


Limited Liability Partnership 2008

Pre-Exam MARATHON

CA Foundation Law

JAN 2025 & ONWARDS

DATE	TIME	TOPIC
12th Jan	7:00 PM	Negotiable Instrument Act Marathon
12th Jan	9:00 PM	Most Expected Questions of NIA
13th Jan	7:30 AM	Most Expected Questions of LLP
13th Jan	12:00 PM	Most Expected Questions of Companies Act
13th Jan	6:00 PM	Most Expected Questions of Partnership Act
13th Jan	9:00 PM	Most Expected Questions of IRF
15th Jan	12:00 PM	Most Expected Questions of ICA
15th Jan	6:00 PM	Most Expected Questions of SOGA
16th Jan	7:30 AM	Warmup session



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Q1) Explain the Meaning of LLP. State its Characteristics? of LLP.

Provision: [The LLP Act,2008]

Meaning of LLP

1. A LLP is a new form of legal business entity with limited liability.
2. It is an alternative corporate business vehicle that not only gives the benefits of limited liability at low compliance cost but allows its partners the flexibility of organizing their internal structure as a traditional partnership.
3. The LLP is a separate legal entity and, while the LLP itself will be liable for the full extent of its assets, the liability of the partners will be limited.
4. Since LLP contains elements of both 'a corporate structure' as well as 'a partnership firm structure' LLP is called a hybrid between a company and a partnership.

Essentials of LLP

1. LLP is a body corporate:
LLP is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.
2. Perpetual Succession:
LLP can continue its existence irrespective of changes in partners. Death, insanity, retirement or insolvency of partners has no impact on the existence of LLP. It is capable of entering into contracts and holding property in its own name.
3. Separate Legal Entity:
LLP is a separate legal entity, is liable to the full extent of its assets but liability of the partners is limited to their agreed contribution in the LLP.
4. Mutual Agency:
Further, no partner is liable on account of the independent or un-authorized actions of other partners. All partners will be the agents of the LLP alone. No one partner can bind the other partner by his acts.
5. LLP Agreement:

Mutual rights and duties of the partners within a LLP are governed by an agreement between the partners. The LLP Act, 2008 provides flexibility to partner to devise the agreement as per their choice. In the absence of any such agreement, the mutual rights and duties shall be governed by the provisions of the LLP Act, 2008.

6. Artificial Legal Person:

A LLP is an artificial legal person because it is created by a legal process and is clothed with all rights of an individual. It can do everything which any natural person can do, except of course that, it cannot be sent to jail, cannot take an oath, cannot marry or get divorce nor can it practice a learned profession like CA or Medicine.

7. Common Seal:

A LLP being an artificial person can act through its partners and designated partners. LLP may have a common seal, if it decides to have one. Thus, it is not mandatory for a LLP to have a common seal.

8. Limited Liability:

Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section. 26). The liability of the partners will be limited to their agreed contribution in the LLP

9. Management of Business:

The partners in the LLP are entitled to manage the business of LLP. But only the designated partners are responsible for legal compliances.

10. Minimum and Maximum number of Partners:

Every LLP shall have least two partners and shall also have at least 2 individuals as designated partners, of whom at least one shall be resident in India. There is no maximum limit on the partners in LLP.

Q2) State the Contents of LLP Agreement ?

Answer: -

Provision: [The LLP Act, 2008]

Following are the contents of LLP Agreement

1. Name of LLP

2. Name & address of Partners & Designated Partners
3. Form of contribution & interest on contribution
4. Profit sharing ratio
5. Remuneration of Partners
6. Rights & Duties of Partners
7. Proposed Business
8. Rules for governing LLP.

Q3) What is the procedure for changing the name of Limited Liability Partnership (LLP) under the LLP Act, 2008?

Answer: -Provision: [Section 17 of the LLP Act, 2008]

1. Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a limited liability partnership, on its first registration or on its registration by a new body corporate, its registered name, is registered by a name which is identical with or too nearly resembles to—
 - (a) that of any other limited liability partnership or a company; or
 - (b) a registered trade mark of a proprietor under the Trade Marks Act, 1999, as is likely to be mistaken for it, then on an application of such limited liability partnership or proprietor referred to in clauses (a) and (b) respectively or a company, the Central Government may direct that such limited liability partnership to change its name or new name within a period of three months from the date of issue of such direction:

Provided that an application of the proprietor of the registered trade marks shall be maintainable within a period of three years from the date of incorporation or registration or change of name of the limited liability partnership under this Act.

2. Where a limited liability partnership changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and within thirty days of such change in the certificate of incorporation, such limited liability partnership shall change its name in the limited liability partnership agreement
3. If the limited liability partnership is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the limited liability partnership in such manner as may be prescribed and the Registrar shall enter the new name in the register of limited liability partnerships in place of the old name and issue a fresh certificate of incorporation with new name, which the limited liability partnership shall use thereafter: Provided that nothing contained in this sub-section shall prevent a limited liability partnership from subsequently changing its name in accordance with the provisions of section 16.

Q4) Who are the individuals which shall not be capable of becoming a partner of a Limited Liability Partnership?

Answer: -

Provision: [Section 5 of the LLP Act, 2008]

Any individual or body corporate may be a partner in a LLP. However, an individual shall not be capable of becoming a partner of a LLP, if—

1. he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
2. he is an undischarged insolvent; or
3. he has applied to be adjudicated as an insolvent and his application is pending

Q5) LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership". Explain.

Answer: -

LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership.

1. Limited Liability:

Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section 26 of the LLP Act, 2008). The liability of the partners will be limited to their agreed contribution in the LLP, while the LLP it self will be liable for the full extent of its assets.

2. Flexibility of a partnership:

The LLP allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital.

Q6) Explain - Small limited liability partnership.

Answer: -

"Small limited liability partnership [Section 2(ta)]:

It means a limited liability partnership -

- (i) the contribution of which, does not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees, as may be prescribed; and
- (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees, as may be prescribed; or

- (iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed;

Q7) Mr. Ankit Sharma wants to form a LLP taking him, his wife Mrs. Archika Sharma and One HUF as partners for that. Whether this LLP can be incorporated under LLP Act, 2008? Explain.

Answer: - Section 5 of Limited Liability Partnership Act, 2008 provides any individual or body corporate may be a partner in an LLP. However, an individual shall not be capable of becoming a partner of a LLP, if—

(a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;

(b) he is an undischarged insolvent; or

(c) he has applied to be adjudicated as an insolvent and his application is pending.

Further, Section (2)(1)(e) provides that a Body Corporate it means a company as defined in 'clause (20) of section 2 of the Companies Act, 2013 and includes—

- (i) an LLP registered under this Act;
- (ii) an LLP incorporated outside India; and
- (iii) a company incorporated outside India,

but does not include—

1. a corporation sole;
2. a co-operative society registered under any law for the time being in force; and
3. any other body corporate (not being a company as defined in 'clause (20) of section 2 of the Companies Act, 2013' or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Therefore, HUF is not covered in the definition of body corporate and cannot be partner in LLP