company's Separate Legal existence

Doctrine of Corporate veil

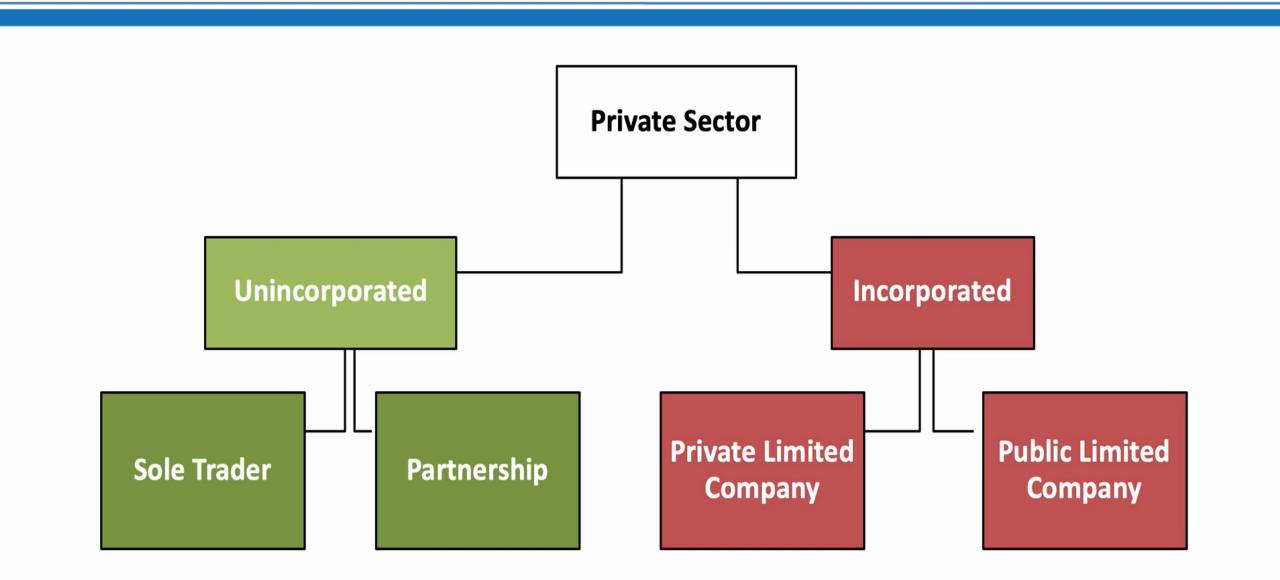
Company

A company is a legal entity formed by a group of individuals to engage in and operate a business enterprise in a commercial or industrial capacity.

Basic features of company

- Separate legal entity
- Limited liability
- Transferability of share
- Perpetual Succession
- Separate property
- Common seal
- It can sue and be sued.

Different Forms of Business (Overview)



Sole Traders

- The most common type of business form
- A sole trader is an individual owning the business on his/her own
- A sole trader can also employ people –
 but these people are not business owners
- Sole trader owns all the business assets personally and is personally responsible for the business debts. A sole trader has unlimited liability

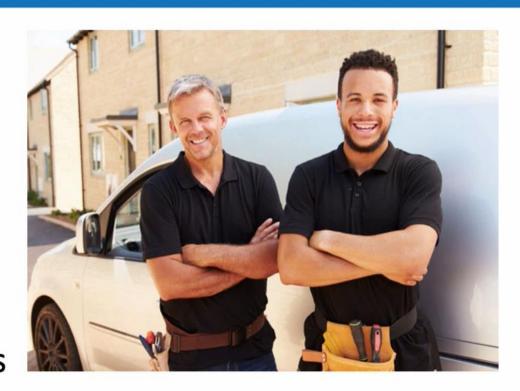


Benefits and Drawbacks of Operating as a Sole Trader

Advantages	Disadvantages
Quick & easy to set up – business can always be transferred to a limited company	Full personal liability – "unlimited liability" Harder to raise finance – sole traders often have limited funds of their own and security against which to raise loans The business is the owner – the business suffers if the owner becomes ill, loses
once launched Simple to run – owner has complete	
control over decision-making Minimal paperwork	
Easy to close / shut down	interest etc. Can pay a higher tax rate than a company

Partnerships

- Where a business is started and owned by more than one person
- The legal partnership agreement sets out how the partnership is run, covering areas such as:
 - How profits are to be shared
 - What the partners have to invest into the business
 - How decisions are taken
 - What happens if a partner wants to leave or dies
- The partners between them own all the business assets and owe all business liabilities
- Partners, therefore, also have unlimited liability

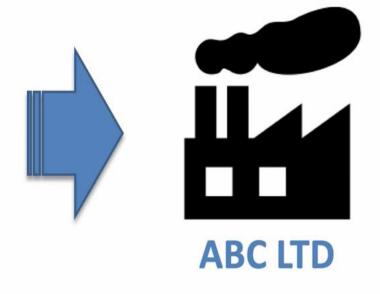


Benefits and Drawbacks of Operating in a Partnership

Benefits	Drawbacks
Quite simple – certainly the simplest way for two or more people to form a business together Minimal paperwork once Partnership agreement set up Business benefits from the expertise and efforts of more than one owner Partners can provide specialist skills	Full personal liability – "unlimited liability" A poor decision by one partner damages the interests of the other partners Harder to raise finance than a company Partners are bound to honour decisions of others Complicated to sell or close
Greater potential to raise finance – partners each provide the investment	

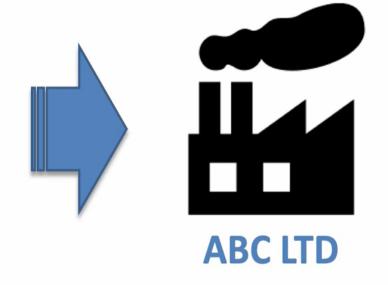
Incorporated Business is a "Company"

A company is a separate legal entity

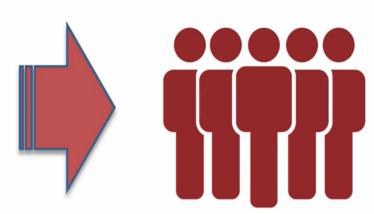


Incorporated Business is a "Company"

A company is a separate legal entity



The owners of a company are shareholders



Benefits and Drawbacks of Operating as Limited Company

Advantages	Disadvantages
Limited liability – protects the	Greater admin costs
shareholders (the big advantage)	Public disclosure of company
Easier to raise finance – sale of shares and also easier to raise debt	information Directors' legal duties
Stable form of structure – business continues to exist even when	Directors legal duties
shareholders change	

Unincorporated v Incorporated

Unincorporated

- The owner is the business no legal difference
- Owner has unlimited liability for business actions (including debts)
- Most unincorporated businesses operate as sole traders

Incorporated

- Legal difference between the business (company) and the owners
- Owners (shareholders) have limited liability
- Most incorporated businesses operate as private limited companies

Unlimited liability

Limited liability



Solomon v Solomon and company Ltd(1896)

- Solomon- Leather Manufacturer-shoe business
- Shoe business-solomon and company ltd -38000 pound
- Company,s shareholders- Solomon(majority share holder),daughter,wife,4sons.
- Debenture holder -solomon
- Director-Solomon
- After 1 year- company goes into liquidation.
- Assets -6000 pound.Liability-160000 pound.
- Shareholder's claim- Solomon and soloman company ltd is the same person.

Court's Observation

 Company has separate legal existence from its members and directors.

 Solomon claim was valid .As a secured creditor, his claim must be satisfied first.

The House of Lords noted that

"After registration of a company, although the business may be the same as before and the same hands receiving profits, but in law the company is not an agent of the subscribers or members."

LEEVLEE'S AIR FARMING LTD

Lee v Lee's Air Farming Ltd [1960]

- Lee expert pilot
- Lee- lee's Air Farming Limited.
- Plane crash-Death of Lee

 Mr Lee was killed when his plane crashed during the course of his work.

 Mr Lee's widow claimed on a workers compensation insurance policy the company's solicitor had taken out, naming Mr Lee as the employee of Lee's Air Farming Ltd.

The insurers refused to pay Mrs
Lee, they alleged that Lee was not
an employee of the company on
the grounds that he was
synonymous with the company
and therefore, could not have
contracted with company.



Held:

The New Zealand Court of Appeal refused to hold that Lee was a worker, holding that a man could not in effect, employ himself. However, the Privy Council allowed Mrs Lee's claim. Lee may have been the controller of the company in fact but in law, they were distinct persons. He could therefore enter into a contract with the company, and could be considered to be an employee. The widow was therefore entitled to an award in respect of workmen's compensation.

Principle shareholder can be a worker of company and that did not stop him making a contract of employment on behalf the company and himself.

ABILITY TO OWN PROPERTY

- A company can own property in its name.
 Although the members have shares in the company, the property is held or owned by the company.
- Case: Macaura v Northern Assurance Co Ltd.
- Macaura owned an estate. He sold all the timber on the estate to a company. He and his nominees owned all the shares of the company.

A few weeks later, the timber was destroyed in fire.

 Macaura tried to claim his losses from the insurer who were Northern Assurance Co Ltd.

Northern Assurance refused Macaura's claim.



LEGAL PRINCIPLES

The House of Lords held that the insurance company was correct. The policy would only be valid if the timber belonged to Macaura. However, as it belonged to the company, only the company could insure it. Lord Sumner: 'It is clear that the appellant had no insurable interest in the timber described. It was not his. It belonged