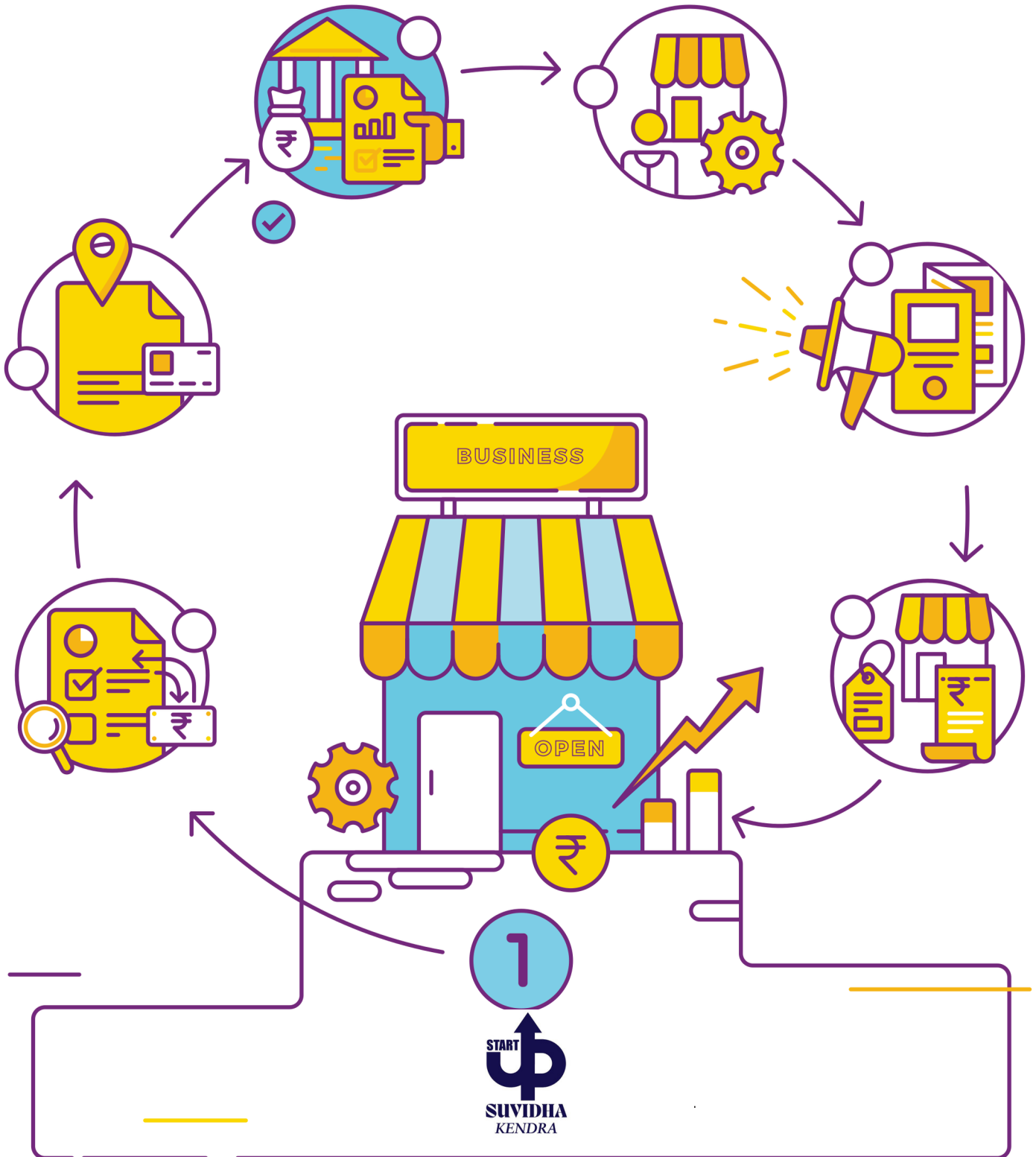


# Company INCORPORATION



## 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
3. One Person Company (OPC)
4. Proprietorship
5. Partnership Firm

### 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. 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).
- b. It can issue shares to the public and these shares can be traded in the public market.
- c. As compared to a Private Limited Company, a Public Limited Company has to adhere to stringent regulations, compliances and disclosures.
- d. Such companies must use the word “Limited” at the end of its name, for e.g. ABC Limited.
- e. 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?)

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

## OPC Registration

As per Section 2(62) of the Companies Act 2013, OPC Registration simply means all type of business or company which has only one person as a member like incorporated as a private limited company.

OPC Registration has only one person as a shareholder. In India the unique concept of One Person Company was introduced through the Companies Act, 2013 to support entrepreneurs who on their own are capable of starting a venture by allowing them to create a single person economic entity.

Filing Buzz is a well known and fastest growing online company in the field of Company Registration. Filing Buzz provided services like - Private Limited Company, Limited Liability Partnership, Public Ltd Company, Partnership Firm, Proprietorship Firm, and One Person Company Registration in India.

### Benefits of OPC Registration

- For Incorporating a One Person Company, only a single individual who is both a citizen and resident of India is required. Further, the term Resident of India means that the said person must have lived in India for a time period, not less than 182 days in the previous financial year.
- Business Models such as a Company or an LLP cannot join a One Person Company.
- The promoter should select a nominee at the time of incorporation.
- The minimum authorized capital must be at least Rs 1 Lakh.
- An OPC is restricted from functioning a minor as its member.
- One thing which is noteworthy to note is that if an OPC surpasses an annual turnover of Rs 2 crore or has the paid-up share capital more than Rs. 50 lakhs, then, in that case, it must be converted into a private limited or a public limited within six months.
- There must be at least one nominee and one director

## Limited Liability Partnership (LLP)

A Limited Liability Partnership (LLP) is a partnership in which all partners have limited duties. It, therefore, displays elements of partnerships and corporations. In an LLP, each partner is not responsible for the other partners misbehavior.

This is an important difference from the traditional unlimited partnership in which each partner has joint and several duties. In a Limited Liability Partnership, some partners have a form of limited duties similar to that of the shareholders of a corporation. In some countries, a Limited Liability Partnership must also have at least one person known as a general partner who has the unlimited burden of the company.

## Benefits of LLP Registration

- It is more flexible to organize the internal structure of LLP. Comparatively, it is complex to maintain the internal structure of a company.
- There is no maximum limit for the number of partners in LLP. In the private limited company, shareholders are limited to the extent of 200 shareholders.
- Expanding and utilization of funds depends on the partners will. Funds can be bought and utilized only as per the norms listed under the Companies Act, 2013.
- LLP is exempt from Dividend Distribution Tax (DDT). The company has to pay DDT on dividend distribution.
- The professionals like CA, CS, Advocates, Engineers, Doctors prefer to register LLPs.

## Proprietorship Registration

A Proprietorship Registration, also refer as the dealer or simply ownership, is a type of organization that is kept and run by one person and in which there is no legal perception between the owner and the business organization. The proprietor is in direct control of all factor and is legally accountable for the budget of such business and this may include debts, loans, loss, etc.

A Proprietorship Registration is one of the effortless and smooth forms of business organization to register and cultivate in India. There is no difficult Sole Proprietorship Firm Registration and to start ownership only PAN Number for the owner, positive licenses and investment is required.

## Benefits of Proprietorship Registration

- Individual ownership entity is one of the smoothest forms of organization in India.
- It is one of the simplest forms of trade to start with minimum ritual.
- Because it is an individual company, so the lowest agreement is put off.
- The personal obligation of sole ownership is commonly unlimited. Business capital & personal capital of sole proprietor claims to sole proprietorship acceptors.
- A sole proprietor has total adaptability in managing and controlling the business.
- The biggest benefit of a sole proprietorship is that it is having minimum taxes. An entity that has less than 3 LAKHS annual income is complementary to pay taxes.

## Partnership firm Registration

A Partnership Firm is one of the most popular forms of a business organization in India where two or more people come together with a common object to set up a business and divide the profits under an agreed ratio. To form a partnership two or more people are required to come together and agree to share profits as well as losses in the equal ratio or predetermined ratio and also A Partnership Deed between two partners or more than two partners can be formed and A Partnership firm or Partnership Deed Registration through a contract. All types of partnership firms are governed under the Indian act of 1932.

## Benefits of Proprietorship Firm Registration

- A Partnership Firm is Easy to establish and can start at a low cost.
- In a Partnership Firm, decision making could be faster because there is no concept of the passing of resolutions.
- A Partnership Firm raises funds easily compared to a proprietorship firm.
- A Partnership Firm has the availability of large resources.
- A Partnership Firm is a flexible organization, as suitable changes can be easily introduced whenever necessary.
- In a Partnership Firm, each partner has an unlimited Liability in a firm
- An opening of the Current Bank Account on the basis of PAN card and Registered Partnership Deed.



### Brief procedure for incorporation

(How to incorporate a Private Limited Company?)

For incorporating a Private Limited Company e-forms are to be filed through after login to 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), while filing the form through 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	No separate legal entity	Separate legal entity	Separate legal entity	Separate legal entity	Separate legal entity
Governing Act	No specific act	Indian Partnership Act, 1932	LLP Act, 2008	Companies Act, 2013	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

Business Structure	Document List	Additional Notes
Limited Liability Partnership (LLP)	PAN Card, Aadhaar Card, Address Proof, Partnership Agreement, Digital Signature Certificate (DSC), Director Identification Number (DIN)	DSC and DIN are mandatory for partners
Private Limited Company	PAN Card, Aadhaar Card, Address Proof, Memorandum of Association (MOA), Articles of Association (AOA), DSC, DIN	MOA and AOA are key documents for registration
One Person Company (OPC)	PAN Card, Aadhaar Card, Address Proof, MOA, AOA, DSC, DIN	Suitable for single entrepreneurs with limited liability
Proprietorship	PAN Card, Aadhaar Card, Address Proof, Bank Account Proof	Easy to set up with minimal compliance
Partnership Firm	PAN Card, Aadhaar Card, Address Proof, Partnership Deed, Bank Account Proof	Registration is optional but recommended for legal protection



# Good Luck For Your Business.



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