

Limited Liability Partnership



Origin of LLP

Overview

Key norms of LLP

Taxation Norms

Pros and Cons



Overview

Origin of LLP

1

Limited partnership had its origin in Italy.



Eventually the idea of LLP spread out to other European countries, particularly France, Germany, Great Britain and other countries like U.S.A., Singapore and Japan.

2

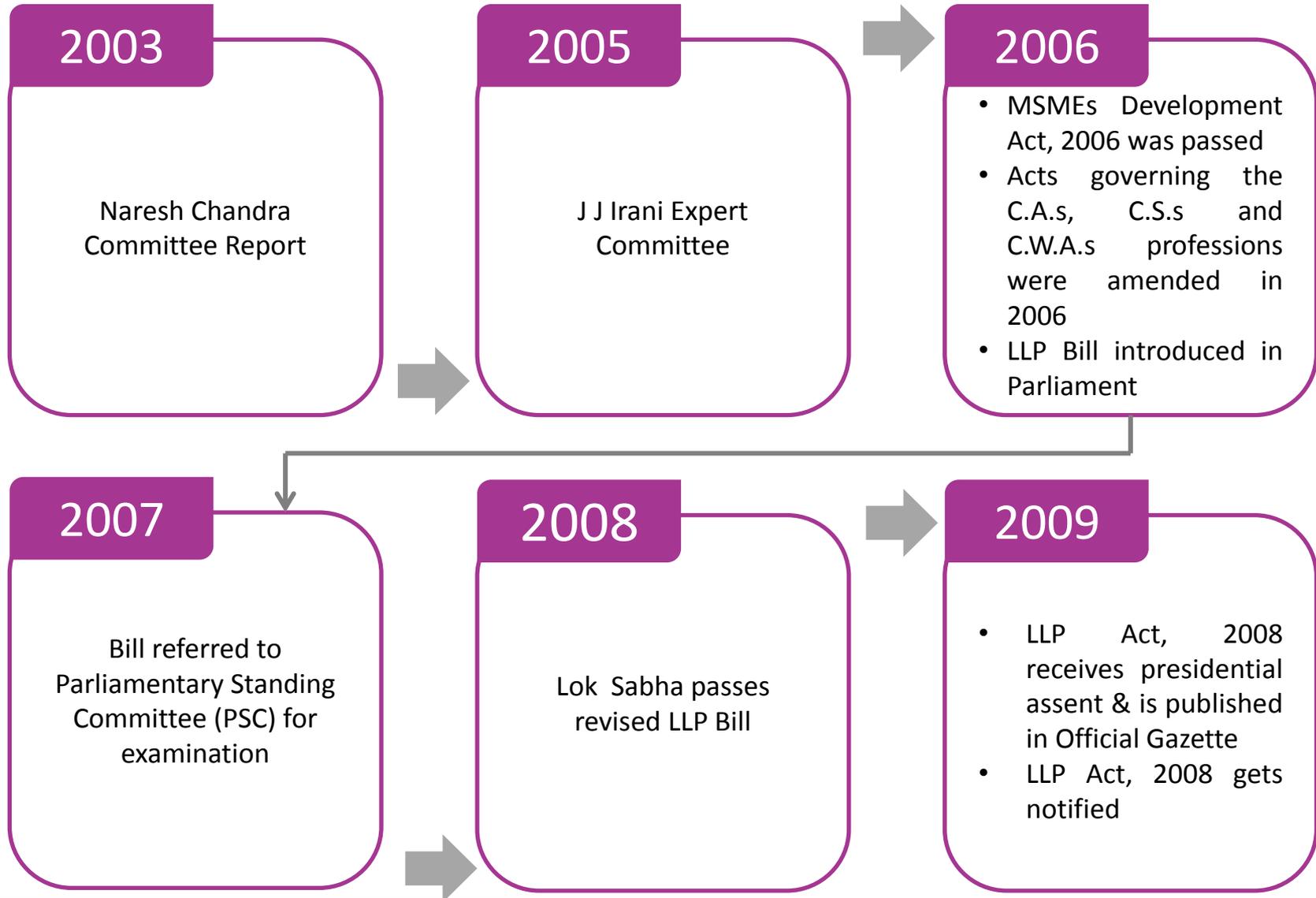
3

The LLP Act, 2008 heavily leaned on UK and Singapore Acts.

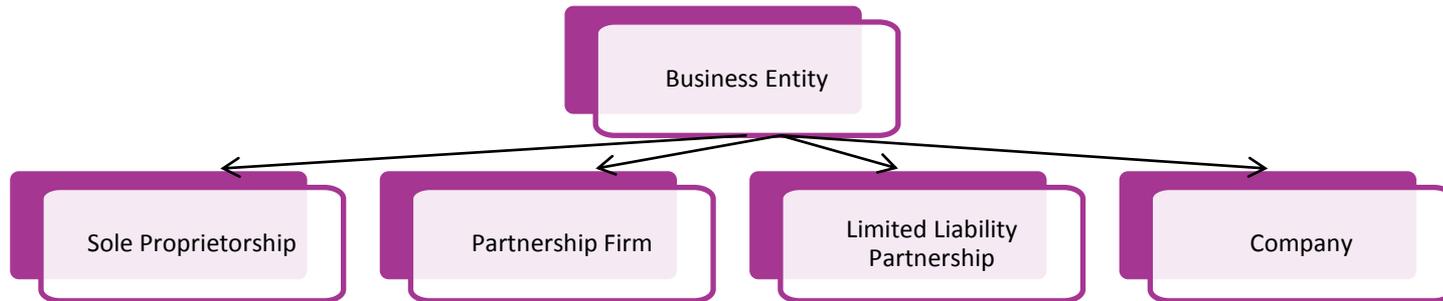
With the spurt in cross border economic activities, small and medium entities carry on their businesses competing with large enterprises. Recognition of legal entity status to them was necessitated

4

Evolution of LLP in India



Forms of business entities in India



Comparison

Particulars	Partnership Firm	Limited Liability Partnership	Private Limited Company
Members	2 to 20 partners	Minimum 2 partners	2 to 50 shareholders
Liability	Unlimited, Partners jointly liable for action	Limited except in case of fraud, wrongful act	Limited
Registration	Registration with ROF optional	Registration with ROC required	Registration with ROC required
Documents to be filed	None required unless registered	File annual accounts & submit annual statement on solvency	Annual Statement of accounts, Board meetings, Share register
Dissolution	By agreement, mutual consent, insolvency	By agreement or by order of National Company Law Tribunal	By court order once the affairs of the company have wound up
Succession	Ceases to exist on change or death of partner	Perpetual Succession	Perpetual Succession
Governing Law	Partnership Act, 1932	LLP Act, 2008	Companies Act, 1956 / 2013



Key Norms of LLP

Process of formation of LLP

Person to act as Designated Partners to obtain DPIN and DSC

DP can be individual and/or body corporate. Atleast 1 DP to be resident

File E-Form 1 with the RoC for name availability

Name to end with words "Limited Liability Partnership" or "LLP"

File E-Form 2 along with relevant documents with the RoC for incorporating LLP

Documents required:

- Signed subscription sheet of DP
- Address Proof of Registered Office

Drafting Agreement

LLP

In absence of Agreement First Schedule is applicable

File E-Form 3 for registering LLP Agreement with the RoC for incorporating LLP

18 Chapters

LLP Rules, 2009

41 Rules

31 Forms

4 Annexure

14 Chapters

LLP Act, 2008

81 Sections

4 Schedule

A decorative graphic consisting of a cluster of purple circles of varying sizes, arranged in a roughly triangular shape, with two vertical lines extending upwards from the top left corner.

Taxation Norms

Taxation norms for LLP (1 of 4)

Firm

- Firms shall have the meaning assigned to it in the India Partnership Act 1932 and shall include a limited liability Partnership as defined in the Limited Liability Partnership Act 2008

Partner

- Partner shall have the meaning assigned to it in the Indian Partnership Act 1932 and shall include:
 - Any person, being a minor, has been admitted to the benefits of partnership ; and
 - A partner of a limited liability partnership as defined in the Limited Liability Partnership Act 2008.

Partnership

- Partnership shall have the meaning assigned to it in the India Partnership Act 1932 and shall include a limited liability partnership as defined in the Limited Liability Partnership Act 2008.

Thus, LLP will be treated as Partnership firms for the purpose of Income Tax and will be taxed like a partnership firm i.e 30% flat tax rate + Education cess



TAX HIGHLIGHTS FOR LLP

- Profits taxable in the hands of LLP & not Partners
- Remuneration to partners will be taxed as “Income from Business & Profession”
- Designated Partners will be liable to sign and file the Income Tax return
- LLP shall not be eligible for presumptive taxation
- No MAT or DDT
- No Surcharge applicable

Taxation norms for LLP (2 of 4)

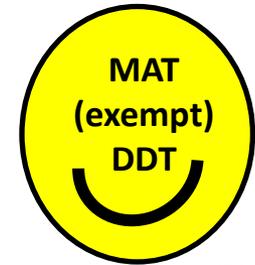
UNION BUDGET 2011-12: LLP'S ARE NOW SUBJECT TO ALTERNATE MINIMUM TAX (AMT)

Under Union Budget 2011-12 a new chapter i.e Chapter XII-BA was proposed to be introduced in Income Tax Act,1961. This proposal was made for two reasons:

- Save revenue in relation to conversions made from company to LLP to avail tax benefits
- Rationalize taxation of LLP's with companies

Sr No	Particulars	Alternate Minimum Tax
1	Section	s.115JC Chapter XII-BA of IT Act,1961
2	Provision	<ul style="list-style-type: none"> • Where the regular income-tax payable for a previous year by a person, other than a company, is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and he shall be liable to pay income-tax on such total income [adjusted income is as per s.115JC(2) of IT Act 1961} • LLP will not be liable to pay AMT on those income, which are exempt under provisions of Income Tax like long term capital gain under section 10 (38) and income from dividend under section 10 (34) etc.
3	Rate	18.5% +Education Cess (3%) i.e 19.05% (Surcharge is not applicable on Limited Liability Partnership)
4	Tax Credit	Alternate minimum tax paid - the regular income tax = tax credit
5	Carry Forward of Tax Credit	For a maximum period of 10 years from the year in which such credit arose.

Before the introduction of the Union Budget 2011-12



After the introduction of the Union Budget 2011-12



Taxation norms for LLP (3 of 4)

Tax comparisons of Private Company & LLP

Particulars	Private Company	LLP
Applicability of Surcharge (@5%)	✓	✗
Dividend Distribution Tax (@ 16.2225%)	✓	✗
Loan to Director / Partner – Deemed Dividends	✓	✗
Applicability of MAT (@ 20.0077%)	✓	✗
Applicability of AMT (@ 19.055%)	✗	✓
Wealth Tax	✓	✗
Setoff and carry forward of loss in certain cases (Section 79)	✓	✗
Expenditure for Family Planning for benefit of Employees as DEDUCTION	Cannot be claimed as deduction u/s 36(1)(ix) as per Income Tax, 1961	Can be Claimed
Limits on Remuneration to Partner or Director	No Limits	Limits Specified

Taxation norms for LLP (4 of 4)

Tax aspects on conversion to LLP

Sr.No.	Particulars	Compliance [with provisions of s.47(xiiib) of Income Tax Act,1961]	Non-compliance [with provisions of s.47(xiiib) of Income Tax Act,1961]
1	Tax on Capital Gains		
2	Carry forward & set off of accumulated loss and unabsorbed depreciation allowance		
3	Amortization of expenditure incurred under Voluntary Retirement Scheme (s.35DDA of IT Act,1961)		



Non compliance

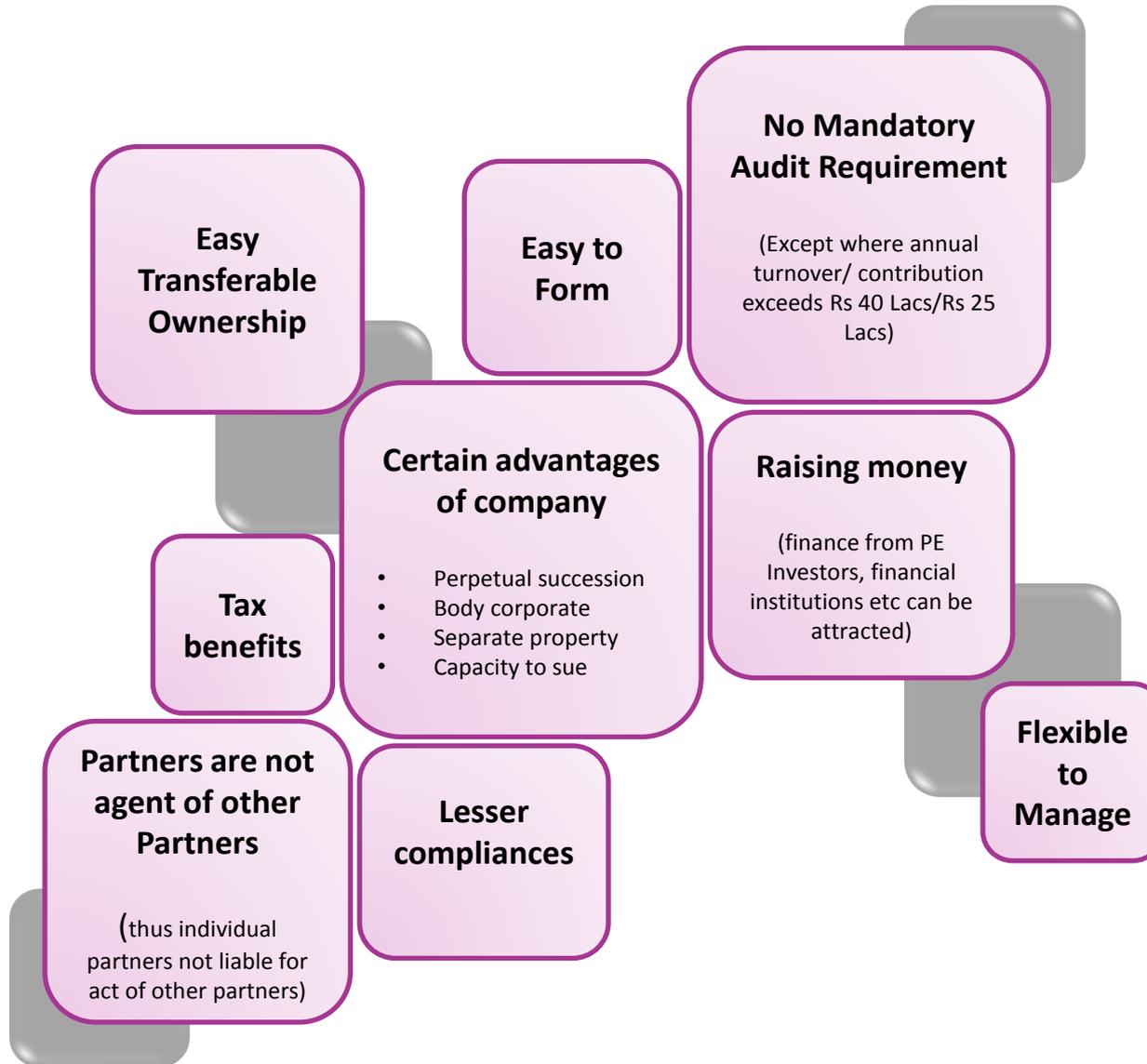


Compliance



Pros of LLP

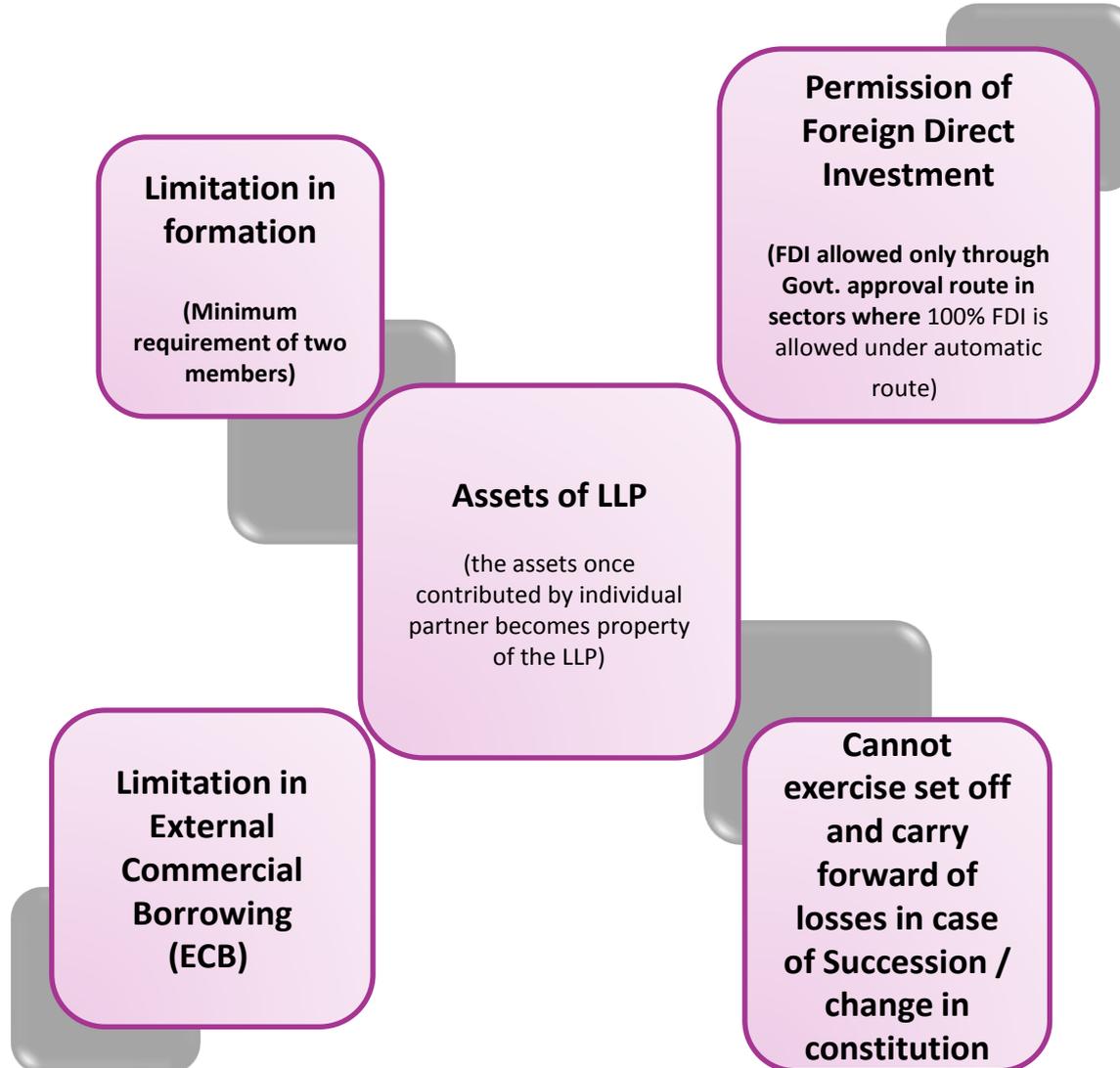
Pros of LLP





Cons of LLP

Cons of LLP



Let's Take It Forward....



Progress with Values

Corporate Office

108, Madhava Premises Co-operative Society Limited
Bandra Kurla Complex, Bandra (East), Mumbai - 400 051

Landline: (022) 26598690-91, **Fax:** (022)26598690

Website: www.pantomathgroup.com

Disclaimer

All data and information is provided for informational purposes only and is not intended for any factual use. It should not be considered as binding / statutory provisions. Neither Pantomath Advisors LLP nor any of its group company, directors, or employs shall be liable for any of the data or content provided for any actions taken in reliance thereon.