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FORMATION OF COMPANY

A company comes into exercise when a group of people come together with a view of forming an association to exploit the business opportunities by bringing together men, material, money and management.

STAGES OF FORMATION OF A COMPANY

1. Promotion stage
2. Selection of name
3. Incorporation stage
4. Raising the share capital stage
- 5.

1. PROMOTION STAGE-

- Nature of business
- Nature of company
- Register of company
- How much capital and how to raise
- Shares
- Debt
- Management style

2. SELECTION OF NAME-

To be identified for legal and business purpose (Limited Or Private Limited).

The name of company should not be similar to the existing.

3. INCORPORATION STAGE -

A company is said to be incorporated when it fulfill the formalities of registration and obtain “ **Certificate Of Incorporation**” by submitting the MOA , AOA and written consent of all the directors.

A public to commence business, should raise required capital and obtain the “**Certificate Of Commencement Of Business**”.

4. RAISING THE SHARE CAPITAL STAGE-

- Entering onto an agreement with underwriters.
- Applying to the stock exchange for listing of shares.
- Issue of prospectus inviting public to subscribe.
- Allotting shares.

PROMOTERS OF A COMPANY

A promoter is one” who undertakes to form a company with reference to a given object and to set it going who takes the necessary steps to accomplish that purpose”.

- Liability of promoters - Promoter liable to hand over any secret profit and any personal interest in dealings.
- Promoter liable to untrue statement in prospectus.
- Remuneration to promoters- if personal skills are involved in promotion.

DOCUMENT OF COMPANY

- MOA (Memorandum of association)
- AOA (article of association)
- Prospectus of association

MEMORANDUM OF ASSOCIATION

- The MOA is a document which contains the fundamental rules regarding the constitution and activities of the company
- It is the charter of the company defines its raison d’etre (reason for existence).
- It lays down the area of operation of the company.
- It also regulates the external affairs of the company.

Content Of MOA (Memorandum Of Association)

- The name of clause
- The register office clause
- The object clause
- The capital clause
- The liability clause
- The association clause

(The MOA must be signed by at least seven subscribers in the case of public company and two in the case of private company.)

ARTICLE OF ASSOCIATION

- The AOA contains regulations regarding all matters concerning the internal affairs of the company.
- AOA should be printed, divided into paragraphs and serially numbered.
- Alteration of AOA is done by passing a special resolution.

Content Of AOA (Article Of Association)

- Division of share
- Procedure of holding and conducting the meeting
- Voting rights of members and rules regarding methods of voting.

- Matters relating to appointment, powers duties, qualification and remuneration of directors.
- Methods to increase or decrease capital.
- Rules regarding common seal of the company.
- Terms of appointment, remuneration delegation of authority.
- Rules relating to issue of share capital.
- Declaration of dividend and rules regarding its payment.
- Rules relating to accounts audit charging of depreciation and creation of reserves etc.
- Methods of securing loans.
- Procedure of winding up of a company.

PROSPECTUS

Prospectus means any document described or issued as a prospectus inviting deposits from public or inviting offer from public for the subscription or purchase of any shares, or debentures of the company.

“Certificate of lieu of prospectus” is issued by a company, where the company doesn’t invite public subscription.

Content Of Prospectus

- Date of issue of prospectus.
- Name and register office of the company.
- Consent of central government for the present issue/compliance with the SEBI guidelines.
- Voting rights, dividend, expenses on issue etc.
- Name of the stock exchange.
- Punishment for fictitious application.
- Refund of issue if 90% min. subscription not received.
- Names and address of leading managers.
- Date of opening and closing of issues.
- Capital structure of the company
- Terms and particulars of the issue.
- Restriction on transfer and transmission of shares.

DOCUMENT REQUIRED TO BE SUBMITTED

1. Memorandum of Association
2. Articles of Association
3. Consent of proposed directors
4. Agreement
5. Statutory declaration
6. Payment of fee