



INCORPORATION OF SECTION 8 COMPANY IN INDIA



BACKGROUND

The purpose of this presentation is to highlight the brief procedure of incorporation of Section 8 Company as per the relevant sections of Companies Act, 2013 along with the other initial registrations as per various statutory laws as applicable in India.

OVERVIEW

- Section 8 Company is a Company registered either as limited by shares or limited by guarantee with or without share capital, whose main object is the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other objects which envisage promotion of social welfare.
- A Company can be either incorporated as limited by shares (minimum 2 shareholder) or limited by guarantee with or without share capital.
- A license is also required to be obtained from Central Government, subsequent to which the necessary application is made for incorporation under the Act.
- Memorandum of Association (“MOA”) of the Company contains clauses containing name, registered address, objects, liability and capital details of the Company.
- Articles of Association (“AOA”) of the Company outline the bye-laws of the Company for regulating its internal affairs.
- Minimum 2 directors. Directors can be non-residents, however, it is mandatory for 1 director to be resident in India.



PROCEDURE FOR SECTION 8 COMPANY INCORPORATION

Steps for incorporation of Section 8 company

Step 1- Name Approval

Application for name availability of the Company to be filed with Registrar of Companies ("ROC") in Form "Reserve Unique Name" ("RUN").

Chosen name should be unique all over India.

Step 2- Digital Signature Certificate ("DSC")

For digitally signing forms, all the directors and subscribers should have a valid DSC issued by the Certifying Authorities for which the application needs to be filed with them for obtaining DSC.

Step 3- Documentation

Upon obtaining the name availability certificate, preparation of necessary documents in prescribed formats like consents, affidavits and declarations etc. in relation to incorporation along with the documents incidental to the obtaining of license under section 8 based on the information as provided in the sheet as linked below :

[..\Incorporation\Initial Information Sheet for Section 8 Company.xls](#)



Steps for incorporation of Section 8 company

Step 3- Documentation (CONT.)

Further, MOA and AOA also need to be drafted. The subscription page of MOA and AOA are required to be manually signed by the individual shareholders. In case shareholder is a body corporate, MOA and AOA can be subscribed through a representative authorized by a resolution/ specific power of attorney by the Company.

All the documents related to incorporation executing and signing outside India, needs to be notarized and apostilled.

Step 4- Application for license

Relevant documents are required to be filed with ROC in prescribed e-form for obtaining license under Section 8 of the Act.

ROC scrutinizes the documents and if found in order, license is issued.

Step 5- Certificate of Incorporation

Once the license under Section 8 is issued by the ROC, all the executed documents shall be filed with ROC in respective e-forms for incorporation.

ROC scrutinizes the incorporation documents and if found in order, the Company is registered and Certificate of Incorporation ("COI") is issued.



Steps for incorporation of Section 8 company

Step 6- PAN/TAN

Once the Application for Incorporation is processed, then Permanent Account Number ("PAN") and Tax Deduction and Collection Account Number ("TAN") shall be issued along with the COI issued by ROC.

Step 7- Opening of bank account

Documents required to be submitted with the bank for opening of bank account documents include board resolution, ultimate beneficiary form, bank application form, signed MOA and AOA booklet, signed PAN copy etc. (Requirements differs from bank to bank).

Once all documents are submitted, bank undertakes their KYC requirements and opens bank account.

Step 8- Infusion of Capital

This step is applicable, in case the Company is incorporated as limited by shares and limited by guarantee with share capital.

Once account is opened, shareholders shall infuse the capital.

Subscribers to submit request for issue of Foreign Inward Remittance Certificate ('FIRC') with the bank (in case the subscribers are non-resident/foreign shareholders).



Steps for incorporation of Section 8 company

Step 9- Share Allotment

Company to allot shares and issue share certificates. The share certificates shall be issued within 60 days from the date of incorporation.

The stamp duty on the share certificates of the Company shall be paid within 30 days from the date of execution of share certificates. Stamp duty documents signed by director are to be submitted with Sub-Divisional Magistrate.

Step 10- RBI compliance on allotment

This step is applicable, in case the Company is incorporated as limited by shares and limited by guarantee with share capital and the subscribers are non-resident/foreign shareholders.

Once the shares are allotted and on obtaining FIRC, Form Single Master Form ("SMF") needs to be submitted with Reserve Bank of India ("RBI") through Authorized Dealer ("AD") Bank within 30 days of the allotment.

Allotment should be done within 60 days from the receipt of funds from outside India.



Steps for incorporation of a Section 8 company

Step 11- Commencement of Business

This step is applicable, in case the Company is incorporated as limited by shares and limited by guarantee with share capital.

Such Companies shall not commence business unless a declaration in prescribed form is filed with ROC duly stating that every subscriber to the memorandum has paid the value of shares agreed to be taken by him is filed with ROC within 180 days of the incorporation of the Company .

Step 12- Indirect Tax Registration

Based on proposed business activities of the Company, application for registrations under various indirect tax statutes of India would need to be filed.



Setting up a business in India might seem like a hassle to someone who's unaware about the country's rules and regulations. But that's where we come in to help you.

At Coinmen, our aim is to provide financial expertise to help set up your business and provide profound advisory for its growth. This presentation is put together by our team to ensure that you're prepared well in advance before setting up a business in India and can navigate swiftly through the required compliances.

Disclaimer

This publication does not constitute as professional advice. The information in this publication has been obtained or derived from sources believed by Coinmen Consultants LLP (Coinmen) to be reliable but Coinmen does not represent that this information is accurate or complete. Any opinions or estimates contained in this publication represent the judgment of Coinmen at this time and are subject to change without notice. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. Coinmen neither accepts or assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decisions readers may take or decide not to or fail to take. The presentation contains amendments as proposed in the Income tax Return Forms by Central Board of Direct Taxes ('CBDT') through notification amending Income tax Rules, 1962 dated 1st April 2019.