

LIMITED LIABILITY PARTNERSHIPS

On a par with general partnerships

Boost for partnership firms wanting to convert to LLPs



THE GOVERNMENT today proposed that limited liability partnerships (LLPs) should

be subjected to the same taxation scheme as prevalent for general partnerships. This would mean that an LLP would be taxed, but the partners would be exempted.

However, in case of the liquidation of an LLP, every partner will be jointly liable for the payment of tax unless he proves that non-recovery cannot be attributed to any gross neglect, misfeasance or breach

of duty on his part.

“It is a welcome move as it would be easy to administer and manage,” said Hemal Zobalia,

It was a much awaited announcement because the Income Tax Act does not recognise LLPs

executive director, PricewaterhouseCoopers (PwC). Neither minimum alternate tax (MAT) nor dividend distribution tax

(DDT) would be applicable to an LLP now, which would make it a preferred form of doing business, added Zobalia.

A limited liability entity is a hybrid of existing partnership firms and full-fledged companies. A minimum of two partners are required for formation of an LLP. Besides, there is no limit on the maximum number of partners, unlike the current limit of 20 members in a partnership firm.

The LLP Act was notified in April but it did not have the taxation part. Under the LLP structure, the liability of the partner is limited to his stake and no

partner is liable on account of any independent or unauthorised acts of other partners. On the other hand, under traditional partnership firms, every partner is liable, jointly with all other partners and also severally, for all acts of the firm done while he is a partner, irrespective of his stake.

It was a much awaited announcement because the Income Tax Act (I-T) does not recognise LLP and firms wanting to convert were expecting clarity on how they would be treated. Currently for a partnership firm, the tax liability is on the firm.