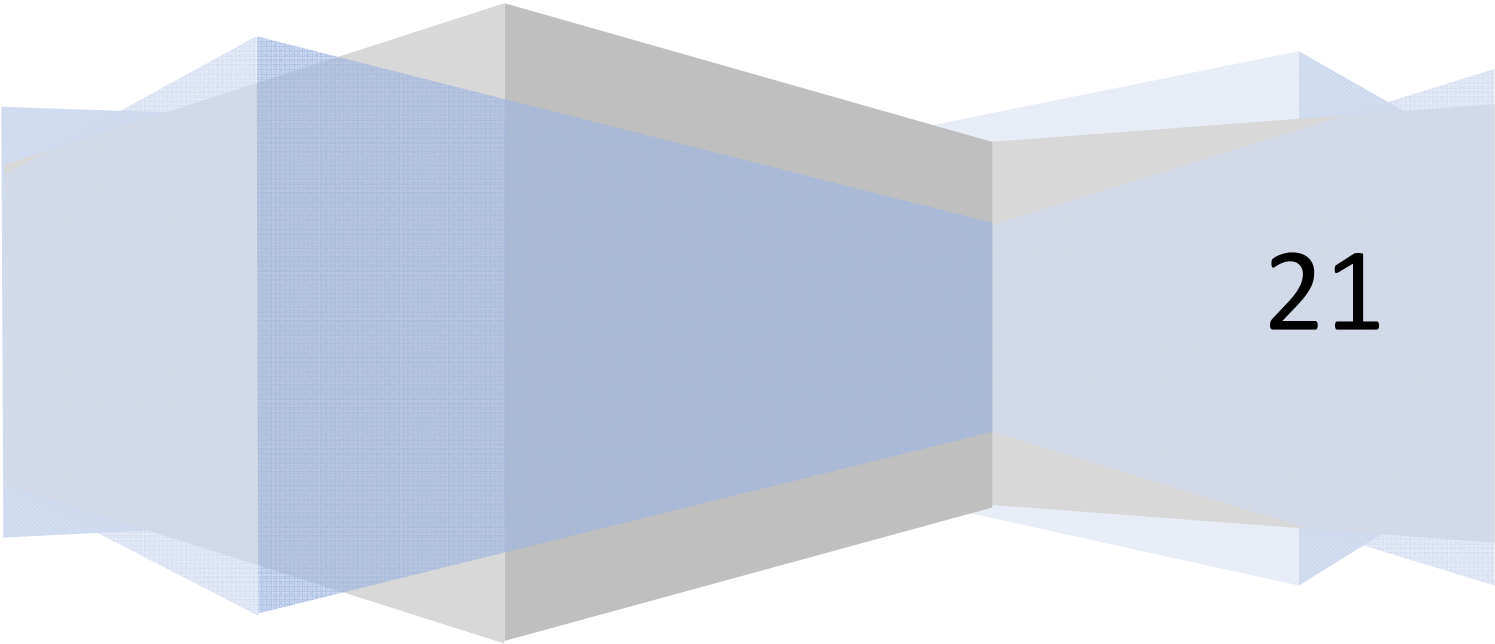


MK GUPTA CA EDUCATION

LLP ASSIGNMENT

TIMELIMITS AND IMPORTANT QUESTIONS

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IMPORTANT TIME LIMITS UNDER LLP ACT, 2008 FOR DEC 2021
EXAMINATION

<u>S.NO.</u>	<u>PARTICULARS</u>	<u>TIME LIMIT</u>
<u>1</u>	<u>Partners shall be liable personally</u> for the obligations of the LLP if no. of partners reduces below 2	<u>More than 6 months</u>
<u>2</u>	<u>Resident ??</u>	<u>182 days or more</u>
<u>3</u>	Incorporation by registration (Section 12)	<u>within a period of 14 days</u>
<u>4</u>	Change of name of LLP (Section 17)	The Central Government may direct such LLP to change its name, and the LLP shall comply with the said direction <u>within 3 months</u>
<u>5</u>	Reservation of name (Section 16):	<u>The Registrar may, if he is satisfied reserve the name for a period of 3 months from the date of intimation by the Registrar.</u>
<u>6</u>	Cessation of partnership interest (Section 24):	in the absence of agreement, by giving a notice in writing of not less than 30 days to the other partners of his intention to resign as partner
<u>7</u>	Registration of changes in partners (Section 25):	<u>Every partner shall inform the LLP of any change in his name or address within a period of 15 days of such change.</u> <u>A LLP shall—</u> (a) where a person becomes or ceases to be a partner, <u>file a notice with the Registrar within 30 days</u> from the date he becomes or ceases to be a partner; and

		<p>(b) where there is any change in the name or address of a partner, file a notice with the Registrar within 30 days of such change.</p> <p>However, <u>where no confirmation is given by the LLP within 15 days, the registrar shall register</u> the notice made by a person ceasing to be a partner under this section.</p>
<u>8</u>	Statement of Account and Solvency:	<u>within a period of 6 months from the end of each financial year,</u>
<u>9</u>	Annual return (Section 35):	Every LLP shall file an annual return duly authenticated with the Registrar <u>within 60 days of closure of its financial year</u>
<u>10</u>	Registration and effect of conversion (Section 58):	<u>The LLP shall, within 15 days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies,</u> as the case may be,

IMPORTANT QUESTIONS FOR WRITTEN PRACTICE BASED ON LLP

Question 1

“LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership”. Explain.

Answer

LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership.

Limited Liability: Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section 26 of the LLP Act, 2008). The liability of the partners will be limited to their agreed contribution in the LLP, while the LLP it self will be liable for the full extent of its assets.

Flexibility of a partnership: The LLP allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital.

Question 2

What do you mean by Designated Partner? Whether it is mandatory to appoint Designated partner in a LLP?

Answer

Designated Partner [Section 2(j)]: “Designated partner” means any partner designated as such pursuant to section 7.

According to section 7 of the LLP Act, 2008:

- (i) Every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.
- (ii) If in LLP, all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners.

Question 3

A and B were friends. Now they have plans of setting up a supermarket in their locality. They are confused as to whether to register as a traditional partnership or as a Limited Liability Partnership. As an advisor, enumerate the differences between the two forms of business highlighting the compliances and other legal formalities.

Answer

Comparison between an LLP and partnership can be analysed on the below tabulated parameters.

	Basis	LLP	Partnership firm
1.	Regulating Act	The Limited Liability Partnership Act, 2008.	The Indian Partnership Act, 1932.
2.	Body corporate	It is a body corporate.	It is not a body corporate,
3.	Separate legal entity	It is a legal entity separate from its members.	It is a group of persons with no separate legal entity.
4.	Creation	It is created by a legal process called registration under the LLP Act, 2008.	It is created by an agreement between the partners.
5.	Registration	Registration is mandatory. LLP can sue and be sued in its own name.	Registration is voluntary. Only the registered partnership firm can sue the third parties.
6.	Perpetual succession	The death, insanity, retirement or insolvency of the partner(s) does not affect its existence of LLP. Members may join or leave but its existence continues forever.	The death, insanity, retirement or insolvency of the partner(s) may affect its existence. It has no perpetual succession.
7.	Name	Name of the LLP to contain the word limited liability partners (LLP) as suffix.	No guidelines. The partners can have any name as per their choice.
8.	Liability	Liability of each partner limited to the extent to agreed contribution except in case of willful fraud.	Liability of each partner is unlimited. It can be extended upto the personal assets of the partners.
9.	Mutual agency	Each partner can bind the LLP by his own acts but not the other partners.	Each partner can bind the firm as well as other partners by his own acts.
10.	Designated partners	At least two designated partners and atleast one of them shall be resident in India.	There is no provision for such partners under the Partnership Act, 1932.
11.	Common seal	It may have its common seal as its official signatures.	There is no such concept in partnership
12.	Legal compliances	Only designated partners are responsible for all the compliances and penalties under this Act.	All partners are responsible for all the compliances and penalties under the Act.
13.	Annual filing of documents	LLP is required to file: (i) Annual statement of accounts (ii) Statement of solvency Annual return with the registration of LLP every year.	Partnership firm is not required to file any annual document with the registrar of firms.

14	Foreign partnership	Foreign nationals can -become a partner in a LLP.	Foreign nationals cannot become a partner in a partnership firm.
15	Minor as partner	Minor cannot be admitted to the benefits of LLP.	Minor can be admitted to the benefits of the partnership with the prior consent of the existing partners.

Question 4

State the circumstances under which LLP may be wound up by the Tribunal under the Limited Liability Partnership Act, 2008.

Answer

Section 64 of the Limited Liability Partnership Act, 2008 states circumstances in which limited liability partnership (LLP) may be wound up by Tribunal.

- (a) if the limited liability partnership decides that limited liability partnership be wound up by the Tribunal;
- (b) if, for a period of more than six months, the number of partners of the limited liability partnership is reduced below two;
- (c) if the LLP is unable to pay its debts;
- (d) if the limited liability partnership has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;
- (e) if the limited liability partnership has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years;
- or
- (f) if the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.

Question 5

Who are the individuals which shall not be capable of becoming a partner of a Limited Liability Partnership?

Answer

Partners (Section 5 of Limited Liability Partnership Act, 2008):

Any individual or body corporate may be a partner in a LLP.

However, an individual shall not be capable of becoming a partner of a LLP, if—

- (a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
- (b) he is an undischarged insolvent; or
- (c) he has applied to be adjudicated as an insolvent and his application is pending.