

What is a Partnership?

- **What are the necessary elements that are required to form a partnership?**
- **I am not a citizen of India. Can I be a partner in an Indian firm?**
- **What is the capital of a partnership firm?**
- **Is a deed of partnership necessary?**
- **Who can be partners?**
- **I have a minor son. Can he be a partner in my partnership firm?**
- **Can a minor admitted to the benefits of partnership, become a partner on attaining majority?**
- **I am a partner in a firm. What are my rights?**
- **What are my duties as a partner in a firm?**
- **What are my limitations as a partner?**
- **What is Partnership at will?**
- **What are the requirements for registration of a partnership firm?**
- **I am a partner of a firm. I have been served a notice. What are its implications?**
- **Can a partner transfer his right in the business of the firm to an outsider?**
- **Can a new partner be admitted into the partnership firm?**
- **Can a partner nominate a successor?**
- **Can a Hindu Undivided Family become a partner of a firm?**
- **Can a Kartha of an HUF become a partner?**
- **Can a firm become a partner in another firm?**
- **Four members of a Hindu joint family have an ancestral business of money lending. They share its profits. Is this a partnership firm? Are they partners?**
- **What are the ways by which partnership can be dissolved?**
- **What is dissolution of partnership by consent?**
- **What is dissolution by agreement?**
- **When can a partnership firm be compulsorily dissolved?**
- **What is meant by dissolution on happening of certain events?**
- **What is meant by dissolution by notice?**
- **When is a partnership dissolved by court?**
- **Is a public notice necessary for the dissolution of the firm?**

• What is a Partnership?

Partnership is an agreement between two or more people to share the profits of a business. The business can be carried on together by all the partners or any one partner representing the others. A partnership can be for a fixed period of time or it may be limited to a specific project or it may be dissolved at will.

- **What are the necessary elements that are required to form a partnership?**

Three elements are necessary to form a partnership:

1. There must be an agreement between two or more persons.
2. The agreement must be to share the profits of the business.
3. All partners together, or any one, on behalf of the others must carry on the business.

• **I am not a citizen of India. Can I be a partner in an Indian firm?**

The Partnership Act does not prohibit a non-citizen from joining an Indian partnership firm, subject to necessary clearances and permissions from satisfactory authorities in this regard.

• **What is the capital of a partnership firm?**

Capital is the initial amount in cash or kind contributed by the partners to start the business. It is not necessary for each partner to contribute equally to the capital. Contribution is based on the agreement between the parties.

• **Is a deed of partnership necessary?**

It is not compulsory for a partnership deed to be in writing. Partnerships can also be oral.

• **Who can be partners?**

Partners must be major (above the age of 18), should be sane and should not be disqualified by law from entering into a contract.

• **I have a minor son. Can he be a partner in my partnership firm?**

No, a minor cannot become a partner. However, your minor son can be admitted to the benefits of the partnership firm. He can share the profits of the partnership business with the consent of the other partners. He can also access, inspect and copy the accounts of the firm. Though the minor is not personally liable for the losses of the firm, his share in the partnership business is liable for the losses incurred.

• **Can a minor admitted to the benefits of partnership, become a partner on attaining majority?**

A minor admitted to the benefits of partnership, has the option to become a partner within six months of attaining majority. He has to give a public notice stating his acceptance or rejection of partnership. In the absence of a notice, it is considered that he has become a partner of the firm.

• **I am a partner in a firm. What are my rights**

The following are the rights of a partner:

1. To take part in the business.

2. To share the profit or loss of the business.
3. To inspect and make copies of the books of the firm.
4. To receive remuneration for taking part in the business if specified in the partnership deed.
5. To receive interest on capital if specified in the partnership deed.

• **What are my duties as a partner in a firm?**

Your duties as a partner are to: 1. carry on the business. 2. be just and faithful to each partner. 3. disclose true accounts of the firm. 4. furnish full information of all things affecting the firm.

• **What are my limitations as a partner?**

As a partner you cannot do the following without the consent of the other partners:

1. Submit a dispute relating to the business to arbitration.
2. Open a bank account on behalf of the firm in your own name.
3. Compromise or relinquish any claim or portion of a claim of the firm.
4. Withdraw a suit or proceeding filed on behalf of the firm.
5. Enter into partnership with an outsider on behalf of the firm.
6. Acquire or transfer immovable property belonging to the firm.
7. Admit any liability in a suit or proceeding against the firm.

• **What is Partnership at will?**

If a partnership deed does not provide for duration or for dissolving the partnership in any manner, it is a Partnership at will.

• **What are the requirements for registration of a partnership firm?**

The following information is essential:

1. Name of the partnership firm.
2. Place of business of the firm.
3. Names of any other places where the firm carries on business.
4. Date of joining of each partner.

5. Name and permanent address of the partners.

6. Duration of the firm. The statement must be signed by all partners or by their agents specially authorised in this behalf.

• **I am a partner of a firm. I have been served a notice. What are its implications?**

A notice served on any one of the partners who manages the affairs of the firm is treated as a notice on the firm under the law. However, in case of fraud being committed on the firm by or with the consent of the managing partner it shall not be treated as a notice to the firm but as a notice to only that partner who has committed fraud on the firm.

• **Can a partner transfer his right in the business of the firm to an outsider?**

Yes, a partner can transfer his interest in the business to an outsider, but only with the consent of all other partners.

• **Can a new partner be admitted into the partnership firm?**

A partner can nominate a successor to take his place in the event of death or retirement of the partner. The mode of introducing a new partner or successor is based on provisions in the partnership deed. A new partnership deed is required once the new partner is admitted into the firm.

• **Can a partner nominate a successor?**

A partner can nominate a successor to take his place in the event of death or retirement of the partner. The mode of introducing a new partner or successor is based on provisions in the partnership deed. A new partnership deed is required once the new partner is admitted into the firm.

• **Can a Hindu Undivided Family become a partner of a firm?**

A HUF is not a legal person and so cannot enter into partnership with either an individual or another HUF.

• **Can a Kartha of an HUF become a partner?**

The Kartha or the manager of a Hindu Undivided Family can become a partner of a firm in his individual capacity. The Kartha will be treated as the representative of the Hindu Undivided Family by the partnership firm.

• **Can a firm become a partner in another firm?**

A partnership firm cannot become a partner of another firm because it is not a legal person. However the partners may be partners in another firm in their individual capacity

• **Four members of a Hindu joint family have an ancestral business of money lending. They share its profits. Is this a partnership firm? Are they partners?**

They do not become partners. They have not come together to carry on the business on the basis of a contract. But their relationship is created by status and right is obtained by birth in the ancestral

business under the Hindu Law.

• **What are the ways by which partnership can be dissolved?**

A partnership firm can be dissolved in any of the following ways:

1. By agreement.
2. By compulsory dissolution.
3. On the happenings of certain events.

• **What is dissolution of partnership by consent?**

A partnership firm can be dissolved at any time if all the partners decide to dissolve it. This is known as dissolution by consent.

• **What is dissolution by agreement?**

Partnership can be dissolved according to the contract between the partners. The partnership deed should contain the provision of dissolution. The consent of all the partners is not necessary.

• **When can a partnership firm be compulsorily dissolved?**

A firm is compulsorily dissolved:

1. When all the partners are declared insolvent.
2. When all the partners but one as insolvent.
3. When the business becomes illegal due to changes in laws.
4. The firm is compulsorily dissolved even when the business is lawful but carrying it under the partnership becomes unlawful. For eg. License to carry on liquor business may be granted to individuals but the same may be unlawful if an association of persons or partnership carries it.

• **What is meant by dissolution on happening of certain events?**

A firm may be dissolved due to any of these following events:

1. If the firm has been constituted for a fixed period then on the expiry of that period.
2. If the firm has been constituted for one or more project, then on the completion of that project.
3. On the death of the partner.
4. On the declaration of a partner as insolvent.

• **What is meant by dissolution by notice?**

In a partnership at will, any partner can dissolve the firm at any time by giving a notice to dissolve the firm. That notice should be in writing and signed by the partner who gives it. The firm is dissolved on the date mentioned in the notice. If the date is not mentioned then the firm is dissolved from the date

of communication of such notice.

• **When is a partnership dissolved by court?**

A partner may approach the court to dissolve the partnership firm on the following grounds:

1. When one of the partners becomes insane.
2. When one of the partner is permanently incapable of performing his duties due to illness.
3. When a partner is guilty of misconduct, which is harmful to the business.
4. If a partner frequently breaks the rules of the firm.
5. When a partner transfers his interest in the firm to a third party without the consent of other partners.
6. When the business of the firm incurs repeated losses.
7. On any other ground which the court deems fit.

• **Is a public notice necessary for the dissolution of the firm?**

Yes, it is necessary to give a public notice at the time of dissolution. Otherwise the partners remain liable to third parties for their actions, even after the dissolution. However public notice is not necessary in case of:

- a. Deceased partner
- b. Insolvent partner
- c. Partner who is not known to be a partner and who has retired.