VOLUME 4 | ISSUE 3

INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

DIFFERENCE BETWEEN PRIVATE COMPANY & PUBLIC COMPANY

- Hanshal Verma[1]

ABSTRACT

The shares of a publicly traded company are freely transferable, i.e., freely tradable in an open market called the stock exchange. Shares of a private company are not freely transferable, as the articles of association contain restrictions. It may invite the public to subscribe to its shares or bonds. Both public and private enterprises may be large. It's merely the way they obtain reserves or cash that is different and unique. The privately held corporation receives funding from private financial backers and venture capitalists, and they are not required to reveal any organizational details or data to the broader public. Public firms or public organizations rely on the general population or general public and do not own their businesses, and so must follow SEC requirements. The primary differences between private and public firms are their ownership structures, governance, regulatory requirements, and access to capital.

INTRODUCTION

A privately held firm is not the same as a public regular organization. A privately owned firm cannot swap or trade its shares with the broader public. Furthermore, private company shares are not traded on open or public stock markets.

That is not to say that privately owned enterprises do not have shares, and no one may own them. A few of willing financial backers control or own the shares of a privately owned corporation, which are then discreetly exchanged or traded.

[1] Student at XIM University, Bhubaneswar

© 2024 International Journal of Advanced Legal Research

A privately held firm operates similarly to a public organization. The primary contrast is that in a privately owned firm, the number of shares transferred is often less, and the swapped shares are claimed by a limited number of persons.

Privately held enterprises typically raise funding from financial speculators or venture capitalists. Financial speculators looking for high-risk, high-reward enterprises will benefit greatly from funding resources or investing in privately owned firms.

Privately owned enterprises can go public if they need additional capital to expand. For this, they conduct an initial public offering (IPO) and distribute shares to the general public.

A public organization can also transform into a privately held enterprise with the help of a private equity firm.

A public body may issue its own enrolled or registered securities to the general public. Following an IPO, an organization becomes a public entity. A public organization might also be called a publicly traded firm.

A publicly listed corporation means that the company can trade in public capital markets and directly offer its shares to the general public.

According to the US Securities and Exchange Commission (SEC), if a group has $10 million in resources and more than 500 supporters or subscribers, it must register with the SEC and follow all announcing requirements and laws.

A public organization's shares are divided among its investors or shareholders, senior management, and executives. An organization goes public to raise funds for its operations, allowing it to expand its scope, reach, and market share.

Ownership

Private companies are owned by a small group of individuals, families, or private equity groups. Ownership is not publicly traded and is frequently carefully held.

Public Company: Ownership is divided among public shareholders. Shares are traded on a public stock exchange, allowing anybody to own a portion of the firm.

© 2024 International Journal of Advanced Legal Research

Disclosure and Transparency:

Private corporations have less severe disclosure obligations than public ones. They are not compelled to disclose financial information in the same way.

Public Companies are subject to stringent regulatory obligations for financial reporting and disclosure. They must provide financial statements, earnings reports, and other information to the public on a regular basis.

Governance:

Private companies generally have more flexible governance structures that may be adjusted to the demands of the owners. Decision-making is usually centralized and may include fewer parties.

A public company is governed by a board of directors elected by the shareholders. They must follow different legislation and corporate governance requirements to guarantee accountability and transparency.

Access to Capital:

Private companies typically rely on private sources of finance, such as bank loans, venture capital, or private equity. Access to financing may be more limited than with public corporations.

Public companies can raise cash by releasing shares to the general public via initial public offerings (IPOs) and later secondary offers. Public corporations have more funding alternatives, such as issuing bonds and accessing equity markets.

Regulatory Requirements:

Private corporations are subject to fewer regulatory restrictions and get less scrutiny than public enterprises. Compliance requirements are typically lighter.

© 2024 International Journal of Advanced Legal Research

Public companies are subject to rigorous rules enforced by securities regulators, stock exchanges, and other agencies. Compliance with financial reporting, transparency, and corporate governance norms is required.

Liquidity of Shares:

Private company shares are difficult to transfer and may be restricted from selling. In general, liquidity is lower than for publicly traded shares.

A public company's shares are exchanged on stock markets, providing stockholders with liquidity. Investors can readily purchase and sell shares, increasing the liquidity of the company's stock.

Here are examples of both public and private companies in India:

Public Companies:

Reliance Industries Limited is a conglomerate having businesses in petrochemicals, refining, telecommunications, and retail.

Tata Consultancy Services (TCS) is a global IT services firm that offers software solutions and consulting.

State Bank of India (SBI) is the country's largest public-sector bank, providing banking and financial services.

Private Companies:

Ola Cabs: A ride-hailing platform that offers transportation services using a smartphone app.

Swiggy is an online meal delivery company that connects clients with local businesses.

Reliance Jio Infocomm: A division of Reliance Industries that provides telecoms services and digital goods.

Advantages of Public Company

© 2024 International Journal of Advanced Legal Research

1. Access to public capital markets for raising funds and financing growth initiatives.
2. Liquidity for shareholders through the ability to buy and sell shares on stock exchanges.
3. Greater visibility and exposure to the investment community, attracting potential investors and analysts.
4. Potential for increased brand recognition and market presence due to public status.
5. Ability to attract top talent and executives through stock-based compensation packages.
6. Enhanced credibility and trust among customers, suppliers, and business partners.
7. Opportunities for mergers, acquisitions, and strategic partnerships due to access to public capital.
8. Shareholders have voting rights and the ability to influence corporate decisions.
9. Availability of market valuation through publicly traded share prices.
10. Enhanced corporate governance practices due to regulatory requirements and public scrutiny.

Disadvantages of Public Company

1. Higher costs associated with regulatory compliance, financial reporting, and disclosure requirements.
2. Exposure to greater public scrutiny, which can lead to negative publicity and reputational risks.
3. Reduced privacy and confidentiality of financial and operational information.
4. Potential for increased volatility in share prices due to market conditions and investor sentiment.
5. Pressure for short-term performance and meeting quarterly financial expectations.
6. Shareholder activism and potential for hostile takeovers.
7. Limited control and decision-making power for individual shareholders.
8. Risk of dilution of ownership and control through subsequent stock offerings.
9. Time-consuming and complex process for going public through an IPO.

© 2024 International Journal of Advanced Legal Research

10. Potential for conflicts of interest between management, shareholders, and other stakeholders.[2]

Advantages of Private Company

1. Greater control and decision-making power for individual shareholders and founders.
2. Reduced regulatory burden and lower compliance costs compared to public companies.
3. Ability to maintain privacy and confidentiality of financial information and strategic plans.
4. Flexibility in long-term planning and decision-making, unaffected by short-term market pressures.
5. Focus on long-term value creation and business sustainability.
6. Ability to maintain a closer relationship with customers, suppliers, and stakeholders.
7. More agility and quicker decision-making processes due to a simpler governance structure.
8. Reduced vulnerability to stock market volatility and market fluctuations.
9. Potential for strategic partnerships and investment without dilution of ownership.
10. Avoidance of shareholder activism and hostile takeovers.

Disadvantages of Private Company

1. Limited access to public capital markets for raising funds, potentially hindering growth opportunities.
2. Lack of liquidity for shareholders, as shares cannot be easily bought or sold on stock exchanges.
3. Restricted visibility and exposure to the investment community, potentially limiting access to capital and growth.
4. Limited opportunities for mergers, acquisitions, and strategic partnerships without the currency of publicly traded shares.
5. Potential challenges in attracting top talent due to the absence of stock-based compensation packages.

---

[2] https://www.indiafilings.com/learn/difference-between-private-and-public-company/

© 2024 International Journal of Advanced Legal Research

6. Difficulty in valuing the company and determining the worth of shares.
7. Less transparency and accountability compared to public companies, potentially affecting trust and credibility.
8. Challenges in exiting or divesting the company without a well-established market for private company shares.
9. Limited opportunities for shareholders to realize the value of their investment unless the company is sold or undergoes a liquidity event.
10. Potential for disagreements and conflicts among private shareholders due to differences in goals, objectives, or exit strategies.

Similarities between Public Company and Private Company

1. Both public companies and private companies are legal entities that operate for profit.
2. Both types of companies have shareholders who own a stake in the organization.
3. Both require management and governance structures to oversee operations and decision-making.
4. Both public and private companies engage in business activities and aim for profitability.
5. Both are subject to laws and regulations governing business operations, labor, and taxation.
6. Both types of companies employ workers and contribute to economic growth and employment.
7. Both may have a board of directors or a similar governing body overseeing the strategic direction of the company.
8. Both types of companies can undertake initiatives for growth, expansion, and diversification.
9. Both may engage in corporate social responsibility activities and community involvement.
10. Both public and private companies are susceptible to economic and market risks that can impact their performance and profitability.

Valuation of a Private vs Public Company

© 2024 International Journal of Advanced Legal Research

Market analysts and investors find it far easier to appraise publicly listed companies than privately held ones. The primary reason is the abundance of information accessible as a result of the reporting obligations (described above), as well as equity research reports and analyst coverage.

Both sorts of businesses may be appraised using the same three approaches: comparable company analysis, precedent transactions, and discounted cash flow (DCF) analysis.

Financial modeling, namely DCF analysis, is the recommended tool for evaluating both sorts of firms. However, for a private corporation, it will be very impossible without access to internal corporate data.[3]

CONCLUSION

The Companies Act of 2013 explicitly defines private and public companies, as well as their respective scopes. The Act also includes requirements governing these firms' financial statements and other related information. Public limited corporations have more limitations since they can raise funds through public subscriptions. This calls for stronger safeguards to protect the interests of the company's shareholders and other stakeholders.

Finally, there are differences between public and private organizations in terms of ownership structure, legal requirements, access to financial markets, and openness and accountability. Public corporations provide shares to the general public, are subject to stricter regulatory oversight, and have access to public capital markets. Private firms, on the other hand, have a smaller number of private owners, have less regulatory constraints, and have greater decision-making authority. Understanding the distinctions between public and private corporations is critical for entrepreneurs, investors, and individuals looking to work with or invest in various sorts of organizations.

---

https://www.indeed.com/career-advice/career-development/public-company-vs-private

© 2024 International Journal of Advanced Legal Research