

- **Kinds of Companies**

Classification on the basis of liability

Companies with limited liability

(a) Companies limited by shares- where the liability of the members of a company is limited to the amount unpaid on the shares, such a company is known as a company limited by shares;

(b) Companies limited by guarantee- where the liability of the members of a company is limited to a fixed amount which the members undertake to contribute to the assets of the company in the event of its being wound up, the company is called a company limited by guarantee.

2. Unlimited companies- A company without limited liability is known as an unlimited company. In case of such a company, every member is liable for the debts of the company.

Classification on the basis of number of members

1. Private company-a private company is normally what the Americans call a 'close corporation'. According to Section 3(1), a private company means a company which has a minimum paid-up capital of Rs. 1,00,000 or such higher paid-up capital as may be prescribed, and by its Articles-

(i) Restricts the right to transfer its shares, if any. The restriction is meant to preserve the private character of the company;

(ii) Limits the number of its members to 50 not including its employee members ;

(iii) Prohibits any invitation to the public to subscribe for any shares in, or debentures of, the company;

(iv) Prohibits any invitation or acceptance of deposits from persons other than its members, directors or their relatives.

Every private company, existing on the commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than Rs. 1,00,000 shall, within a period of 2 years from such date of commencement, enhance its paid up capital to Rs. 1,00,000.

2. Public company- A public company means a company which –

(i) Has a minimum paid-up capital of Rs. 5 lakh or such higher paid-up capital, as may be prescribed;

(ii) Is a private company which is a subsidiary of a company which is not a private company?

Every public company, existing on the commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than Rs. 5,00,000 shall, within a period of 2 years from such date of commencement, enhance its paid up capital to Rs. 5,00,000.

One person company ---Section 2(62) of companies act 2013“One Person Company” means a company which has only one person as a member.

## Classification on the basis of control

1. Holding company-Section 4(4) - a company is known as the holding company of another company if it has control over that other company;

Under section 2 (46) of companies act 2013 “holding company”, in relation to one or more other companies, means a company of which such companies are subsidiary companies.

2. Subsidiary company-Section 4(1)—a company is known as a subsidiary of another company when control is exercised by the latter called holding company) over the former called a subsidiary company.

Under section 2 (87)of companies act 2013 “subsidiary company” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which the holding company— (i) controls the composition of the Board of Directors; or (ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies: Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed. Explanation.—For the purposes of this clause,— (a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company; (b) the composition of a company’s Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors; (c) the expression “company” includes anybody corporate; (d) “layer” in relation to a holding company means its subsidiary or subsidiaries;

A company is deemed to be a subsidiary of another company when-

(i) Where the company controls the composition of Board of Directors of the subsidiary company;

(ii) Where the company holds more than half the nominal value of equity share capital of another company;

(iii) Where a company is subsidiary of another company, which is itself is subsidiary of the controlling company.

Classification on the basis of ownership

1. Government company- a Government company means any company in which not less than 51 % of the paid-up share capital is held by-

(i) The Central government;

(ii) Any State government or governments;

(iii) Partly by the Central government and partly by one or more State governments.

2. Non- Government Company

Foreign company- it means any company incorporated outside India which has an established place of business in India. (Section 591(1) ;

Section 2 (42) of companies act 2013 “foreign company” means any company or body corporate incorporated outside India which— (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and (b) conducts any business activity in India in any other manner.

- **Government Company**

A Government company means any company in which not less than 51% of the paid-up share capital is held by-

(a) The Central Government; or

(b) Any State Government or Governments; or

(c) Partly by the Central Government and partly by one or more State Governments.

Section 2(45) of companies act 2013 “Government company” means any company in which not less than fifty-one per cent. Of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company.

Example- State Trading Corporation of India.

Rules applicable by Government companies

1. Appointment of auditor and audit reports-Section 619-the auditor of a Government company shall be appointed or re-appointed by the Comptroller and Auditor-General of India. The Comptroller and Auditor-General shall have power to direct the manner in which the company’s accounts shall be audited by the auditor. A copy of the audit reports are to be submitted to the Comptroller and Auditor-General who shall have the right to comment upon it or supplement it.

2. Annual report to be placed before Parliament-Section 619-A-where the Central Government is a member of a Government company, it shall cause an annual report on the working and affairs of the company to be prepared within 3 months of its annual meeting before which the audit report is placed. The report shall be laid before both Houses of Parliament together with a copy of the audit report.

3. Provisions of Section 619 to apply to certain companies-the provisions of Section 619 shall apply to a company in which not less than 51% of the paid-up capital is held jointly by Government, Government companies and public financial corporations.

4. Certain provisions of the Companies Act do not apply-Section 620-the Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act(other than Sections 618, 619), specified in the notification –

(a) Shall not apply to any Government company;

(b) Shall apply to any Government company, with such exceptions, modifications and adaptations, as may be specified in the notification.

But under New companies act 2013 ---- Annual reports on Government companies(section 394 of companies act 2013)-- (1) Where the Central

Government is a member of a Government company, the Central Government shall cause an annual report on the working and affairs of that company to be—

(a) prepared within three months of its annual general meeting before which the comments given by the Comptroller and Auditor-General of India and the audit

report is placed under the proviso to sub-section (6) of section 143; and (b) as soon as may be after such preparation, laid before both Houses of Parliament

together with a copy of the audit report and comments upon or supplement to the audit report, made by the Comptroller and Auditor-General of India. (2)

Where in addition to the Central Government, any State Government is also a member of a Government company, that State Government shall cause a copy of

the annual report prepared under sub-section (1) to be laid before the House or both Houses of the State Legislature together with a copy of the audit report and

the comments upon or supplement to the audit report referred to in sub-section (1). Annual reports where one or more State Governments(section 395 of

companies act 2013)- (1) Where the Central Government is not a member of a Government company, every State Government which is a member of that

company, or where only one State Government is a member of the company, that State Government shall cause an annual report on the working and affairs of the

company to be— (a) prepared within the time specified in sub-section (1) of section 394; and (b) as soon as may be after such preparation, laid before the

House or both Houses of the State Legislature together with a copy of the audit report and comments upon or supplement to the audit report referred to in sub-

section (1) of that section. (2) The provisions of this section and section 394 shall,

so far as may be, apply to a Government company in liquidation as they apply to any other Government company.