

FOUNDATION COURSE

PAPER – 2: BUSINESS LAW

*Attempt **all** the questions.*

Wherever necessary, suitable assumptions should be made and disclosed by way of note forming part of the answer.

Working Notes should form part of the answer.

Time Allowed: 35 Minutes

Maximum Marks: 20

Question – 1:

Examine the concept of LLP.

(7 Marks)

Answer:

Meaning:

A LLP is a new form of legal business entity with limited liability. It is an alternative corporate business vehicle that gives the benefits of limited liability but allows its partners the flexibility of organising their internal structure as a traditional partnership. The LLP is a separate legal entity and while the LLP itself will be liable for the full extent of its assets, the liability of the partners will be limited.

Concept of “limited liability partnership”:

- (i) The LLP can continue its existence irrespective of changes in partners. It is capable of entering into contracts and holding property in its own name.
- (ii) The LLP is a separate legal entity, is liable to the full extent of its assets but liability of the partners is limited to their agreed contribution in the LLP.
- (iii) Further, no partner is liable on account of the independent or un-authorized actions of other partners, thus individual partners are shielded from joint liability created by another partner’s wrongful business decisions or misconduct.
- (iv) Mutual rights and duties of the partners within a LLP are governed by an agreement between the partners or between the partners and the LLP as the case may be. The LLP, however, is not relieved of the liability for its other obligations as a separate entity.
- (v) LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership.
- (vi) Since LLP contains elements of both ‘a corporate structure’ as well as ‘a partnership firm structure’ LLP is called a hybrid between a company and a partnership.

Question - 2:

A LLP (Limited Liability Partnership) is a type of partnership in which participants' liability is fixed to the amount of money they invest whereas a LLC (Limited Liability Private/ Public Company) is a tightly held business entity that incorporates the qualities of a corporation and a partnership".

In line of above statement clearly elaborate the difference between LLP and LLC. **(7 Marks)**

Answer:

S.No.	Basis	LLP	Limited Liability Company
1.	Regulating Act	The LLP Act, 2008	The Companies Act, 2013
2.	Members/ Partners	The persons who contribute to LLP are known as partners of the LLP.	The persons who invest the money in the shares are known as members of the company.
3.	Internal Governance Structure	The internal governance structure of a LLP is governed by contract agreement between the partners.	The internal governance structure of a company is regulated by statute (i.e., Companies Act, 2013).
4.	Name	Name of the LLP to contain the word "Limited Liability partnership" or "LLP" as suffix.	Name of the public company to contain the word "limited" and Pvt. Co. to contain the word "Private limited" as suffix.
5.	No. of members or partners	Minimum – 2 partners Maximum – No such limit on the partners in the Act. The partners of the LLP can be individuals/or body corporate through the nominees.	<u>Private company:</u> Minimum – 2 members Maximum 200 members <u>Public company:</u> Minimum – 7 members Maximum – No such limit on the members. Members can be organizations, trusts, another business form or individuals.
6.	Liability of members / partners	Liability of a partners is limited to the extent of agreed contribution except in case of willful fraud.	Liability of a member is limited to the amount unpaid on the shares held by them.
7.	Management	The business of the company is managed by the partners including the designated	The affairs of the company are managed by board of directors elected by the shareholders.

		partners authorized in the agreement.	
8.	Minimum number of directors/ Designated Partners.	Minimum 2 designated partners	Pvt. Co. – 2 directors Public co. – 3 directors

Question – 3:

A LLP is a new form of legal business entity with limited liability. It's an alternative corporate business vehicle that only gives the benefits of limited liability at low compliance cost but allows its partners the flexibility of organizing their internal structure as a traditional partnership. Keeping in view of above, define the following characteristics of LLP.

- i. Body Corporate
- ii. Mutual Agency
- iii. Foreign LLPs
- iv. Artificial legal person

(6 Marks)

Answer:

Body corporate:

Section 2(1)(d) of the LLP Act, 2008 provides that a LLP is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners and shall have perpetual succession. Therefore, any change in the partners of a LLP shall not affect the existence, rights or liabilities of the LLP. Section 3 of LLP Act, 2008, provides that a LLP is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.

Mutual Agency:

No partner is liable on account of the independent or un-authorized actions of other partners, thus individual partners are shielded from joint liability created by another partner's wrongful business decisions or misconduct. In other words, all partners will be the agents of the LLP alone. No one partner can bind the other partner by his acts.

Foreign LLPs:

Section 2(1)(m) defines foreign limited liability partnership "as a limited liability partnership formed, incorporated, or registered outside India which established as place of business within India". Foreign LLP can become a partner in an Indian LLP.

Artificial Legal Person:

A LLP is an artificial legal person because it is created by a legal process and is clothed with all rights of an individual. It can do everything which any natural person can do, except of course that, it cannot be sent to jail, cannot take an oath, cannot marry or get divorce nor can it practice a learned profession like CA or Medicine. A LLP is invisible, intangible, immortal (it can be dissolved by law alone) but not fictitious because it really exists.