

# UNDERSTANDING OVER BUSINESS FORMS

## BY J.K. GUPTA & ASSOCIATES



I Have a business Idea  
in my mind



Should I  
Start A  
Company or  
Partnership  
Firm or  
LLP????

But how would I do  
it????

What all require to  
start a business??

# DIFFERENT FORMS OF BUSINESS RELATIONSHIPS

Partnership Firm	LLP	Company
Association of two or more persons	Its like a partnership Firm but registered Under Companies Act 2013	Means Company registered under Companies Act, 2013(Brief will be share in next slide)
Registration is Optional	Registration is Mandatory	Registration is Mandatory
No Criteria of Minimum paid up Capital	As such no Criteria for minimum Capital however registration cost to be incurred by the partners	Minimum 1 Lac or 5 Lac Paid up capital is required as per one owns requirement
No need of Annual Compliances	Annual return of solvency need to be filed	Includes day to day Compliances and Annual Compliances
Minimum two members are required	Minimum Two Members are required	Minimum two or Seven members are required depending upon the types.
Partners are personally liable for all the acts done by them	Partners are Liable for the amount contributed by them at the time of registration	Company being Separate Legal Identity is liable for all the acts done in Company's name, Directors are only liable for the acts done in personal capacity

**COMPANY:- IT IS SOMETHING ONE REQUIRE TO PUT HIS BUSINESS  
IDEA INTO ACTION.**

**NOW WHAT ALL WE REQUIRE TO START A COMPANY**

That depends on what all you have and that is how we can categorised  
between different Companies. Let us take an example to understand it

**PERSON A**

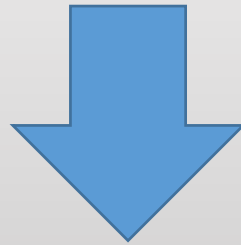
Has Rs 1 lac to invest  
Has one partner to start with him  
Has idea which can give return in  
future say Real Estate Business



THE ABOVE PERSON SHOULD GO FOR  
**PRIVATE COMPANY** AS THAT IS WHAT  
ALL REQUIRED FOR IT

**PERSON B**

Has Rs 5 Lac to invest  
Has minimum 6 members to associate with him  
Has an idea which can give immediate return  
but needs **Public Investment** for Funding in future



THE ABOVE PERSON SHOULD  
GO FOR **PUBLIC COMPANY** AS  
THAT IS WHAT ALL REQUIRED FOR IT

**PERSON C (NEW CONCEPT)**

Single individual wants to start  
his business alone.  
1 lac to invest



THE ABOVE PERSON SHOULD GO FOR  
**ONE PERSON COMPANY**

## CONCLUSION

Now if we comes out with the conclusion of what are basic requirements to start a company than that would be **CAPITAL TO INVEST** i.e. minimum 1 lac capital **for private company** and minimum 5 lac capital for **public Company**.  
**DIRECTORS i.e.** minimum Two Directors for Private Company and minimum 3 directors for **Public Company**  
**MEMBERS:-** minimum Two Members for Private Company and minimum 7 members for Public Company

### Apart from Basic Requirements, other requirements to start a company is:-

- MOA(Memorandum of Association):- It's the Constitution of the Company which has 5 clauses in it:-
  - NAME** of the Company
  - OBJECTS** of the Company:- means the business company is going to carry out and it is to be noted that Company can only carry out that business which is there in its MOA
  - CAPITAL** of the Company:- Amount invested by the members of the Company
  - SUBSCRIBERS** of the Company:- means the person who has invested their money initially
- AOA:-(Article of Association):- It's the rules and regulations of the Company i.e how Company will operate in future. It has
  - Name of the **DIRECTORS** of the Company
  - Rules about Company's Meetings
  - Do and Don'ts of the Company.

# ADVANTAGES AND DISADVANTAGES

## PUBLIC COMPANY

- Public Company needs minimum 7 members and 3 Directors to start its Business
- It has no maximum limit of members no growth of the Company is not Restricted
- It can raise funds with Public so **ONLY A PUBLIC COMPANY CAN GO FOR LISTING**
- Public Company has to Comply with various Compliances of Companies Act like passing a SR for raising funds from financial institution, appointment of Independent Director on board and etc.

## PRIVATE COMPANY

- Private Company can be started with only two members and two Directors
- It has restriction of maximum members to 200 which restricts the growth of the Company
- The Main Disadvantage lies with Private Company is that it can not **GO FOR LISTING OF ITS SECURITIES.**
- Private Companies enjoys various privileges like acceptance of deposits, easy norms for issuance of share capital, loan to directors with exemptions etc.

## ONE PERSON COMPANY

- One Person Company can be started with one One Person as Director and Member and also requires one nominee to take a hold in case of death of member
- The minimum and maximum number of member should be one only
- One Person Company cannot carry out Non – Banking Financial Investment activities including investment in securities of anybody

# DIRECTOR V/S SHAREHOLDERS

## DIRECTORS

- The Directors are the Managers of the Company who manages the business on behalf of the Company
- The Directors are being appointed by filing their appointment letter with Registrar of the Companies.
- The Directors has the rights to receive the remuneration which is like receiving a salary for tendering services to the Company
- The Directors have no voting rights in the meeting of the Company
- Can be remove from the Company by the Shareholders of the Company
- The Duties and Liabilities of Directors are being defined in Companies Act 2013.
- Legally liable for acting in true faith of the Company and in case of Defaults by the Company, Directors are first held liable for it and even liable for penal provisions for certain acts under companies act 2013.

## SHAREHOLDERS

- The Shareholders are the owners of the Company who has invested their money in the company and gets the return by way of shares in the Company.
- The TERM SHARES means the scrip of the Company which is issues on piece of paper and has the value of being owner of the Company by purchasing it.
- The Shareholders are being connected with the company by just investing their money in the company
- The Shareholders are entitled to the profits of the Company in terms of returns on share purchased by them and also entitled to dividend over and above the amount invested in the Company.
- The shareholders being the real owners of the Company has the right to vote at the meeting of the Company.
- Directors has no power to remove the shareholders of the Company.
- Shareholders being the owners of the Company are only liable to pay the amount being unpaid on the shares held by them.

## LET US HAVE A LOOK HOW WE CAN BRING OUR BUSINESS IDEA INTO ACTION

### NAME Approval

- Person first Applies for name of the company with registrar and registrar on satisfaction provides the name approval certificate to the applicant

### Certificate of Incorporation/ Certificate of Incorporation

- With in 60 days of the Name approval, Applicant registers the MOA, AOA, First Directors, First Shareholders with Registrar and Registrar in turn issues Certificate of incorporation to the Company from where a Private Company starts its business and Public Company applies for Certificate of Commencement of business and can start its business once it get certificate of commencement of business from ROC

### Auditor Appointment

- Within 30 days of the Incorporation of the Company, Auditor needs to be appointed by the Board of Directors of the Company for fair operation of its business functions.



**FOR INCORPORATION OF ANY KIND OF BUSINESS FORM, FEEL FREE TO CONTACT:-**

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Thank you