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COMPANY FORMATION CHECKLIST

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We work from Monday to Friday 10 a.m to 6 p.m

COMPANY FORMATION

A Company is a type of entity wherein the liability of its members or shareholders is limited to their shareholding in the Company. Companies in India are governed by the Company Act, 2013 (as well as its rules and notification) along with the rules and regulations stated in the Memorandum and Articles of Association of the Company.

There are two main types of Companies:

1. A Private Limited Company
2. A Public Limited Company

Private Limited Company:

(What are the key features of a Private Limited Company?)

A Private Limited Company has the following characteristics:

a. A Private Limited Company can be formed by a minimum of 2 members and a maximum limit of members is 200 (age of the directors should be 21 years or more).

b. It cannot issue shares to the general public, it can issue shares to either its members or a selected group of individuals.

c. The shares of a Private Limited Company cannot be traded in the public market.

d. Disclosure and compliances for a Private Company are fewer as compared to a Public Limited Company.

e. Such companies must use the words “Private Limited” at the end of its name, for e.g. ABC Private Limited.

f. A Private Company should have a minimum of 2 directors.

Public Limited Company:

(What are the key features of a Public Limited Company?)

A Public Limited Company has the following characteristics:

- A Public Limited Company can be formed by a minimum of 7 members. There is no restriction on the maximum number of members (age of the directors should be 21 years or more).
- It can issue shares to the public and these shares can be traded in the public market.
- As compared to a Private Limited Company, a Public Limited Company has to adhere to stringent regulations, compliances and disclosures.
- Such companies must use the word “Limited” at the end of its name, for e.g. ABC Limited.
- A Public Company should have a minimum of 3 directors.

Benefits of setting up a Company:

(What are some benefits of setting up a Company?)

1. As compared to other types of entities, a Company is a well-structured organization.
2. Liabilities of members are limited to their shareholding.
3. A Company is a separate legal entity.
4. A Company can raise capital by issuing shares to its members, this helps to raise quick funds.
5. A Company has perpetual existence, which means that even if its members or directors change or leave the Company’s existence is not affected.
6. In large and complex projects, a Company form of entity is preferred over another type of organization structures.

Points to be considered while setting up a Company:

1. Setting up a Company is costlier than other types of entities.
2. It takes a longer time to set up a Company as compared to other entities.
3. A Company has to adhere to more compliances as compared to other types of entities.
4. In case any compliances are not completed on time, it can attract penalties and legal proceedings.
5. Percentage of taxes is higher for a Company.
6. Dissolving a Company is a tedious and lengthy procedure.

List of documents and information required to set up a Private Limited Company:

(Which documents and information should be kept ready while setting up a Private Limited Company?)

1. Proposed name of the Company.
2. Name of the proposed directors and a total number of directors.
3. Name of the proposed shareholders.
4. Address proof and identity proof of the directors and shareholders (Aadhar Card and PAN card is compulsory).
5. Address proof of the registered office of the Company.
6. The total capital of the Company and means of raising the capital amount.
7. Contribution of each shareholder in the total capital of the Company.
8. List of activities the Company will be engaged in.
9. A digital signature of all the directors (If available).

Brief procedure for incorporation

(How to incorporate a Private Limited Company?)

For incorporating a Private Limited Company e-forms are to be filed after login to the Ministry of Corporate Affairs (MCA) website:

- For reserving and approval of proposed name Form to be filed through RUN (Reserve Unique Name) service available on MCA website.
- SPICE Form (Simplified Proforma for Incorporating Company Electronically).
- After filling all the above-stated forms “Certificate of Incorporation” will be issued by MCA.

Certificate of Incorporation is a document which signifies that a company has been incorporated.
(Forms are available on http://www.mca.gov.in/MinistryV2/companyformsdownload.html link)

Note: The procedure, information and documents required to set up a Company may vary as per any amendments in the Companies Act, 2013 or the e-form filing procedures and requirements of MCA website.

FAQ's

Q. Is the process to incorporate a Company online?

A:You can incorporate a Company by filling online forms through the Ministry of Corporate Affairs (MCA) website.

Q. What is the shareholder's liability in case of a Company?

A:Shareholders liability is limited to their shareholding in the Company.

Q. What is the minimum requirement of directors for setting up a Company?

A:Minimum 2 directors in case of Private Limited Company and a minimum of 3 directors in case of a Public Limited Company are required to set up a Company.

Q. What is a Digital Signature Certificate (DSC)?

A:A Digital Signature Certificate or DSC is used for signing a document, form, etc. digitally. While filling online forms through the Ministry of Corporate Affairs (MCA), the authorized signatories shall have to affix your DSC to various forms. There are three kinds of DSC, based on the required you need to apply for and obtain a DSC. The validity of the DSC can be for either 2 years or 3 years, based on your requirement you need to choose the validity of the DSC.

Q. What is the Memorandum of Association and Articles of Association?

A:When incorporating a Company, you will have to prepare Memorandum of Association (MOA) and Articles of Association (AOA) of the Company. These are the constitutional documents of a Company. MOA includes clauses like name, the objective of the Company, liability of its members, its registered office address, details of share capital, subscribers of the Company. AOA comprises of rules and regulations that govern the internal working and management of the Company.

CHARACTERISTICS OF VARIOUS BUSINESS ENTITIES

Characteristics	Proprietary Concern	Partnership Firm	LLP	OPC	Pvt. Ltd. Company
Legal Entity & Governing Act	No separate legal entity. No specific act.	Legal entity. Indian Partnership Act, 1932.	Separate legal entity. LLP Act 2008.	Separate legal entity. Companies Act, 2013.	Separate legal entity. Companies Act, 2013.
Liability	Unlimited	Unlimited	Limited	Limited	Limited
No. of Members	One person can form.	2 or more partners (10 for banking, 20 for non-banking).	2 or more partners.	1 Member and 1 nominee.	Max 200 members.
Succession	Legal Heir	Remaining partners and legal Heir of Deceased partner with the consent of other partners.	Remaining partners.	Nominee (A company has perpetual succession).	A company has perpetual succession.
Dissolution	The proprietor has the sole authority.	With the consent of partners.	With consent of partners.	Legal procedures for winding up or liquidation as the case may be.	Legal procedures for winding up or liquidation as the case may be.
Filing of financials with regulatory authorities	Not Applicable	Not Applicable	Financial statements are to be filed annually with Registrar of Companies .	Financial statements are to be filed annually with Registrar of Companies.	Financial statements are to be filed annually with Registrar of Companies.
Filing of forms for the creation of charge (in case of loans taken).	No legal formalities	No legal formalities	Required to file adequate forms with Registrar of Companies .	Required to file adequate forms with Registrar of Companies.	Required to file adequate forms with Registrar of Companies.

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Thank you so much for choosing our checklist!
We genuinely hope it becomes your guiding star on your exciting journey into the world of entrepreneurship.



Wish you All the Best for your journey!

Should you require any further assistance, please feel free to reach out, and we will be delighted to assist you!

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