**FREQUENTLY ASKED QUESTION (FAQ) ON LIMITED LIABILITY PARTNERSHIP (LLP)**

| No.  | Question  | Answer  |
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| 1  | What is a Limited Liability Partnership (LLP)? | LLP is an alternative business vehicle offering a hybrid of characteristics between conventional partnership and a company. Its special features are that of a conventional partnership in terms of the flexibility in its administration and a company in terms of the limited liability status conferred to its partners. |
| 2  | Why LLP in Malaysia? | To provide the business community with an alternative business vehicle to complement the traditional choices of sole proprietorships, partnerships and companies (local and foreign)To provide access to limited liability status for partnership type businessesMore affordable business vehicle |
| 3  | What is the difference between an LLP and a general partnership? | The LLP offers limited liability to its partners whereby any debts and obligations of the LLP will be borne by the assets of the LLP. In the case of a conventional partnership the partners has unlimited liability jointly and severally in the partnership.  |
| 4  | What is the difference between an LLP and a Company? | There are many fundamental differences between an LLP and a company. Amongst others, the differences are:-No issuance of sharesFlexibility in making decisionsNo formal requirement for Annual General MeetingsNo requirement to submit financial statements to SSMAccounts need not be audited. |
| 5  | What types of organisations are likely to be users or beneficiaries of LLP? | Small businesses (Start Ups)Professionals Groups (e.g. Lawyers, Accountants or Company Secretaries)Joint venturesVenture capitals |
| 6  | What is the legal status of an LLP? | An LLP is a separate entity with the legal status of a body corporate. |
| 7  | Why would one choose to register an LLP as opposed to registering a business or incorporating a company? | The LLP provides the flexibility of organizational arrangement through the partnership agreement whereas a company is subject to a more stringent compliance requirement. On the other hand, registering LLP provides the limited liability status as compared to registering a business which exposes the owner to unlimited liability. |
| 8  | Is there any restriction as to what kind of business can use LLP as a business vehicle? | No. It is for all kind of lawful businesses with a view to make profit. |
| 9  | Can a charity organisation register as LLP? | No. LLP is intended only for businesses with a view to make profit. |
| 10  | How to register an LLP? | An LLP can be registered by way of an application made to the Registrar by providing the following information:-proposed name of the LLPnature of businessaddress of registered officename and details of partnersname and details of compliance officerapproval letter (in cases of professional practice) |
| 11  | Can a registration of an LLP be rejected or refused? If yes, on what grounds? | Yes. On grounds where the Registrar is satisfied that:-(a) the registration of the LLP would be contrary to the national security or interests; or(b) the proposed business is likely to be used for :a charitable purpose;an unlawful purpose; orpurposes prejudicial to public peace, welfare or good order or morality in Malaysia. |
| 12  | Is there any limit to the number of partners? | There must be minimum 2 partners and no limit for maximum number of partners. |
| 13  | Who can be the partners in an LLP? | Individuals (natural persons) or bodies corporate or a combination of both. |
| 14  | Is there any need for a partnership agreement? | Yes. However, in the absence of agreement as to any matter set out in the Second Schedule of the LLP Act 2012, provision of the Second Schedule relating to that matter shall apply.  |
| 15  | Can two companies form LLP?  | Yes. These are the most common form of joint ventures. |
| 16  | How long will SSM take to process the registration application? | A notice of registration will be issued immediately upon submission of the application through MyLLP system provided all registration requirements are satisfied. |
| 17  | Is there any requirement for a minimum number of partners to have principal or only place of residence in Malaysia? | No. The requirement to be ordinarily residing in Malaysia is applicable only when a partner is also acting as the compliance officer of the LLP. |
| 18  | Will the partners of the LLP be held personally liable for the debts incurred by the LLP? | No. It is the LLP that will be liable. However, a partner will be jointly and severally liable for his own wrongful act or omission in the course of the business of the LLP. The LLP however is not bound by what the partner has done in dealing with a person if:-the partner acted without authority; orthe person with whom the partner was dealing knows that the partner acted without authority or does not know that he is a partner of the LLP. |
| 19  | Under the LLP Act 2012 there is a requirement for an LLP to appoint at least one compliance officer. What are the requirements for a person to be appointed as a compliance officer of an LLP? | The compliance officer has to be either from amongst the partners of the LLP or a person qualified to act as a secretary under the Companies Act 1965 who :-(a) is a citizen or permanent resident of Malaysia; and(b) ordinarily resides in Malaysia. |
| 20  | What are the responsibilities and liabilities of a compliance officer? | The main responsibilities of a compliance officer are such as:-Registering any changes in registered particulars of the LLP;Keeping and maintaining registers and records of the LLP; andEnsuring publication of names of the LLP in accordance with the provisions of the Act.A compliance officer is personally liable to all penalties including administrative penalty imposed on the LLP unless if he can prove that he is not liable. |
| 21  | Can there be more than one compliance officer? | Yes. |
| 22  | If the LLP has two partners and one of them ceased to be a partner for any reason, is the remaining partner required to appoint another partner? Is there any time frame to do so? | Yes. The remaining partner is required to appoint another partner within six months or a longer period which may be determined by the Registrar (which shall not exceed one year) upon an application made by the remaining partner. |
| 23  | Can a partner who is declared a bankrupt continue to act as a partner? | Yes, a partner who is declared a bankrupt can continue to be a partner of an LLP. However, he is prohibited from taking part in the management of the LLP unless he has obtained leave from :-The Director General of Insolvency(DGI); orThe court provided that a notice of intention to apply for leave has been served on the DGI and the DGI is heard on the application. |
| 24  | Can an existing business vehicle such as a company or a partnership firm convert into an LLP? | Yes. In the case of a company, only a private company incorporated under the Companies Act 1965 is allowed. In the case of a partnership, only firms which are registered under the Registration of Business Act 1956 or any firms carrying on professional practices are allowed. |
| 25  | How to convert a private company or a conventional partnership firm into an LLP? Procedure? | A private company may apply to convert to an LLP by lodging with the Registrar a statement signed by all of its shareholders containing the following particulars:(i) the name and registration number of the private company;(ii) the date on which the private company was incorporated under the Companies Act 1965;(iii) that as at the application date, the private company appears to be able to pay its debts as they become due in the normal course of business;(iv) that as at the application date, all outstanding statutory fees or any amount owing to any government agency has been settled;(v) that the private company has placed an advertisement in at least one widely circulated newspaper in Malaysia and published a notification in the Gazette of its intention to convert to a limited liability partnership; and(vi) that all of its creditors have agreed with the application to convert to a limited liability partnership; and(vii) all other information required for the registration of a new LLP such as proposed name, nature of business, address of registered office, name and details of partners and name and details of compliance officerA conventional partnership may apply to convert to an LLP by lodging with the Registrar a statement signed by all of its partners containing the following particulars:(i) the name and registration number of the conventional partnership;(ii) the date on which the conventional partnership was registered under the Registration of Business Act 1956 or any other written law;(iii) that as at the application date, the conventional partnership appears to be able to pay its debts as they become due in the normal course of business;(iv) all other information required for the registration of a new LLP such as proposed name, nature of business, address of registered office, name and details of partners, name and details of compliance officer and an approval letter from the relevant governing body. |
| 26  | What will be the position of a private company which converts to an LLP? | After a conversion, the private company shall be deemed to have been dissolved. |
| 27  | Can a sole-proprietorship convert into an LLP? | A sole proprietorship cannot convert into an LLP as it only has 1 member. The sole proprietor must find at least one more person to be a partner before he can register an LLP. |
| 28  | Is there a requirement for a converted LLP to notify its conversion to any party which the LLP was dealing with prior to the conversion? | A converted LLP is required to ensure for a period of twelve months commencing fourteen days after the date of registration to state the following on every invoice or correspondence:-A statement that it was, as from the date of registration, converted from a conventional partnership or private company, as the case may be, to a limited liability partnership; andThe name and registration number, if applicable, of the conventional partnership or private company from which it was converted. |
| 29  | Can an LLP re-convert to a private company? | No. The LLP will have to be voluntarily wound up first and then incorporate as a new company. |
| 30  | It is unfair to creditors as the current partnerships can evade liability by just converting to LLP. What is the rationale/remedy for this? | Under the LLP Act 2012 it is provided that all rights and liabilities are vested into the LLP upon conversion from a conventional partnership or a private company. Further, partners of a conventional partnership that has converted to an LLP shall continue to be personally liable, jointly and severally with the LLP for the liabilities and obligations incurred prior to the conversion. Under the LLP legal framework, creditors of a private company are further protected as the company must get the agreement of the creditors for such conversion. |
| 31  | Who are considered as Professionals under the LLP Act 2012? | Under the first schedule of the LLP Act 2012 the following groups are defined as professionals:-Chartered AccountantsAdvocate and SolicitorsCompany Secretaries |
| 32  | Can two different professionals (e.g. a lawyer and an accountant) form and be partners of an LLP? | No. An LLP formed for the purpose of carrying on professional practice shall consist of natural persons who are practising the same profession only. This is to ensure that integrity and ethical issues are addressed and observed. |
| 33  | The LLP Act 2012 requires professionals to obtain an approval letter from their respective governing bodies before an LLP is formed for professional practice. Is this requirement extended to foreign professionals who wish to form an LLP in Malaysia? | The LLP Act 2012 does not prohibit foreign professionals to carry out professional practice in Malaysia. However, this is subject to the relevant governing bodies’ approval in accordance with the laws that governs the respective professions in Malaysia. |
| 34  | Can a foreign LLP carry on business in Malaysia? | A foreign LLP can carry on business in Malaysia by registering with SSM and lodge the following document:-Certified copy of the certificate of registration in its place of incorporation, establishment or origin; andCertified copy of its charter or instrument defining its constitution, if any. |
| 35  | Is it a requirement for each partner of an LLP to be "resident" in Malaysia? | There is no need for partners to be resident in Malaysia but there is a requirement for the compliance officer to be resident in Malaysia. |
| 36  | How can an LLP be dissolved? | An LLP can be dissolved by way of:Court Ordered Winding UpVoluntary Winding Up; andStriking |
| 37  | Under what circumstances can an LLP be wound up by Court? | An LLP can be wound up by court under the same circumstances a Company can be wound up by court as provided under the Companies Act 1965. The LLP Act 2012 provides that the relevant provisions of the Companies Act 1965 related to winding up by Court will be applicable to LLPs. |
| 38  | How can an LLP be dissolved by voluntary winding up? | Where an LLP has ceased to operate and has discharged all its debts and liabilities, a partner of the LLP can apply to the Registrar for a voluntary winding up of the LLP provided all the conditions required under the LLP Act 2012 for voluntary winding up application are met. |
| 39  | Under what circumstances can an LLP be struck-off the register? | An LLP can be struck-off the register if the Registrar has reason to believe that:-a. The LLP no longer carrying on business;b. The LLP contravened the Act;c. The LLP is prejudicial to national interests; d. No liquidator acting in cases of court ordered winding up; ore. Affairs of the LLP have been fully wound up but no sufficient assets to pay the costs to obtain court order to dissolve the LLP. |
| 40  | Is an LLP required to maintain accounts? | Yes. All accounting records that give a true and fair view of the state of affairs of the LLP shall be retained for 7 years. |
| 41  | Is there an approved accounting standard imposed on LLP in preparing its accounting records similar to the requirement imposed on Companies under the Companies Act 1965? | One of the main objectives for introducing the LLP business vehicle is to give businessmen the flexibility of internal arrangement in conducting business similar to a Conventional Partnership which is not required to adopt any particular accounting standard. As such, there is no approved accounting standard imposed on LLP. However an LLP is required and expected to prepare from time to time its accounting records which will give a true and fair view of the state of affairs of the LLP. |
| 42  | Is an audit of the accounting required?  | Unless provided in the agreement, there is no mandatory auditing requirement for LLPs. |
| 43  | Is the LLP required to submit Annual Returns? | No. However, an LLP is required to lodge an Annual Declaration with the Registrar stating whether the LLP is able or unable to pay its debts. |
| 44  | Is there a requirement for LLP to hold AGM? | There is no requirement for an LLP to convene AGM. |