

STEP-BY-STEP PROCESS FOR CONVERTING A PRIVATE COMPANY INTO AN LLP

Conditions for Conversion of Private Company to LLP

1. At the time of making the application, there should be **no active security interest** on the company's assets.
2. **Only the shareholders** of the converting company should become partners in the LLP.
3. There are **no pending e-Forms** for payment or processing.
4. At least one Financials (**AOC-4**) and Annual Return **MGT-7/7A** have been filed by the company.
5. The Company is **not a Section 8** Company.
6. The company **must have share capital**.

➤ STEPS TO CONVERT THE COMPANY INTO THE LLP

1. Pass board resolution to **reserve the name of the LLP**.
2. File form **RUN LLP** to reserve the name.
 - **RUN LLP** shall mandatorily include:
 - a) Signed Application for conversion by authorized directors of the company.
 - b) Consent of all shareholders of the Private Company for conversion.
 - c) Board resolution for the conversion of the company to the LLP.
3. After the reservation of the name, file a conversion form (**e-Form 18**), along with an incorporation form (FiLLiP) and the consent of the Designated Partners **in e-Form 9**.
4. **The FiLLiP form** is filled out in the same way as for incorporating an LLP.
5. **File form 18** after successfully filing form FiLLiP (Form 18 requires providing various details such as if any case is pending, total assets, total financial assets, and total revenue, etc.)

➤ The required attachments in Form 18 include:

1. Statement of Assets & Liabilities of the company certified by auditor **not older than 15 days**.
2. Auditor Certificate for **not having** the secured creditors
3. Auditor Certificate for company **not doing the NBFC activity**
4. Auditor Certificate certifying the **shareholding** of the company is **accurate**.
5. List of Secured Creditors and their consent. {If does not have any secured creditors, furnish an affidavit.}
6. In case the company is regulated by any specific body or authority, then approval from such authority or body is required.
7. latest income tax return
8. Declaration from shareholders regarding **no secured creditors exists** in the company.
9. **NOC from shareholders** of the company for conversion of company to LLP
10. **Part B statement** for all shareholders of the company

11. Additional documents as requested by the approving authority, such as:

- a. the most recent Annual Return of the Company,
- b. Latest audit report of the company.
- c. ADT-1 form for the appointment of the Statutory Auditor of the Company,
- d. An Ordinary Resolution or Board Resolution for the appointment of the Auditor.

* ROC shall issue the Certificate of Conversion in Form 19, when Company is converted to LLP.

* File initial LLP Agreement in Form 3 within 30 days of the conversion.

❖ **EXEMPTION PROVIDED UNDER SECTION 47 FROM LEVY OF CAPITAL GAINS TAX:**

Section 47 (xiiib) of the IT Act provides an exemption from levy of capital gains tax on the abovementioned transfers pursuant to conversion of a company to LLP subject to fulfilment of below specified conditions:

- a. **Transfer of all assets and liabilities:** All the assets and liabilities of the company immediately before conversion become the assets and liabilities of LLP.
- b. **All shareholders to become partners in LLP:** All the shareholders of the company immediately before conversion become the partners of LLP and their capital contribution and profit-sharing ratio in the LLP are in the same proportion as their shareholding in the company as on the date of conversion.
- c. **Consideration to shareholders:** The shareholder of the company does not receive any consideration or benefit, other than by way of share in profit and capital contribution in LLP.
- d. **Profit sharing ratio of shareholders in LLP:** The aggregate of the profit-sharing ratio of the shareholders of the company in LLP should not be less than 50% at any time during a period of 5 years from the date of conversion
- e. **Total sales, turnover or gross receipts in the business of the company:** Must not exceed INR 60 lakhs in any of the 3 previous years preceding the previous year in which the conversion takes
- f. **Total value of the assets as appearing in the books of account of the company:** Must not exceed INR 5 crores in any of the three previous years preceding the previous year in which the conversion takes
- g. **No amount to be paid to any partner out of accumulated profits of the company as appearing on conversion date for a period of 3 years from the date of conversion.**