BENEFITS OF A COMPANY

2 PAPER

2 TOPIC

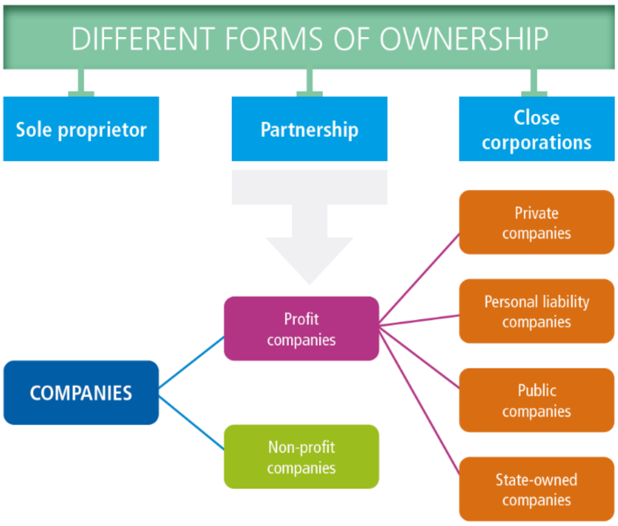
SOLE TRADER

(Know definition for Section A)

- This is the simplest form of business ownership where an individual is responsible for setting up and running a business.
- The sole trader manages all the investment, risk, and returns of the business.

Characteristics

- A sole trader is a business that is owned and managed by one person
- Assets and profits in this business belong to the owner
- Legally there is no separation between the business and the individual running it
- If the business is facing legal action, the owner is held legally responsible for the debts of the business.



Advantages

- Business is run as the owner sees fit.
- The assets and profits of the business belongs to the owner.
- The owner makes all decisions that affect the business.
- The business requires little capital to start.

Disadvantages

- The business cannot continue to exist if the owner dies or retires.
- Capital is limited to the amount of money the owner has access to.
- Difficult to attract highly skilled and knowledgeable employees.
- The owner is responsible for providing all the capital needed.

PARTNERSHIP

(Know definition for Section A)

- Partnerships are owned and managed by two or more individuals who have agreed to set up and run a business. The individuals are called partners.
- There is an agreement between the partners on how they will share the profit of the business.

Characteristics

- A partnership is an agreement between two or more persons.
- Profit and losses are shared among partners according to the partnership agreement.
- Profit is divided among partners in a ratio as agreed in the partnership agreement.
- No legal requirements regarding the name of the business.

Advantages

- Partners can deal with problems together.
- The workload and responsibility is shared between partners.
- Partnerships are relatively easy to establish.
- Partners contribute new skills and ideas into a business.

Disadvantages

- Partners do not always agree and that can slow down decision-making.
- Partnerships must dissolve if one partner dies or retires.
- Partners might not all contribute equally.
- Different personalities and options of partners can lead to conflict and disagreements.

PRIVATE COMPANY

(Know definition for Section A)

- A private company is a company that restricts the right of its members to transfer shares, and does not invite the public to subscribe.
- A private company uses the words Proprietary Limited (Pty) Ltd in its name.

Characteristics

- Requires one or more directors and one or more shareholders.
- Private companies are subject to many legal requirements.
- A private company is not allowed to sell shares to the public
- Shareholders have limited liability for the debt of the business.

Advantages

- Auditing of the financial statements is voluntary.
- More opportunities to pay less taxation.
- A company has continuity of existence.
- Board of directors with expertise/experience can be appointed to make decisions.

Disadvantages

- Restricted from raising funds directly from the public.
- Costs and formalities associated with forming a company.
- Requires a lot of capital to start a private company.
- The more shareholders, the less profits are shared.

PUBLIC COMPANY

(Know definition for Section A)

- A public company is a company that is registered to offer its stock and shares to the general public. This is mostly done through the Johannesburg Securities/Stock Exchange (JSE).
- The public company is designed for a large-scale operation that require large capital investments.

Characteristics

- A minimum of one person is required to start a public company.
- Requires three or more directors and three or more shareholders.
- The company name ends with letters Ltd.
- Has legal personality and therefore has unlimited continuity.

Advantages

- The public has access to the information as financial reports must be published annually. This could motivate the public to buy shares from a company.
- Strict regulatory requirements protect shareholders.
- Additional capital can be raised by issuing debentures to the public.
- The company keeps its shareholders regularly informed about its performance, share values and future.

Disadvantages

- Complicated process to incorporate a public company.
- A large amount of funds are spent on financial audits.
- Stocks have to be traded publicly.
- A full report must be submitted to the major shareholders each year.

PERSONAL LIABILITY COMPANY

(Know definition for Section A)

A Personal Liability Company is a private company that is mainly used by 'associations' such as lawyers, engineers, and accountants.

Characteristics

- One (1) or more persons (including juristic persons) may incorporate a personal liability company.
- The board of a personal liability company must comprise at least one director (1 or more directors).
- These companies are identified by the suffix 'Incorporated' or 'Inc.'.
- A personal liability company has a separate legal personality and shareholders have limited liability

Advantages

- Personal liability companies are subject to fewer disclosure and transparency requirements.
- The board of a personal liability company must include at least one director, or any other minimum number as stipulated in its MOI.
- The life span of a personal liability company is continuous.
- Directors of a personal liability company are not compelled to attend the Annual General Meeting (AGM).

Disadvantages

- Large management structures can result in decision-making taking time.
- Restricted from raising funds directly from the public.
- Directors of the personal liability company have unlimited liability.
- The Personal Liability Company is not allowed to sell shares to the public.

STATE-OWNED COMPANY

(Know definition for Section A)

- A state-owned company has the government as its major shareholder and falls under the Department of Public Enterprise.

Characteristics

- Requires three or more directors and one or more shareholders.
- It is owned by the government and operated for profit.
- SOC is listed as a public company.
- The name of a state-owned company must end with the letters SOC.

Advantages

- Profits may be used to finance other state departments.
- Offer essential services which may not be offered by the private sector.
- Prices are kept reasonable.
- Jobs are created for all skills levels.

Disadvantages

- Often rely on government subsidies.
- Government can lose money through the business.
- Losses must be met by the taxpayer
- Financial statements must be audited.

NON-PROFIT COMPANY

Characteristics

- Non-profit companies do make money; they just do not make a profit.
- Any money raised by a non-profit company needs to be used by the company to cover its expenses.
- The name of the non-profit company must end with NPC.

Advantages

- Non-profit companies continue to exist even if the membership changes
- Profits can only be used to conduct the work of the organisation.
- The assets and liabilities (debts) of the organisation are held separately from those of its members.
- Non-profit companies are not compelled to attend the general annual meeting (AGM).

Disadvantages

- Need professional assistance to set up this organisation.
- Does not generate enough capital to cover their expenses.
- Donations may not always be enough to finance the company's expenses.
- They are not allowed to pay bonuses to members.

Distinguish/Differentiate the differences between forms of ownership.

Type of ownership	Sole proprietor	Partnership
Business name	Own name as per ID, or name registered with the Companies and Intellectual Property Commission (CIPC)	Name must be registered with the Companies and Intellectual Property Commission (CIPC)
Number of owners	One	At least two
Owners are known as	Owner	Partners
Managed by	The owner	Partners
Formation	No formalities – the owner starts doing business	No formalities – partners usually sign a partnership agreement
Liability for debts	Unlimited	Jointly and members may be asked to stand surety

Type of ownership	Private company	Public company
Business name	Ends with Pty Ltd	Ends with Ltd
Shares	May not offer shares to the general public	Trades its shares publicly on the Johannesburg Securities Exchange
Shares	Shares are not freely transferable	Shares are freely transferable
Directors	Minimum of one director	Minimum of three directors
Annual financial statements	Annual financial statements need not be audited and published	Annual financial statements need to be audited and published
Prospectus	Does not need to publish a prospectus as it cannot trade its shares publicly	Must register and publish a prospectus with the Companies and Intellectual Property Commission/CIPC
Subscription	The company does not have to raise the minimum subscription or issue minimum shares	Must raise a minimum subscription prior to commencement of the company
Continuity	Has continuity of existence	Has continuity of existence

The differences in the forms of ownership (companies)

Type of ownership	Private company	Personal liability company
Business name	Ends with Pty Ltd	Ends with Inc.
Liability for debts	Limited	Jointly and severally

The differences of the different forms of ownership (companies)

Type of ownership	State-owned company	Non-profit company
Business name	Ends with SOC Ltd	Ends with NPC
Assets are owned by	Company	NPC
Profit or loss belongs to	Shareholders	NPC

Discuss/Explain the benefits of establishing a company versus other forms of ownership.

Legal status and liability

- A company has its own legal status, trading name, and owns its assets.
- Shareholders' private assets are protected as they have limited liability.
- The shareholders have no direct legal responsibility.
- Companies have their names, and these are protected.

Profit sharing

- Shareholders share in the profits of the company in the form of dividends.
- Other forms of ownership will share profit according to their contribution or internal agreement.

Ownership and management

- Shareholders are able to buy and sell shares freely in a public company.
- The company is managed by qualified and competent board of directors.
- A company is less likely to use consultants as it has a larger pool of skills and expertise.

Capital and cash flow

- A company may have more investors to fund the setting up of the business.
- Companies have a better cash flow than sole traders.
- A company is not limited to the individual contribution of the members' capital.

Life span and continuity

- A company has continuity of existence.
- Company shares can be transferred, bought, or sold.
- The life span of a sole proprietor and partnership is limited.

Taxation

- Companies have tax benefits that other enterprises do not have. They may obtain tax rebates if they are involved in social responsibility projects.
- The life span of a sole proprietor and partnership is limited.

Explain/Discuss/the challenges of establishing a company versus other forms of ownership according to the above-mentioned aspects.

- The owners of the company have more liability. Directors might not have a personal stake in the company.
- If directors change, there might be a difference in the continuity of management.
- Directors may not have a personal interest in the business, and this could prevent the business from gaining help to maximise growth and profits.
- There may be a conflict between the owners of the company and the management in control.

Explain/Describe/Discuss the procedure for the formation of companies.

- Determine the people establishing the company.
- Prepare a memorandum of incorporation, open a bank account, and register
- for taxation.
- File a notice of incorporation and obtain a unique registration number.
- Draw up a prospectus for potential investors.

Explain/Discuss the legal requirements of the name of the company.

- If a name is reserved at the CIPC, it cannot be used by another company.
- Names can be reserved by a business for six months.
- The name of a company is subject to approval by CIPC.
- The name of a company must be original and may not be misleading.

Define the following concepts:

- **Memorandum of incorporation (MOI)**
    - MOI serves as the constitution of a company.
    - Companies are governed according to the rules stated in the MOI.

- **Notice of incorporation**
    - The notice must be lodged together with the Standard Form of the Memorandum of Incorporation and it contains the following information:
        - type of company
        - financial year-end
        - company name.
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- **Prospectus, i.e. initial & secondary offer**
    - A prospectus is a written invitation to convince the public to buy shares.
    - A prospectus gives information about the business.

Outline/Describe aspects that must be included in the prospectus.

- Name of the company
- Nature of the company
- Main objectives of the company
- Securities of the company