

# LLP: Excellent entry option for foreign investors



## FOREIGN ENTERPRISE

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Limited Liability Partnership (LLP) is a new form of business entity been created by enactment of Limited Liability Partnership Act, 2008. LLP is a body corporate formed and incorporated under LLP Act. It is a legal entity, separate from its partners, having perpetual succession. Any change in the partners of LLP shall not affect the existence, rights or liabilities of the LLP.

In fact, LLP is like a company which may have any number of partners without any limit thereon. As the name itself suggests, a partner of LLP is not personally liable, directly or in-

directly, for any obligation of the LLP whether arising in contract or otherwise. However in case of fraud etc., the liability of partner is unlimited.

An individual or a body corporate may become a partner in LLP. Further, every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India. The Act specifically provides that nominee of a body corporate, who is partner in LLP, can act as a designated partner.

A designated partner shall be responsible for the doing of all acts, matters and things as are required to be complied by the limited liability partnership in respect of compliance of the provisions of LLP Act including filing of any document, return, statement and the like report pursuant to the provisions of the Act and as may be specified in the limited liability partnership agreement. Further he shall be liable to all the penalties imposed on the limited liability partnership for any contravention of the provisions.

As far as foreign investors

are concerned, it may be noted that a company incorporated outside India is entitled to become partner in LLP. The Act also provides that a "For-



eign Limited Liability Partnership" can also establish a place of business in India.

A careful study of the LLP Act will reveal that an LLP enjoys the beneficial features of incorporated bodies without having the disadvantages of normal partnerships. It is

easy and inexpensive to incorporate. The mutual rights and duties of the partners *inter-se* are governed by the Limited Liability Partnership Agree-

ment between the partners.

As far as the Income-tax Act is concerned, a limited liability partnership will be taxed like a partnership firm. In other words, the firm shall be liable to pay tax at the rate of 30 per cent on its taxable profits, but there will be no tax on

the partners upon distribution of the profit of the firm.

An LLP has following distinct tax advantages compared to an incorporated body: LLP

**Provisions of Minimum Alternate Tax are not applicable to 'limited liability partnership' (LLP). The LLP Act makes certain specific provisions which will be found very useful by overseas investors**

will be taxed at the rate of 30 per cent as against 33.99 per cent in case of a company.

A company pays dividend distribution tax at rate of 16.995 per cent on the amount of dividend to be paid by it but there will be no such tax on LLP on distributing profits amongst

the partners.

Provisions of Minimum Alternate Tax are not applicable on LLP. The LLP Act makes certain specific provisions which will be found very useful by overseas investors;

The rights of a partner in the share of profits and losses are transferable either wholly or in part. An existing firm may be converted into an LLP.

A private limited company may be converted into an LLP. An unlisted public limited company may be converted into an LLP. A partner may lend money to and transact other business with an LLP and has the same rights and obligations as a person who is not a partner.

An LLP can enter into a scheme of compromise or arrangement with its creditors or its partners. An LLP can enter into a scheme of amalgamation with another LLP.

It is therefore felt that LLP provides a good entry option to foreign enterprises for doing business in India.

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