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ENTREPRENEURSHIP


Forms of Business ownership

Legal Issues of Business ownership

Businesses operating under the informal sector are generally not registered and many don't pay taxes



The government tends to ignore the fact that such unregistered businesses are actually breaking the law.. Reason?



It's far more important that people, especially the poor, are allowed to pursue whatever means they can to earn a living.

Unfortunately, there are some risks that come with the decision to operate informally

An unregistered business is not recognized by law. Such businesses sometime face arbitrary and very disruptive decisions that affect their smooth operation

Having a registered business guarantees protection because there are laws that exist to protect private investments

Thus its safe to operate formally and seek to understand your legal rights as a business person.

There are six major business ownership structures namely;

- Sole Proprietorships
- Partnerships
- Private limited companies
- Public limited companies
- Non-profit organizations
- Cooperatives

Sole Proprietorship

- Business organization that is owned and run by one individual (Sole Proprietor)
- No legal distinction between the owner and the business

Features

Ownership

- The business is owned by a single individual
- Owner enjoys all the business profits and bears all the risks (loses)

Management and control

- The business is managed by the owner
- Sole decision maker and has total control
- May have some paid workers to assist him

Finance (capital)

- The capital required to start the business is provided by the owner
- Other sources - friends, family, financial institutions or bank

Unlimited liability

- Sole trader is personally accountable for debts of the business
- If unable to pay his debts the creditor can lay claim on his personal Property

Legal status

- The sole trader and his business are considered as one
- All the assets and liabilities of the business belong to the sole proprietor
- Owner and the business exist together and the **business ceases to exist** once the owner dies

Legal formalities

The sole trader can set up or close the business as and when S/he likes, the operation of the business is not governed by any special act or regulation.



However, a few legal restrictions may be there in setting up a particular type of business.

For example, to open a shop, the sole proprietor needs a trading license from the local authority


Partnership

A partnership is an agreement between two or more people to finance and operate a business with the common objective of making profit.

Each member of a partnership is known as '**partner**' and jointly the members are known as a '**partnership firm**'

Characteristics of a Partnership

Membership



A partnership is formed by at least two members are required to start a partnership business and a maximum of 20 members

Partnership agreement

The relation between the partners of a partnership firm is governed by an agreement which may be verbal, written or implied.

If it is in writing it is known as a '**Partnership Deed**'

Terms

- This agreement must contain-
- The amount of initial capital contributed by each partner
- Profit or loss sharing ratio for each partner

- Salary or commission payable to the partners, if any

- Duration of business, if any

- Name and address of the partners and the firm

- Duties and powers of each partner;

- Nature and place of business; and

Any other terms and conditions to run the business

Legal Status

The Law does not recognize the firm as a separate legal entity separate from the partners.

The partnership firm is just a name for the business.

If someone take legal action against the firm, it is as good as someone suing all the partners.

Transfer of Interest

No partner can sell or transfer his share or part or partnership of the firm to any one without the approval of the other partners

Unlimited liability

Like a sole proprietorship, the liability of partners in a partnership is also unlimited. This means, if the assets of the firm are inadequate to meet the firm's liabilities, then personal possessions of the partners, if any, can be used to meet the business liabilities.

Sharing of Profit and Loss

Unless provisions are put in the partnership agreement on the manner in which profits and losses are to be shared, all profits and losses are shared equally amongst the partners

Dissolution of Partnership

Unless provisions are made in the partnership deed by default a partnership will end upon the death, disability, insanity or even withdrawal of any one partner.

Rights of Partners




Unless provisions are made in the partnership deed, by default, each partner has an equal right to participate in the management and control of the business.

Differences in the ordinary course of partnership business are decided by a majority of the partners

Class Discussion

i) Advantages and Disadvantages of a Sole Proprietorship



ii) Advantages and Disadvantages of a Partnership firm