



LIMITED LIABILITY AND ADDITIONAL LIABILITY COMPANY - AS A SUBJECT OF CIVIL LAW

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Article history:	Abstract:
Received: March 21 st 2023 Accepted: April 26 th 2023 Published: May 26 th 2023	This article describes in detail the legal status of the limited and additional liability company, the rights and duties of its participants, the regulation of its activities by law and other legal documents, the formation of the chartered fund of the LLC and the internal audit service.

Keywords: Limited liability company, additional liability company, chartered fund, internal audit service, company name, abbreviation, etc.

It is not a secret to anyone that within the framework of the reforms that have been carried out consistently and rationally in our country during the past 31 years of independence, a wide range of specific goals and tasks have been implemented. In this process, the work carried out in order to give freedom to the further development of private property and private entrepreneurship, and to eliminate all the obstacles and restrictions that stand in the way of this, is invaluable. This issue is not considered a priority for nothing. Because sustainable growth and the future prospects of our country, the level and quality of life of the population depend to a large extent on how this issue is resolved. What is most gratifying and rewarding is that this focus is on continuity, gradualism and gradualism.

It is not a secret to anyone that every reform is carried out for the sake of the people and in the interests of the people. At this point, we had the opportunity to work based on the ideas of the President of our country, Sh.M. Mirziyoev, that "Human interest is above all else", to protect the rights of our people and entrepreneurs more reliably.

According to Article 62 of the Civil Code of the Republic of Uzbekistan, a limited liability company is recognized as a company founded by one or more persons, whose charter fund (authorized capital) is divided into shares in the amounts determined by the founding documents. Participants of a limited liability company are not liable for its obligations and are liable for damages related to the company's activities within the value of their contributions.

The participants of the society who have not paid their contribution in full shall be jointly and severally liable for the obligations of the society within the value of the unpaid part of the contribution of each participant. The company name of a limited liability company must include the name of the company, as well as the words "limited liability".

The legal position of the limited liability company, the rights and duties of its participants are determined by this Code and other laws.

Article 62 of the FC of the Republic of Uzbekistan provides the basic rules for a limited liability company. Currently, LLC is one of the most widespread and popular organizational and legal forms of a legal entity carrying out business activities in our country. The main purpose of the company's activity is the ability to make a profit and distribute it among the participants of the LLC.

LLC has the right to carry out any type of activity (not prohibited by law), but in accordance with the Law of the Republic of Uzbekistan No. 310-II dated December 6, 2001 "On Limited Liability and Additional Liability Companies", the LLC's charter must specify the purpose of this LLC's activity, i.e. special legal capacity is determined.

In our opinion, this situation does not correspond to the spirit of the market economy and entrepreneurial activity, because it limits the freedom of choice of the business entity, because it is difficult to imagine that the founders can clearly and fully foresee all the types of activities that the LLC they are creating can engage in. LLC can be established by one person or several persons. Founders can be citizens and (or) legal entities. In the legislation, it should be mentioned that certain categories of natural persons may be prohibited or restricted from participating in the LLC. Also, state authorities and management bodies cannot be participants in LLCs, unless otherwise specified by law. LLC can be established by one person, in which case this person will be its sole participant. A society can then become a single member society. However, the sole participant of LLC cannot be another economic society consisting of one person.

The number of LLC participants cannot exceed fifty. A limited liability company is a commercial organization that has a charter capital divided into shares of



participants and is independently responsible for its obligations.

The amount of the share of the participant of the company is determined in percentages or in the form of fractions and must be equal to the ratio of the nominal value of his share and the authorized capital of the company. Also, LLC participants are not responsible for its obligations, the fourth and sixth parts of Article 48 of the FC of the Republic of Uzbekistan and Article 67 Exceptions to this are the cases provided for in the fourth part of the article.

This means, for example, that the property of an LLC participant cannot be attached as a measure to secure a decision made by a commercial court in a case for which the LLC is responsible.

The second part of this article stipulates that the participants of the LLC who have not paid their contributions in full shall be jointly liable for the social obligations of this LLC within the value of the unpaid part of each participant's contribution. This means that the creditor of the LLC may file a claim against any participant who has not paid his contribution as a joint debtor, but only for an amount not exceeding the unpaid part of his contribution. Thus, in this case, the FC of the Republic of Uzbekistan has limited joint and several liability. Limited joint liability of participants differs from full joint liability in that its amount is not equal to the entire amount of the unpaid authorized capital, but is limited to the unpaid part of the participant's contribution for which a corresponding demand has been made. This type of joint and several liability is somewhat similar to shared liability, but differs from it in that the participants of the LLC are not responsible for their own obligations to creditors, but for the obligations of the LLC in the amount of their unpaid share in the authorized capital. This means that, as a measure to secure a decision made by an economic court in a case for which the LLC is responsible, according to the general rule, the property of the LLC participant cannot be attached.

According to the Law of the Republic of Uzbekistan "On Firm Names", the firm name is the individual name of a commercial organization that is a legal entity, and the exclusive right to it arises when the legal entity is state registered.

A legal entity may have an abbreviated company name as well as a full company name.

In the name of the legal entity, its organizational and legal form should be indicated.

According to them, the LLC must have a full company name in the state language and at the same time in other languages at the request of the society, and has the right to have an abbreviated company name.

The full name of the limited liability company must include the full name of the company and the words "limited liability company". The abbreviated name of a limited liability company must include its full or abbreviated name and the words "limited liability company" or the abbreviation LLC.

The name of the company reflecting its organizational and legal form, including other terms and abbreviations borrowed from foreign languages, may not include, unless otherwise provided by law. That is, it is not allowed to use an abbreviation that reflects the organizational and legal form of the organization in the name of the firm, for example, at the same time in Russian and in foreign languages, for example, limited liability company "Navruz" Ltd".

A note indicating the country of origin of its founders may be included in the company name of the society being established with the participation of foreigners. The company LLC must have a round seal with the full name of the company expressed in the state language and the address of the company. In the company's seal, its company name may be expressed in other languages at the company's request. LLC has the right to have its own stamps and forms with its company name, its own emblem, as well as a duly registered trademark and other signs of its own.

The legal status of the LLC, as well as its participants, is determined by the FC of the Republic of Uzbekistan, the Law of the Republic of Uzbekistan "On Limited Liability and Additional Liability Companies". The above Law defines the legal status of the LLC, the rights and obligations of its participants, the procedure for its formation, reorganization and liquidation.

Legislation on limited liability companies includes other legislation.

It should also be mentioned that LLC cannot attract funds for its development by issuing shares.

Therefore, debt funds are the main source of additional resources of LLC.

To obtain them, the participants of the LLC business company cannot use the special advantage of the business company, which is related to the subsidiary liability for the company's obligations.

When the amount of the authorized capital is small, the participants of the LLC are required to take responsibility for the debts of the LLC for its development, to ensure the repayment of loans and the fulfillment of other obligations accepted by the LLC with their guaranty, as well as to transfer money and property to the LLC for borrowing, lease agreements, etc. will have to give.

According to Article 62 of the Civil Code of the Republic of Uzbekistan, a company founded by one or more



persons, whose charter fund is divided into shares of the amount specified in the founding documents, is an additional liability company.

Such a society ing participants are jointly and severally subsidiarily liable for its obligations with the value of their contributions with their assets, which is the same for everyone, and is determined in the founding documents of the society.

When one of the participants becomes insolvent (bankrupt), his responsibility for the company's obligations is distributed among the other participants in proportion to their contributions, unless a different procedure for the distribution of responsibility is provided for in the founding documents of the company. The company name of the additional liability company must include the name of the company, as well as the words "additional liability". The provisions of this Code on the limited liability company shall apply to the additional liability company, unless otherwise provided in this article.

An additional liability company together with a limited liability company is an independent organizational and legal form of a legal entity. But LLC and QMJ have many similarities. The similarity of these organizational and legal forms allowed the legislator to apply the provisions of the FC of the Republic of Uzbekistan on the limited liability company to the additional liability company, except for the legal regulation of liability.

It should be taken into account that in the recommended legislative document "On Limited Liability Company" approved by the Inter-Parliamentary Assembly of the CIS on November 2, 1996 (MPA Bulletin, 1996, N 12), QMJ is evaluated as a type of LLC. As mentioned above, the main difference of QMJ from LLC is the legal regulation of liability. Unlike LLC, participants of QMJ are jointly and severally liable for its debts with their property. This means that the creditor has the right to demand the execution of the debt in full or in part from all the participants of the QMJ (joint debtors) together and from any of them separately. A creditor whose demand from one participant of the society is not fully satisfied has the right to demand the remaining uncollected funds from other participants. The obligation remains with the participants until the obligation is fully executed.

The size of the participant's additional liability is directly limited: it is not determined by the participant's entire personal property, but only by its part, and it can be one, two, three times, etc. This ratio is the same for all participants. In general, it can be said that there is a specific increase in the minimum amount of property that guarantees the interests of creditors (except for the authorized capital of the company).

In this respect, the additional responsibility of the participants of the company can be considered as an element of securing the loan, which gives the company with additional responsibility additional benefits in obtaining loans compared to the LLC. The peculiarity of an additional liability company is that in case of bankruptcy of one of its participants, the additional liability is distributed proportionally to the shares of the remaining company participants or in a different manner established by the founding documents, supposedly adding to their shares.

Due to the fact that the first part of Article 63 of the FC of the Republic of Uzbekistan talks about the subsidiary responsibility of the participants of QMJ, the provisions of Article 329 of the FC of the Republic of Uzbekistan are applied to the procedure for implementing such responsibility.

In addition, for the convenience of creditors of QMJ, the FC of the Republic of Uzbekistan not only provides for the subsidiary liability of its participants for the obligations of society, but also gives it the character of joint and several liability, therefore, the creditor of QMJ can apply to any of the participants of QMJ and request from an individual participant, some participants or all of them together. , the party has the right to demand the fulfillment of a monetary obligation (obligation to pay money) to which the society is a party, to demand that it be executed in an amount less than, more than, or equal to the value of the participants' contribution, or if the relevant demand is placed on one or one of the participants, although not on all participants. , in the amount exceeding this amount, in any case, the creditor has the right to demand the execution of monetary obligations by one participant in an amount not exceeding the amount of the authorized capital multiplied by the coefficient of subsidiary responsibility of the participants of the QMJ.

Specific features of formation of the company name of QMJ, as well as issues related to them, are not fundamentally different from similar issues arising from the company name of LLC.

According to parts 1, 3, 4, 5 of Article 6 of the Law of the Republic of Uzbekistan "On Limited Liability and Additional Liability Companies", the QMJ must have a full company name in the state language and at the same time in other languages at the discretion of the company, and an abbreviated company to have a name is entitled to The full company name of the additional liability company must include the full name of the company and the words "additional liability company". The abbreviated company name of the additional liability company must include the full or abbreviated



name of the company and the words "additional liability company" or the abbreviation QMJ.

The name of the company reflecting its organizational and legal form, including other terms and abbreviations borrowed from foreign languages, may not include, unless otherwise provided by law.

A note indicating the country of origin of its founders may be included in the company name of the society being established with the participation of foreigners.

QMJ society must have a round seal with the full name of the company expressed in the national language and the address of the society. In the seal of the company, its company name can be expressed in other languages at the discretion of the company.

Speaking about the control system in limited liability companies, first of all, raises issues related to the mechanisms of control over the activities of such companies. In general, the management bodies of the company and the internal audit and control system, which controls its activities, primarily aim to support and develop the activities of limited liability companies, which are considered to be such companies.

In addition, the effective implementation of such a control system creates the basis for the strengthening of legality and legal order in limited liability companies. The control system in limited liability companies, in addition to the activities of its management bodies, puts on the agenda the issue of scientific-theoretical and practical analysis of issues related to the activities of internal audits, audits and audit commissions in such companies.

At present, the important resource of limited liability companies, such as internal audit, is not sufficiently evaluated, although its correct use increases the efficiency of the activities of such companies and serves to ensure the strengthening of the control system in companies.

World practice shows that if the external audit institute causes serious shortcomings, it can even lead to bankruptcy of large enterprises that have been occupying strong positions. A high level of corporate governance is a positive sign for prospective investors and creditors, and it serves to increase the investment attractiveness of the enterprise. Internal audit is an integral part of such corporate management.

The adoption of the decision of the President of the Republic of Uzbekistan No. PQ-475 of September 27, 2006 "On measures to further develop the stock market" started the process of formation of the Institute of Internal Auditors in Uzbekistan. According to this regulatory document, starting from January 1, 2007, regardless of the form of ownership, the balance sheet value of assets is 1 billion. In enterprises with more than

soums, it is established that internal audit services (IAX) are appointed by the supervisory boards and report to them.

According to the current law of the Republic of Uzbekistan "On limited liability and additional liability companies", an internal audit service is established in a company with a balance sheet value of more than one billion soums.

The supervisory board of the society establishes the internal audit service and appoints its employees. The internal audit service is accountable to the company's supervisory board.

Currently, taking into account the requirements for the development of corporate governance norms, it is required to further improve the regulatory legal framework of corporate governance in limited liability companies. The main reason for this is that management activities in limited liability companies are based on very simple and simple mechanisms. That is why it is appropriate to develop the concept of improvement of corporate legislation. Corporate governance should be an important part of this concept. This serves as a basis for solving problems in this direction, and most importantly, for the protection of the rights of participants of limited liability companies.

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