

SECTION – 1

QUESTION-2.

ANSWER:-

A company follows the provisions mentioned in the Companies Act 2013, which says that a – “Company” means a company incorporated under this Act or any previous company law; In other words, A company is a legal entity which is formed by different individuals to generate profits through their commercial activities. There are different types of companies that can be registered under The Ministry of Corporate Affairs. Few of them are – Public Company It is a voluntary association of several members with a separate legal entity, and the liability of its members is limited to the shares held by them. Laws, rules and regulations govern all the activities of this form of company. Private Company Private Companies are a small business entity which can be incorporated with a minimum of two shareholders and directors. Each is regarded as the employee of the Company with the benefit of limited liability. One Person Company This setup allows a sole proprietor to do business and still enjoy corporate structure. Being a separate legal entity, the liability is limited to the amount unpaid by the members. Limited Liability Partnership As per the Companies Act, this form of business enjoys the advantages of both a company and a partnership firm. It is easy to incorporate and manage with limited liability to the owners. Advantages of a Company Here are a few benefits of going for a company form of business. Liability Unless stated, the liability of the members is restricted to the number of shares held by them. Existence Death, insolvency or any other loss does not affect the functionality of the company. Management The operational activity is taken care of by the board of directors or the professionals appointed by them. Transferability The shareholders of the company are free to transfer their membership to another person if they do not wish to continue. Risks Large membership helps to divide the risk, if any, equally among its members. A Comparison Below is a comparison between the popular forms of business in India based on different factors.

Types of Company on the basis of Liability

1. Companies limited by shares:

A company that has the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them is termed as a company limited by shares.

The liability can be enforced during existence of the company as well as during the winding up. Where the shares are fully paid up, no further liability rests on them.

For example, a shareholder who has paid 75 on a share of face value 100 can be called upon to pay the balance of 25 only. Companies limited by shares are by far the most common and may be either public or private.

2. Companies limited by guarantee:

Company limited by guarantee is a company that has the liability of its members limited to such amount as the members may respectively undertake, by the memorandum, to contribute to the assets of the company in the event of its being wound-up. In case of such companies the liability of its members is limited to the amount of guarantee undertaken by them.

The members of such company are placed in the position of guarantors of the company's debts up to the agreed amount.

Clubs, trade associations, research associations and societies for promoting various objects are various examples of guarantee companies.

3. Unlimited Liability Companies:

A company not having a limit on the liability of its members is termed as unlimited company. Here the members are liable for the company's debts in proportion to their respective interests in the company and their liability is unlimited.

Such companies may or may not have share capital. They may be either a public company or a private company.

Features of Company:-

Features & Characteristics Of A Company

Incorporated association: A company comes into existence when it is registered under the Companies Act (or other equivalent act under the law). A company has to fulfil requirements in terms of documents (MOA, AOA), shareholders, directors, and share capital to be deemed as a legal association.

Artificial Legal Person: In the eyes of the law, A company is an artificial legal person which has the rights to acquire or dispose of any property, to enter into contracts in its own name, and to sue and be sued by others.

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Separate Legal Entity: A company has a distinct entity and is independent of its members or people controlling it. A separate legal entity means that only the company is responsible to repay creditors and to get sued for its deeds. The individual members cannot be sued for

actions performed by the company. Similarly, the company is not liable to pay personal debts of the members.

Perpetual Existence: Unlike other non-registered business entities, a company is a stable business organisation. Its life doesn't depend on the life of its shareholders, directors, or employees. Members may come and go but the company goes on forever.

Common Seal: A company being an artificial legal person, uses its common seal (with the name of the company engraved on it) as a substitute for its signature. Any document bearing the common seal of the company will be legally binding on the company.

Limited Liability: A company may be limited by guarantee or limited by shares. In a company limited by shares, the liability of the shareholders is limited to the unpaid value of their shares. In a company limited by guarantee, the liability of the members is limited to the amount they had agreed upon to contribute to the assets of the company in the event of it being wound up.