



Firm

LLP

Company

Partnership Firm/ LLP/ Pvt Ltd Company - A Brief Comparison

<u>S.NO.</u>	<u>Basis</u>	<u>Partnership Firm</u>	<u>LLP</u>	<u>Private Limited Company</u>
1.	Registration	<p>Partnership can be registered or unregistered. Registration of Partnership is optional. If registered, Partnership is registered under the Partnership Act, 1932.</p> <p><i>#State regulated registration</i></p>	<p>LLP will be registered with the Ministry of Corporate Affairs under the Limited Liability Partnership Act, 2008.</p> <p><i>#Centralised registration(CRC)</i></p>	<p>Private Limited Company will be registered with the Ministry of Corporate Affairs under the Companies Act, 2013.</p> <p><i>#Centralised registration(CRC)</i></p>
2.	Name of the Entity	<p>The Promoters choice of name can be used for the Partnership.</p> <p>No approval is necessary for using name.</p> <p>However, it is good to avoid trademarked names.</p> <p><i>#As applicable in State of MP, In case of registration: A firm name shall not contain any of the following words - namely - "Crown", "Emperor", "Empress", "Empire", "Imperial", "King",</i></p>	<p>The choice of name provided by the Promoter must be approved by the Registrar of Company.</p> <p>Only names that are not identical / similar to an existing company or LLP name and names that are not offensive or illegal would be allowed.</p> <p>The name of the entity will end with the words "Limited</p>	<p>The choice of name provided by the Promoter must be approved by the Registrar of Company.</p> <p>Only names that are not identical / similar to an existing company or LLP name and names that are not offensive or illegal would be allowed.</p> <p>The name of the entity will end with the words "Private Limited Company".</p>

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		"Queen", "Royal", or words expressing or implying the sanction, approval or patronage of Government, except when the State Government signifies its consent to the use of such words as part of the firm name by order in writing.	Liability Partnership" or "LLP". #Provisions of section 3 of the [3]Emblems and Names (Prevention and Improper Use) Act, 1950 (12 of 1950)	#Provisions of section 3 of the [3]Emblems and Names (Prevention and Improper Use) Act, 1950 (12 of 1950)
3.	Legal Status of Entity	Partnership is not recognized as a separate legal entity.	LLP is a separate legal entity registered under the LLP Act, 2008.	Private Limited Company is a separate legal entity registered under the Companies Act, 2013.
4.	Member(s) Liability	Partners have unlimited liability and are responsible for all the liabilities of the Partnership firm.	Partners have limited liability and are liable only to the extent of their contribution to the LLP.	Shareholders have limited liability and are liable only to the extent of their share capital.

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5.	Minimum numbers of members	A minimum of two persons are required to start a Partnership.	A minimum of two persons are required to start a LLP.	A minimum of two persons are required to start a Private Limited Company.
6.	Maximum numbers of members	The maximum number of partners can be only 50.	A LLP can have unlimited number of partners.	A Private Limited Company can only have a maximum of 200 shareholders or members.
7.	Foreign Ownership	Foreigners are not allowed to start a Partnership.	Foreigners are allowed to invest in a LLP only with prior approval of Reserve Bank of India and Foreign Investment Promotion Board (FIPB) approval.	Foreigners are allowed to invest in a Private Limited Company under the Automatic Approval route in most sectors.
8.	Existence and Survivability	Existence of a Partnership business is dependent on the Partners. Could be up for dissolution due to death of a Partner.	Existence of a LLP is not dependent on the Partners. Could be dissolved only voluntarily or by an Order of the National Company Law Tribunal.	Existence of a Private Limited Company is not dependent on the Directors or Shareholders. Could be dissolved only voluntarily or by Regulatory Authorities.
9.	Taxation	Partnership profits are taxed at 30%.	Partnership profits are taxed at 30%.	Private Limited Company profits are taxed at 15 % to 30% plus

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		<p>Surcharge @12% if income exceeds Rs.1.00 crore</p> <p>Health & Education Cess@4%</p>	<p>Surcharge @12% if income exceeds Rs.1.00 crore</p> <p>Health & Education Cess@4%</p>	<p>surcharge@ 7% to 12% and cess 4% as applicable.</p> <p>Tax Rate : T/O :Less then Rs. 400 cr (P.Y. 2021-22): 25%</p> <p>Tax Rate : T/O :More then Rs. 400 cr (P.Y. 2021-22): 30%</p> <p>Surcharge @7% if income exceeds Rs.1.00 cr to Rs. 10.00 cr.</p> <p>Surcharge @12% if income exceeds Rs. 10.00 cr</p> <p>Cess @4%</p> <p><u>Sec 115BA (Form 10 IC)</u></p> <p>For Co. engaged in manufacturing & registered after 01/03/16</p>

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				<p>Tax Rate : 25% +SC+Cess</p> <p><u>Sec 115BAA (Form 10 IC)</u></p> <p>Tax Rate : 22% +SC10%+Cess</p> <p><i># Brought forward loss will not be allowed</i> <i>#MAT not applicable</i></p> <p><u>Sec 115BAB (Form 10 IC)</u></p> <p>Co. set up after 01/10/19 & production is commenced before 31/3/24</p> <p>Tax Rate : 15% +SC+Cess</p> <p><i># Brought forward loss will not be allowed</i> <i>#MAT not applicable</i></p>

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10.	Presumptive Taxation Scheme u/s 44AD / 44ADA of Income Tax Act	Entitled <i># Gross receipts/total turnover in the does not exceeds Rs .2 Cr-8%. Does not exceed Rs 3 Cr in case cash receipts are lower then 5% of total turnover/receipts- 6%.</i>	Not Entitled	Not Entitled
11.	Tax on distributed Profit	Share of profit received from firm is exempt from tax	Share of profit received from LLP is exempt from tax	Dividend Income is taxable in the hands of shareholder & is subject to TDS (>Rs.5000)
12.	Annual Statutory Meetings & Compliances	No requirements to conduct annual statutory meetings.	No requirements to conduct annual statutory meetings. DIR 3 -KYC to be filed annually.	Board and Annual General Meetings must be conducted periodically. All important decisions to be taken by board/members. Forms DPT -3, DIR 3 -KYC to be filed annually. MSME to be filed half yearly.

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13.	Annual Filings	No requirements to file annual report with Registrar of Companies.	LLP must file Annual Statement of Accounts & Solvency and Annual Return with the Registrar each year.	Private Limited Company must file Annual Accounts and Annual Return with the Registrar of Companies each year.
14	Increase in Capital	Easy. No form is required to be filed.	Form 3 is required to be filed in case of change in the partners contribution.	<p>Authorized capital may be required to be increased on payment of fees</p> <p>Board meeting to be convened</p> <p>Forms to be filed.</p> <p>Valuation of shares to be done as per Rule 11 UA of Income Tax Act.</p> <p>Valuation certificate to be obtained.</p> <p>Issue of shares less than or over fair market value may attract tax</p>

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15	Reduction in Capital	Easily possible	Form 3 is required to be filed in case of change in the partners contribution.	Reduction of capital is governed by sec 66 of Companies Act but may require approval of NCLT. Buy back of shares is a long process.
16	Raising of Unsecured Loans	Unsecured loans can be raised from any person	Unsecured loans can be raised from any person	Unsecured loans can only be taken from Directors & their relatives provided that they are not lending the funds out of borrowing or accepting loans or deposits from others. Unsecured loans can be taken from shareholders up to 100% of Share Capital & Free Reserves. Public Deposits cannot be generally taken & are subject to the provisions of sec 73 of Companies Act.

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17	Distribution of assets on reconstitution / dissolution/Demerger	Will be hit by provisions of sec 9B & 45(4) of Income Tax Act	Will be hit by provisions of sec 9B & 45(4) of Income Tax Act	<p><u>Following are exempt:</u></p> <p>Distribution of assets in kind by a Company to shareholders on liquidation [Sec 46(1)]</p> <p>Transfer of capital asset by a Company to its wholly owned subsidiary Company [Sec 47(iv)]</p> <p>Transfer of capital asset in a scheme of amalgamation [sec 47(vi)]</p> <p><i>#Merger /demerger route can save tax</i></p>
18	Loans to Associate Concerns & Investment in other body corporates	<p>Firm is free to grant any loan/advance to partners, their relatives, their associate concerns.</p> <p>Firm can freely invest in any other body corporate</p>	<p>Firm is free to grant any loan/advance to partners, their relatives, their associate concerns.</p> <p>Firm can freely invest in any other body corporate</p>	As per the provisions of sec 185 & 186 of Companies Act, the Company cannot grant Loans to Associate Concerns & cannot make Investment in other body corporates. (subject to fulfilment of certain conditions)

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				<p><u>Sec 185 of Companies Act</u></p> <p>No company shall, directly or indirectly, advance any loan,</p> <p>1)to any of its directors</p> <p>2) to any other person in whom the director is interested</p> <p>3)to any relative of Director</p> <p>4)Any firm in which such director is partner</p> <p>or give any guarantee or provide any security in connection with any loan taken by him or such other person:</p> <p><u>Sec 186 of Companies Act</u></p>

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				<p>No company shall directly or indirectly —</p> <p>(a) give any loan to any person or other body corporate;</p> <p>(b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and</p> <p>(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate,</p> <p>exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account (or)</p> <p>one hundred per cent of its free reserves and securities premium account,</p>

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				<i>whichever is more.</i>
19	Deemed dividend	Loans & advances to partners, relatives & to the firms & Companies in which Partners are interested cannot be treated as deemed dividend	Loans & advances to partners, relatives & to the firms & Companies in which Partners are interested cannot be treated as deemed dividend	Loans & advances to Directors , their relatives & to the firms & Companies in which Directors are interested can be treated as deemed dividend us 2(22)(e) of Income Tax Act.
20	Interest on Capital	Interest can be given on the partners capital account	Interest can be given on the partners' capital account	Interest cannot be given on the share capital. <i>#At times bankers stipulates introduction of increase in capital, but no interest can be given on such capital resulting into higher profits & increased tax burden.</i>

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21	Statutory & Secretarial Records	No statutory records are required to be maintained.	No statutory records are required to be maintained except Register of Partners in Form 4A – Rule 22A.	Required to be maintained u/s 88, 118 & other provisions of Companies Act along with keeping of minutes book & other records
22	Compulsory Audit	Audit is not compulsory, but can be required in terms of provisions of Income Tax Act.	Audit is required: (1) if the contributions of LLP exceeds Rs. 25 lakh or annual turnover exceeds Rs. 40 lakhs. (2) in terms of provisions of Income Tax Act.	Compulsory Audit is required to be done as per the provisions of the Companies Act. Tax audit may also be required in terms of provision of Income Tax Act.

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23	Audit Trail	Not Applicable	Not Applicable	Applicable
24	Stock options	Not possible	Not possible	<p>Possible for the Company who is willing to make employees as owners by way of stock options.</p> <p>This ensures greater employee commitment & more sustainability.</p>
25	Transparency & Independence	Affairs of the firm are not accessible.	Limited information is available to the stake holders.	<p>Key information are available in the public domain.</p> <p>Independent Directors, Shareholder Directors can be appointed, ensuring better transparency & independence in the affairs of the Company.</p>
26	Startup Incentive – Sec. 80IAC	Not available	Available	<p>Available</p> <p><i>#Start up registered with DPIIT (Department for Promotion of Industries & Internal Trade, Ministry of Commerce</i></p>

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				<i>& Industry) will get 100% tax exemption for 3 consecutive years out of first 10 years.</i>
27	CSR	Not Applicable	Not Applicable	Applicable <i>#2% of Average Net Profit</i> <i>#Applicable on Net Worth > 500 Crore or TO >1000 Core or Net Profit > 5 Crore</i>
28	Remuneration	Can be paid to partners as per the limits given in Sec. 40(b) of Income Tax Act – <ul style="list-style-type: none"> - In case of loss, Rs.150000/- - On First Rs.3.00 Lacs of book profit – 90 % of book profit & Rs.150000/-, whichever is more - On the balance of book profit – 60% of book profit 	Can be paid to partners as per the limits given in Sec. 40(b) of Income Tax Act	No limit