Non-Corporate Entities

Lesson 7

KEY CONCEPTS

■ Sole Proprietorship ■ Partnership ■ Trust ■ Hindu Undivided Family ■ Multi State Co-Operative Society ■ Society ■ Mega Firm

Learning Objectives

To understand :

- Various forms of business organisation such as Sole Proprietorship, Partnership, Trust and Society, Hindu Undivided Family, Multi State Co- operative Societies and Mega Firm
- Respective merits and demerits and the manner in which above mentioned business organisations can be registered in India

Lesson Outline

- Introduction
- Features of Partnership
- Types of Partnership and Partners
- Merits and Limitations of Partnership
- Partnership Deed
- Registration Procedure of Partnership
- Hindu Undivided Family
- Characteristics of a Hindu Undivided Family
- Benefits and Limitations of HUF
- Sole Proprietorship
- Merits and Limitations of Sole Proprietorship
- Procedure for Formation of Sole Proprietorship Firm
- Multi State Cooperative Society
- Benefits of Multi State Co-Operative Society
- Formation of Multi State Co-Operative Society
- Trust
- Formation & Registration of Trust
- Partnership Deed & Trust Deed
- Society
- Advantages and Disadvantages of Society
- Formation of Society
- Benefits of forming a Society
- Mega Firm
- Pre-requisites and Benefits of Mega Firms
- Lesson Round-Up
- Test Yourself
- List of Further Readings
- Other References

REGULATORY FRAMEWORK

- The Partnership Act, 1932
- Multi State Cooperative Societies Act, 2002 and Rules made thereunder
- Indian Trust Act, 1882
- Societies Registration Act, 1860
- The Company Secretaries Regulations, 1982

INTRODUCTION

One of the first decisions that is faced by an entrepreneur is how the business should be structured. All businesses must adopt some legal configuration that defines the rights and liabilities of participants in the business's ownership, control, personal liability, life span, and financial structure. This decision will have long-term implications, so he has to select the form of ownership that is right for him. In making a choice, he will want to take into account the following:

- His vision regarding the size and nature of the business.
- The level of control he wishes to have.
- The level of "structure" he is willing to deal with.
- The business's vulnerability to litigation.
- Tax implications of the different organizational structures.
- Expected profit (or loss) of the business.
- Whether or not he will need to re-invest earnings into the business.
- His need for access to cash out of the business for himself.

PARTNERSHIP

Partnership is an association of persons who agree to combine their financial resources and managerial abilities to run a business and share profits in an agreed ratio. Since the resources of a sole proprietor to finance, and his capacity to manage a growing business are limited, he feels the need for a partnership firm. Partnership business, therefore, usually grows out of the need for expansion of business with more capital, better supervision and control, division of work and spreading of risks.

Partnership firms are created by drafting a partnership deed among the partners. The partnership deed is registered to make a firm. Partnership firms in India are, governed by the Indian Partnership Act, 1932. Maximum no. of partners in a partnership firm can be 50 partners, and the Profit & loss are shared in manner as agreed in the partnership deed.

The Indian Partnership Act defines partnership as "Partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any one of them acting for all. The persons who have agreed to join in partnership are individually called "Partners" and collectively a 'firm'. A partnership firm can be formed with a minimum of two partners and it can have a maximum of fifty partners.

Certain key definitions contained in the Indian Partnership Act, 1932:

As per Section 2(a) of Indian Partnership Act, 1932 an **"act of a firm"** means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm.

As per Section 4 of Indian Partnership Act, 1932 **"Partnership"** is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Persons who have entered into partnership with one another are called individually, “partners” and collectively “a firm”, and the name under which their business is carried on is called the “firm-name”.

As per Section 7 of Indian Partnership Act, 1932 where no provision is made by contract between the partners for the duration of their partnership, or for the determination of their partnership, the partnership is partnership at will.

As per Section 8, particular partnership means a person may become a partner with another person in particular adventures or Undertakings.

Holding out [Section 28]

1. Anyone who by words spoken or written or by conduct represents himself or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to anyone who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.
2. Where after a partner’s death, the business is continued in the old firm name, the continued use of that name or of the deceased partners name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the firm done after his death.

Dissolution of a firm [Section 39]

The dissolution of partnership between all the partners of a firm is called the dissolution of the firm.

Insolvency and Bankruptcy of Partnership Firm

The Insolvency and Bankruptcy of partnership firms where the amount of default is not less than one thousand rupees shall be governed by Insolvency and Bankruptcy Code, 2016.

Is Partnership Firm a Body Corporate under Companies Act, 2013?

The definition of Body Corporate under Section 2 (11) of the Companies Act, 2013 specifically says that it does not include a co-operative society registered under any law relating to co-operative societies and any other body corporate (not being a company defined in the Act), which the Central Government may by notification specify in this behalf.

For an entity to be Legal/ Juristic person, it shall be recognized by law as a separate entity, have perpetual succession, must be competent to enter into a contract, capable to sue or being sued in its own name and can hold the property in its own name. A Partnership Firm does not possess all the attributes as:

– it is merely an association of individuals and the law does not recognize partnership to have a personality or existence distinct from its partners.
– it does not have a perpetual succession as the firm collapses on change in the partners of the firm which can be due to death or retirement of the partners.
– since it is not regarded as a legal entity, therefore the firm cannot enter into any contract on its own. Any Partner authorized by all the partners or all the Partners of the firm shall execute the contract.
– it can sue or be sued only if the Firm is a registered Partnership.

And hence, the concept of Limited Liability Partnership (LLP) which includes the benefits of both partnership and body corporate was introduced. LLP is formed and incorporated under the Companies Act with perpetual succession. It is a separate legal entity with no effect of change in partners on existence, rights or liabilities of the LLP. The definition of ‘body corporate’ under the Limited Liability Partnership Act, 2008 (‘LLP Act’) specifically includes LLP registered under the LLP Act.

Features of Partnership

The features of partnership are as follows:

(i) Existence of an agreement: Partnership is formed on the basis of an agreement between two or more persons to carry on business. It does not arise out of the operation of law as in the case of joint Hindu family business. The terms and conditions of partnership are laid down in a document known as Partnership Deed.

(ii) Engagement in business: A partnership can be formed only on the basis of a business activity. Its business may include any trade, industry or profession. Thus, a partnership can engage in any occupation - production and/or distribution of goods and services with a view to earning profits.

(iii) Sharing of profits and losses: In a partnership firm, partners are entitled to share in the profits and are also to bear the losses, if any.

(iv) Agency relationship: The partnership business may be carried on by all or any of the partners acting for all. Thus, each partner is a principal and so can act in his own right. At the same time, he can act on behalf of other partners as their agent. Thus, every partner can bind the firm by his acts.

(v) Unlimited Liability: The liability of partners is unlimited as in the case of sole proprietorship. In case some obligation arises then not only the partnership assets but also the private property of the partners can be taken for the payment of liabilities of the firm.

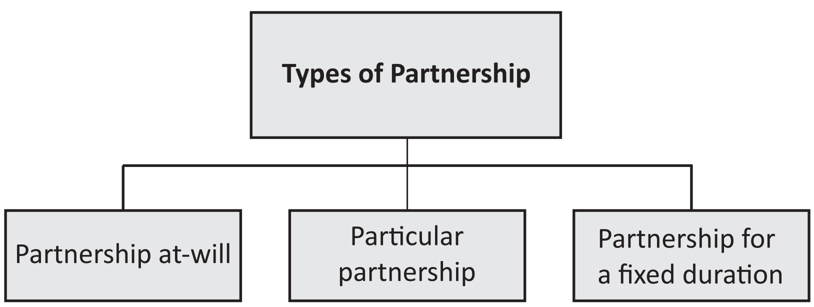
(vi) Common Management: Every partner has a right to take part in the running of the business. It is not necessary for all partners to participate in the day-to-day activities of the business but they are entitled to participate. Even if partnership business is run by some partners, the consent of all other partners is necessary for taking important decisions.

(vii) Restriction on transferability of share: No partner can transfer his share in partnership to any other person. He may, however, do so with the consent of all other partners.

(viii) Registration: To form a partnership firm, it is not compulsory to register it. However, if the partners so decide, it may be registered with the Registrar of Firms.

(ix) Duration: The partnership firm continues at the pleasure of the partners. Legally a partnership comes to an end if any partner dies, retires or becomes insolvent. However, if the remaining partners agree to work together under the original firm's name, the firm will not be dissolved and will continue its business after settling the claim of the outgoing partner.

Types of Partnership



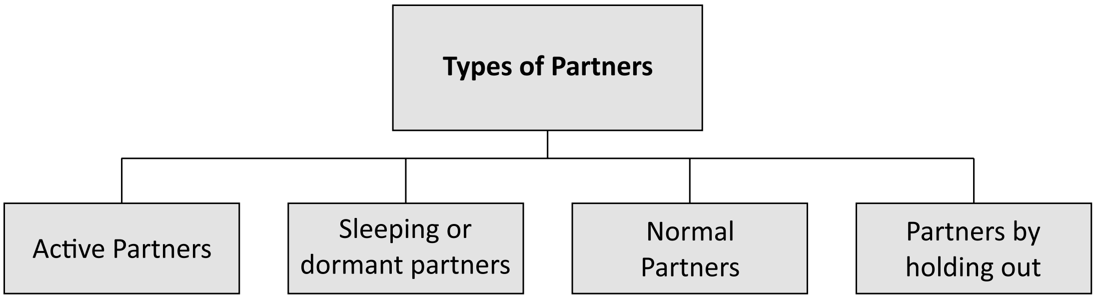
According to the nature of agreement among partners, there can be three types of partnership as follows:

(i) Partnership at-will: Such a partnership exists on the will of the partners. That is, it can be brought to an end whenever any partner gives notice of his intention to do so. *(Section 7 of the Indian Partnership Act, 1932)*

(ii) Particular partnership: A particular partnership is formed for undertaking a particular venture. It comes to an end automatically with completion of the venture. *(Section 8 of the Indian Partnership Act, 1932)*

(iii) Partnership for a fixed duration: Such partnership is for a fixed period of time say 2 years, 5 years or any other duration.

Types of Partners



The various types of partner found in partnership firms are as follows:

(i) Active Partners: Partners who take active part in the conduct of day-to-day business of the firm are called active partners. These partners carry on business on behalf of the other partners.

(ii) Sleeping or dormant partners: Sleeping or dormant partners are those who do not take active part in the management of the business. Such partners only contribute capital in the firm and are bound by the activities of other partners. However, they share in the profits and losses of the business.

(iii) Others: Active and sleeping partners are, as a matter of fact, the full-fledged partners i.e. they share in profits and losses of the business and are liable for its dues. However, there are other types of partners also who may be associated with partnership directly or indirectly. They are not full-fledged partners; such partners may include the following:

(a) ***Nominal Partners:*** Nominal partners are those who do not have interest in the business but lend their name to the firm. They do not make any capital contribution, and are not entitled to take part in management, but are liable, like other partners, to third parties. Such partners generally have a pecuniary interest (like a share in the profits) in lending their name to a firm. However, in certain cases they may not have any pecuniary interest in doing so. For example, a reputed industrialist may, without any profit motive lend his name to a firm run by his family members.

(b) ***Partners by holding out:*** If a person by his words or conduct holds out to another that he is a partner, he will be prevented from denying that he is not a partner. The person who thus becomes liable to third parties to pay the debts of the firm is known as a partner by holding out. (Section 28)

(c) ***Minor Partners:*** A minor cannot be a partner according to Indian Contract Act. But he can be admitted to get the benefits if all the partners give their consent. He will share the profit equally but his liability will be limited in case of loss. (Section 30)

Minor admitted into the benefits of partnership

A minor is a person who has not attained the age of 18 years. Since a minor is not capable of entering into a valid agreement, he cannot become partner of a firm. However, as mentioned earlier, he may be admitted to the benefits of an existing partnership as allowed under Section 30 of the Indian Partnership Act, 1932.

Merits of Partnership

A partnership form of organization offers the following advantages:

(i) **Ease in formation:** A partnership is very easy to form. All that is required is an agreement among the partners. Even the expenses to be incurred for registration are-not much.

(ii) **Pooling of financial resources:** A partnership commands more financial resources compared to sole proprietorship. This helps in expanding business and earning more profits. As and when a firm requires more money, more partners can be admitted.

(iii) **Pooling of managerial stalls:** A partnership facilitates pooling of managerial skills of all its partners. This leads to greater efficiency in business operations. For instance, in a big partnership firm, one partner can handle production function, another partner can look after all marketing activity, still another can attend to legal and personnel problems, and so on.

(iv) **Balanced business decisions:** In a partnership firm, decisions are taken unanimously after considering all the major aspects of a problem. This ensures not only balanced business decisions but also removes difficulties in the smooth implementation of those decisions.

(v) **Sharing of risks:** Unlike sole proprietary organization, the risks of partnership business are shared by partners on a predetermined basis. This encourages partners to undertake risky but profitable business activities.

(vi) **Privacy:** It is not required for a partnership firm to publish its accounts. As a result, the affairs taking place in the business remain within the business. Also, the partners are the ones who carry out the significant decisions of the business, and hence there is no chance of leakage of trade secrets, and the privacy of the firm is maintained.

(vii) **Division of work:** In a partnership, all the firm's work is divided among the partners based on their knowledge and skills. Division of labor is possible in partnership. This division of work leads to efficient management, which results in higher profits.

Limitations of Partnership

A partnership form of organisation suffers from the following major limitations:

(i) **Uncertainty of existence:** The existence of a partnership firm is very uncertain. The retirement, death, bankruptcy or lunacy of any partner can put an end to the partnership. Further, the partnership business can come to a close if any partner demands it.

(ii) **Unlimited Liability:** It is true that like the sole proprietor each partner has unlimited liability. But his liability may arise not only from his own acts but also from the acts and mistakes of co-partners over whom he has no control. This discourages many persons with money and ability, to join a partnership firm as partner.

(iii) **Risks of disharmony:** In partnership, since decisions are taken unanimously, it is essential that all partners reconcile their views for the common good of the organisation. But there may arise situations when some partners may adopt rigid attitudes and make it impossible to arrive at a commonly agreed decision. Lack of harmony may paralyse the business and cause conflict and mutual bickering.

(iv) **Difficulty in withdrawal or Blocking of Capital**: Investment in a partnership can be easily made but cannot be easily withdrawn. This is so because the withdrawal of a partner's share requires the consent of all other partners. If a partner wishes to withdraw their wealth from the firm, they cannot do so alone. Withdrawal is possible only if the other partners agree to it. The partners are also not allowed to transfer their shares to someone else. If someone wants to do so, then they must get the consent of the other partners. As a result, they lose the liquidity of their investment. This is one of the significant reasons that discourage people from investing in a partnership.

(v) **Lack of institutional confidence:** A partnership business does not enjoy much confidence of banks and financial institutions. It is because the nature of its activities is not disclosed at public and the agreement among partners is not regulated by any law. As a result, large financial resources cannot be raised by partnership and growth of business cannot be ensured.

(vi) **Lack of Public Trust:** The public has less confidence in partnership firms since their annual reports and accounts are not published. Therefore, the public does not trust their dealings.

(vii) **Lack of a Control:** Leadership can both uplift and derail a firm. Combined ownership takes away the possibility of leadership and lack of leadership leads to directionless operations. On the other hand, in a partnership firm, certain partners can be given the position of designated partner with more powers and responsibilities.

(viii) **Difficulties of expansion:** It is difficult for a partnership firm to undertake modernization of expansion of its operations. This is because of its inability to raise adequate funds for the purpose. Limited membership (restricted to 50 as per the Companies Act, 2013) and their limited personal resources do not permit large amounts of capital to be raised by the partners. Therefore, large-scale business cannot generally be organized by partnerships.

It is quite obvious from the discussions that the partnership form of organisation is excellent when the size of business is medium, i.e. neither too small not too large, and when the partners can work in full co-operation with one another.

Partnership Deed

Partnership deed, also known as a partnership agreement, is a document that outlines in detail the rights and responsibilities of all parties to a business operation. It has the force of law and is designed to guide the partners in the conduct of the business. It is helpful in preventing disputes and disagreements over the role of each partner in the business and the benefits which are due to them.

The key ingredients of a Partnership Deed are given below:

1. ***Definitions and vital information***

   The partnership deed normally carries the name of the business, the address of its principal place of business, name and address of all partners and a short summary of the nature of business the partners intend to operate.

2. ***Partnership duration***

   The Deed must mention the firm's establishment date and the deal period.

3. ***Investment***

   The deed gives important financial details of the partnership, such as the amount of capital to be invested by each partner, the Profit /Loss sharing of each partner, the salaries to be paid to each partner and the method of distributing the business income. The partnership deed also documents the accepted method of raising additional capital, if necessary how loan funds may be raised and rate of interest if any, applicable on the loans.

4. ***Accounting***

   The partnership deed provides for the accepted method of accounting for the cash flow, profit and loss, and assets and liabilities of the business; it also defines the fiscal year to be used in accounting statements and how these statements will be distributed among the partners and other shareholders.

5. ***Duties, powers and obligations of the partners***

   The duties, powers and obligations of each partner may also be spelt out in the Partnership Deed. The Deed may also provide designate a partner as the Managing Partner, who will be responsible for day to day management and conduct of the business.

6. ***Profit & loss ratio***

   Profit/Loss ratio to be accrued to and be borne by the Partners.

7. ***Withdrawals***

   The document must also provide for actions to be taken in case of the voluntary withdrawal or death of a partner. In such a case, accounts will have to be drawn up to ascertain the assets, liabilities and the entitlement of each partner (including the outgoing partner).

8. ***Admission/ Retirement of a partner***

   Details/ Rules regarding the future admission, retirement and exit of a partner.

9. ***Expulsion***

   If a partner is proving to be a hindrance or detriment to the business, or loses legal rights in a bankruptcy or other court action, the other partners must have a method of modifying the partnership rights of or expelling him.

10. ***Banking and Partnership Funds***

    The funds held in the firm's name will be placed in a bank account designated by the Partners.

11. ***Borrowings***

    A written consent of all the partners will be required for taking loans from banks, financial institutions, or any third parties for the firm's financial requirements.

12. ***Dissolution***

    The partnership deed should also describe the methods by which the partnership and business will be dissolved, if desired, and how the accounts among the partners would be settled at the termination of the business.

13. ***Arbitration***

    As in all business contracts, a partnership deed must provide for the means of arbitration of disputes. The main goal of the deed is to avoid expensive litigation over details that have not been fully worked out in the signed agreement.

Partnership deed is a written agreement between the partners and is mandatorily registered in the court of law whereas partnership agreement is an agreement between the partners which may or may not be not registered in the court of law.

Benefits of Partnership Deed

A partnership deed can be in an oral format; however, it is crucial to have it written. The drawback with the oral one is that it has no value for tax purposes, and one cannot use it as a legal document if there's any dispute among the partners. So, it is desirable to have a written partnership deed.

a. It enables business owners to file a suit in court in case of a dispute.

b. It helps avoid any misunderstanding or conflict among the business owners as all the terms and conditions have been decided and mentioned already in the Deed.

c. It clearly outlines the duties of each partner.

d. It provides details of the profit/loss ratio and reduces the chances of misunderstanding.

e. It mentions the amount invested by each partner in the business.

f. It also details the salary and commission paid to partners, and if any of the partners withdraw the capital, then what interest they will have to pay.

Registration Procedure

A partnership firm can be registered whether at the time of its formation or even subsequently. One needs to file an application with the Registrar of Firms of the area where the business is located.

1. Application for partnership registration should include the following information, namely, name of your firm, name of the place where business is carried on, names of any other place where business is carried on, date of partners joining the firm, full name and permanent address of partners and duration of the firm. The Application should be duly signed by all the partners of the firm or by their duly authorised agents.
2. Every partner needs to verify and sign the application.
3. Ensure that the following documents and prescribed fees are enclosed with the registration application:
   - Application for Registration in the prescribed Form
   - Duly filled Affidavit
   - Certified copy of the Partnership deed (The deed so created by the partners should be on a stamp paper in accordance with the Indian Stamp Act/ stamp paper as applicable in the State where the Partnership Deed is executed)
   - Proof of ownership of the place of business or the rental/lease agreement thereof.

As per section 71 of Indian Partnership Act, States are authorized to make their own regulations with respect to prescribe the fee structure for registration or incorporation of partnership.

It may be also be noted that the name of the partnership firm should not contain any words which may express or imply the approval or patronage of the government except where the government has given its written consent for the use of such words as part of the firm's name.

Once the Registrar of Firms is satisfied that the application procedure has been duly complied with, he shall record an entry of the statement in the Register of Firms and issue a Certificate of Registration.

Consequences of Non-Registration

It is not compulsory to register partnership firm as there are no penalties for non-registration. However, it is advisable since the following rights are denied to an unregistered firm:

- A partner cannot file a suit in any court against the firm or other partners for the enforcement of any right arising from a contract or right conferred by the Partnership Act.
- A right arising from a contract cannot be enforced in any Court by or on behalf of your firm against any third party.
- Further, the firm or any of its partners cannot claim a set off (i.e. mutual adjustment of debts owned by the disputant parties to one another) or other proceedings in a dispute with a third party.

Registration under Income Tax

It should be noted that registration with the Registrar of Firms is different from registration with the Income Taxation Department. It is mandatory for all firms to apply for registration with the Income Tax Department and have a PAN Card. After obtaining a PAN Card, the partnership firm is required to open a Current Account in the name of the partnership firm and to operate all its operations through this bank account.

HINDU UNDIVIDED FAMILY (HUF)

Meaning of Joint Hindu Family Business

The Joint Hindu Family Business is a distinct form of organisation peculiar to India. Joint Hindu Family Firm is created by the operation of law. It does not have any separate and distinct legal entity from that of its members. The laws that govern HUFs are not codified and are read along with the Hindu Succession Act and the Income-tax Act.

The business of Joint Hindu Family is controlled under the Hindu Law instead of Partnership Act. The membership in this form of business organisation can be acquired only by birth or by marriage to a male person who is already a member of Joint Hindu Family.

"When two or more families agree to live and work together, throw their resources and labour with joint stock and share profits and the losses together, then this family is known as composite family."

There are two schools of Hindu Law-one is Dayabhaga which is prevalent in Bengal and Assam and the other is Mitakshara prevalent in the rest of the-country. According to Mitakshara law, there is a son's right by birth in the property of joint family. It means, when a son is born in family, he acquires an interest in the property jointly held by the family.

The business of the Joint Hindu Family is controlled and managed by one person who is called 'Karta' or 'Manager'. The Karta or manager works in consultation with other members of the family but ultimately he has a final say. The liability of Karta is unlimited while the liability of other members is limited to their shares in the business.

Characteristics of a Joint Hindu Family Business

1. **Governed by Hindu Law:**

   The business of the Joint Hindu Family is controlled and managed under the Hindu law. There are two schools of Hindu law:

   (i) ***Dayabhaga**:* It prevails in West Bengal & Assam and allows both the male & female members to be co-parceners.

   (ii) ***Mitakshara**:* There are four schools of Mitakshara. The application of schools of Mitakshara is regionwise. It allows only male members to be co-parceners.

   Note:

   *The Hindu Succession (Amendment) Act, 2005 gave Hindu women the right to be co-parceners or become legal heirs in the same way as male does. This was well established in the case of **Vineeta Sharma v. Rakesh Sharma & Ors. (2020)***

Facts: The Supreme Court, in this case, stated that the right in coparcenary is accorded by birth. Thus, the birthdate of a daughter is immaterial in this regard. Moreover, it stated that the father need not be alive as on commencement of the 2005 Amendment Act. It was held that the Act will be effective retroactively. That is, daughters will be given a share in the coparcenary property even if the father died before 2005. The Supreme Court pointed to the object of the Act which was to remove gender discrimination regarding rules of the coparcenary. Thus, the object could be fulfilled only if the Act was applied retroactively.

2. **Management:**

   All the affairs of a Joint Hindu Family are controlled and managed by one person who is known as 'Karta' or 'Manager'. The Karta is the senior most male member of the family. He works in consultation with other members of the family but ultimately he has a final say.

   The members of the family have full faith and confidence in Karta. Only Karta is entitled to deal with outsiders. But other members can deal with outsiders only with the permission of Karta.

3. **Membership by Birth:**

   The membership of the family can be acquired only by birth. As soon as a male child is born in family, he becomes a member. Membership requires no consent or agreement.

4. **Liability:**

   Except the Karta, the liability of all other members is limited to their shares in the business. The Karta is not only liable to the extent of his share in the business but his separate property is equally attachable and amount of debt can be recovered from his separate property.

5. **Permanent Existence:**

   The death, lunacy or insolvency of any member of the family does not affect the existence of the business of Joint Hindu Family. The family goes on doing its business.

6. **Implied Authority of Karta:**

   In a joint family firm, only Karta has the implied authority to contract debts and pledge the credit and property of the firm for the ordinary purpose of the businesses of the firm.

7. **Minor also a Partner:**

   In a partnership, minor cannot become co-partner though he may be admitted to the benefit of partnership. In a Joint Hindu Family firm minor is a partner.

8. **Dissolution:**

   The Joint Hindu Family Business can be dissolved only at the will of all the members of the family. Any single member has no right to get the business dissolved.

Benefits of HUF

1. **Easy to Start:**

   It is very easy to start the Joint Hindu Family Business. No legal formalities are required to be faced, such as registration. It requires no agreement, though in actual practice, it is documented to avoid litigation and for regulatory purposes.

2. Efficient Management & Control:

The management of Joint Hindu Family Business is centralised in the hands of Karta of family. In this business, Karta takes all decisions and gets them implemented with the help of other member. No other member interferes in his management.

3. Secrecy:

In Joint Hindu Family Business, all the decisions are taken by the 'Karta' himself. He is in a position to keep all the affairs to himself and maintains perfect secrecy in all matters.

4. Prompt Decision:

The Karta is the only person who exercises control and direction over the business. He may not consult anyone in taking decisions. This ensures prompt or quick decisions. Being the sole master, he takes prompt decisions and makes advantage of the opportunity.

5. Economy:

For the success of any business, economy is a must. It is well- balanced and maintained in Joint Hindu Family Business. The Karta of family spends money with great caution and economy.

6. Credit Facilities:

In Joint Hindu Family Business, the credit facilities are more. One reason for this is that liability of the 'Karta' is unlimited. Karta is having personal relations with others, which are also helpful in raising credit.

7. Expanded loyalty & cooperation:

In Joint Hindu Family Business, it is the natural love and affection which the members are having for each other. It helps to run the business more efficiently and smoothly.

8. Freedom regarding Selection of Business:

The Karta is at freedom to select any business of his choice. He has not to depend on others.

Limitations of HUF

1. **Limited Resources:**

The Joint Hindu Family Business experiences a financial shortage, since it is mostly dependent on ancestral property. This limits the possibility of business expansion. As a result, the size of the business remains small, and the Karta cannot benefit from large-scale economies.

2. **Unlimited Liability of Karta:**

The Karta carries not just the burden of decision-making and management, but also unlimited liability. His personal belongings might be utilized to pay off business debts.

3. **Dominance of Karta:**

The control and management of the business are vested solely in the hands of the Karta, which may not always be acceptable to the other members, and it may lead to conflicts and breakdown of the family unit.

4. **Limited Managerial Skills:**

Karta cannot be an expert in all areas of management, his poor judgments may affect the business. His failure to make good decisions may even lead to financial difficulties and losses. Also, Hindu

Undivided Family do not have adequate funds to hire experts or professionals in several domains such as purchasing, manufacturing, marketing, etc.

5. **Misuse of Power:**

Management of a Joint Hindu Family Business is centered in the hands of the family's Karta. No other member is allowed to interfere with his management. This may lead to power misuse, with Karta misusing his position for personal benefits.

6. **Limited Membership:**

The membership of the business is restricted to family members exclusively. No one from outside the Joint Hindu Family Business can join the business. Therefore, they face the demerit of limited membership.

Hindu Undivided Family (HUF) - Formation

(i) **Create a HUF Deed.**

One has to prepare a deed on stamp paper declaring the formation of the HUF. It should have all the details, including the name of karta, co-parceners, address and source of funds in the corpus. Creating a HUF Deed is not mandatory. However, it is always beneficial to have a HUF Deed. Key issues to be noted in preparation of a HUF Deed are:

(a) A HUF deed is a **written formal document on a stamp paper** (as applicable in the respective State) specifying the name of Karta and Coparceners of HUF.

(b) The **eldest male** member of HUF **becomes Karta** of HUF.

(c) The **name** of members of HUF and the name of the HUF is also required **to be stated in the HUF Deed** at the time of creating of HUF.

(d) The **name of HUF** is usually the **name of the Karta** followed by the word HUF e.g. Ram Kumar HUF.

(e) HUF Deed also **states the capital** with which the HUF has been initiated. There are various sources through which capital can be introduced.

(f) A **declaration** is also provided by each member of family where they declare the name of Karta and also state that –

i. Karta has the authority of the accounts vested in his hand.

ii. Karta holds the right to govern all the transactions of the HUF accounts on behalf of the members.

(g) Further, a **rubber stamp of HUF** will also be prepared. Rubber stamp should be Rectangular. Rubber Stamp will be affixed on all the documents pertaining of HUF to authorize the transaction.

(h) It is recommended that the Deed should be **notarised**.

i. Register the Deed.

ii. Obtain PAN.

iii. Once the declaration deed is made, the karta should apply for a permanent account number (PAN) for the HUF. This is mandatory because all financial transactions must carry PAN.

iv. Open bank account.

After one has allotted a PAN, **open a bank account** in the name of the HUF. It is also advisable to get some stationery printed for official communication. The HUF is now functional. The karta will have to invest in tax saving instruments and file tax returns on behalf of the HUF.

While there are tax advantages of forming an HUF, the following matters merit consideration:

- One person cannot form HUF. An HUF is formed by a family.
- An HUF is automatically created at the time of marriage.
- HUF consists of a common ancestor and all of his lineal descendants, including their wives and unmarried daughters. after 1-9-2005, daughter married or unmarried, is a coparcener like a son.
- Hindus, Buddhists, Jains and Sikhs can form HUFs.
- HUF usually has assets which come as a gift, a will, or ancestral property, or property acquired from the sale of joint family property or property contributed to the common pool by members of HUF.
- Once an HUF is formed it must be formally registered in its name. An HUF should have a legal deed. The deed shall contain details of HUF members and the business of the HUF. A PAN number and a bank account should be opened in the name of the HUF.
- Use a capital asset to establish the corpus of the HUF. This can be ancestral property, assets gifted by relatives and friends, or received by the HUF through a will. If you give a personal asset to the HUF, the income will be clubbed with your own. Gifts of over 50,000 a year received by HUF will be taxable. The best way is for the HUF to receive assets as part of a will.

Key Points in creation of HUF and format of Deed for creation of HUF

- Under the Income Tax Act, an HUF is a separate entity for the purpose of income tax return.
- The same tax slabs are applicable to HUF as to individual assessee.
- One cannot transfer your own assets/money into HUF.
- If one has ancestral property and earning some income from this property, then it is better to transfer this asset to HUF and save tax up to exemption limit applicable to individual.
- One can transfer the money received on sale of ancestral property /assets into your HUF.
- The income from property of HUF can be further invested in instruments such as shares, mutual funds, etc. and will be assessed under HUF.
- Existence of property or multiple members is not a pre-requisite to create HUF. A family which does not own any property may still have the character of Hindu joint family. This jointness is understood in terms of faith and food. This is because a Hindu is born as a member of the joint family.
- Any gifts received by the members of HUF (birthday, marriage, etc.) can be treated as assets of HUF.

SOLE PROPRIETORSHIP

The vast majority of small businesses start out as sole proprietorships. The sole proprietorship is a form of business that is owned, managed and controlled by an individual. He has day-to-day responsibility for running the business. He has to arrange capital for the business and he alone is responsible for its management. He is therefore, entitled to the profits and has to bear the loss of business. Sole proprietorships own all the assets of the business. He also assumes complete responsibility for any of its liabilities or debts. In the eyes of the law and the public, the sole proprietor and the business are one and the same.

It is the simplest and most easily formed business organization. This is because not much legal formality is required to establish it. For instance, to start a factory, the permission of the local authorities is sufficient. Similarly, to start a restaurant, it is only necessary to get the permission of local health authorities. Or again, to run a grocery store, the proprietor has only to follow the rules laid down by local administration.

Merits of Sole Proprietorship

A sole proprietary organization has the following advantages:

(i) **Easy formation:** A sole proprietorship business is easy to form where no legal formality involved in setting up this type of organization. It is not governed by any specific law. It is simply required that the business activity should be lawful and should comply with the rules and regulations laid down by local authorities.

(ii) **Swift Decisions:** In sole proprietary organization, all the decisions relating to business operations are taken by one person, which makes functioning of business simple and easy. The sole proprietor can also bring about changes in the size and nature of activity. This gives better control to business.

(iii) **Sole beneficiary of profits:** The sole proprietor is the only person to whom the profits belong. There is a direct relation between effort and reward. This motivates him to work hard and bear the risks of business.

(iv) **Benefits of small-scale operations:** The sole proprietorship is generally organized for small-scale business. This helps the proprietor's family members to be employed in business. At the same time such a business is also entitled to certain concessions from the government. For example, small industrial organisations can get electricity and water supply at concessional rates on a priority basis.

(v) **Inexpensive Management:** The sole proprietor does not appoint any specialists for various functions. He personally supervises various activities and can avoid wastage in the business.

(vi) **Confidentiality:** A sole proprietor can keep all business-related information to themselves as the business's only decision-maker. The law does not bind them to make the accounts of a sole proprietorship public.

(vii) **Lesser paperwork:** Business setup involves several tasks. Among these, one of the most dreaded ones is paperwork or documentation. Most of the 'would-be' business owners do not wish to spend their time in the lengthy process of registering the business as a corporation. So, for such individuals, a sole proprietorship is the best option.

The paperwork in a sole proprietorship is much less. Hence, business owners can spend their time planning the business strategies to prevent risks in the long-term journey.

(viii) **Simple tax calculations:** One of the benefits of being a sole proprietor is that the taxes are simpler. The tax requirements are pretty straightforward compared to the other business structures. Sole proprietorships are not considered separate legal entities. So, business income or losses are reported on the owner's income tax. The sole proprietors need not file taxes separately for personal and business transactions. Besides these, sole proprietors also get certain tax advantages accompanying small business deductions.

(ix) Lower business fees: Starting a new venture with a tight budget is not uncommon. Several individuals plan their ventures with less capital. For such entrepreneurs, the sole proprietorship is the best business structure. Sole proprietorships can help the owners save on registration. Also, the legal requirements and involved costs in a sole proprietorship are much less.

A sole proprietorship is, therefore, very affordable. If the venture is well-planned from the start, with 100 percent commitment, one can easily set up a sole proprietorship business.

Limitations of Sole Proprietorship

A sole proprietor generally suffers from the following limitations:

(i) Limitation of management skills: A sole proprietor may not be able to manage the business efficiently as he is not likely to have necessary skills regarding all aspects of the business. This poses difficulties in the growth of business also.

(ii) Limitation of Resources: A significant disadvantage of owning a sole proprietorship is the challenge of raising capital. Though the setup costs are much lower in a sole proprietorship, it is difficult to finance the business because banks mostly prefer to finance established businesses. Also, since the revenue in such companies is more significant, they are considered to have a strong credit history.

In a sole proprietorship, the business is wholly reliant on a single owner's finances, investments, and credit history. So, banks and other lenders are often doubtful about the repayment aspect.

(iii) Unlimited liability: The sole proprietor is personally liable for all business obligations. For payment of business debts, his personal property can also be used if the business assets are insufficient.

(iv) Lack of continuity: The owner and their business are a singular entity in a sole proprietorship. While this has several advantages, the continuity of this form of business depends solely on the owner's well-being. In case of death, insolvency, imprisonment, etc., it can shut down if there is no successor or heir to continue the business.

(v) Selling the business is a challenge: Generally, entrepreneurs do not want to consider the possibility of selling their businesses. But as the owner, it is practical to contemplate passing the baton.

Selling a sole proprietorship business is challenging. If the business is significantly profitable, selling it would trigger high capital gains tax. Also, selling off a sole proprietorship business means selling the debts as well. New start-ups might have more debts than profits. This often makes it difficult to predict profits for potential buyers.

(vi) Risk in decision-making: One of the significant disadvantages of a sole proprietorship that several people do not consider is the risk of making wrong decisions.

As mentioned earlier, the final decision of every business function depends on the owner. In a sole proprietorship business, there is nobody to assist in decision-making. So, the risk of errors in decisions is high in sole proprietorships.

(vii) No economies of scale: Large-scale business organizations enjoy large-scale economies as well. That means they can produce more in lesser overhead costs per product.

But for sole proprietorships, this is hard to achieve. Hence, the cost of production of sole proprietorships is generally high. So, facing competition from larger organizations becomes quite challenging for sole proprietorship businesses.

From the above account of the merits and limitations, it becomes clear that it is only personal services like repair work, tailoring etc. small factories, retail shops and professional activities which can be set up as sole proprietary organizations. In India, this form of organization is quite popular and accounts for the largest number of business units.

Procedure for Formation of Sole Proprietorship Firm

Sole Proprietor is formed, managed and controlled by one individual. No deed or agreement is required to constitute a Sole Proprietorship.

However, in actual practice and keeping in mind the nature of business activity, registration may be required under the following enactments as prevailing in the respective States or of the Central Government, such as

i. Shops and Commercial Establishments Act (State specific)

ii. Law relating to Professional Tax (State specific)

iii. Registration under Micro, Small and Medium Enterprises Development Act, 2006.

iv. Registration as a Small Scale Industry (State specific)

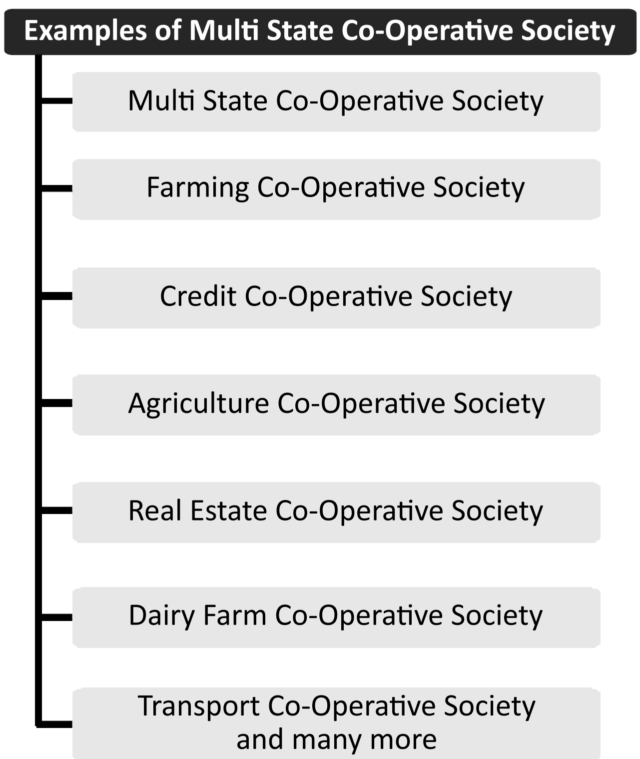
v. GST registration (with the launch of GST, only GSTIN will be used for Import-Export Code Number)

vi. Intellectual Property laws.

MULTI STATE CO-OPERATIVE SOCIETY

The Multi-State Cooperative Societies (MSCS) Act, enacted in 1984, was modified in 2002, in keeping with the spirit of the Model Cooperatives Act. Unlike the State Laws, which remained as a parallel legislation to co-exist with the earlier laws, the MSCS Act, 2002 replaced the earlier Act of 1984. The Act and the Rules thereunder facilitates the incorporation of cooperative societies whose objects and functions spread over to several states.

The Act provides for formation of both primary (with both individual and institutional members) and federal cooperatives (with only institutional membership).



Their main objects shall be serving the interests of members in more than one state and their by-laws shall provide for social and economic betterment of their members through self-help and mutual aid in accordance with co- operative principles (Sec. 7). Otherwise, they are ineligible for registration. Under Section 9 of the said Act, a multi- state co-operative society is a body corporate with limited liability.

In order to ensure financial discipline, extensive provisions have been enacted. No part of the fund other than net profit shall be distributed among members (Sec.62). Investment of society's fund only in recognized securities is permissible (Sec.64). Contribution to political parties or loans to non-members or borrowing from external sources are prohibited. Annual auditing by recognized auditors is mandatory (Sec.70).

Central Government may direct for special audit if it is of the opinion that the society's affairs are not being managed in accordance with the co-operative principles or prudent commercial practices (Sec.77).

Any application for the registration of a multi-state cooperative society, of which all the members are individuals, should be signed by at least fifty persons from each of the states concerned. In the case of a society of which the members are cooperative societies, it should be signed by duly authorized representations of at least five such societies registered in different states.

Benefits of Multi State Co-Operative Society

1. MSCS provides loans at reasonable rates of interest to the poor. This benefits them, as they do not have to go to financiers who lend at high interest rates.
2. MSCS can function pan India as they can start branches in different districts and states.
3. As regulatory requirements of filing, etc, is minimum, MSCS have low compliance costs.
4. A Multi State Co-operative Credit Society belongs to its members, who are at the same time the owners and the customers of their Society. This creates a sense of belonging and ownership among the members.

Formation of Multi State Co-Operative Society

(A) An application in Form -1 (under sub-rule(1) of rule 3 of the Multi State Cooperative Societies Rules, 2002) should be filed with the Central Registrar of Cooperative Societies, New Delhi along with the following enclosures:

1. A certificate from the bank stating credit balance there in favour of the proposed multi-state co-operative society.
2. A scheme explaining how the proposed multi state co-operative society has reasonable prospects of becoming a viable unit.
3. Four copies of bye-laws in original.
4. Proposed area of operation for registration shall initially be permitted for two contagious states only.
5. List of at least 50 members from each state. The list has to be submitted in the format annexed with the Multi State Cooperative Societies Act, 2002 (MSCS Act, 2002) along with the copies of ID proofs of the members duly attested by Chief promoter.
6. Certified copies of the resolutions passed by the proposed society along with the certified copy of the resolution of the promoters which shall specify the name and address of one of the applicant(s) to whom the Central Registrar may address correspondence under the rules before registration and dispatch or hand over registration documents.
7. Contact number and e-mail address of the Chief Promoter or Society on cover page.

(B) For societies having objects related to thrift and credit and for multi-purpose societies following additional documents are required to be submitted along with documents mentioned at point [A] above:

1. No Objection Certificate from the Registrar of Cooperative Societies of the States/U.T. where the area of operation of the society is proposed to be confined.
2. A certificate to the effect that the credentials of the Chief Promoter/Promoters have been verified by the Registrar of Co-operative Societies of the state where the head office is proposed to be located.

All documents to be submitted in original with the signatures of the Chief Promoter/Promoters on each page.

Note: Societies which are already registered under the MSCS Act, 2002 and are desirous of expanding their area of operations falling under category (B) above shall be required to submit an No Objection Certificate as mentioned at [B](1)

Registration Procedure

1. For the purposes of registration of a multi-state cooperative society under this Act, an application shall be made to the Central Registrar in such form and with such particulars as may be prescribed.
2. The application shall be signed
   a. in the case of a multi-state cooperative society of which all the members are individuals - by at least fifty persons from each of the state concerned;
   b. in the case of a multi-state cooperative society of which the members are cooperative societies - by duly authorised representatives on behalf of at least five such societies as are not registered in the same state; and
   c. in the case of a multi-state cooperative society of which another multi-state cooperative society and other cooperative societies are members, by duly authorised representatives of each of such societies: Provided that not less than two of the cooperative societies referred to in this clause, shall be such as are not registered in the same state;
   d. in the case of a multi-state cooperative society of which the members are cooperative societies or multi-state cooperative societies and individuals, by at least
      i. fifty persons, being individuals, from each of the two states or more; and
      ii. one cooperative society each from two states or more or one multi-state cooperative society.
3. The application shall be accompanied by four copies of the proposed bye-laws of the multi-state cooperative society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Central Registrar may require.
4. If the Central Registrar is satisfied
   a. that the application complies with the provisions of this Act and the rules;
   b. that the proposed multi-state cooperative society satisfies the basic criterion that its objects are to serve the interests of members in more than one state;
   c. that its bye-laws provide for social and economic betterment of its members through self-help and mutual aid in accordance with the cooperative principles;
   d. that the proposed bye-laws are not contrary to the provision of this Act and the rules, he may register the multi-state cooperative society and its bye-laws.
5. The application for registration shall be disposed of by the Central Registrar within a period of four months from the date of receipt thereof by him.

6. Where the Central Registrar refuses to register a multi-state cooperative society, he shall communicate, within a period of four months from the date of receipt of the application for registration, the order of refusal together with the reasons thereof to the applicant or applicants, as the case may be. Provided that no order or refusal shall be made unless the applicants have been given a reasonable opportunity of being heard.

The application for registration of the Multi- State Cooperative Society shall be disposed of by the Central Registrar within a period of four months from the date of receipt thereof by him and if the application for registration is not disposed of within a period of four months specified above or the Central Registrar fails to communicate the order of refusal within that period, the application shall be deemed to have been accepted for registration and the Central Registrar shall issue the registration certificate in accordance with the provisions of the MSCS Act, 2002 and the rules made thereunder.

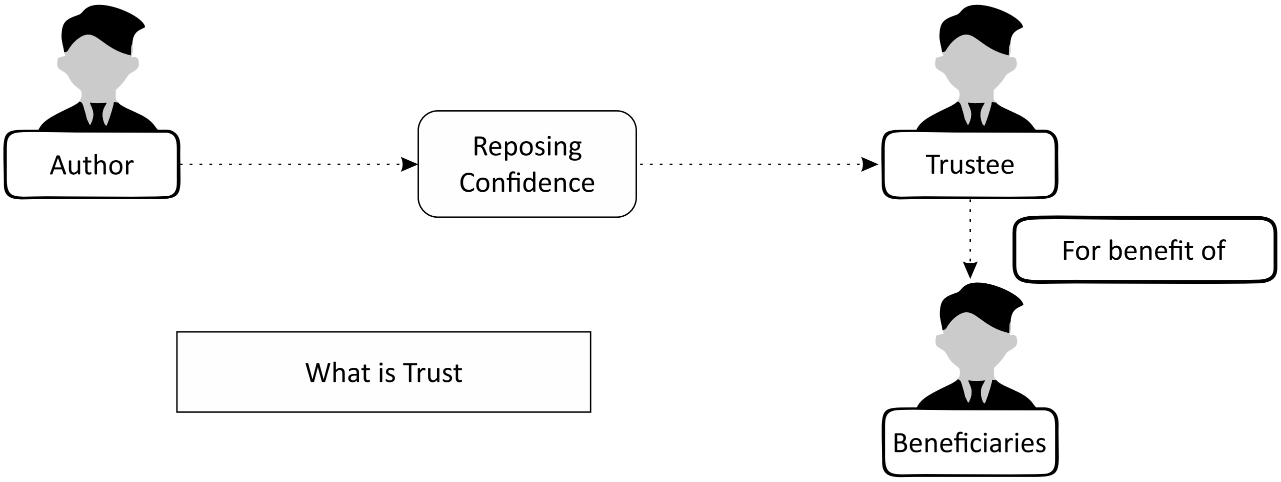
Registration certificate

Where a multi-state cooperative society is registered under this Act, the Central Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the society therein mentioned is duly registered under this Act, unless it is proved that the registration of the society has been cancelled.

TRUST

A Trust is a relationship in which a person or entity holds a valid legal title to a certain property which is known as the Trust property. The Trust is bound by a fiduciary duty to exercise that legal title for the benefit of any one or more individuals or group of individuals or organisations, who are known as the Beneficiaries. The Trust shall be governed by the terms of the Written Trust agreement.

Trust is defined in section 3 of the Indian Trust Act, 1882 as "an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another or of another and the owner. In other words, it is simply a transfer of property by one person (the settlor) to another (the "trustee") who manages that property for the benefit of someone else (the "beneficiary"). The settlor must legally transfer ownership of the assets to the trustee of the trust.



The statutory basis governing Trusts, in general, under Indian law is the Indian Trusts Act, 1882. Generally, there are two types of trusts in India: private trusts and public trusts. Private trusts are regulated by the Indian Trusts Act, 1882, whereas Public trusts are classified as Charitable and religious trusts. The Charitable and Religious Trust Act, 1920, the Religious Endowments Act, 1863, the Charitable Endowments Act, 1890, the Societies Registration Act, 1860, and the Bombay Public Trust Act, 1950 are the relevant legislations for the recognition and enforceability of public trusts. Moreover, in recent times, trusts can also be used as a vehicle for investments, such as mutual funds and venture capital funds. These trusts are governed by Securities and Exchange Board of India (SEBI).

In India, there are thousands of trusts created by the owner of industrial houses and rich individuals and their families. Under Indian laws, Public Charitable Trusts are treated as organisations with charitable purpose entitling all the tax benefits applicable. Examples of Public Charitable Trusts promoted by business families are Paragon Charitable Trust, Sir Dorabji Tata Trust, etc. Private trust or family trust is not a Public Charitable Trusts and hence does not enjoy the privileges entitled to a trust with charitable purpose.

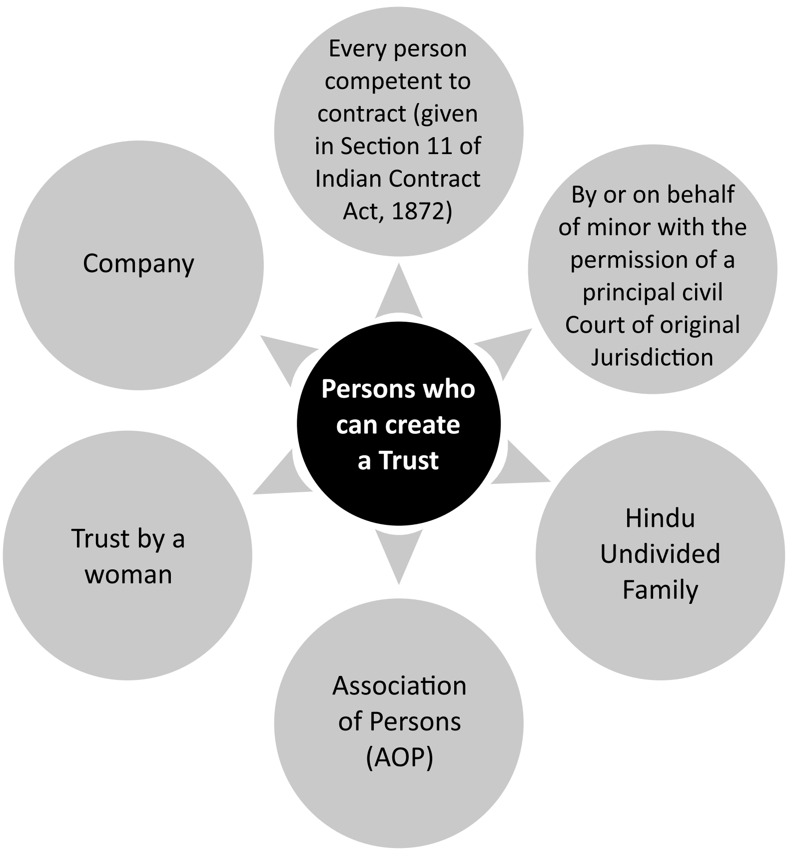
Objectives of a Trust

As per Section 4 of the Indian Trusts Act, 1882, a trust may be created for any lawful purpose. The purpose of trust is lawful unless it is:

- forbidden by law, or
- is of such nature that, if permitted, it would defeat the provisions of any law, or
- is fraudulent, or
- involves or implies injury to the person or property of another, or
- the Court regards it as immoral or opposed to public policy

Persons who can create a Trust

According to Section 7 of Indian Trusts Act, 1882, a trust may be created by the following persons:



Persons who can be a Trustee

As per Section 10 of the Indian Trust Act, 1882, any person who is capable of holding property may be a trustee; except to the condition of discretion of trust, in that case, he cannot execute it unless he is competent to contract.

Difference between Public Trust and Private Trust

(a) Identification of the beneficiaries of the Trust is a simple way to differentiate between a public and a private trust. If the beneficiaries make up a large or substantial body of public, then the trust in question is public. A public trust exists "for the purpose of its objects, the members of an uncertain and fluctuating body," and is managed by a board of trustee. If, however, the beneficiaries are a narrow and specific group such as the employees of a company, then the trust is private.

(b) in a Public Trust, the interest is vested in an uncertain and fluctuating body . They are the general public or class thereof. In a Private Trust, beneficiaries are definite and ascertained individuals. (Supreme Court in *Deoki Nandan v. Murlidhar* 1957 AIR 133 1956 SCR 756)

(c) Their domains are different; public trusts have larger and wider domain whereas private trusts have limited and narrow domain.

A trust for the benefit of employees of a company however numerous would not be considered as public charitable. For example, an industrialist who creates a trust for the benefit of his 5,000 people, their spouses and children is considered private because who the beneficiaries are known.

While a public trust is set up for what is called 'uncertain and fluctuating body of persons', it is possible to create a sectarian or communal trust as a public charitable trust. There are trusts which are only for specific religious communities. However, such trusts may not be tax-exempt.

Exemptions available to Trusts

Exemptions available to Trusts are primarily governed by the provisions of the Income Tax Act, 1961. The exemption has to be read keeping in mind whether the Trust is a Public Charitable Trust, Private Trust, Religious Trust, etc.

Certain key exemptions are listed below:

Tax exemption under Section 10 of the Income Tax Act, 1961

Total tax exemption is available for certain types of trusts which include those which are formed for any of the activities related to sports, education, scientific research, professions, or promotion of khadi and village based industries, hospitals etc. and are notified as charitable or religious institutions.

Tax exemption under Section 11 of Income Tax Act, 1961

As per Section 11, any income, profits or gains obtained by a trust from a property held by the trust established wholly for the purposes of religious or charitable nature shall not be included in the total income of the trust. Since such income shall not constitute to be a part of the trust's income, therefore, it is not taxable. However, as per section 13, there are certain situations where the tax exemptions under section 11 are not applicable.

Such instances include where –

(a) income earned from the property held under the trust of private religious nature and does not endure benefit for the public, or

(b) the entire income of a charitable trust which is established for a particular religion, community or caste, income of those charitable trust whose funds do not get invested in the modes specified under section 11(5).

Tax exemption under Section 12 of the Income Tax Act, 1961

The incomes that are excluded from the computation of taxable income of trust or society are as follows:

1. Income which is derived from the property that is held under the authority of trust with the purposes which are wholly charitable or religious in nature.
2. Income which is kept aside to the extent that does not exceed 25% of the total income received in lieu of the property.
3. In cases of charitable trusts, specifically those formed before 1st of April, 1961, income which is acquired from the property which is held partially for religious or charitable purposes within India.
4. In furtherance of the above case, the income which is set apart to a certain extent and which does not exceed twenty five percent of the total income.
5. In cases of income that is obtained from a trust created before 1st April, 1952 for charitable purposes and spent outside India.
6. Income made by way of voluntary contributions towards the corpus of the trust.
7. Charitable trusts created for the benefit of any of the socially and economically backward castes such as Scheduled Castes, Scheduled Tribes or women or children.

Trusts are allowed to set apart or accumulate some of the funds received from voluntary contributions for certain specific purposes. The resultant benefit obtained by the trust is that amount so deducted is not considered as forming part of income of the previous year and therefore not taxed.

Tax exemption for a Private Trust

The taxability of the Trust depends upon the type of the trust. In the case of a non-discretionary trust, all income is taxable in the hands of the beneficiaries. But if the beneficiaries are minors, the income is to be clubbed with that of the parent with the higher income.

On the other hand, in the case of a discretionary trust, in which the shares of the beneficiaries are unknown and indeterminate, it is taxed in the hands of trust at the maximum marginal rate.

Section 161(1A) of the IT Act provides that if any part of the income of such a trust includes profits and gains from business, then the aforesaid principle of Section 161(1) would be ignored and the entire income of the trust including any profits and gains from business would be liable to income tax at the maximum marginal rate.

Thus, tax planning requires that the trustee should not have any income in the nature of profits and gains from business in the trust otherwise the entire income of the trust would become liable to maximum marginal rate of tax.

Further Private Trusts may comply with the provisions of Section 11 and 12 and 164 of the Income Tax Act, 1961.

FORMATION OF TRUST

A Trust can be created by any person over 18 years of age and mentally sound and capable of understanding. Before registration of a trust, the following aspects have to be decided:

(a) Name of the trust

(b) Address of the trust

(c) Objects of the trust (charitable or Religious)

(d) One settler of the trust

(e) Two trustees of the trust

(f) Property of the trust-movable or immovable property (normally a small amount of cash/cheque is given to be the initial property of the trust, in order to save on the stamp duty).

1. **Creation of a Trust Deed**: A trust may be created by any language sufficient to show the intention and no technical words are necessary. A trust may even be created by the use of words which are primarily words of condition, but such words will constitute a trust only where the requisites of a trust arc present. Though the use of the word 'trust' is not needed to create a valid trust, the terms of the grant or will make it clear that an obligation is actually annexed to the ownership of the trust property.

   A trust-deed, generally, incorporates the following:

   (i) the name(s) of the author(s)/settlor(s) of the trust;

   (ii) the name(s) of the trustee(s);

   (iii) the name(s) if any, of the beneficiary/ies or whether it shall be the public at large;

   (iv) the name by which the trust shall be known;

   (v) the place where its principal and or other offices shall be situated;

   (vi) the property that shall devolve upon the trustee(s) under the trust for the benefit of the beneficiary/ies;

   (vii) an intention to divest the trust property upon the trustee(s);

   (viii) the object and purpose of the trust;

   (ix) the procedure for appointment, removal or replacement of a trustee, their rights, duties and powers, etc;

   (x) the rights and duties of the beneficiary/ies;

   (xi) the mode and method of determination of the trust.

2. **Obtain the signatures of Settlor, Trustees and Witnesses at the appropriate places**. Their photographs and Identity proof is also to be furnished. The Deed must be witnessed by at least two witnesses. The Settlor must sign all the pages of the Trust Deed.

3. **Print the Trust Deed** on stamp paper of appropriate value, depending on the stamp duty applicable in the State of execution.

4. **Register the Original deed** in a Sub-Registrar office paying registration charges: A photocopy of the Deed is also required to be submitted. The photocopy of the Deed should also contain the signature of settlor on all the pages.

5. At the time of registration, the settlor and witnesses must be personally present with their identity proof in original.

6. The Sub- Registrar retains the photocopy and returns the original copy of the Trust Deed.

7. Thereafter, the Trust can apply for a permanent account number for the trust and open a bank account for it as it is a separate entity.

Registration of Trust

The requirements to register a trust deed are as follows:

i. *Trust Deed on stamp paper* – The value of the stamp paper is a certain percentage of the total property value belonging to the trust. The percentage differs from one state to another.

ii. *Proof of Identity* – Self-attested copies of ID proofs of the Trustor and the Trustees (passport/voter ID/ Aadhar Card/Driving license)

iii. *Address Proof of Registered office* – Property Registration certificate or utility bill copy (water bill/ electricity bill)

iv. *No Objection Certificate (NOC)* from the property owner – For rented property

v. *Passport-sized photographs* of the Trustor, the Trustees and the witnesses present while signing of the Deed.

PARTNERSHIP AGREEMENT & TRUST DEED

Sl. No.	***Partnership Agreement***	***Trust Deed***
1.	Partners, as mentioned in the Deed runs the Partnership Firm. The procedure to admit a partner in the firm is mentioned in the Deed	Trustees are generally appointed or elected. Procedure to elects/ appoint the trustees is set out in Deed.
2.	A partnership Deed can be between two or more persons. Maximum no. of partners in a partnership firm can be 50 partners.	Three parties must be involved with any deed of trust: *Trustor*: This party is the borrower. A trustor is sometimes called an obligor. *Trustee*: As a third party to a deed of trust, the trustee holds the property's legal title. *Beneficiary*: This party is the lender.
3.	The Deed may mention a fixed term of partnership or for a specific undertaking, or may mention the condition of dissolution by notice of intention to dissolve, if mutually agreed by the partners.	Trust deed can provide for trust to be wound up within certain number of years.
4.	The Deed states the rights and duties of the Partners. Partners owe a fiduciary duty to each other, based on loyalty, trust and confidence.	The Trust Deed states the rights and duties of the Trustees as well as Beneficiaries. Trustees have fiduciary duties to beneficiaries.
5.	Expectations of Partner are more limited to financial success of business ventures. More easily measured.	Expectations of trustees can be high- difficult to satisfy beneficiaries with so many choices on where to spend income.

SOCIETY

A society is an association of persons united together by mutual consent to deliberate, determine and act jointly for some common purpose. Societies are usually registered for promotion of charitable activities like education, art, religion, culture, music, sports, etc., In India, The Societies Registration Act, 1860 lays down the procedure for society registration and operation in India. The Act has been adopted by most of the State Governments with/without modifications as considered by the respective State Governments.

According to Section 20 of the Societies Registration Act, 1860, societies can be formed for the following purposes:

i. Charitable societies;

ii. the military orphan funds or societies established at the several presidencies of India;

iii. societies established for the promotion of science, literature, or the fine arts for instruction, the diffusion of useful knowledge;

iv. The diffusion of political education;

v. the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public;

vi. public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

Besides these purposes, the respective State Governments may provide for any other objects by their legislations.

Advantages of Society

(a) The process of formation and registration is simple.

(b) Record-keeping requirements are minimum and compliance with regulations is easy.

(c) Cost of compliance is low.

(d) Least possibility of interference by the regulator.

(e) Exemption from tax due to charitable nature of operations.

Disadvantages of Society

(a) Tax exemption extended to societies may apply to public trusts only to the extent the Income Tax department accepts their activities as being charitable;

(b) Since such institutions are of charitable nature, it is an inappropriate form of a commercial venture;

(c) The concept of equity investment or ownership is virtually absent; hence, it is not attractive for commercial investors interested in microfinance;

(d) Commercial investors regard the investments in such entities as risky mainly on account of their lack of professionalism and managerial practices and political leanings (in some cases) and are, therefore, reluctant to provide large scale funding to such bodies;

(e) In accordance with Section 45S of the RBI Act, 1934, no unincorporated bodies are allowed to accept deposits from the public. Organisations registered under the Societies Registration Act and the Trust Act are considered unincorporated bodies. Hence, legally speaking, they are not allowed to collect savings from their clients; and

(f) It is vulnerable to the implication under the Money Lenders Acts (prevention of usurious interest rates) of various State Governments.

Formation of Society

Under Section 1 of the Societies Registration Act, 1860, any seven or more persons who have come together for any legal pursuits, including literary, scientific, charitable or social pursuits, may subscribe their names to a memorandum of association and file the same with the Registrar and form themselves into a society under this Act.

The memorandum of association filed with the Registrar should contain details such as the name and objectives of the society, names, addresses and occupations of the members of the governing body with which the management of the affairs of the society is entrusted. A copy of the rules and regulations of the society should be provided.

With the completion of these processes, the society could be registered with the Registrar after payment of a fee, which will be specified by the State Government from time to time. As per Section 4 of the Act, once in every year, an annual general meeting of the society should be conducted.

If the rules do not provide for an annual general meeting, a list of the names, addresses and occupations of the members of the governing body should be presented to the Registrar, every year.

- Registration can be done either at the state level (i.e., in the office of the Registrar of Societies) or at the district level (in the office of the District Magistrate or the local office of the Registrar of Societies)
- Memorandum of association and rules and regulations
- Consent letters of all the members of the managing committee
- Authority letter duly signed by all the members of the managing committee
- An affidavit sworn by the president or secretary of the society on non-judicial stamp paper of Rs.20-/, together with a court fee stamp
- A declaration by the members of the managing committee that the funds of the society will be used only for the purpose of furthering the aims and objects of the society
- The documents needed to be submitted to the Registrar are:
    1. A letter requesting registration, signed by founding members. This letter will state the purpose of formation of the society and a requisition indicating that the society is registered under the Act. The signature of all members is mandatory.
    2. A certified copy of the MoA, signed by the founding members, with a duplicate.
    3. A certified copy of the rules and regulations, signed by the founding members, along with a duplicate copy.
    4. A table with the names and address and occupation of all members of the society with their signatures.
    5. Minutes of the meeting (general body meeting conducted to set the rules and regulations).
    6. Declaration by the president of the society.
    7. A sworn affidavit from the President or Secretary, declaring the relationship between the subscribers.
    8. Address proof of registered office and no-objection certificate from the landlord.

The documents are to be filed with the Registrar along with the fees, and a suitable name (which should be unique and not suggest a relationship with the government or violate the provisions of the Emblem and Names Act, 1950). If the Registrar is satisfied with the application, the society will be registered.

Benefits of forming a Society

1. Under Income Tax Act, and subject to fulfilment of certain conditions, a society can avail exemption from income tax, if it obtains registration under Section 12A/12AA of the Income Tax, 1961.
2. Donors to societies may claim a rebate under Income Tax Act for donations made to the Society, provided the society has applied and obtained approval under Section 80G. Registration under section 12A is one-time registration. Once the registration is granted to the trust, it will be hold good till the cancellation of registration. There is no provision which requires any renewal of registration. Thus, the benefits of registration can be claimed for lifetime by NGO.
3. Societies, being NGO's receive various grants from government and other agencies. They are eligible to get grants and financial funding from various agencies. These agencies generally make grants to societies registered under Section 12A.
4. Societies are run on democratic principles and ensures wider participation by members in the activities.
5. In view of the election process, there is scope for removing inefficient management and effect changes in the management to ensure better governance.

Registration of a Society in India

A Society can be created by a minimum of 7 or more persons. Apart from persons from India, companies, foreigners, as well as other registered societies can also register for the Memorandum of the society.

Society registration is maintained by state governments. Thus, the application for society registration must be created to the specific authority of the state, where the registered office of society is situated.

For Society registration, the establishing members must agree with the name of society first and then prepare for the Memorandum, followed by Rules & Regulations of the society.

Selection of a Name

When selecting a name for society registration, it is vital to understand that according to Society Registration Act, 1860, an identical or similar name of a currently registered society will not be allowed. Moreover, the proposed name shall not suggest any patronage of State Government or Government of India or contravene the provisions of the Emblem & Names Act, 1950. Memorandum of Association.

Memorandum of Association

The Memorandum of society along with Rules & Regulations of society must be signed by every establishing member, witnessed by Gazetted Officer/Notary Public/ Chartered Accountant/ Oath Commissioner/ Advocate/ Magistrate first class /Chartered Accountant with their official stamping and complete address. The memorandum must also contain details of members of the society registration along with their names, addresses, designations, and occupations.

The following documents have to be prepared, submitted and signed for the sake of registration:

- Requesting society registration by providing covering letter, signed by all establishing members
- Duplicate copy of memorandum of association of society along with certified copy
- Duplicate copy of Rules & Regulations of society along with duplicate copy duly signed by all establishing members
- Address proof of registered office of society as well as no-objection certificate (NOC) issued by landlord

- Affidavit by secretary or president of society declaring relationship among subscribers
- Few minutes of meeting regarding the society registration along with providing some essential documents.

Following are the documents required for the Society Registration in India:

1. **PAN Card of all the members** of the proposed society has to be submitted along with the application.
2. The **Residence Proof of all the members** of the society also has to be submitted. The following can be used as a valid residence proof:
    - Bank Statement
    - Aadhaar Card
    - Utility Bill
    - Driving License
    - Passport
3. **Memorandum of Association** has to be prepared which will contain the following clauses and information: The work and the objectives of the society for which it is being established
    - The details of the members forming the society
    - It will contain the address of the registered office of the society
4. **Articles of Association** also have to be prepared which will contain the following information:
    - Rules and regulations by which the working of the society will be governed and the maintenance of day to day activities.
    - It will contain the rules for taking the membership of the society.
    - The details about the meetings of the society and the frequency with which they are going to be held is to be mentioned.
    - Information about the Auditors.
    - Forms of Arbitration in case of any dispute between the members of the society.
    - Ways for the dissolution of the society will also be mentioned once the rules have been formed, they can be changed but the new set of rules will be signed by the President, Chairman, Vice President and the Secretary of the Society.
5. A covering letter mentioning **the objective or the purpose** for which the society is being formed will be annexed to the beginning of the application. It will be signed by all the founding members of the society.
6. A **copy of the proof of address** where the registered office of the society will be located along with a NOC from the landlord if any has to be attached.
7. A **list of all the members** of the governing body has to be given along with their signatures.
8. A **declaration has to be given by the president** of the proposed society that he is willing and competent to hold the said post.

All the above documents have to be submitted to the Registrar of Societies along with the requisite fees in two copies. On receiving the application, the registrar will sign the first copy as acknowledgment and return it while keeping the second copy for approval. On proper vetting of the documents, the registrar will issue an Incorporation Certificate by allotting a registration number to it.

The signed Rules & Regulations, as well as Memorandum, has to be filed with concerned society or registrar of state with a mentioned fee. If the registrar is fulfilled with society registration application, then they will certify that the society is registered.

Consequences of Registration / Non-Registration of a Society

The Societies Registration Act, 1860 lays down procedure for registration of societies for various bonafide purposes. The registration gives the society a legal status and is essential for:

- obtaining registration and approvals under Income Tax Act;
- lawful vesting of property in the societies;
- provides authenticity and recognition to the society before all authorities and the world at large; and
- for opening bank accounts and transaction of business.

When the society is registered, it along with its members become bound to the same extent, as if each member had signed the memorandum. Once registered under the Societies Registration Act, the society must restrict its activities to the objects contained in its Memorandum.

A society registered under the Act enjoys the status of a legal entity apart from the members constituting it. A society so registered is a legal entity/person similar to an individual but with no physical existence. As such it can acquire and hold property and can sue and be sued in its own name.

The society should be registered under the Act to acquire the status of juridical person.

In the absence of registration, all the trustees in charge of the fund have alone a legal status and the society has no legal status, and, therefore, it cannot sue and be sued.

If a society is not registered, it may exist in fact and theory, but not in the eyes of law. If benefits are to be claimed, the registration of society under the Act us required. An unregistered society cannot claim benefits under the Income-tax act.

Accounts and Audits

The societies are in possession of funds and properties provided to them by the members or by other persons (by way of donation etc.). The funds and properties are to be applied in furtherance of its objects, for which the society was formed. The members of the governing body are the trustees who apply the funds.

Therefore, it becomes necessary for societies to maintain proper and regular account books and get them audited and present them to the members at the general meeting and file the same with the Registrar of Societies (of the respective State where it is located) for scrutiny.

Every society should get its accounts audited once a year by duly qualified auditor and have balance sheet prepared by him.

Litigation

As every society is a legal entity distinct from its members . It is capable of filing suits against any person or any member. Similarly, suits can also be filed against the society.

A registered society can file a suit anywhere in India and in any State although it may not be registered in that particular state.

MEGA FIRM

Mega Firm or Multidisciplinary Firm (MDF) can be described as a Partnership firm with more than twenty-five partners. A firm which provides core professional service of a particular profession along with the allied and ancillary service with equal competence under one roof is a multidisciplinary firm. For example, company and corporate law is core knowledge for company secretaries, however, they can acquire expertise in any other area like direct- indirect taxation, labour laws, economic laws, finance, accounting, insurance, international business and IPRs and they may be in position to provide single window business solutions.

MDF is a step towards mega firm. It is paradigm shift from traditional approach of 10X10 offices to a global office. MDF will put the professionals in general and company secretaries in particular on fast track. Large firms will still become larger and one day the global business enterprise will call them a "Mega Firm".

Keeping in view of the present needs of the corporate and multi-dimensional growth of CS profession especially in the areas of practicing in the areas of Corporate Laws, Labour laws, RBI/ FEMA, acting as Secretarial Audit, Resolution Professional Insolvency Bankruptcy Code, GST Practitioner there is a need to structure and build the Multidisciplinary(MDF)/mega firms. There is a huge demand and scope for a multifunctional firm, where several services are provided under one roof. Clients always have a comfort level in dealing with such firms. They are assured of timely and quality service since even if one of the Partners is not available for consultancy they can bank on the others. Unless there are MDF/Mega firms, it may not be possible to cater to the bigger assignments.

Multidisciplinary Firm – According to **Regulation 165A of The Company Secretaries Regulations, 1982** inserted by the Company Secretaries (Amendment) Regulations, 2020- A member in practice may form multi-disciplinary firm with the member of other professional bodies as prescribed under regulations 168A and 168B of The Company Secretaries Regulations, 1982, in accordance with the regulating guidelines of the Council for functioning and regulation of such multidisciplinary firm.

Regulation 168 A - Other Professional bodies:

1. For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be member of any of the following, namely:
   a. The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949;
   b. The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
   c. Bar Council of India established under the Advocates Act, 1961;
   d. The Indian Institute of Architects established under the Architects Act, 1972;
   e. The Institute of Actuaries of India established under the Actuaries Act, 2006;
   f. The membership of the professional bodies or institutions whose qualifications relating to Company Secretaryship are recognized by the Council under Sub-section (2) of Section 38 of the Act.
2. For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely:
   a. Chartered Accountant within the meaning of the Chartered Accountants Act, 1949;
   b. Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;
   c. Actuary within the meaning of the Actuaries Act, 2006;

d. Bachelor in Engineering from a University established by law or an institution recognized by law;

e. Bachelor in Technology from a University established by law or an institution recognized by law;

f. Bachelor in Architecture from a University established by law or an institution recognized by law;

g. Bachelor of Law from a University established by law or an institution recognized by law;

h. Master in Business Administration from Universities established by Law or Technical Institutions recognized by All India Council for Technical Education.

Regulation 168B of Company Secretaries Regulations, 1982 determines the membership of professional body for partnership, accordingly for the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:

- The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949;
- The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959;
- Bar Council of India established under the Advocates Act, 1961;
- The Institute of Engineers or Engineering from a University established by law or an institution recognized by law;
- The Indian Institute of Architects established under the Architects Act, 1972;
- The Institute of Actuaries of India established, under the Actuaries Act, 2006;
- Professional bodies or institutions outside India whose qualifications relating to Company Secretary recognized by the Council under Sub-section (2) of Section 38 of the Act.

Pre-requisites

MDF is a joint or collaborative venture amongst independent individuals. Therefore, every one wishing to join hands should understand that:

1. All minds should work together and in unison;
2. Say go to ego;
3. Mutual faith and respect lays strong foundation;
4. Unanimity shall be the rule on important policy decisions;
5. Financial discipline is a must;
6. Founder partners shall be given equal status;
7. Income of the firm shall be distributed at short regular intervals;
8. One shall not put undue influence on the others or show that he is king pin of the association. Even the small crack in the above stated pre requisites ruin the things.

Benefits

The nature of a multidisciplinary firm fosters collaboration. The common office space, with professionals working in close proximity to one another, provides each professional with a strong set of resources in the firm.

In addition, this spirit of working together creates greater opportunity for collaboration so the total needs of the client are best met.

a) **Working in a team environment:** The concept of MDF will have an opportunity to work with team members who share interests, expertise, ideas, and work ethically.

b) **Good Exposure:** Every client has different expectations, needs, audience, products and services, so consultants get to oversee projects of all kinds. In MDF being more than two partners having different experience in different fields the apprentice and employee will have an exposure to various and different works. With each partners specialized knowledge the MDF may venture into new areas of practice.

c) **Cost effective:** With large investment budgets, the MDF have not only create state-of-the-art training facilities, they also may have much more developed infrastructure, processes and tools which can make your life less stressful when trying to sell or deliver a project. The overheads and the risks get distributed amongst the partners.

d) **Exceptional training and on-boarding:** MDF provides an opportunity to have a good training facilities whether on job training or off job training to get things started off on the right foot. The goal of on job training or off job training is to set you up for success, so during this training you can expect to receive the resources, knowledge, and tools to do so.

e) **Continuous Learning:** The partners of MDF having multi-dimensional experience they can impart continuous training by adapting to new trends in the Profession. The great thing about staying on your toes is that clients appreciate it because you'll be able to develop relevant and successful ideas. Though it might sound overwhelming to always be on top of news and trends, it will eventually become habit – and the results are worth it!

f) **Better Growth opportunities:** With the right work ethic and dedication, MDF can experience professional growth early compared to the other small firms. MDF may attract big multinationals. They get comfort about availability of at least one of the partners, if they are dealing with a firm rather than an individual. Senior partners can concentrate on critical assignments which obviously are more lucrative.

g) **Global scope and reach**: The MDF have an international or global scope and reach, offer diversified services and can draw from a large pool of consultants, skills and expertise, and hence become a Mega Firm.

h) **Revenue sharing:** By appropriate revenue sharing model a PCS who himself may not have subject expertise can get a share from the assignments of that subject being executed by others.

i) **Structure & Processes:** The structure for execution of works or assignments will be more systematic and the process will be cost effective due to the standard processes and procedure. The hiring and training of people will be more systematic there by productivity of the company will be improved.

j) **Corporate or Industry perception:** When considering different professional firms, the corporate client may be preferring to one of the familiar, renowned MDF having brand image. The MDF may appear like a known quantity and can draw from a large pool of partners and associates.

k) **Reputation & risk-adjusted value:** Many of the bigger client's organizations may prefer that "you never go wrong when hiring one of the MDF", since the renowned brands of the MDF are perceived as proxy for high levels of professionalism, quality and reputation. Credibility of the firm and brand gets established in long term.

Process of Constitution

The process of formation of MDF shall be an outcome of conscious and sincere decision and it is essential that the like-minded professional should deliberate and take this decision. It shall be ensured that the proposed constituents have expertise in different disciplines. There could be series of meetings before MOU is reached. It is advisable to work under MOU for one year. This works as a cooling period and for better understanding each other such trial period help in getting acclimatised. Mutual faith and understanding is sine qua non. Time has to be given to understand the compatibility of the individuals to each other. Once the initial bridge is successfully crossed then formal partnership may be constituted on the agreed terms. It will be in the long term interest of the MDF to have all the founder partners on equal footing. Their intellectual level shall be at par. During the reasonable period individual practice existing if any, shall be introduced in the firm. When it is proposed to add new partner, apart from settling commercial terms, it is suggested that the MDF shall enter into MOU effective at least for one year with the proposed partner and after understanding each other’s compatibility he or she may be admitted to the MDF.

Agreement between partners

Partners must enter into a partnership agreement defining inter alia the process of decision making, allocation of duties, responsibilities, delegation of authorities, revenue sharing and exit route.

Risks Involved

1. Lack of understanding and multiplicity of directions to the staff could be disastrous.
2. More cost on infrastructure and technology.
3. Dominance of senior partners over the younger partners.
4. Defining exit route is difficult.
5. Lack of transparency may lead to disputes.
6. If crack develops in mutual faith & trust, very difficult to cure.
7. Communication gap between partners.

One stop or single window solutions or services always attract clients or customers. We can witness that conventional shops are being replaced by big shopping malls. In the same manner there is need for corporate and business sector to have “service malls”. It always works better for a business enterprise to have handy team of consultants, both from cost and management point of view. It is most likely that MDF giving professional advice considers all angles and dimensions rather than an advice only from one point of view. Well considered advice by MDF can add value to their clients. Off late, business enterprises have become professionally shroud and they always like to have a professional firm who is willing to invest in improving their knowledge of the industries they serve. MDF is the right platform that caters to the requirement of the business enterprises. With specialized partner, “knowledge management” becomes easier and less costly.

LESSON ROUND-UP

- Partnership is an association of persons who agree to combine their financial resources and managerial abilities to run a business and share profits in an agreed ratio.
- Partnership deed, also known as a partnership agreement, is a document that outlines in detail the rights and responsibilities of all parties to a business operation. It has the force of law and is designed to guide the partners in the conduct of the business.

- All the affairs of a Joint Hindu Family are controlled and managed by one person who is known as 'Karta' or 'Manager'. The business of the Joint Hindu Family is controlled and managed under the Hindu law.
- The sole proprietorship is a form of business that is owned, managed and controlled by an individual. It is the simplest and most easily formed business organization.
- The Multi-State Cooperative Societies (MSCS) Act, enacted in 1984, was modified in 2002. Unlike the State Laws, which remained as a parallel legislation to co-exist with the earlier laws, the MSCS Act, 2002 replaced the earlier Act of 1984. The Act and the Rules thereunder facilitates the incorporation of cooperative societies whose objects and functions spread over to several states.
- A Trust is a relationship in which a person or entity holds a valid legal title to a certain property which is known as the Trust property. The Trust is bound by a fiduciary duty to exercise that legal title for the benefit of any one or more individuals or group of individuals or organisations, who are known as the Beneficiaries.
- A society is an association of persons united together by mutual consent to deliberate, determine and act jointly for some common purpose. Societies are usually registered for promotion of charitable activities like education, art, religion, culture, music, sports, etc.
- A firm which provides core professional service of a particular profession along with the allied and ancillary service with equal competence under one roof is a multidisciplinary firm.

TEST YOURSELF

(*These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation*)

1. What are the various forms of business organisations?
2. What are the advantages of partnership compared to sole proprietorship?
3. What are the different types of partners and the role they play in partnerships?
4. Are the partners personally liable for the debts of the partnership firm?
5. What are the benefits of a Multi-State Cooperative Society? Compare the same with a State Cooperative Society.
6. Rohan has completed MBA in dairy farming and is keen in uniting farmers in Rajasthan by forming a Multi-State Co-operative Society. Brief Rohan on the documentary requirements for formation of Multi State Co-operative Society and the Authority with whom the application needs to be filed.
7. Ramesh wants to form a society to promote the 'Beti Bachao, Beti Padao Movement' of Government of India. He seeks your advice on the following :
   (i) The purposes for which a society can be formed under the Societies Registration Act, 1860;
   (ii) Whether the foreigners and other registered societies can be members of a society ?
8. AB Ltd. wants to create a trust for the benefit of employees of the Company and their spouses and children. Decide with reasons whether this trust will be Public Trust or Private Trust. Also state the differences between Public Trust and Private Trust.
9. Can MEGA firm charge fees to the clients based on the result of the matter/ success of the litigation? Explain.
10. Can a Mega Firm have branches within / outside India? What regulations guide operations of such Branch office?

LIST OF FURTHER READINGS
• Bare Act - Partnership Act, 1932
• Bare Act - Multi State Cooperative Societies Act, 2002
• Bare Act - Indian Trust Act, 1882
• Bare Act - Societies Registration Act, 1860
• The Company Secretaries Regulations, 1982

OTHER REFERENCES (Including Websites/Video Links)
• https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks/acts.html?act=NTk2MQ==
• https://mscs.dac.gov.in/Default.aspx
• https://www.icsi.edu/home/
• https://www.indiacode.nic.in/