

Chapter 1
LLP
Notes By Ankit

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Chapter 1 LLP

Notes :-

Important definitions :-

* Body Corporate :-

* financial year :-

* small LLP :-

* No Mutual Agency :-

* Limited liability :-

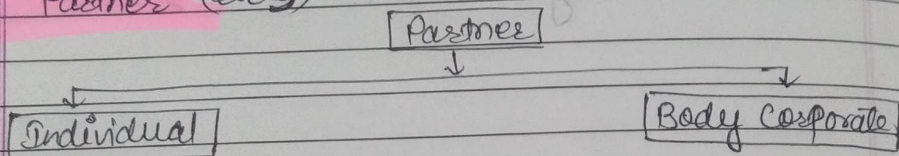
* Min & max partners :-

*# Advantages of LLP-form :-

- o
- o
- o
- o
- o

*#

* Partner (Sec 5)



Except :-

- (1) Unsound mind
- (2) Undischarged insolvent
- (3) Applied for insolvency
i.e. his application is still pending.

Includes :-

- (1) Indian Co
- (2) foreign Co
- (3) Indian LLP
- (4) foreign LLP

Excludes :-

- (1) corporate sole
- (2) Cooperative society

* Minimum no. of Partners (Sec 6)

Designated

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lo

ole
society

Designated Partners (Sec 7)

(10-2022) ...

(10-2022) ...

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Liabilities of Designated Partner (Sec-8)

Changes in Designated Partner (Sec-9)

Punishment for Contravention of sec 7 & 9 (Sec 10)

Income

Steps

The
of name
be filed
of 3m
No

after

a n

Effect

(a)

(b)

(c)

(d)

(e)

A

of

file

a

n

Incorporation of LLP. Sec 11 &

Steps to incorporate LLP :-

The first step to incorporate an LLP is reservation of name. Application to reserve the name has to be filed in e-form 1. Name is reserved for a period of 3 months. (RUN LLP)

Note :- A name may be rejected on the ground is (a) Undesirable
(b) identical to another LLP/company/ trademark.

after reservation of name, file e-form 2 for incorporating a new LLP. (FILLIP)

e-form 2 contains the following particulars :-

- (a) name of LLP
- (b) proposed business of LLP
- (c) registered office of LLP
- (d) name & address of partners
- (e) name & address of designated partners.

A declaration stating that all the requirements of this Act have been complied with also has to be filed, which shall be signed by an

- a) CA/CS/CMA/Advocate and
- b) any one subscribers.

Note :- LLP can be incorporated by two or more persons for carrying on a lawful business with the view to earn profits.

LLP agreement is required to be filed with the registrar in form 3 within 30 days of incorporation of LLP. LLP agreement provides the mutual rights & duties of the partners of a LLP.

Effect of Registration (Sec 14)

- (a) LLP can acquire, dispose assets in its own name.
- (b) It can sue, be sued in its own name.
- (c) It may have a common seal.
- (d) LLP can do all other acts that a body corporate can lawfully do.

Eligibility to be partners (Sec 22)

Relationship of partners (Sec 23)

Chapter 1

Registered office of LLP & change therein (Sec 13)

1. The registered office of a Limited Liability Partnership (LLP) shall be the office at which the business of the LLP is conducted.

2. The registered office of an LLP shall be situated in India.

3. The registered office of an LLP shall be situated in the State in which the LLP is registered.

4. The registered office of an LLP shall be situated in the district in which the LLP is registered.

5. The registered office of an LLP shall be situated in the city or town in which the LLP is registered.

6. The registered office of an LLP shall be situated in the village or hamlet in which the LLP is registered.

7. The registered office of an LLP shall be situated in the area in which the LLP is registered.

8. The registered office of an LLP shall be situated in the locality in which the LLP is registered.

9. The registered office of an LLP shall be situated in the region in which the LLP is registered.

10. The registered office of an LLP shall be situated in the country in which the LLP is registered.

Registration of Change in Partners (Sec 25)

Day of change

① **Partners** → change in the name/address → **LLP**
Inform within 15 days

② **LLP** → Inform within 30 days → **Registrar**
① change in name/address
② Incoming/outgoing partners
↓
Also give written consent

Financial

Maintenance

• Every LLP keeps books of cash, bank and accounts entry

• Every statement of solvency to be filed with Registrar within 6 months of the end of financial year

• The share capital of an LLP is not divided into shares

min
Max

Financial Disclosure

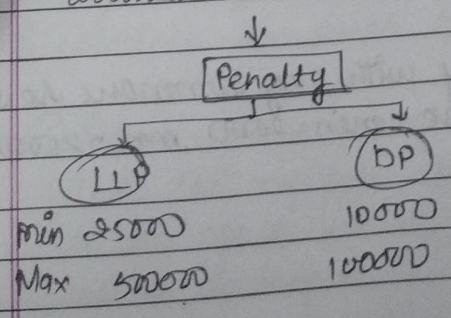
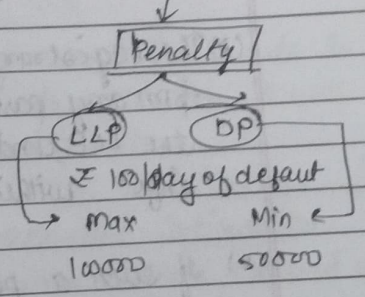
Maintenance of Books of a/c, other records, audit etc (Sec 34)

• Every LLP shall maintain proper books of a/c on cash basis or accrual basis and according to double entry system of accounting.

• Every LLP shall file in e-forms with the Registrar the statement of accounts and solvency

• Every LLP shall prepare statement of accounts and solvency within a period of 6 months from the end of the FY.

• The accounts of the LLP shall be audited in accordance with the rules.



Penalty for false statement (Sec 37)

- If in any return or statement,
 - (i) false statements have been given, or
 - (ii) material ~~statement~~ facts have been omitted knowinglythen such a person shall be punishable with
 - imprisonment = upto 2 years and
 - fine = 100000 to 500000,

Power of Registrar to obtain info" (Sec 38)

- (1) The registrar if it feels necessary can obtain info" from any partner, designated partner or employee of the LLP and such persons will have to supply the info" within a reasonable time.
- (2) If such a person does not answer within a reasonable time or the answers are not satisfactory then the registrar has the power to summon that person to appear before him to answer such questions.
- (3) If he fails to comply with any summons he shall be punishable with a fine min = 2000, max = 25000

Compounding of offences (Sec 39):

- ① The regional director may compound any offence which is punishable with fine only. By collecting any amount of fine.
- ② Compounding will not be possible if the same offence is committed within a period of 3 years. After the expiry of 3 years the offence shall be deemed to be the 1st offence. Thus, compoundable.
- ③ Application for the compounding shall be made to the registrar who shall forward it ~~to~~ with his comments to the regional director.
- ④ Where the offence is compounded ^{to inform} intimation shall be given to the registrar within a period of 7 days.
- ⑤ Where the offence is compounded before starting any case, no case shall be filed hence forth in relation to such offence.
- ⑥ Where compounding was made after a case was filed, the registrar will give a notice in writing to the courts where the case is pending so that the case is discharged.

Restriction - formed
condition attached
(not freely)

Prohibition - formed
(Forbidden)

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Types of Companies

Membership

① Private Company 2(68)

① Limitation of membership (except for OPC)

- Joint holder counted as 1
- Employee members are not counted
- Ex-employee members are not counted

② Restrictions on the right to transfer its shares

③ Prohibition on making an invitation to public

• A private Co means a Co
having a minimum paid up share capital
as may be prescribed and which by
its articles :-

- Restricts its right to transfer its share
- Limits the no. of members to 200.
- Prohibits invitation to the public to
subscribe its securities

Public Company 2(71)

• Public Co. means a Co. which
is not a private Co.
and has a minimum share
paid up share capital as may
be prescribed.

• ~~also~~ a company which
is private company by its
articles but is a subsidiary
of a public company will
be deemed to be a public Co.

OPC (One Person Company) 2(62)

- OPC means a company which has only one person as a member.
- who is eligible to be ~~only~~ sole member/nominee

- Natural Person
- Major
- Indian Citizen
- Whether a resident or otherwise

(not less than 120 days in the immediately preceding
financial year)

- OPC cannot incorporate as ~~company~~ ^{company}
- OPC cannot incorporate or cannot converted into NPO
- OPC cannot incorporate or cannot converted into NBFC
- OPC cannot invest in other company

Particulars	Public	Private	OPC
Min Members	7	2	1
Max Members	Not limit	200	1
Min directors	3	2	1
Max directors	15	15	15

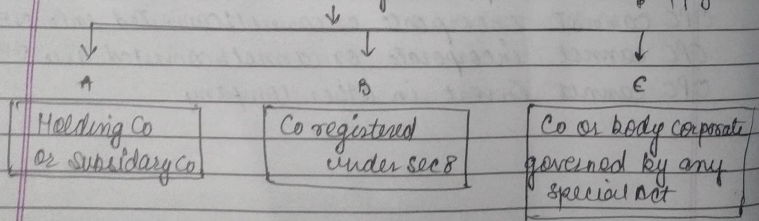
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Small Company

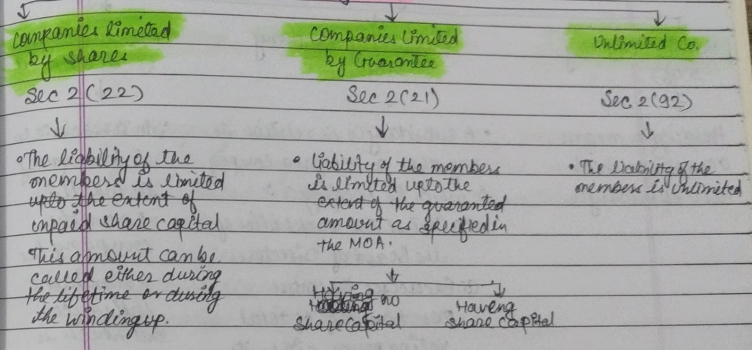
Small Co. means a Company, other than a Public Company,

- Having paid up share capital not exceeding 40 crores, and
- Turnover of which as per the last profit & loss a/c is not exceeding 40 crores.

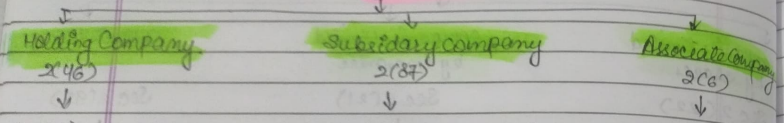
Provided that nothing in the clause shall apply to



On the Basis of Liability



On The Basis of Control



Holding Co. means a company which has a subsidiary Co.

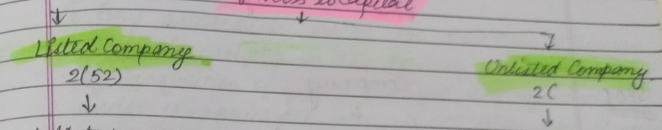
A subsidiary Co. in relation to any other Co. means a Company in which the holding Co.:-

- (a) Control the composition of the Board of Directors.
- (b) Exercises the control more than 1/2 of total voting power either its own or ~~more~~ through one or more of its subsidiary Co.
- (c) Chain subsidiary relationship

Note There can not be more than 2 layers.

An associate Co. is a company in which that other company has a significant influence but which is not a subsidiary Company of the company having such influence and includes a joint venture company.

On the Basis of Access to Capital



A listed company means a company which has any of its securities listed on any recognised stock exchange provided the following class of companies shall not be considered as listed companies:-

Any company that is not listed will be regarded as unlisted company.

- (A) Public Company → Issued on public Placement basis
NCD (1) Listed
NCRPS (2) Listed
- (B) Private Company → Issued on Private Placement basis
NCD → Listed

(C) Public Company → Equity shares → foreign stock exchange listed on.

