Partnerships and limited companies

The Partnership Act 1890 defines a partnership as the relation which subsists between people carrying on a business in common with a view of profit. (Alan Griffiths & Stuart Wall) states " This is a form of business relationship which is usually entered into by individuals who wish to take advantage of the combined capital, managerial skills and experience of two or more people."(p133)

Definition of limited companies

Limited companies are companies whose ownership is in the hands of shareholders who appoint directors to report at meetings, these meeting are often annual. The directors and managers are responsible for the day to day running of the business and then report back to the shareholders. There are two types of limited companies, Private Limited Companies (Ltd) and Public Limited Companies (Plc). These must issue a Memorandum of Association defining its relationship with the outside world and Articles of Association defining its internal government.

Advantages of partnerships

An advantage of a partnership compared to a limited company is that you can set up a partnership with any starting capital. With limited companies at least £50, 000 is needed. Globally, a partnership means less bureaucracy and a more flexible structure. For example, it is not required to hold formal board meetings annually or generally. This shows that this type of business is easier to run. Partners can't be expelled and can stop new incoming partners according to Partnership Act 1890, (Section25). This is in link with the changes in composition of the partners that imply a new firm to be created and the old firm can be dissolved if there are any changes. It also implies that incoming partners will not be liable for what occurred before they join, and outgoing partners for what occurred after they leave. There are no requirements to publish full financial details, so there is more privacy for partners. Finances only need be declared for tax and VAT. Another key advantage is that costs, risks and responsibility is shared between the partners, keeping the control of the company to a minimum.

Disadvantages of partnerships

The main disadvantage of a partnership is the unlimited liability of the debts. All partners are liable together for the debts and other liabilities of the firm. The liability applies to their private assets of the partners. (Business law, p88) There is no full insurance over on offer for professional liability claims. A partner is still liable after his death for the debts incurred by the firm while he was a partner and after his retirement if he did not notice his retirement in the London Gazette (business law, p88). The solution to this disadvantage is to be a limited partner and so the liability of the partner is limited for the debts of the firm (limited Partnership Act 1907).

However one partner must be a general partner meaning this partner would be fully liable for the firm's debts. If one partner does a wrongful act or an omission in the course of the business, the firm is liable for the wrongful act or the omission of the partner (Partnership Act 1890, section 10). Moreover there is no separate entity. According to the book Law for Business " a partnership is not a legal person, though it may sue or may be sued in the firm's name. Thus the partners own the property of the firm." (p624) Finally a partnership is not convenient for huge structure businesses, as disagreement between partners can cause difficulties in decision making.

Advantages of Limited companies

A limited Company exists as a legal entity in itself, separate from its owners and managers. Liability for debts is limited to the amount of issued share capital. Capon (2004 p16)

Advantages of limited companies are that if Arkwright was to go for a Private Limited Company (ltd), then he would only need one director. If he were to go for a public limited company (plc) then the minimum would be two. An advantage of a limited company is the limited liability this would create. This shows that personal possessions of the owners are protected as they cannot lose more than they have invested. If Arkwright was to choose a private limited company, Arkwright would benefit from having a relaxed time limit in which he has to submit annual accounts to the Registrar of Companies.

Another advantage of starting up a private limited company is that there is not a set amount of capital that the company has to start up with; it can be created on what Arkwright decides on. If Arkwright were to desire a private limited company, then there isn't a set of rules in the Companies Legislation that private limited companies are to comply with. There is however, for a public limited company. Lastly, a rather significant advantage of a public limited company is that, there is no limit in age in which Arkwright has to retire by. He can still be a director beyond the age of 70 and for as long after that as he wants.

Disadvantages of Limited companies

Ltd's:

A disadvantage of being a LTD is that you cannot sell shares on the London Stock Exchange to the general public, thus losing a large proportion of possible buyers. Shares can only be sold to relatives; which makes it harder for investors to get their money back if they want to sell shares. There is often only a limited amount of capital that can be raised from friends and family.

Another disadvantage is that unless the founding member is the majority share holder they may loose control over the business. A. Griffiths and S. Wall. (2008 p135)

PLC:

There are many legal formalities that must be addressed before a PLC can start up, for example a solicitor must be paid to set the company up making it more expensive then a partnership or sole trader. The company must pay an auditor to check accounts independently to ensure the accounts are all in order to be viewed by the public and shareholders.

All activities are closely monitored by company law, to ensure that company is making public every account it should. As the company must publish the accounts the company loses some privacy to competitors. Due to this there may be competition that offers a takeover bid, buying all the shares available on sale, and there is nothing the managers can do to stop this.

One final main point is that the companies can become very large and bureaucratic. Poor communication often arises leading to inefficiency. The divorce of control and ownership causes problems with share holders and managers, as their goals/aims for the company may be quite different.

CONCLUSION

Each form of company has its strengths and weaknesses but according to its activity, its structures, etc … each firm should find the form that suits best for its business.

To our particular case, Arkwright should opt for a LLP, REASONS :

References

A. Griffiths & S. Wall, Economics for Business and Management. Second Edition, (2008)

K. Denis, Law for Business, published by Pearson education UK, (2006)

D. Keenan, R. Sarah, Business Law, 8th edition, Pearson education UK, (2007)

Limited Partnership Act 1907

Partnership Act 1890 section 10 and 30

Bibliography