

## WHAT IS A COMPANY?

A company is a voluntary association of people for a common purpose like business, charity, etc. A company's personality is distinct from the members comprising it. Let's imagine a company as an artificial person created by the law, but without any physical existence. It is an organized legal entity that can possess a property, sign documents and take legal actions.

## WHY FORM A COMPANY?

- **Limit liability of the owners**  
Members of a company are not personally responsible for the debts of the business under the company's name. Thus, creditors cannot claim the personal assets of the members.
- **Perpetual Existence**  
A company exists independent of its members. So, if a co-owner dies or wishes to sell his share, the company would continue to exist.
- **Advantages in the Income Tax**  
Companies often have many tax advantages such as savings on self-employment taxes, deductibility of various insurances like life insurance, health insurance, etc.
- **Establish Credibility**  
Forming a company establishes credibility within the business circle. It is more prestigious and trustworthy.
- **Easy to Raise Capitals**  
It is easier to raise capital in a company through the sale of stock or by borrowing money.

## WHAT ARE THE CHALLENGES FACED?

- **Corporation Formalities**  
Forming a company comes with holding and documenting records, issuing shares of stock to the holders, organizing meetings of director and shareholders, etc. which needs a fair amount of management and skills.
- **Recurring Expenses**  
Along with the fees paid during the inception of the company, there are many ongoing dues, such as an annual report, franchise tax, etc.

from time to time. One needs some amount of money aside to keep rolling in the business.

## TYPES OF COMPANIES IN INDIA

Companies are registered under the Ministry of Corporate Affairs, Companies Act, 2013 and the Companies Incorporation Rules, 2014. Different types of companies that are listed under the Act include:

### 1. Private Limited

- It is the most sophisticated and common form of corporation.
- It needs a minimum of two directors for incorporation and minimum share capital of ₹ 1,00,000.
- The total capital of the company is made up of shares - which can be purchased, sold or transferred.
- Business assets are separate from personal assets here.
- It is of two types:
  - Company limited by shares - Liability of the shareholders to the creditors of the company is limited to the capital originally invested.
  - Company limited by guarantee - Liability of its members is such that they have to respectively contribute to the assets of the company.
  - Unlimited Company - No liability or limits on its members.
- It can have a maximum of 200 members and 50 shareholders.
- The name of the company must have "Pvt. Ltd."

### 2. Limited Company

- It is more or less the same as a Private Limited Company.
- However, it requires a minimum of 3 members and has no limit on the number of shareholders.
- Also, it has more strict and extensive compliance requirements.

### 3. Sole Proprietorship

- It is the simplest and fastest form of corporation.
- It is a company owned by a single person.

- It does not involve any complex documentation or accounting or separate registration.
- There is no legal/financial distinction between the owner and the company.
- Personal assets of the owner are put at risk here.
- It is the most common type of online business because of its simplicity.

#### **4. Partnership**

- Quite similar to a sole proprietorship, Partnership involves more than 1 owner, called partners.
- The roles and responsibilities of each partner are defined in a legal partnership agreement according to Indian Partnership Act 1932.
- Each partner is entitled profits according to the agreement.
- For any losses incurred, personal assets of each may be used to compensate.
- Registration of the company is not mandatory and is at the discretion of the partners.
- However, it cannot avail the legal benefits of a company, if unregistered.

#### **5. LLP (Limited Liability Partnership)**

- Introduced in 2009, LLP functions as a structured business model.
- It blends the benefits of a partnership (more control) along with a Private Limited (less liability).
- The difference between partnership and LLP is that the business assets are different from personal assets here.
- Any member is not personally responsible for any losses. Maximum Liability is defined of every partner by his share capital in the corporation.
- It has better credibility as compared to Partnership / Sole Proprietorship.
- It needs mandatory registration.

#### **6. OPC (One Person Company)**

- It has been recently introduced in the Companies Act, 2013 to support entrepreneurs start their own venture.
- While there can only be 1 shareholder in an OPC, a minimum of 2 are required for incorporation and maintaining a Pvt. Ltd. or an LLP.

- It is different from a sole proprietorship as OPC functions as a separate legal entity from its members.
- “OPC” must be suffixed to the name of the company.

## **7. Section 8 Company (or NPO)**

- It is registered as a Non-Profit Organization (NPO).
- It is established for the promotion of arts, commerce, education, science, social welfare, protection of the environment, research, etc. - provided it would not share the profits among the members and utilize it for promoting its objects.
- It functions like a Private Limited company except an additional license is required for its incorporation.
- However, it cannot use “Limited” in its name.

## **8. Statutory Company**

- It is a public corporation established and run by the government, central or state.
- Its main objective is to provide services to the citizens.
- It needs a minimum of 3 directors and 7 shareholders with a minimum investment of ₹ 5,00,000.
- Examples include, ONGC, RBI, SBI, AAI, etc.
- The company is free to form their own policies within the scope of the legislature.
- It functions autonomously and enjoys operational flexibility.
- The members have limited liability and can borrow funds from the public or government organizations.

## **9. Bringing a Foreign Company to India**

- A foreign company can enter India as:
  - I. An Indian Company
    - A. Wholly Owned Subsidiary: If a foreign company invests 100% in its Indian Company.
    - B. Joint Venture: It is an arrangement of two or more members and can be run as a Pvt. Ltd., LLP or partnership.
  - II. A Foreign Company
    - A. Setting up a Liaison Office
    - B. Or a Representative Office
    - C. Or a Brand Office
- It can establish its business in India by filling eForm FC-1.

## HOW TO FORM A COMPANY?

To register any kind of company, you need to file an application with the government's Registrar of Company (RoC) handled by the Ministry of Corporate Affairs (MCA).

Here are the major steps:

- 1) Apply for a Director Identification Number (DIN)
  - File application Form DIN-1 [online](#).
- 2) Obtain Digital Signature Certificate (DSC)
  - It can be taken from one of the six private agencies authorized by the [MCA 21](#).
- 3) Apply for a Company Name Online
  - The applicant can check the availability of the name on [MCA's website](#).
  - A maximum of 6 names can be submitted.
- 4) Arrange for Stamping of Documents with appropriate Stamp Duty.  
These include:
  - 1.1. PAN Card
  - 1.2. Address Proof of the Registered Office (Any one of the following: Passport, Election Card or Voter Identity Card, Ration Card, Driving License, Electricity Bill, Telephone Bill, Aadhaar Card)
  - 1.3. Residential Proof of the Director (Any one of the following: Bank Statement, Electricity Bill, Telephone Bill, Mobile Bill)
  - 1.4. Memorandum and Article of Association (MAA) - signed by at least 2 members and notarized by proper authority.
  - 1.5. Original copy of the formal letter issued by RoC regarding the availability of the company name.
  - 1.6. Passport-sized Photograph of the Members
- 5) Register for the New Company
  - Fill Form 1, 18, and 32 within 60 days of name approval.
  - Send physical copies of MAA to the RoC.
- 6) Obtain Certificate of Incorporation
  - On the complete processing of the form, the certificate is sent automatically to the registered office of the company.

You can start your company, henceforth!

The complete procedure usually takes 7-10 days.

### FAST TRACK COMPANY REGISTRATION

However, for making the process faster, MCA has come out with an **Integrated Incorporation Form** (INC-29). This combines applying for DIN, name approval and filling the incorporation application. This process takes only 4-5 days to get completed.

It should be noted that Sole Proprietor does not need to register for a company. However, he/she should open a current account with the bank in the name of his/her business.

### SOME FACTS

- Every month, more than 5,000 businesses are getting incorporated in India.
- 3 states: Delhi, Maharashtra and Uttar Pradesh account for almost 50% of the new incorporations.
- In [January 2019](#), more than 12,000 companies were registered.

Type of Company	No. of Companies registered in January, 2019
-1	-2
Company limited by shares	12,427
Of which,	
(a)Private	12,127
Of which,	
One Person Companies	665
(b)Public	300
Company limited by Guarantee	37
Of which,	
(a)Private	33
(b)Public	4
Unlimited Company	-
<b>Grand Total</b>	<b>12,464</b>

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