

Conversion of company to llp

Pre-requisites

- Company is registered with Share Capital
- No pendency of E- forms of company with MCA
- No charges pending against company.
- Company has completed at least one financial year.
- Income tax filing duly complied with.

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Concept of LLP & Its Benefits:

- Alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership.
- It is capable of entering into contracts and holding property in its own name.
- LLP is a separate Legal entity.
- Ease to change its partners as LLP has separate legal existence.
- Partners Liability limited to the agreed contribution.
- Individual partners are shielded from joint liability created by another partner's wrongful business decisions or misconduct.

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Advantages – Innovative Business Model:

- It is a form of business model which:
 - a. Operates on the basis of Business Agreement
 - b. Management – ownership divide inherent in a company is not there in LLP.
 - c. Flexibility without imposing detailed legal and procedural requirements.
 - d. Under LLP structure, the basic advantage to a partner is his liability limited to his agreed contribution.
 - e. More flexibility as compared to a company.
 - f. Lesser Compliance Requirements as compared to a company.
 - g. Non Applicability of Indian Partnership Act, 1932.

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No. of Partners:

- Minimum of two partners with no upper limit.
- Minimum Two Designated Partner (DP) required for an LLP who shall be Individuals with at least one partner be resident in India.
- DP shall be accountable for regulatory and legal compliances, besides their liability as partners.
- Designated Partners (DP) to obtain a Designated Partner's Identification Number (DPIN) similar to DIN as required in case of Directors of companies.
- Body corporate can also be a partner in LLP.

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Partners Contribution and Transaction of Partners with LLP:

- Partner's contribution may consist of both tangible and/or intangible property and any other benefit to the LLP.
- A partner may lend money to and transact other business with the LLP.
- A partner shall have the same rights and obligations with respect to the loan or other transactions as a person who is not a partner.
- Partner's economic rights (i.e. rights of a partner to a share of the profits and losses of the LLP and to receive distribution at the time of winding up) in the LLP shall be transferable.

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Liability of Partners:

- Partner in LLP is an agent of LLP for the purpose of business but not of other partners.
- Partners Liability Limited except in case of unauthorized act, fraud and negligence.
- Not personally liable for the wrongful acts or omission of any other partner.
- The liabilities of LLP shall be met out of the property of the LLP.
- If at any time the number of partners of a limited liability partnership is reduced below two and the limited liability partnership carries on business for more than six months while the number is so reduced, the person, who is the only partner of the limited liability partnership during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the limited liability partnership incurred during that period.

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Accounts and Audit, Disclosure Requirement:

- “Statement of Accounts and Solvency” in prescribed form shall be filed by with the Registrar every year.
- Accounts of every LLP shall be audited in accordance with Rule 24 of LLP, Rules 2009.
- LLP is required to file annual return in Form 11 with ROC within 60 days of closer of financial year
- Documents which needs to be filed:
 - a. Statement of Account & Solvency (SAS)
 - b. Annual Return (AR)
 - c. Details of partners and any changes made therein shall be required to be filed with the registrar.

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Applicable Forms:

- **Form 7** – Designated Partner to apply for DPIN (Designated Partner Identification Number)
- **Form 9** – Designated Partner to intimate his consent to LLP.
- **Form 4** – LLP to Intimate DPIN to Registrar.
- **Form 10** – Intimation of Changes in particulars stated in Form 7.
- **File form 18** - Application and Statement for conversion of a private company/ unlisted public company into limited liability partnership (LLP).

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- **Form 2** - Incorporation document and Subscriber's statement along with prescribed fee.
- **Form 19** – Certificate of Registration under the Seal of Registrar after conversion to LLP.
- **Form 14** – The LLP to intimate to Registrar of Companies within 15 days of the date of Registration of LLP.

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Applicable Forms:

- **Form 15** – Notice of change of place of registered office.
- **Form 5** – Notice of change of Name of LLP.
- **Form 8** – Filing of Statement of Account and Solvency within 30 days from the end of six months of the financial year.
- **Form 11** – Annual Filing of Return.
- **Form 12** – Intimation of Additional address for service of documents to LLP.

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Important Knowhow:

- on conversion of a firm/private company/unlisted public company into LLP,
- Any approval, permit or license issued to the firm/private company/unlisted company under any other Act shall,
- Subject to the provisions of such other Act under which such approval, permit or license was issued, be transferred in the name of converted entity viz LLP.