

IRISH COMPANY TYPES

The company is the most common form of business entity in Ireland. The governing legislation for companies is contained in the Companies Act 2014.



The Companies Act regulates such matters as the formation and dissolution of companies, share capital and protection of share capital, dividends, duties and conduct of directors, publication of financial statements and the management and administration of companies.

Types of Company

The most common forms of business organisations operating in Ireland are:

- **Limited Company**
- **Unlimited Company**

Irish company law also provides for the use of the Societas Europaea (SE), a European public limited company and investment funds.

Limited Company

The liability of the shareholders of a limited company is limited to the amount agreed to be paid in respect of the issue of the shares or the nominal value of the shares, whichever is the greater or, in the case of a company limited by guarantee, to the amount guaranteed by the shareholders.

Every company must have at least one shareholder. The majority of Irish companies are private companies limited by shares. A private company is one which restricts the right to transfer its shares, limits the number of shareholders to 149, and prohibits any invitation to the public to subscribe for any shares or debentures of the company.



Types of limited company

There are various types of limited company:

(1) Private company limited by shares (Ltd Company)

The Ltd Company remains by far the most frequently incorporated entity for private, commercial businesses and ventures in Ireland. This is a company limited by shares, a company having the liability of its members limited by its Constitution (previously referred to as its Memorandum & Articles of Association) to the amount, if any, unpaid on the shares respectively held by them. This company type does not have an objects clause in its Constitution (unlike a Designated Activity Company, so that it can trade in any legitimate type of business that the directors and shareholders see fit.

A Ltd Company has the capacity of a natural person and can have one director only if required, in which case a separate secretary must be appointed.

(2) Designated Activity Company (DAC)

As part of the new Companies Act 2014, which came into force on the 1st June 2015, a new company type, the Designated Activity Company (DAC) was created. This limited company type is applicable to those companies that wish to outline and define a specific type of business in their Constitution, rather than to have unlimited powers such as with the LTD Company. The activities of a DAC, a private company, are limited to its objects as set out in its Memorandum of Association. It must have at least two directors. The DAC is suitable for joint ventures and as a special purposes vehicle or where there is a corporate governance requirement for a restriction on its activities.

(3) Designated Activity Company (DAC) limited by Guarantee having a Share Capital

This is a private company in which the shareholders' liability is limited to:

- the amount, if any, that is unpaid on their shares, or
- the amount, being not less than €1, which the shareholders have undertaken to contribute to the assets of the company in the event that it is wound up.

The company's activities are limited to its objects as set out in its Memorandum of Association. It must have at least two directors.

(4) Company limited by Guarantee not having a Share Capital (CLG)

The members' liability is limited to the amount they have undertaken to contribute to the assets of the company, being not less than €1 in the event that the company is wound up. CLGs do not have a share capital, they are not required to raise funds from the members and can retain the benefits of limited liability and a separate legal entity.

This type of company is favoured by groups of people coming together for a common purpose who wish to have the protection of limited liability.

The most common uses for CLGs are as charities (charitable status can be applied for to the Revenue Commissioners on projects which are set up for charitable, for scholastic or religious purposes), residents' associations, owner management property companies, sports clubs and trade associations, as well as for property management and educational purposes. Its activities are limited to its objects as set out in its Memorandum of Association.

(5) Public Limited Company (PLC)

A PLC is permitted to have shares listed on a stock exchange and offered to the public. Its activities are limited to its objects as set out in its Memorandum of Association.

A PLC must have at least two directors, and a statutory minimum share capital of €25,000 of which at least 25% must be paid on issue.

All companies

Every company, other than a Ltd Company, must have at least two directors and a secretary, who may be one of the directors. There is a further requirement to have at least one director resident in a Member State of the European Economic Area (EEA) or to have a surety bond to the value of €25,000. Neither requirement applies where the Registrar of Companies issues a certificate that the company has a real and continuous link with one or more economic activities in Ireland. Unless required by the company's Constitution, a director need not be a shareholder.

A Constitution is required for the formation of a company. This consists, in all cases other than a Ltd Company, of a Memorandum of Association which sets out the company's objectives, and the articles of association which regulate the manner in which the affairs of the company are to be conducted.

In the case of a Ltd Company, since it has the capacity of a natural person, it does not need a Memorandum of Association. Its Constitution sets out its governance provisions.

In all cases, it is possible for the Constitution to provide that the governance provisions of the Companies Act 2014 apply thereby avoiding the need for a detailed Constitution. It is also possible for the Constitution to disapply or amend certain governance provisions of the Companies Act 2014.

Companies are required to keep adequate accounting records which must contain the information necessary to give a "true and fair view" of their affairs and to explain their transactions. Financial statements of all companies must be audited by independent accountants, except for small limited companies and groups with a turnover not exceeding €8,800,000 and which fulfil a number of other conditions.

All limited companies and certain unlimited companies must file their financial statements with the Registrar of Companies for public inspection.

Unlimited Companies

Unlimited companies are similar to limited companies except that the shareholders' liability is unlimited.

There are three types of unlimited company:

- A private unlimited company with a share capital
- A public unlimited company with a share capital, and
- A public unlimited company not having a share capital

Investment Funds

An investment fund is, generally, an entity that pools investors' funds to provide the investors with professional investment management. Typically, an investment fund sells its shares, invests the proceeds to achieve its investment objectives, and distributes to its shareholders the net income and net gains realised on the sale of its investments. Investment funds also enable a diversification of investment risk for the individual investor and reduced broker costs due to economies of scale.

© 2015 Bradley Tax Consulting

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The Bradley Tax Consulting name and logo are registered trademarks.

If you've received this publication directly from Bradley Tax Consulting, it is because we hold your name and company details for the purpose of keeping you informed on a range of business issues and the services we provide. If you would like us to delete this information from our records and would prefer not to receive any further updates from us please contact us at info@bradleytaxconsulting.ie

Produced by: Bradley Tax Consulting. Publication Date: December 2015.

For further information contact: Marie Bradley, Managing Director Bradley Tax Consulting,
Address: 23 Fitzwilliam Place, Dublin 2
Tel: + 353 1 400 4123 **Mobile:** + 353 86 2856880
E-mail: marie.bradley@bradleytaxconsulting.ie