

Notes on Different Types of Customers- Sole proprietor and Partnership Firms.

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Notes:

Account of Sole Proprietary Concerns:

The term 'firm' indicates either a sole proprietary firm or a partnership firm. A sole proprietary firm is wholly owned by a single person. They are treated like individual accounts. Operated either by the proprietor himself or by a person duly authorised to operate the account on his behalf. Mostly current A/cs are opened than savings a/c. The Sole proprietary firm's account can be opened in the owner's name or in the firm's name. While accepting cheques drawn in favour of the sole proprietary concern & deposited in personal account of the proprietor – Banks exercise caution – they try to obtain a declaration from him to the effect that he is the sole proprietor of the firm.

Account of Partnership Firms:

A partnership firm has two or more partners. It is an association of persons who undertake a venture for mutual benefit. Registered with Registrar of Firms – beneficial to file a suit – unregistered firms cannot file suit. A partnership is defined under section 4 of the Indian Partnership Act, 1932 'as the relationship between persons who have agreed to share the profits of business carried on by all or any of them acting for all.' Created by an oral as well as written agreement among the partners.

Requirements for the opening of the Account of Partnership Firms

- The account is opened in the name of the firm and the account opening form is signed by all the partners of the firm.
- Partnership deed executed by all the partners (whether registered or not) is recorded in the bank books, with suitable notes on head of the ledger, along with relevant causes that affect the operation of the account.
- Partnership letter signed by all the partners is obtained to ensure their several and joint liabilities. The letter governs the operation of the account and it to be adhered to accordingly.

Precautions to be taken while opening a bank account by partnership firms

- A partnership firm can open all types of accounts except savings bank account.
- Account opened – in the name of the firm and not in the names of partners individually or jointly.
- The account opening form is signed by all the partners in their individual capacity as well as in the capacity of a partner to ensure joint and several liabilities.
- If a partner is illiterate and affixes thumb impression, then the Magistrate has to attest the thumb impression affixed on the account opening form.
- While opening the account banks verify the stamped partnership deed to examine whether any clause of the deed is detrimental to the interest of bank.
- In case of registered firm, banks obtain registration certificate.
- In case a minor is also a partner in the firm, his birth certificate is obtained to ascertain the date of birth.
- Bank obtains operational instructions i.e, who will operate the account and how it is to be operated.

Who can operate?

- i. All partners jointly
- ii. One of the named partners
- iii. Two / three of the named partners
- iv. A third party under a mandate letter or a power of attorney signed by all the partners.

A partner authorised to operate the firm's account cannot delegate his authority to another person unless all other partners agree. The authority given to operate the account can be withdrawn by any of the other partners including dormant or sleeping partner by giving notice to the bank. Each partner, whether he/she is operating the account or not, has powers to

countermand (cancel) payment of the cheques drawn by another partner or by an attorney on behalf of the firm.

Personal a/c & a firms A/c: Cheques payable to a partner are not be credited to the firm's account without proper inquiry being made with the other partners.

Retirement of a partner: On notice of retirement of a partner, the bank closes the existing account and opens a new account of the firm with the remaining partners or along with the new partner if admitted to the new firm.

Death of a partner: Dissolves the partnership-- However, for the purpose of winding up of the firm, the bank may allow the surviving partner(s) to operate the firm's account, if the account is in credit. Cheques drawn by a partner before his death and presented for payment are honoured after obtaining confirmation of the surviving partners.

Dissolution of a partnership firm: Banks do not permit operations in the account.

A partnership firm may be dissolved by any of the following modes:

- (a) By mutual agreement between all the partners.
- (b) By notice of dissolution in case of partnership at will.
- (c) By operation of law or compulsory dissolution of the firm.
- (d) By happening of certain contingencies such as death or insolvency of a partner.
- (e) Dissolution by Court of Law in cases like insanity, permanent incapacity, misconduct of a partner affecting business etc.