

# PARTNERSHIP

## Introduction

Partnership is an improved form of sole trader in certain respects. Where there are like-minded persons with resources, they can come together to do the business and share the profits/losses of the business in an agreed ratio. Persons who have entered into such an agreement are individually called 'partners' and collectively called 'firm'. The relationship among partners is called a partnership. Indian Partnership Act, 1932 defines partnership as the relationship between two or more persons who agree to share the profits of the business carried on by all or any one of them acting for all.

### Features :

1. **Relationship:** Partnership is a relationship among persons. It is relationship resulting out of an agreement.
2. **Two or more persons:** There should be two or more number of persons.
3. **There should be a business:** Business should be conducted.
4. **Agreement:** Persons should agree to share the profits/losses of the business
5. **Carried on by all or any one of them acting for all:** The business can be carried on by all or any one of the persons acting for all. This means that the business can be carried on by one person who is the agent for all other persons. Every partner is both an agent and a principal. Agent for other partners and principal for himself. All the partners are agents and the 'partnership' is their principal.

The following are the other features:

- (a) **Unlimited liability:** The liability of the partners is unlimited. The partnership and partners, in the eye of law, are not different but one and the same. Hence, the partners have to bring their personal assets to clear the losses of the firm, if any.
- (b) **Number of partners:** According to the Indian Partnership Act, the minimum number of partners should be two and the maximum number is restricted, as given below: 10 partners in case of banking business 20 in case of non-banking business
- (c) **Division of labour:** Because there are more than two persons, the work can be divided among the partners based on their aptitude.
- (d) **Personal contact with customers:** The partners can continuously be in touch with the customers to monitor their requirements.
- (e) **Flexibility:** All the partners are likeminded persons and hence they can take any decision relating to business.

### Partnership Deed

The written agreement among the partners is called 'the partnership deed'. It contains the terms and conditions governing the working of partnership. The following are contents of the partnership deed.

1. Names and addresses of the firm and partners
2. Nature of the business proposed
3. Duration
4. Amount of capital of the partnership and the ratio for contribution by each of the partners.
5. Their profit sharing ration (this is used for sharing losses also)

6. Rate of interest charged on capital contributed, loans taken from the partnership and the amounts drawn, if any, by the partners from their respective capital balances.
7. The amount of salary or commission payable to any partner
8. Procedure to value good will of the firm at the time of admission of a new partner, retirement of death of a partner
9. Allocation of responsibilities of the partners in the firm
10. Procedure for dissolution of the firm
11. Name of the arbitrator to whom the disputes, if any, can be referred to for settlement.
12. Special rights, obligations and liabilities of partners(s), if any.

### **KIND OF PARTNERS**

1. **Active Partner:** Active partner takes active part in the affairs of the partnership. He is also called working partner.
2. **Sleeping Partner:** Sleeping partner contributes to capital but does not take part in the affairs of the partnership.
3. **Nominal Partner:** Nominal partner is partner just for namesake. He neither contributes to capital nor takes part in the affairs of business. Normally, the nominal partners are those who have good business connections, and are well placed in the society.
4. **Partner by Estoppels:** Estoppels means behavior or conduct. Partner by estoppels gives an impression to outsiders that he is the partner in the firm. In fact he neither contributes to capital, nor takes any role in the affairs of the partnership.
5. **Partner by holding out:** If partners declare a particular person (having social status) as partner and this person does not contradict even after he comes to know such declaration, he is called a partner by holding out and he is liable for the claims of third parties. However, the third parties should prove they entered into contract with the firm in the belief that he is the partner of the firm. Such a person is called partner by holding out.
6. **Minor Partner:** Minor has a special status in the partnership. A minor can be admitted for the benefits of the firm. A minor is entitled to his share of profits of the firm. The liability of a minor partner is limited to the extent of his contribution of the capital of the firm.

### **Right of partners**

Every partner has right

- (a) To take part in the management of business
- (b) To express his opinion
- (c) Of access to and inspect and copy and book of accounts of the firm
- (d) To share equally the profits of the firm in the absence of any specific agreement to the contrary
- (e) To receive interest on capital at an agreed rate of interest from the profits of the firm
- (f) To receive interest on loans, if any, extended to the firm.
- (g) To be indemnified for any loss incurred by him in the conduct of the business
- (h) To receive any money spent by him in the ordinary and proper conduct of the business of the firm.

### **Advantages**

The following are the advantages of the partnership from:

1. **Easy to form:** Once there is a group of like-minded persons and good business proposal, it is easy to start and register a partnership.
2. **Availability of larger amount of capital:** More amount of capital can be raised from more number of partners.
3. **Division of labour:** The different partners come with varied backgrounds and skills. This facilitates division of labour.
4. **Flexibility:** The partners are free to change their decisions, add or drop a particular product or start a new business or close the present one and so on.
5. **Personal contact with customers:** There is scope to keep close monitoring with customers requirements by keeping one of the partners in charge of sales and marketing. Necessary changes can be initiated based on the merits of the proposals from the customers.
6. **Quick decisions and prompt action:** If there is consensus among partners, it is enough to implement any decision and initiate prompt action. Sometimes, it may take more time for the partners on strategic issues to reach consensus.
7. **The positive impact of unlimited liability:** Every partner is always alert about his impending danger of unlimited liability. Hence he tries to do his best to bring profits for the partnership firm by making good use of all his contacts.

#### **Disadvantages:**

The following are the disadvantages of partnership:

1. **Formation of partnership is difficult:** Only like-minded persons can start a partnership. It is sarcastically said, 'it is easy to find a life partner, but not a business partner'.
2. **Liability:** The partners have joint and several liabilities besides unlimited liability. Joint and several liability puts additional burden on the partners, which means that even the personal properties of the partner or partners can be attached. Even when all but one partner become insolvent, the solvent partner has to bear the entire burden of business loss.
3. **Lack of harmony or cohesiveness:** It is likely that partners may not, most often work as a group with cohesiveness. This results in mutual conflicts, an attitude of suspicion and crisis of confidence. Lack of harmony results in delay in decisions and paralyzes the entire operations.
4. **Limited growth:** The resources when compared to sole trader, a partnership may raise little more. But when compared to the other forms such as a company, resources raised in this form of organization are limited. Added to this, there is a restriction on the maximum number of partners.
5. **Instability:** The partnership form is known for its instability. The firm may be dissolved on death, insolvency or insanity of any of the partners.
6. **Lack of Public confidence:** Public and even the financial institutions look at the unregistered firm with a suspicious eye. Though registration of the firm under the Indian Partnership Act is a solution of such a problem, this cannot revive public confidence in this form of organization overnight. The partnership can create confidence in others only with their performance.

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