Central India CA Students Association
Indore Branch of CIRC of ICAI

NEWSLETTER

MAY 2024 | Digital Edition

Chairman Message

Dear CA Students,

Warm greetings to all of you!

The month of May is here—a pivotal time in your journey towards becoming a Chartered Accountant. As exams approach, it is natural to feel the weight of expectations and the pressure to perform. However, I urge you to channel this energy into focused preparation and disciplined efforts.

Remember, success in any endeavour stems from consistent hard work, unwavering determination, and self-belief. You have prepared diligently, and now is the time to trust in your capabilities. Stay calm, manage your time effectively, and approach the exams with confidence.

During this time, it is equally important to take care of your mental and physical well-being. Ensure you maintain a balanced schedule, eat healthily, and take short breaks to rejuvenate your mind.

Your dedication to this profession is an inspiration, and I have no doubt that each of you will emerge stronger and more capable from this phase of your journey. ICAI is committed to supporting you at every step, providing resources and guidance to help you succeed.

Best wishes for your exams. Believe in yourself, and let your efforts lead you to success!

CA. Atishay Khasgiwala
Chairman,
CICASA Indore.

AARAMBH:
PIONEERS OF NEW ERA

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India's journey to excellence is marked by a rich tapestry of history, cultural diversity, and socioeconomic transformations. From ancient civilizations like the Indus Valley and Maurya Empire to the Mughal and British colonial periods, India's trajectory has been shaped by a multitude of influences.

In the modern era, India's journey to excellence encompasses strides in various fields including technology, science, economy, and social development. The country's independence in 1947 heralded a new era of nation-building, with initiatives like the Green Revolution, economic liberalization in the 1990s, and the recent emphasis on digital innovation and entrepreneurship driving progress. Despite challenges such as poverty, inequality, and infrastructure gaps, India continues to make significant strides. Its diverse culture, democratic values, and entrepreneurial spirit serve as pillars for growth and resilience.

With a burgeoning youth population and a dynamic economy, India is poised to further its journey towards excellence on both national and global stages.

The concept of India becoming a "Vishwaguru" refers to its potential to become a global leader, teacher, or guide in various domains. Historically, India has been renowned for its contributions to philosophy, spirituality, mathematics, science, and art. In recent times, with its growing economy, technological advancements, and diplomatic outreach, India is positioning itself as a prominent player in the global arena.

To fulfill the vision of becoming a Vishwaguru, India is focusing on several key areas:

Economic Growth: India aims to strengthen its economy and become a hub for innovation, manufacturing, and services, thereby enhancing its global competitiveness.

Since years policy-makers have been debating how to give an impetus to manufacturing in India and make India a Global Manufacturing Hub. But it is Narendra Modi, who within a matter of months, launched the 'Make in India' campaign to facilitate investment, foster innovation, enhance skill development, protect intellectual property & build best in class manufacturing infrastructure.

The “Make in India” initiative is based on four pillars, which have been identified to give boost to entrepreneurship in India, not only in manufacturing but also other sectors.

New Processes: 'Make in India' recognizes 'ease of doing business' as the single most important factor to promote entrepreneurship. A number of initiatives have already been undertaken to ease business environment. The aim is to de-license and de-regulate the industry during the entire life cycle of a business.

Diplomatic Relations: India is expanding its diplomatic footprint, forging strategic partnerships, and actively participating in international forums to promote peace, cooperation, and development globally.

India has diplomatic relations with numerous countries across the globe. These relationships are crucial for trade, cultural exchange, defence cooperation, and addressing regional and global issues. India's foreign policy is guided by principles such as non-alignment, fostering regional stability, and promoting economic development. Additionally, India is an active member of various international organizations like the United Nations, BRICS, and the Commonwealth.

Soft Power: Leveraging its rich cultural heritage, India promotes soft power through initiatives such as yoga, Ayurveda, Bollywood, and Indian cuisine, fostering greater understanding and appreciation worldwide.

Technology and Innovation: India is investing in research and development, promoting entrepreneurship, and leveraging its skilled workforce to drive innovation and technological advancements, contributing to global progress.

Sustainable Development: Recognizing the importance of sustainable practices, India is actively pursuing initiatives to address climate change, promote renewable energy, and enhance environmental conservation efforts, thereby setting an example for the world. Through these efforts and more, India aspires to fulfill its potential, contributing positively to the global community and shaping the course of the 21st century.

Amidst a challenging global scenario, India has emerged as a significant economic and geopolitical power. India is poised to play a defining role in shaping the future of the global economy in 2024 and beyond. Its actions in the coming year could lay the groundwork for the country to become the world's third largest economy in the next five years and a developed nation by 2047, setting an example on inclusive, sustainable economic growth, digital development and climate action.

India's efforts to maintain stability and enact structural reforms have contributed to its economic resilience in the face of global challenges. Investments in upgrading infrastructure and connectivity, including projects like the Bharatmala highway programme, the Sagarmala project for port-led development and the Smart Cities Mission, are transforming the country's landscape and playing a pivotal role in the country's economic advancement.

Additionally, India's youthful population, coupled with a burgeoning startup ecosystem, is driving entrepreneurship and creativity which will shape this new era for India. Overall, it's an exciting time with vast opportunities.

The world is now witnessing a nation on the rise, with a booming economy, and a commitment to inclusivity, sustainability, and international collaboration. India is poised to play defining role in shaping the future of the global economy in 2024 and beyond.

Enterprise vs Company:
How They Differ in Scale, Management and Ownership

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In the world of commercial enterprise, the phrases "organization" and "agency" are often used interchangeably, however they convey awesome meanings and implications. Understanding the variations between a company and a company is vital for marketers, buyers, and enterprise specialists.

This article will deep dive into the explanation of corporation vs organization, that specializes in their scale, control structures, and ownership traits.

1. What is an Enterprise and What is a Company?

A. Enterprise

A corporation normally refers to a business enterprise engaged in business sports, which may encompass production, service provision, or trade. Enterprises can vary extensively in length, scope, and complexity, ranging from small startups to massive multinational agencies. The time "employer" is regularly related to the perception of innovation and risk-taking, in particular inside the context of entrepreneurship.

B. Company

An organization is a selected criminal entity shaped under the legal guidelines of a jurisdiction to conduct an enterprise. Companies can take diverse bureaucracy, along with sole proprietorships, partnerships, limited legal responsibility groups (LLCs), or organizations. Each sort of employer has its own felony framework, which governs its operations, liabilities, and obligations. The time "agency" emphasizes the legal structure and regulatory compliance required to operate an enterprise.

2. Scale: Size and scope of Operations

When discussing business enterprise vs employer, one of the maximum giant variations lies in their scale and scope of operations.

A. Enterprise

Scale Enterprises can be labeled as small, medium or large based on their size and market reach. Small enterprises might also function domestically, specializing in area of interest markets, whilst big corporations regularly have a worldwide presence, serving various customer bases throughout various regions. The scale of an employer impacts its resource allocation, operational strategies, and increase potential.

- **Small Enterprises:** Typically consist of fewer personnel and serve localized markets. They regularly emphasize personalized offerings and network engagement.
- Large Enterprises: Have an enormous body of workers and widespread assets, permitting them to spend money on research and improvement, make bigger into new markets, and obtain economies of scale.

B. Company Scale

Companies can also vary in size, however the term normally implies a selected legal structure. The scale of a company regularly determines its legal duties, taxation, and regulatory requirements. For example, public businesses must adhere to stringent reporting standards, whilst non-public corporations experience more flexibility.

- **Public Companies:** Offer shares to the public through inventory exchanges and are concerned to rigorous regulatory oversight. Their scale frequently lets in for a sizable capital era and wider market reach.
- **Private Companies:** Operate without publicly traded stocks and normally have fewer regulatory

burdens. They may also awareness on steady increase and keeping manage inside a choose institution of owners.

3. Management: Structure and Decision-Making

Another vital difference between a business enterprise and a company lies in their management structures and choice-making techniques.

A. Enterprise Management

Management in an employer can vary based totally on its size and complexity. Small companies often have a flat organizational shape, in which decision-making is centralized among some key people, including the owner or founder. This shape allows for quick choice-making and adaptability, critical for smaller companies navigating dynamic markets.

- **Entrepreneurial Management:** Emphasizes innovation, agility, and a fingers-on technique, regularly led by the founder or a small team of executives.
- **Structured Management:** Larger enterprises may adopt a extra hierarchical control shape with a couple of layers of leadership that can cause greater formalized strategies but potentially slower decision-making.

B. Company Management

In an agency, the management shape is normally defined by using its prison form. For example, a business may additionally have a board of directors overseeing principal choices, while a sole proprietorship relies totally on the owner for management.

- **Board of Directors:** In large companies, the board performs a crucial function in governance, presenting oversight and strategic course, as shareholders go with board contributors.
- **Management Teams:** Companies regularly have designated management groups responsible for day-to-day operations, generally led by using a Chief Executive Officer (CEO) or equivalent.

4. Ownership: Rights and Responsibilities

Ownership structures are some other location where agency vs organization differs considerably.

A. Enterprise Ownership

In an employer, ownership may be shared amongst more than one companion, or it is able to reside with a unmarried character. Small companies often function underneath a sole proprietorship or partnership model, where owners are for my part liable for enterprise debts and responsibilities.

- **Sole Proprietorship:** The owner has complete management but assumes all liabilities, which could pose risks. Partnership: Partners share ownership, income, and liabilities, making it critical to establish clean agreements through a partnership deed.

B. Company Ownership

Companies, in particular organizations, have wonderful possession systems characterized through stocks. Shareholders invest capital within the agency and receive ownership rights proportional to their shareholdings.

- **Limited Liability:** Company structures, consisting of LLCs and organizations, offer confined legal responsibility safety to proprietors, setting apart personal belongings from business liabilities.
- **Transferability of Ownership:** Ownership in a corporation can often be transferred via the sale of stocks, supplying liquidity and investment opportunities.

Conclusion

Understanding the variations among an enterprise vs company is vital for all of us concerned with commercial enterprise. While each term describes entities engaged in industrial activities, they differ considerably in scale, control, and ownership structures.

Enterprises can be extra bendy and revolutionary, especially in smaller settings, even as organizations offer a proper prison framework that offers legal responsibility, safety and regulatory compliance.

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Redevelopment of society:
TAX IMPLICATIONS

Redevelopment of society means tearing down an existing one and building a new one in place of it. Simply put, it is a reconstruction of the existing residential and/or commercial structure. There are various reasons as to why a cooperative society would prefer a redevelopment, the primary reason being the wear and tear of the existing society. Redevelopment requires huge capital inflow; this is where big or big or large builders strike a deal with the members of the cooperative society and propose a redevelopment.

- Typically, in the case of a cooperative housing society, a tri-partite development agreement is entered into between the society as the owner and developer and the members of the society, usually as confirming parties, and the development rights or right to construct by loading of transfer of development rights (TDR) is transferred to the developer. Usually, the society continues as the owner land and buildings. However, it is also possible that, by virtue of the development agreement, land and building buildings may be transferred to the developer.
- The Development Agreement contains various terms and conditions for redevelopment.. It contains provisions for the area of the new flat to be allotted to the members, temporary alternate accommodation to be provided to the members, the corpus fund to be provided to the members or society, members or society, and the area available to the developer for sales in the new building. The society gives the developer a general power of attorney to apply for various permissions and to permit him to enter the premises for the demolition of an old building and the construction of a new building.
- The developer enters into a Permanent Alternate Accommodation Agreement (PAAA) with individual members with respect to a new flat to be allotted to the member in the re-developed building. Such a development agreement is registered. The developer obtains various permissions to commence the construction by demolition. Usually, upon obtaining permission, the members vacate their old premises. The developer hands over the new flats upon completion of the redevelopment. The new flat owners who purchase flats from the developer's share are given membership in the society. The various issues of taxation arising in the above process of re-developing the cooperative housing society are discussed hereinafter.

Income tax considerations :

Whether the sale of development rights amounts to a transfer and is thereby chargeable to tax under the head of capital gains ?

- The term 'transfer' in relation to a capital asset is defined in Section 2(47) of the Income-tax Act, 1961 (IT Act). Section 2(47) of the of the IT Act uses the word 'or' instead of 'and'. Therefore, all the conditions laid down in the provisions of Section 2(47) are not required to be cumulatively satisfied, and even if any condition is satisfied, the capital asset can be considered to be transferred within the meaning of Section 2(47).

- As per the provisions of clause (ii) to Section 2(47), the extinguishment of any right in the capital asset also results in a transfer in relation to the capital asset. The term 'any right' used in the aforesaid clause is wide enough to even include the development rights in the land.
- Reference may be placed on the following case laws, wherein it was held that the transfer of development rights would be subject to capital gains:

1. Land Breez Co.-Operative Housing Society Ltd. v. ITO [2013] 55 SOT 103 (Mum. Trib.)
2. Maheshwar Prakash-2 Co-op. Hsg. Society Ltd. v. ITO ([2009] 121 TTJ 641 (Mum. Trib.)) [Confirmed by Bombay HC in ITA No. 2346 of 2009 dated 24/4/2015]

When does the transfer take place?

- The year of transfer in the case of joint development agreements has been a matter of great dispute. The primary area of dispute is whether the transfer takes place at the time of the transfer of rights or when the property is transferred by the developer to the member.
- When pursuant to a development agreement, the assessee mainly receives a share in the constructed area, and if such share is taxed in the year of execution of the development agreement, then the assessee has to pay huge taxes on the share in the constructed area even though the constructed area is to be received in the future.
- Reference may be drawn to the case of CIT v. Balbir Singh Maini, reported at 398 ITR 531 (SC), wherein the assessee was a member of the Punjabi Cooperative Housing Building Society Ltd. The society entered into a Joint Development Agreement (JDA) for the development of 21.2 acres of land with the developers. The consideration was fixed as cash and a share of the constructed area to be given to the individual members. The Supreme Court held that S.2(47)(v) was not applicable as the JDA was not registered. The Supreme Court also analyzed the alternate argument of transfer u/s 2(47)(vi). S.2(47)(vi) provides that transfer includes any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company, or other association of persons, or by way of any agreement or any arrangement, or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property. The Supreme Court held as follows:

  "The object of Section 2(47)(vi) appears to be to bring within the tax net a de facto transfer of any immovable property. The expression "enabling the enjoyment of" takes color from the earlier expression "transferring," so that it is clear that any transaction that enables the enjoyment of immovable property must be enjoyed by the purported owner thereof. The idea is to bring within the tax net transactions where, though title may not be transferred in law, there is, in substance, a transfer of title in fact.

Requirement under Section 54 of the IT Act?

- Section 54 of the IT Act states that if any residential property that was held for a period of more than 3 years is sold or given for redevelopment and the new flat is purchased or acquired within a period of 1 year before or 2 years after the sale or constructed within 3 years after the sale, then capital gain arising on the transfer of the old flat will be exempt from tax under the said section to the extent of the cost of such a new flat.
- In the case of redevelopment, the new flat to be acquired is treated as "constructed" for the purpose of Section 54. Thus, if the new flat is acquired by the owner within a period of 3 years from the surrender of the original flat, then the capital gain arising from the sale of the original flat can be claimed to be exempted under s. 54 of the Income Tax Act. If the new flat is not acquired by the owner within a period of 3 years, then the assessing officer, at his discretion, can disallow the same at any time during the assessment.
- However, allotment of a flat or a house by a cooperative society, of which the assessee is a member, is also treated as construction of the house [Circular No. 672, dated December 16, 1993].

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