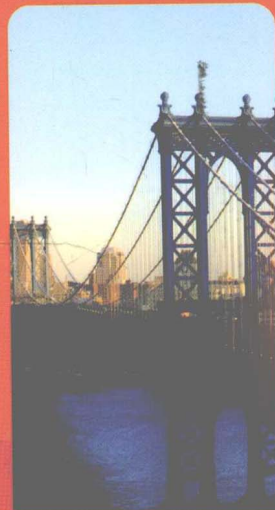
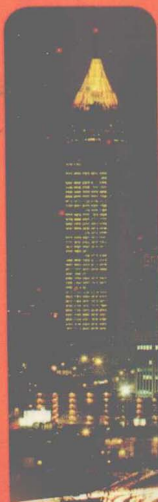
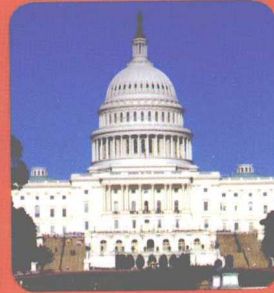
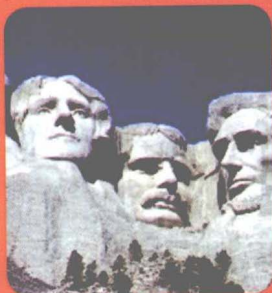




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曼哈顿财经英语基础

MANHATTAN BASIC FINANCIAL ENGLISH

陈越 主编



立信会计出版社
LIXIN ACCOUNTING PUBLISHING HOUSE



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PREFACE

自序

目前,国内英语培训机构众多,但大都不是针对日常口语就是应付出国考试,而对全国1400多万从事财务、金融的专业人士却始终没有一套实用、易学的学习材料。笔者在美国工作期间,发觉我们的中国员工在财务会议上缺乏发表自己观点的能力和勇气,在职场中屡屡吃语言亏。在如今商业全球化和金融国际化的环境下,外资企业的大量涌入,本土企业国际化业务的激增和本土企业竞相赴海外上市,我们的财务精英们已经不满足用英语进行“small talk”,只是谈谈天气和购物了,而是向国际化、专业化英语迈大步的时候了。英语学习一直是很多中国学员的痛,更是当代优秀财经人士的痛。高才培训通过大量调研发觉我国许多财务精英人士,其中不乏财务高管和注册会计师、金融分析师等,他们的专业知识非常过硬,可一旦接触到英语,大都没有了底气。多少财务人士反映说他们惧怕写英文财务报告,有时连用英语表达较长的数字以及比例都有困难,甚至一些电脑键盘上的符号也表述不清,时常为用英语在会议上向外籍财务主管汇报工作而头痛不已,有的上市公司CFO在企业国际电话会议上说不上话也听不懂别人的评论和问题,只好一味地说:“yes”,“ok”,“fine”和“goodbye”。许多工作了8~10年的财务经理,在专业领域已经没有太大的挑战,但是想要挑战5位数的月薪或需要直接或间接面对老外主管,往往感到专业英语力不从心。因此,我们经常听到他们的感叹:“什么时候能有一套实用、易学的财经英语教材啊?”通常来说,我国的财经人士往往内敛,不爱说话,怕说错遭别人笑话。记得华尔街英语培训的创始人——一位70岁的意大利老人说过“如果怕犯错的话,您将永远不会成功”。因此,我们呼吁广大学员要改变自己的说话习惯,要敢于说。我们愿意努力让您speak up,在国际职场我们不做沉默羔羊!我们面临的挑战是市面上尚未有任何成熟的财经英语教材,而在以英语为母语的国家里根本就

没有“财经英语”这一概念和成品。因此,笔者将通过自己在美国工作、学习中的实际心得来编写一套对中国财经人士行之有效的培训教材。我相信加拿大大山开办的教中文节目将更有针对性和实效性,因为他会更清楚老外们在学习中文时会遇见什么样的困难。因此,高才培训绝不会将枯燥的英文财务报表和会计准则作机械的堆砌,在其后附上乏味的词汇;而是想通过大量的财经环境下的工作情景对话将我们财务人士的日常工作内容呈现给广大学员,其中包括财务分析、如何表达数字、如何表达图表、如何做财务报告、如何看懂或听懂英文财经新闻、如何撰写财务相关的电子邮件和电话会议流程和常用语分析等。其中会将许多鲜活生动的英语习语(idioms),俚语(slangs)穿插在本书财务主人公之间的对话中。我们平时不难发现外国人之间的交流很少用很高深或偏僻的词,而是运用了大量的动介词搭配的词组、习语以及俚语。笔者在美国10年的工作、学习中积累了大量的实用口语,现选择在财经环境下常用的汇编到本书的情景对话中。

《上海国际金融中心建设蓝皮书》表示,目前上海金融人才存在着“基础性人才相对饱和,熟练性人才相对不足,高层次人才非常紧缺”的问题。2011年是“十二五”规划的开局之年,金融服务业迎来了前所未有的发展机遇。“十二五”规划明确提出要大力改善教育质量,着力培养一批金融改革急需的高级金融管理人才。为帮助中国广大的金融、财务人员突破英语沟通的障碍,迅速提高整体的英语能力,高才(中国)培训经过历时两年的市场调研和潜心钻研,终于在2011年与立信会计出版社合作,成功出版了《曼哈顿财经英语》(基础阶段和进阶教材)。

《曼哈顿财经英语基础》可作为全国普通高等院校经管类,特别是涉外会计、国际会计专业的上课教材,也可以成为外语专业辅修财会专业课程的选修课教材。本书具有体系新颖、内容精炼、由浅入深、图文并茂等特点。每一章节的专业知识讲解后均配有专业情景对话、专业背景知识、经典财经语句分析、英语语言故事等内容,可读性极强。摒弃了一般国内会计英语教材的专业文章配词汇表的呆板格局。我们力求在内容组织上突出实用性、应用性和综合性,各章知识点讲解简明扼要。通过本书的学习,可增强学生的财务实践能力和英语综合应用能力。同时,可以了解西方高级财经人士的思维习惯、职业操守和职场礼仪,这将为日后步入国际财经职场或赴欧美国家攻读财经类高等学位都是大有裨益的。

在此,要特别感谢高才财经培训的美籍讲师 Tim Farey, CPA, Chris R. Deans, CPA, 美国圣玛丽大学资深教授/高才培训的好朋友 Tom Madison, CPA 和立信会计出版社的张蕾编辑及其他同仁对本教材和其他专业教材给予的大力支持和帮助!

编者 陈越

2011年11月于上海

第1章 企业结构	1
1.1 企业组织形态	1
1.2 合作与股份有限公司	6
1.3 情景对话	11
1.4 经典财经语句赏析	15
1.5 高才语言小贴士——使您更好地了解美语和英语的语言出处	19
第2章 股票	21
2.1 股票的种类	22
2.2 公司债	23
2.3 股东类型	23
2.4 股东的权利	24
2.5 投资失败的风险	27
2.6 购买股票的方式与影响股价的主要因素	28
2.7 情景对话	30
2.8 经典财经语句分析	35
2.9 高才语言小贴士——来自棒球运动的英语表达	38
第3章 重整与并购	41
3.1 北美与日本的比较	41
3.2 重整	42
3.3 并购	42
3.4 并购的原因	43
3.5 并购后的问题	44
3.6 预防恶意收购的策略	45
3.7 企业伦理	48
3.8 企业部属	48

3.9 重点词汇	50
3.10 高才语言小贴士——使您更好地了解美语和英语的语言出处	56

第4章 财务报表、企业责任与公司治理 58

4.1 财务报表	58
4.2 财务、管理与税务会计之差异	59
4.3 财务会计相关人士	60
4.4 一般公认会计原则	64
4.5 企业责任	66
4.6 会计处理方法	66
4.7 引起会计舞弊的因素	66
4.8 公司治理	68
4.9 重点词汇	70
4.10 情景对话	71
4.11 经典财经语句赏析	76
4.12 高才语言小贴士——来自网球运动的英语表达	79

第5章 损益表 81

5.1 损益表的结构	81
5.2 损益表上特定时间的重要性	81
5.3 损益表的格式	82
5.4 损益表的主要科目	85
5.5 资产负债表与损益表的关系	87
5.6 应计概念	91
5.7 应计基础会计法	93
5.8 现金基础会计法	93
5.9 应计基础会计法的调整分录	93
5.10 留存收益表	103
5.11 会计循环	104
5.12 重点词汇	108
5.13 情景对话	112
5.14 经典财经语句赏析	117
5.15 高才语言小贴士——使您更好地了解美语和英语的语言出处	122

第6章 资产负债表 125

6.1 资产负债表的介绍	125
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6.2	资产负债表的分录	129
6.3	T 字账	131
6.4	资产	132
6.5	负债	141
6.6	股东权益	143
6.7	资产负债表评估	145
6.8	重点词汇	146
6.9	情景对话	148
6.10	经典财经语句赏析	152
6.11	高才语言小贴士——使您更好地了解美语和英语的语言出处	156

第7章 现金流量表 158

7.1	现金流量表的介绍	158
7.2	从费用论破产原因	160
7.3	现金流量表的重要性	161
7.4	现金流量表的基本概念	162
7.5	现金流量表的架构	162
7.6	现金流量表的原则	163
7.7	现金流量表的三大活动	163
7.8	现金流量表的制作方法	164
7.9	以直接法制作营业活动之现金流量	165
7.10	经典财经语句分析	170
7.11	高才语言小贴士——使您更好地了解美语和英语的语言出处	174

第8章 各项财务表格分析 176

8.1	破产与企业并购	176
8.2	现金流量管理	176
8.3	清算	177
8.4	从债权人角度看企业融资条件	177
8.5	改组	179
8.6	企业收购	180
8.7	比率分析	181
8.8	损益平衡分析	193
8.9	重点词汇	197
8.10	经典财经语句赏析	200
8.11	高才语言小贴士——使您更好地了解美语和英语的语言出处	204

第 1 章 企业结构

本章主要针对企业的形态、特征及股票作一介绍。近几年常见的合并、收购等议题会在之后的章节中提到。

1.1 企业组织形态

企业有各式各样的形态,大致可分以下五种:独资 (sole proprietorship)、合伙 (partnership)、股份有限公司 (corporation/company)、企业集团 (corporate group) 和非营利事业 (non-profit organization)。其中,合伙和股份有限公司又依债权人责任和股票 (share/stock) 的发行条件等有更细的划分,如图 1-1 所示。

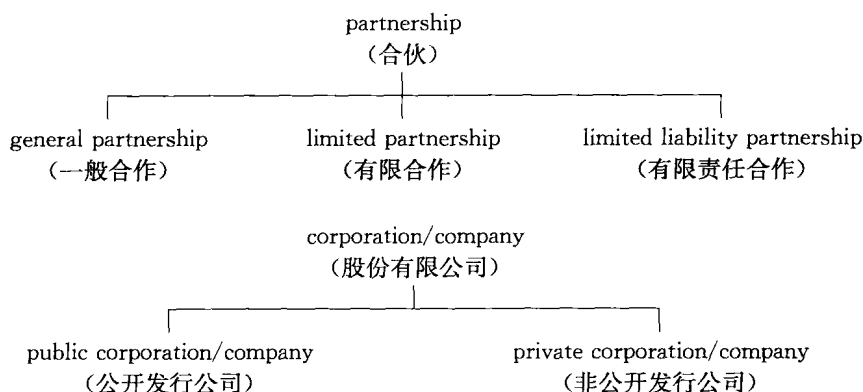


图 1-1

1.1.1 独资

独资中具有代表性的便是坐落于街头巷尾的大小商店。这些自行创业的商家,上至老板下至员工 (employee) 大多是自家人。就合法性 (legally) 来看,业主 (proprietor) 和商号属于同一个体,这是因为个体经营 (proprietorship) 少了法律的种种设限,不具有法人 (legal entity) 资格。

个体经营往往后继有人,待业主退休,原本的个体经营也不会因此具有法人资格。此外,法律上个体经营店面的收益 (profit) 是业主的收入,因此业主必须缴纳所得税 (income tax)。

A sole proprietorship is the simplest form of ownership (企业). The sole proprietor is

not considered an entity separate from the ownership. (A sole proprietorship can only file for bankruptcy personally) A sole proprietorship has nothing required to be filed with the state in which the ownership operates unless the state or city requires a ownership license.

1. Advantages

- a) The sole proprietor is in direct control of all affairs.
- b) The sole proprietor entitles all profits.
- c) Tax advantages — Profits and losses from the ownership flow through the ownership to the sole proprietor.

d) Transferability — A sole proprietor is free to transfer his interest in the sole proprietorship at will.

2. Disadvantages

a) A sole proprietor would be fully responsible for all debts and obligations related to the ownership. A creditor with a claim against a sole proprietor would normally have a right against the sole proprietor's assets, whether ownership or personal. This is known as unlimited liability.

b) A sole proprietorship cannot exist beyond the life of the sole proprietor.

c) The ownership would have difficulty in raising capital.

1.1.2 合伙

合伙和个体经营一样为非公司组织,因此不具有法人资格,两者最大的差别在于合伙的业主不止一人。

两人以上以营利为目的而组成的企业形态便是合伙。如同字面上意义,合伙是由合伙人(partner)设立,在大部分的情况下,即使其中一名合伙人退出,合伙的企业形态也不会因此改变。

在法律上,合伙人和企业属于同一个体,因此,企业的利润就等于各合伙人的收入,所以合伙人也必须缴纳所得税。

A partnership is an association of two or more persons who agree to carry on as coowners of a ownership for profit.

1. Introduction to General Partnerships

All partnerships are general partnerships unless otherwise stated. In a general partnership:

- 1) All partners are general partners, share profits and losses (even when capital contribution are not equal), share the right to manage and make major ownership decision.
- 2) New general partners must be approved by all general partners.
- 3) All partners have unlimited personal liability for obligations of the partnership.
- 4) A partnership is presumed to be at will unless the partners specially agree otherwise.
- 5) A general partner must give notice to creditors prior to withdrawal in order to avoid liability for subsequent acts or events.

6) All partners (individually) have the apparent authority to bind the partnership and all partners in the ordinary course of ownership transactions except when 3rd party's acknowledgement of lacking actual authority.

7) Each partner is jointly and severally liable for all partnership obligations (whether arising from tort or contract) incurred within the scope of partnership ownership.

8) When a judgment is obtained against the partnership and the partners, the partnership assets must be exhausted before any general partner's individual assets can be attached.

2. A Distinct Entity Except for Federal Income Tax Purposes

Many states treat a partnership as an entity for most purpose, for instance, property ownerships, legal obligations and employment. However, partnerships are not treated as entities for federal income taxation, which means that a partnership does not pay federal income tax; rather, partners file their own individual tax returns.

3. Not Always a Distinct Entity for Legal Purpose

As a legal entity, a partnership may sue or be sued in its own name. However, partnerships are not completely separate from partners.

1) Full Personal Liability. Partners are fully and personally liable for the debts of their partnership, and partners may be sued along with their partnership.

2) Defendant partnership or partner. There must be a judgment against the partner to reach the personal assets of a partner, which means that the partner must be individually named as a defendant in the lawsuit.

FORMATION OF A GENERAL PARTNERSHIP

Under common law and the *Revised Uniform Partnership Act*, to form a general partnership is: (i) an agreement (ii) between at least two competent persons (iii) to carry on as co-owners a ownership for profit are needed. There is no requirement for a general partnership to file with the states.

EXAMPLE

Adam and Bruce possess a joint ownership on a residential building. They are not automatically deemed partners because that joint ownership is not substantial to form a general partnership.

1. Capacity to be a Partner

Generally a partner can be an individual, a corporation or a partnership, even a minor (voidable).

2. Intent

Intent to form is the key to formation. An express agreement is not necessary. An agreement can be implied from conduct showing intent to enter a business for sharing profits.

EXAMPLE

Cindy and Dan start an ice-cream bar together. Cindy agrees provide the equipments for making ice-cream, and Barb can make and sell products. They also agree to share the profits. A partnership has been formed even though Cindy and Dan never expressly agreed to form a partnership.

a. Unclear Intent

There are a number of factors to determine the parties' intent, the most important of which is whether the parties have agreed to share profits (rise to a presumption of partnership).

b. Exceptions

Profit to repay a debt, interest on a loan, to pay an employee wages, to pay a landlord rent, etc. , are not indicating intents to form.

c. Other Factors

- a) whether title to property (财产) is in a partnership name;
- b) whether the parties call the arrangement a partnership;
- c) the amount of activity involved.

EXAMPLE

Abby owns a piece of land. Brian wants to rent it and build a drug store to run. Abby leases the land to Brian who is willing to pay Abby 15% of the net profits earned to Caroline, a vendor for the drug store, seeks to hold Abby liable for the goods as Brian's partner when Brian defaults on the payment for the goods. Caroline cannot recover from Abby.

3. Generally Writing Not Necessary

As a general rule, a general partnership agreement need not be in writing, even if the partnership is to own land. However, if the partners want to enforce an agreement to remain partners for longer than one year, writing is required under the Statute of Frauds.

高才财经提示

请大家注意,组成普通合伙制的要素:第一,两个或两个以上合作伙伴。第二,一致同意(表明地或隐含地 expressly or sompliedly)从事一项事业来获取利润,而且对书面的协议也没有要求,即使他们要共同从事获取土地。只在一种情况下书面的协议是必要的,那就是此普通合伙制将要持续存在超过一年。

1.1.3 股份有限公司

股份有限公司是依据法律而设立的企业,其业主和企业本身是不同个体,具有法人资格。换句话说,当企业的业主调动或退休,企业仍然继续营运。

虽然也有由个人所经营的股份有限公司,但一般来说股份有限公司大多由股东共同出资成立。此外,由于股份有限公司具有法人资格,因此必须缴纳公司税 (corporate tax)。

A corporation is a legal entity distinct from its owners (called “shareholders” or “stockholders”) and manager. Creation of such an entity requires filing a document (called the “articles of incorporation” in most states) with the state in which the corporation operates.

1. Management of the Operations

Stockholders generally do not have the power to manage the day-to-day operations of a corporation. Instead, management power is vested in directors, who are elected by the stockholders. The directors usually delegate their power to run the day-to-day affairs of the corporation to officers, whom the directors select.

2. Corporation Liable for Obligations

One of the main advantages of this form of ownership entity is that the stockholders, directors, and officers generally are not personally liable for the obligations of the corporation. Generally, only the corporation itself can be held liable. The owners risk only the investment that they make in the ownership to purchase their ownership interests.

3. Continuity of Life

Another advantage of the corporate form is that because a corporation is an entity apart from its owners and managers, it can continue to exist after the death or resignation of such persons.

4. Transferability

Unlike the owners of most other ownership entities, stockholders are generally free to transfer their ownership interests to whomever they want whenever they want.

5. Termination of a Corporation

Termination of corporate existence is known as dissolution. Dissolution requires director and shareholder approval (and is considered a “fundamental change”).

1) Voluntary or Involuntary Action Required. In order to dissolve the corporation, some act must be taken, which may be voluntary by the corporation or its aggregate members or may be involuntary through judicial proceedings.

a. Judicial Dissolution. Judicial Dissolution can occur, for example, upon the petition of a shareholder if it can be shown that the board of directors has committed a substantial waste of corporate assets.

b. Merger. Dissolution automatically occurs when a corporation is merged into another corporation.

2) Liquidation (winding up). Although dissolved by judicial decree or voluntary dissolution, the corporation nevertheless continues in existence for purposes of winding up. Liquidation, or winding up, involves the process of collecting the corporate assets, paying the expenses involved, satisfying creditors' claims, and distributing the net assets of the corporation. Thus, even though legally dissolved, the corporation continues to function throughout the liquidation period because problems may arise with regard to actions involving the corporations, individual directors, and shareholders. Generally, the

corporation is not permitted to enter into new contracts while winding up its affairs in a dissolution.

1.1.4 企业集团

企业集团是由各自独立的(independent)股份有限公司组成的企业,其经营者由各个股份有限公司的股东所组成。此外,由于组成企业集团的股份有限公司具有法人资格,因此它需按时缴纳公司税。

一般而言,当企业扩大规模和业务内容时,便会成立子公司(subsidiary)以强化分工。这些子公司在法律上看似各自独立,实际上仍须仰赖母公司(parent company)提供资金才能设立与营运,因此不被视为真正独立的企业,而是附属于母公司之下,一起接受评比。为此,北美各大企业集团都必须编制财务报表。关于财务报表的内容,请见第4章的说明。

1.1.5 非营利事业

企业的最后一个类型为非营利事业。非营利事业与其他企业最大的差异在于非营利事业不以营利为目的,其利润(profit)属于公共财产,所以不像其他企业拥有真正的业主。

除了某些例外的情况,非营利事业皆依法设立,具有法人资格;因其不以营利为目的,因此无需缴纳企业税。

重点整理

种 类	法的实体	所有人・经营者	例 子
独资	无法人资格	业主本身	商号
合伙	无法人资格	两名以上合作人	律师或会计师
股份有限公司	具有法人资格	两名以上股东	公司组织
企业集团	具有法人资格	两名以上股东	汽车业界
非营利事业	具有法人资格	无	政府机关或慈善事业

1.2 合作与股份有限公司

了解企业的五种组成形态之后,接下来针对合作(partnership)和股份有限公司深入说明。如同前述,独资和合作不具有法人资格,无法构成股份有限公司的设立条件。前一节的图1表示合作的若干组成形态,依照形态的不同,其设立办法、利益分配以及债权人责任也有所差异。

1.2.1 合作的形态与设立

合作有三种形态:一般合作(general partnership)、有限合作(limited partnership)和有限责任合作(limited liability partnership)。

1. 一般合作

一般合作即两人以上的合作人(partner)基于相同的营利目的,彼此提供能力、技术与资金共同开创事业。一般合作成立时,合作人之间必须协定投资(investment)多寡与损益(profit and loss)的分配,此外亦需决定掌握多大程度的经营权。法律上虽无明文规定上述事项,但通常详载于合作契约(partnership agreement)当中。

2. 有限合作

根据有限合作的成立要件,应有一名以上无限责任合作人(general partner)存在;无限责任合作人必须负无限清偿责任(liability),而有限合作人就其出资额肩负责任。有限合作系单纯出资者,没有决定权也未实际参与经营,又称为隐名合作人;一般合作需负无限清偿责任,除了拥有实质上的经营权,也是合作关系中的支配者。

如同一般合作,有限合作的合作契约上也会注明合作的投资额、利润和亏损(profit and loss)及经营权等事项。

3. 有限责任合作

有限责任合作类似于有限合作,但在有限责任合作中,全体合作无需以个人财产为某一合作人的不法情事损害赔偿责任。

一般而言,有限责任合作多由律师(lawyer)或会计师(accountant)等法律上(legally)不能设立股份有限公司的专门领域人士组成。

LIMITED LIABILITY PARTNERSHIP VS. GENERAL PARTNERSHIP

A limited liability partnership (LLP) is similar to a general partnership in most respects, including the sharing of profits and losses, and generally all of the pros and cons of a general partnership.

a. Partner in an LLP not personally liable.

1) Generally not personal liable.

Partners are not liable for partnership contracts.

Not personally liable for the obligations or liabilities of the partnership arising from: errors, omissions, negligence, malpractice, wrongful acts committed by employee, agent, representative of the LLP.

2) LLP partners are liable for.

a) their own negligence or wrongful acts and for the negligence and

b) wrongful acts of those under their direct control.

3) Generally partners in an LLP are NOT personally liable for

a) the debts and contractual obligations of the LLP.

b) only liable to de extent of their capital contributions.

b. Formation.

1) A registration, statement of qualification, application for registration or certificate of limited liability partnership must be filed with the states. A state may restrict LLP only to professionals.

2) Contents of Certificate of Limited Liability Partnership.

a) LLP's name.

b) Name and location of its registered office.

c) The number of partners.

d) Description of the business scope, etc. .

3) Most States Permit an Easy Transition From General Partnership to LLP.

4) A General Partner is not Usually Required.

a) LLP does not require a general partner who is personally liable for all debts and obligations.

b) Most states only allow LLPs for certain types of professionals.

c) LLPs may be required to carry insurance to cover the negligence/malpractice of the professionals and their subordinates.

LIMITED PARTNERSHIP

A limited partnership is a partnership made up of one or more general partners (who have personal liability for all partnership debts) and one or more limited partners (personal liability for partnership debts generally is limited to their capital contributions).

高才财经提醒

请学员们务必熟悉有限合伙公司的基本特征,成员中必须有一人为无限责任人。

NATURE OF A LIMITED PARTNERSHIP

1. General Partners

a. A general partner is personally liable for all partnership debts.

b. May also be a limited partner at the same time.

c. May be a secured or unsecured creditor of the partnership (the advantage of being secured creditor).

2. Limited Partners

a. A limited partner's liability is limited to his investment and unpaid capital contributions.

b. Limited partners' names cannot be identified with the business, or they might be considered to be general partners and lose their limited liability status.

c. Limited partners must not participate in management, or they lose their limited liability status (the limited partner may vote on issue regarding admitting partners, etc.).

d. The owner of a limited partnership interest may assign his interest in the partnership.

1) same as an assignment of a general partner's interest in GP.

2) the assignee has limited rights to profits.

3) unless agreed, that assignor ceases to be a limited partner on the assignment of all

of his limited partnership interest.

e. A new partner can be added only upon the consent of all partners.

f. A limited partner does not owe a fiduciary duty to the limited partnership or to the general partners.

1.2.2 合作的损害赔偿责任

1. 一般合作

如前所述,一般合作的合伙人共同肩负赔偿责任,无法确保个人财产。换句话说,当经营出现问题,合伙人必须以个人财产对公司债务负责。

2. 有限合作

至于有限合作的损害赔偿责任,一般合作需负无限清偿责任,但有限合作仅依出资额负责,不必以个人财产对公司债务负责。

3. 有限责任合作

有限责任合作和有限合作一样,对于其他合伙人所造成的赔偿责任只需负有限的清偿责任,且仅依各自的出资额负责,不必以个人财产对公司债务负责。不过,有限责任合伙的合作人多是专业人士,容易引起诉讼情况,因此投保责任保险实属必要。

1.2.3 股份有限公司的形态与设立

设立一家公司的首要任务便是决定公司名称,事前调查清楚,避免发生和其他公司同名的状况。第二步即准备公司成立所需的相关文件,包括公司名称、地址、高级主管的姓名与联络方式、股票构成等资料。

在北美,尤其是在美国,笔者了解到股份有限公司的成立必须依循各州法律提交文件。由于律师和会计师参与公司法规的制订,负责人必须多听取这些专业人士的意见。

股份有限公司的形态依国情不同略有差异,在北美主要分为两种: public corporation/company(公开发行人公司)和 private corporation/company(非公开发行人公司)。

1. 公开发行人公司

即上市公司,可在股票市场(stock market)挂牌交易,这类对大众(general public)公开发行人股票的公司称为公开发行人公司(public corporation/company)。

上市公司向投资人(investor)出售自家公司的股票、募集资金(fund),并仰赖这些资金营运。若经营有成,投资人便能分配到股利(dividend)。

2. 非公开发行人公司

不向大众公开股票的公司称为非公开发行人公司(private corporation/company)。由于不对外公开股票,非公开发行人公司的资金来源多为公司所有人(owner)或其家族成员,企业所获得的收益也只有所有人和家族成员能享有。

虽然购买非公开发行人公司的股票并非不可能,然而受制于有限的公司信息,一般投资人(general investor)不易买到这类公司的股票。

1.2.4 股份有限公司的特征

股份有限公司的特征可从所有权(ownership right)、优势与劣势(advantages and