What Is A Private Limited Company In India? A Complete Overview

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A private limited company is a type of corporation/company owned by a small group of people. It is created for specific purposes and is held by a group of people known as shareholders. Private limited company in India are frequently chosen as viable company forms by startups and organizations with ambitious growth aspirations. On a technical basis, private limited companies have been defined under Section 2(68) of the Companies Act, 2013 as a company having a minimum paid-up share capital of INR 1 lakh rupees or a higher paid-up share capital and a maximum of 200 members.

There are several reasons to enter the Indian market, including the fact that it has one of the world's fastest-growing economies. However, India is still known as one of the most onerous countries in Asia for setting up a business. Although, due to government initiatives such as ‘Startup India’ and digitization, India’s economy is embracing the ease of doing business. Despite this, companies must know how to set up and register a private limited company in India.

Characteristics Of A Private Limited Company in India

Members and directors: A private limited company in India must have a minimum of 2 members and a maximum of 200 members. Furthermore, to set up a private limited company, a minimum of 2 directors is required, with a maximum limit of 15. Further, every private limited company shall have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year. Only people having a Director Identification Number (DIN) can be appointed as a director in a company. The company must ensure that the person being appointed as a director on its board has a DIN.

Limited liability: In any case, shareholders will not be obliged to sell their assets to finance the company’s losses. It will be their responsibility to reimburse only the amount of the shares subscribed for or the guaranteed amount they have pledged to pay.

Separate legal entity and perpetual succession: Even if all of the members die or the company runs into financial troubles or declares bankruptcy, it will still be regarded as an entity for legal purposes. Unless terminated by resolution, the company’s existence will be unaffected by the lives of its shareholders or members and will last eternally.

Minimum paid-up capital: A private limited corporation must have a minimum paid-up capital of INR 1 lakh. Upon the Ministry of Corporate Affairs (MCA) prescription, it might go even higher.

Requirements To Start A Private Limited Company in India

To set up and start a private limited company in india, online company registration is mandatory. Under this company registration, self-attested scanned copies of certain documents of a private limited company's directors and shareholders have to be submitted to the Registrar of Companies. The documents are:

- Permanent Account Number
- Governmental Identity Proof
- Bank Statement
- Utility Bills such as Electricity Bill
- Passport Size Photographs
- Director's Specimen Signature

In case a body corporate is registering for a private limited company in india, they need to submit a Board Resolution/Letter of Consent along with the other documents.

Why It Is Preferred By Startups

A private limited company set-up is preferred by startups because:

Ownership: Shares of the company's owners, which include investors, founders, and management, can be transferred and sold. Further, a private limited company in India can be formed with as few as 2 shareholders because the minimum number of directors and shareholders is 2.

Limited liability and separate entity: In a private limited company in India, there is limited liability, which means the members of the company are not at risk of losing their private assets. If a company fails, the shareholders are not liable to sell their assets for payment. The company remains a legal entity until it is either wound up legally or the name of the company is struck off from the Registrar of Companies by the registrar. The company runs even after the death or departure of any member.

Credibility: Customers, retailers, and investors today search for credibility in the companies with which they do business. Details such as the company's name, date of incorporation, registered office address, status, and other information are published in the Registrar of Companies publicly searchable database when founding a private limited company.

Fundraising: Finance is required for the growth of a startup. A private limited company in India can simply raise equity capital if the company requires it. It also allows you to raise capital by using shares, loans, and deposits. Furthermore, a private limited company allows you to create Employee Stock Options (ESOP) to attract and retain top employees. Employee stock options are discounted shares granted to employees by a corporation.

Setting up a Private Limited Company in India

Step 1: Digital Signature Certificate

The first step is to get a Digital Signature Certificate (DSC). The entire registration process is completed online, and all forms must be digitally signed. The Memorandum of Association (MOA) and Articles of Association (AOA) need a DSC for all subscribers and witnesses. It must be obtained through government-approved certifying organizations.

Step 2: SPICe+ Form (INC-32)

SPICe+ Form (INC-32) was introduced by the MCA to streamline the company registration and incorporation process. The single form is used to register/obtain the following:

- Director Identification Number (DIN) is required by individuals who want to be a director in a private limited company.
- To get a name approval for the new company and can further reserve a name with Part A of the SPICe+ Form. Applicants can choose to either apply for name reservation and incorporation at the same time or choose to reserve the name first. Upon confirmation from MCA of the name reservation, the applicant shall have 21 days to apply for incorporation for the said name.
- Employees' Provident Fund Organisation (EPFO) and Employee's State Insurance Corporation (ESIC) applications
- Permanent Account Number (PAN) of the company
- Tax Deduction Account Number (TAN) of the company.

Step 3: E-MoA and E-AoA

Since the MOA is the charter of the company and the AOA contains all the internal rules and regulations of the company, electronic submission of the MOA and AOA is mandatory under INC-33 and INC-34 forms respectively only in cases where the first subscribers are

- Non-individual persons based in India
- Indian nationals being subscribers other than directors
- Indian nationals being subscriber-cum-directors
- Foreign national(s) being subscribers other than directors, having DIN and a valid business visa
- Foreign national(s) being subscriber-cum-directors, having DIN and valid business visa.

In the following cases, electronic submission of MOA and AOA is not accepted and the applicant is mandated to submit apostilled MOA and AOA as an attachment to the SPICe+ Form:

- Where the first subscriber is a non-individual subscriber based out of India
- Where the foreign national being a subscriber other than a director has a valid DIN but does not have a valid business visa
- Where the foreign national being a subscriber-cum-director has a valid DIN but does not have a valid business visa
- Where the foreign national being a subscriber cum director does not have a valid DIN
- Notwithstanding anything mentioned above, in case of any company having more than 7 subscribers

Step 4: PAN and TAN Applications

It is mandatory to get a PAN and a TAN for the company via the MCA. This is because PAN is required for the company to pay tax, and TAN is required for the company to deduct tax.

Step 5: Payment of Requisite Fees

The applicant shall be required to pay the following fees, which are subject to the nominal share capital, number of shareholders, et cetera:

- Filing fee for SPICe+ Form
- Registration fee for MOA
- Registration fee for AOA
- Stamp duty as applicable on the SPICe+, MOA and AOA forms

In conclusion, a private limited company in india is often the company form of choice for many startups due to the simplicity with which capital can be raised. Private limited corporations can be swiftly sold or transferred if the owner so desires, which is advantageous given the volatility of start-ups. Foreign direct investment can be used by a private limited company in India. Furthermore, of all corporate organizations, such a company has the highest level of client credibility, making it the perfect choice for a startup.

Frequently Asked Questions

Question 1: What are examples of private limited companies in india?

Some well-known examples of a Private Limited Company in India are ICICI Bank Limited, Wipro Limited, Hindustan Lever Limited, and Infosys Technology Limited.

Question 2: Who is eligible to register with a private limited company in india?

The individual registering a private limited company must be an Indian National or Indian Resident. At the time of registration, a declaration from a practicing professional such as a Chartered Accountant/Company Secretary/Cost Accountant/Advocate will be mandatory for the purpose of submission of the application to the authorities.

Question 3: Is GST mandatory for a private limited company in india?

GST registration is an optional requirement for a private limited company subject to its applicability determined by the business proposed to be conducted by the company