

The Best Company Types in Turkey to Start a Business: Limited Liability Companies and Joint Stock Companies

In terms of entrepreneurs who want to embark on Turkish commercial life, the first question that comes to mind is what the company type should be. The types of companies available in our country are as follows: Joint Stock Company, Limited Liability Company, Cooperative Company, Collective Company, Commandite Company. **Joint Stock Company (“JSC”)** and **Limited Liability Company (“LLC”)** are the most popular types of companies in the world. This preference is also valid in Turkey because there are benefits like tax advantages and limited liability of the shareholders. On account of this popularity, in our article, we will examine these two common types of companies per the provisions of the Turkish Commercial Code (“TCC”).

Comparison of Limited Liability Company and Joint Stock Companies

COMPANY TYPE	LIMITED LIABILITY COMPANY	JOINT STOCK COMPANY
NUMBER OF PARTNERS	At least 1 partner up to 50 partners	It can be set up with at least one partner. There is no upper limit in numbers of partner.
CAPITAL	It can be established with a capital of at least 10.000,00 TL.	The principal capital cannot be less than 50.000 TL. In the case of JSC which have accepted the registered capital system and are not publicly traded, the initial capital shall not be lower than 100.000,00 TL.
RESPONSIBILITY OF PARTNERS	The partners are responsible according to ratio of the capital they are committed to invest in the Company.	The partners are responsible according to ratio of the capital they are committed to invest in the Company.
PARTNERS' RESPONSIBILITY OF PUBLIC RECEIVABLES	The partners are responsible according to ratio of the capital they are committed to invest in the Company. However, the company representative or director is responsible for all public debts.	The partners are not responsible for public debts. Members of Board of Directors in JSC are responsible for public debts.
GOING PUBLIC	There is no possibility to go public.	They can go public.
TAXATION	No matter how many years passed after the Company shares have been transferred, it is subject to Income Tax as a gain value increase.	If the Company shares are sold after 2 years, the gain is not subject to Income Tax.

Companies that will operate in areas such as financial leasing, banks and insurance should be established as JSC.

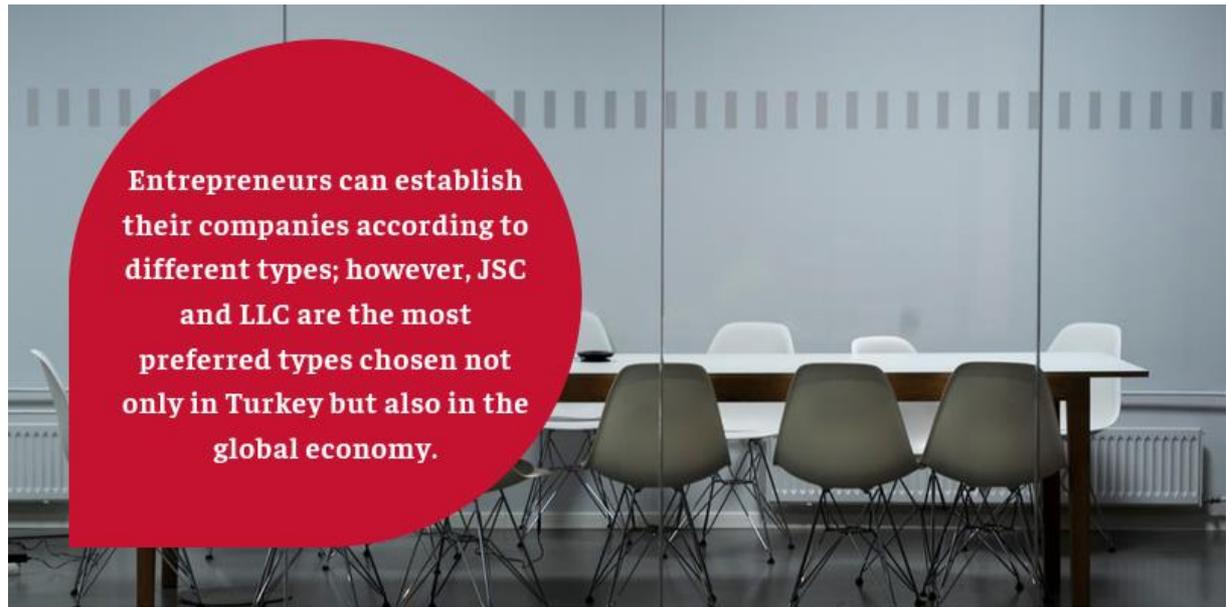
Establishment of Joint Stock Company and Limited Liability Company

In LLC, after the arrangement of the Company contract as provided, the registration application is made to the Trade Register, in the place where the company's headquarters are. The application is signed by all the directors.

According to Article 587 of TCC, in LLC, within thirty days after the company's contract is signed, the company central's location is registered in the Trade Register and shall be announced in Turkey Trade Registry Gazette. In accordance with the Article 588, the Limited Company obtains legal personality by registering with the trade registry.

Pursuant to TCC 335/1, JSC are established in the Articles of Association (“AoA”) signed by the founders, explaining their will to establish a JSC. The AoA shall be regulated in accordance with the law and the partners undertake unconditionally to pay the entire capital. Signatures shall be notarized or the AoA shall be signed in the presence of the Trade Registry Manager or his deputy.

In accordance with TCC 355, JSC acquire legal personality by registering with the Trade Registry.



Joint Stock Company and Limited Liability Company in Terms of Partners and Shares

The number of partner in LLC can be 1 up to 50. JSC can be set up with at least one partner, there is no upper limit. If the number of partners in JSC exceeds 250, the Company shall be subject to the Capital Market Law.

Considering the nominal value of the share; In JSC, the nominal value of each share is at least TRY 0.01. In LLC, the nominal value of each share is at least TRY 25. In JSC, the Company agreement can be changed by the decision of the shareholders representing half of the capital, but in LLC, it can be changed by the decision of the shareholders representing 2/3 of the main capital.

The share transfer in LLC is done through a notary. This is an obligation. The share transfer must be registered with the Trade Registry after the General Assembly of the Company has approved the transfer. In addition, the share transfer must be recorded in the shareholder register of the Company. After all these transactions take place, the share transfer becomes valid.

Unlike LLC, the share transfer in JSC is made by the endorsement of the shares without the mandatory presence of a notary public. Also, it is not compulsory to register share transfers in the Trade Registry. The transfer of bearer shares is not registered in the share register. If there are bearer shares, delivery of the share certificate is sufficient. It is not obligatory to register in the Trade Registry.

The most obvious difference between Joint Stock Company and Limited Liability Company: Taxation

In case of LLC, the company's earnings will be subject to the income tax irrespective of the number of years passed after the shares has been transferred. In case of a transfer of a share held for more than 2 years by a real person shareholder, the gain is subject to income tax; tax exemption is not valid.

When we evaluate the tax exemption for JSC; if the Company shares are sold after 2 years, the profit is not subject to tax. Unlike LLC; if the real person shareholders sell their shares after 2 years, the profit they earn is not subject to tax.

A shareholder who is not a member of the board of directors in JSC is not liable for any tax that cannot be collected from the company and social security premium debts (Social Security Institution 4/A). However, in LLC, the partners are responsible, according to the ratio of their shares, for the the tax and social security premium debts (SSI 4/A) of the Company which cannot be collected from the company and the manager.

Other Aspects of Joint Stock Company and Limited Liability Company

- In LLC, bearer shares cannot be printed. Nominative shares can be printed. However, this can only be used to prove the partnership. There is no tax advantage in the sale. In JSC, there are some special advantages arising from printing bearer shares.
- In JSC, borrowings from the partners and the relatives fo the partners replace the equity, can be returned at any time. In LLC, these borrowings can be returned after all other receivables.
- Although there is no obligation to work with lawyers for LLC; In JSC, when the capital of the company is over TRY 250.000,00, it is obligatory to work with a lawyer.
- In terms of bookkeeping; In JSC, general journal, ledger, inventory book, shareholder book, general assembly meeting and negotiation book, and the board of directors' decision book are obligatory.
- In LLC, general journal, general ledger, inventory book, shareholder book, general assembly meeting and negotiation book are obligatory.

- At the same time, the decisions of the board of directors may be affixed to the general assembly meeting and the negotiation book, or a separate book can be kept for this purpose.
- Bonds can be issued in JSC; bonds cannot be issued in LLC.

As a conclusion, the comparison of **Joint Stock Company** and **Limited Liability Company** demonstrate that each type has its own positive and negative aspects. Before establishing a business in Turkey, one should decide the best company type for his or her investment plan. This decision should be made after financial and legal evaluation in detail.