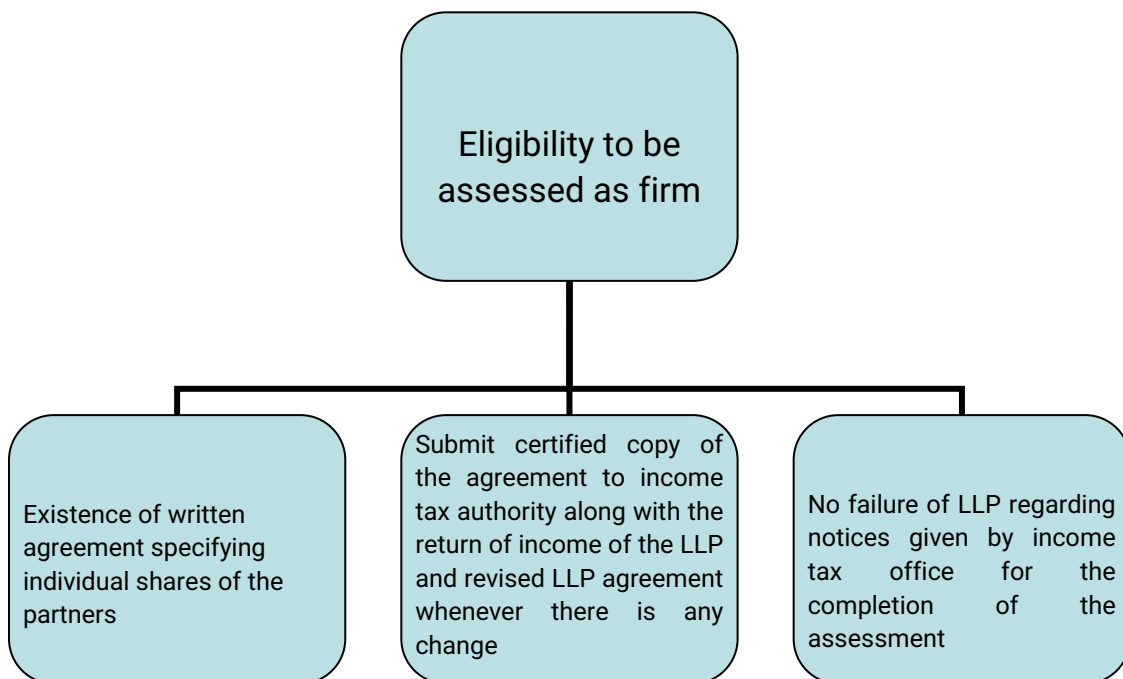


TAXATION OF LLP

- LLP is treated **at par with general partnership firm** for the purpose of taxation.
- **Eligibility to be assessed as firm**



- **Rules regarding taxation of LLP**
 - 1) Profit of LLP **to be taxed in the hands of LLP**, and not in the hands of partners
 - 2) **Remuneration to partners** as per LLP agreement to be **taxed as income from business and profession**.

- 3) Share of profit received by the partner from the firm shall be exempt from tax
- 4) LLP is not liable for Dividend Distribution Tax (DDT) (as against companies which are required to pay DDT @ 15%)
- 5) LLP not eligible for presumptive taxation scheme (whereas partnership firms are eligible)

Under presumptive taxation scheme, a relief is granted to small taxpayers (whose gross receipts from the business do not exceed Rs. 2 crore) from tedious job of maintenance of books of accounts. Such taxpayers can declare income at prescribed rate and get relieved from the job of maintenance of books of accounts.

- 6) Filing and signing of Income Tax Return
 - Form: ITR 5
 - Signed by: Designated partner, or by any other partner in case of designated partner is not able to for unavoidable reasons
- 7) Every partner jointly and severally liable for the taxes of LLP for period during which he is partner in case of liquidation of LLP, though a partner can escape this liability if he proves that there was no breach of duty on his part
- 8) No capital gain on conversion of partnership firm into LLP and company into LLP, if prescribed conditions are met with.
- 9) LLP is subject to Alternate Minimum Tax (AMT) as per Union Budget 2011-12.
- 10) LLP is liable to pay AMT @ 18.5% on the adjusted total income

provided regular income tax on total income of LLP is less than AMT

Adjusted Total Income means income as computed under normal provisions of the income tax as increased by the deductions claimed, if any under Ch-VI-A(c) or deductions u/s 10 AA.

Example:

If taxable income = Rs. 10, 00,000

And adjusted total income = Rs. 30, 00,000

Then,

Normal tax @ 30% = 30% of Rs. 10, 00,000 = Rs. 3, 00,000.

AMT @ 18.5% on adjusted total income of Rs. 30, 00,000 = Rs. 5, 55,000.

So, the tax payable would be Rs. 5, 55,000 plus cess since it is higher than normal tax.

11) AMT paying LLPs can claim credit for 15 assessment years starting from the year in which credit becomes allowable. If in any year, the LLP pays tax liability as per AMT, then it is entitled to claim credit in the subsequent years of AMT paid above the normal tax liability. This credit can be adjusted in the year in which the tax liability of the LLP as per the normal provisions is more than the AMT liability (source: incometaxindia.gov.in).

12) Health and education cess is 4%

13) Surcharge is 12% of income tax if the net income exceeds Rs. 1 crore.

Please note that surcharge is chargeable on tax whereas cess is to be charged on tax plus surcharge (as per Finance Act, 2019)