

Comparison between traditional partnership and LLP

Traditional Partnership	Limited Liability Partnership
Distinctions	
Unlimited personal liability of each partner for dues of the partnership firm. Personal property of each partner also liable.	No personal liability of partner, except in case of fraud.
Written agreement not essential.	Incorporation document essential.
Partnership can be registered under Partnership Act.	LLP is incorporated under LLP Act. Incorporation is mandatory.
Registration is not mandatory.	
Not a legal entity separate from its partners	It is a legal entity separate from its partners, having perpetual succession
Property cannot be held in name of partnership firm.	Property can be held in name of LLP.
Partnership deed/agreement is executed. Even verbal agreement is valid.	'Incorporation Document' is required to be executed. In addition, LLP Agreement is required in almost all cases, though such LLP agreement is not mandatory.
Documents are required to be filed with Registrar of Firms (of respective State)	Registrar of Companies (ROC) is the administrating authority.
Death of partner dissolves a firm, in absence of agreement	Death of partner does not dissolve LLP.
Minimum two and maximum twenty partners	Minimum two partners. No limit on maximum number of partners
Each partner can take part in business of firm.	Each partner can take part in business of firm, but LLP Agreement can provide to the contrary.
All partners are liable for statutory compliances under Partnership Act	Only designated partners are liable for statutory compliances as are required under LLP Act (not necessarily in respect of other Acts).
Partner cannot enter into business with firm, though he can give loan to firm.	Partner of LLP can enter into business with LLP. He can also give loans to LLP.

Every partner of firm is agent of firm and also of other partners. He can bind partnership firm as well as other partners by his acts.	Every partner of LLP is agent of LLP but not of other partners. Thus, he can bind LLP by his acts but not other partners. However, LLP agreement can restrict powers of individual partner.
Filing of accounts, statement of solvency and annual return not required.	Filing of accounts, statement of solvency and annual return not required.
Partnership can be 'at will' i.e. any partner can resign or dissolve firm	Individual partner can resign but cannot dissolve the LLP.
Death of partner dissolves partnership unless there is contract to contrary	Death of partner does not dissolve LLP.
Public notice is required for retirement of a partner.	Filing of return of retirement of partner with ROC is required, but no provision for public notice of retirement of partner.
Partnership firm can be dissolved. No specific provision to enter into compromise, arrangement, amalgamation, reconstruction etc. This can be done only under civil laws.	LLP can be would up. LLP can enter into compromise, arrangement, amalgamation, reconstruction etc.
Minor can be admitted to benefit of partnership.	There is no specific provision to admit minor to benefit of partnership. It is doubtful if this can be done.

Similarities

Partner is not employee of firm	Partner is not employee of LLP.
Liability of a person for 'holding out', i.e. representing himself as partner, though he is not	Liability of a person for 'holding out' i.e. representing himself as partner, though he is not [clause 29 of LLP Bill, 2008]
Partner of firm entitled to remuneration only if partnership agreement so provides	Partner of LLP entitled to remuneration only if LLP agreement so provides
New partner can be introduced only with consent of all existing partners	New partner can be introduced only with consent of all existing partners, unless LLP Agreement provides otherwise.
Insolvent person cannot continue	Insolvent person cannot continue

as partner of firm.	as partner of LLP.
Rights of partnership can be assigned.	Rights of partnership can be assigned.
Partner liable to firm for any personal profits made by him by use of property, name or business connection of firm.	Partner liable to LLP for any personal profits made by him by use of property, name or business connection of LLP
Partner cannot undertake competing business without consent of other partners	Partner cannot undertake competing business without consent of LLP. Otherwise, liable to account for and pay profits to LLP
Partner liable to firm if he commits fraud.	Partner liable to LLP if he commits fraud.

CA Shreyas Mehta

Cell: 91 99251 22000