnership (LLP)

1. Apply for Digital Signatures and Designated partners Identification Number (DPIN) for proposed partners of the company.
2. Selection of name for the proposed company and applying for approval of name with the concerned ROC of the state.
3. Sign and file various documents including subscription statement with the Registrar of Companies electronically.
4. Receipt of Certificate of Incorporation from ROC
5. Drafting of LLP agreement and e- file the LLP agreement

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