

Chapter 03

Partnership

❖ Definition of Partnership Business

“Two head is better than the one” is the theme slogan of the partnership business. To remove the limitations of the sole proprietorship business, the partnership is formed. Although it has some liabilities but it is the group endeavor to establish a legal business entity among the members.

In the general meaning, when two or more persons agreed to form a business and run by them with a view to earning profit is called partnership business.

But in the broad sense, partnership business is one which formed by two to twenty persons but in case of the banking business, it is two to ten based on a mutual agreement for the sake of earning a profit.

In the view of Act and the authors: In the view of laws, the definition of partnership business is given below-

British Partnership Act in 1980 (Sec-1): “Partnership is the relation which subsists between persons carrying business in common with a view to earning a profit.”

E.Thomas: “A partnership is an association of people who carry on business together for the purpose of making the profit”.

Pearson- “Partnership is the combination of two or more persons of capital or labor or skill for the purpose of business for common benefits.”

After analyzing the above definitions, it can be said about partnership business-

- Partnership business is the combination of two or more persons.
- It is formed on the basis of a deed.
- It is regulated by Act.
- It is maintained and run by good faith and mutual agreement of members.

The term partnership, is used to mean a business structure wherein two or more individuals, come together for undertaking a lawful business and have agreed to share the profits and losses arising from it. The management and operation of the business should be performed either by all the partners or any of them, acting for all the partners.

The Partnership is the relation which subsists between individuals, who have decided to pool their money, skill and resources in business, to share profits and losses, in an agreed ratio. The members of a partnership, are jointly known as the partnership firm and severally known as partners.

So, from the above discussion, we can say that partnership is a contract of two or more competent persons who invest their money, labor efforts and efficiently maintain the act in full sense as well as to share the profit and bear the loss in certain proportion.

❖ Features of Partnership Business

When two or more persons agreed to form a business and run by them with a view to earning a profit is called partnership business. Normally partnership is the relation between persons who are agreed to share profit that a business carried on by all or any of them acting for all. There are many features of partnership business which are as follows:

Easy formation: The formation of the partnership business is very easy. Two or more persons form a partnership business by following the mutual agreement.

A number of members: For consisting a partnership business, there must be needed an association of two or more persons. Normally in a partnership business partner must be minimum 2 and maximum 20 persons. But the maximum number of persons in case of banking business is 10.

Contractual relation: The relation of partnership arises from contract and not forms status or family relation. The deed is the fundamental basis of the partnership business. These sorts of a deed may be oral or written and registered or non-registered.

Unlimited liabilities: Partners of this business remain liable for his duties and responsibilities. Every partner is liable individually and collaborates for business debts.

Legal Entity: Partnership business is formed, guided, and maintained by Partnership Act 1932 which is the lifeblood of business. Under this act, all the partnership business conducted their activities.

Mutual trust and confidence: The successful working of the partnership depends on mutual trust and confidence of its partners. Without mutual trust and confidence, no partnership business can be a success.

Distribution of profit and loss: Profit and loss are distributed according to the condition of deed paper. But if it is not mentioned in the deed, profit and loss would be distributed equally.

Registration: The registration for partnership business is not mandatory. But if it is done then some advantages will be acquired. Because without registration of partnership deed, it will never get any legal support.

Stability: The stability of partnership business is not very stable always. Because most of the case of partners are involved in the different unexpected activities. For many reasons, a partnership business is always an uncertainty to continue.

Winding-up: If any activity is seen beyond deed done by partners that will unable to exist or any partners becomes bankruptcy or fall in death or quit from the partnership then the business is dissolute.

These are the common features of partnership business which are very familiar with partners of a partnership business. These features of partnership business are different from other forms of business. On the other hand, these features create popularity of partnership business in the world.

❖ Advantages and Disadvantages of Partnership

Consider a partnership if the number of people involved is small (up to about 20) and limited liability is not necessary.

Advantages of a partnership include that:

- two heads (or more) are better than one
- your business is easy to establish and start-up costs are low
- more capital is available for the business
- you'll have greater borrowing capacity
- there is opportunity for income splitting, an advantage of particular importance due to resultant tax savings
- partners' business affairs are private
- there is limited external regulation
- it's easy to change your legal structure later if circumstances change.

Disadvantages of a partnership include that:

- the liability of the partners for the debts of the business is unlimited
- each partner is 'jointly and severally' liable for the partnership's debts; that is, each partner is liable for their share of the partnership debts as well as being liable for all the debts
- there is a risk of disagreements and friction among partners and management
- each partner is an agent of the partnership and is liable for actions by other partners
- if partners join or leave, you will probably have to value all the partnership assets and this can be costly.

To end or dissolve a partnership in Tasmania we recommend seeking legal advice regarding what is required.