



# SOLE PROPRIETORSHIP

*Volume 5 #Yourstruly #Knowledge Thursday*

## What is Sole Proprietorship in India?

Proprietorship is a popular type of unregistered business entity owned, managed, and controlled by one person. Most of the micro and small businesses operating in the unorganized sectors prefer registering a Proprietorship.

Sole Proprietorship is simple to start and has very few regulatory compliance requirements for conducting the operation. Proprietorship registration is ideal for entrepreneurs who are getting into the business for small businesses with few clients.

## *Content*

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WHAT IS SOLE PROPRIETORSHIP

ADVANTAGES

DISADVANTAGES

TAX



## Who is a Sole Proprietor?

A proprietor is the owner of the Sole Proprietorship business. It is not a corporate or legal entity. The proprietor and the Proprietorship are the same legal entity.

The PAN and other documents of the proprietor are the basis for obtaining all the registration and licenses. The proprietor is held personally liable in case of any liabilities in a business.

### Investing in Mutual Fund

Yes, Can be done- Requirement

- Tradelicence
- PAN of Individual
- Aadhar of Individual
- Bank Details of Proprietorship



Why Should Proprietorship Firms File Income Tax Return?

Under Income Tax Act, all proprietors below the age of 60 years are required to file income tax return if total income exceeds Rs. 2.5 lakhs. In the case of proprietors over the age of 60 years but below 80 years, income tax filing is mandatory if total income exceeds Rs.3 lakhs. Proprietors over the age of 80 years and above are required to file income tax return if the total income exceeds Rs.5 lakhs.

Also, only if the proprietor files income tax return before the deadline, losses if any in the business would be allowed to be carried forward. Also, the deduction under sections 10A, 10B, 80-IA, 80-IAB, 80-IB and 80-IC cannot be allowed unless the proprietorship income tax return has been filed on or before the due date.

### *Audit for Proprietorship*

*An audit would be required for a proprietorship firm if the total sales turnover is over Rs.1 crore during the financial year. In the case of a professional, audit would be required if total gross receipts is more than Rs.50 lakhs during the financial year under assessment.*

*Also, an audit would be required for any proprietorship firm under presumptive taxation scheme irrespective of turnover if the income claimed is lower than the deemed profits and gains under the scheme.*

*Audit for proprietorship for income tax purposes must be conducted by a practising Chartered Accountant.*

## Filing Proprietorship Firm Tax Return

**Due Date for Filing Proprietorship Firm Tax Return**  
The income tax return of a proprietorship that doesn't require audit is due on 31st July.

In case the income tax return of a proprietorship needs to be audited as per Income Tax Act, then the return would be due on 30th September.

In case the proprietorship entered into any international transaction with associated entities or specified domestic transaction, then Form No.3 CEB must be furnished. For proprietorship firms that are required to file Form No.3 CEB, the income tax return is due on 30th November.

**Which ITR Form should a Proprietorship Firm use?**  
Form ITR-3

Form ITR-3 can be filed by a proprietor or a Hindu Undivided Family who is carrying out a proprietary business or profession.

If an Individual/HUF is having income as a partner of a partnership firm that is carrying out business/profession, he cannot file ITR-3. In such case, he is required to file ITR-2.

**Filing a Proprietorship Firm Tax Return**

The income tax return of a proprietorship firm in form ITR 3 can be filed online using the digital signature of the proprietor or manually.

### Advantages of Proprietorship

#### Easy to Establish

A sole proprietorship business does not have any specific registration requirements and the proprietor's legal identity is used by the business. Hence, a proprietorship can be started without any registration. Using the PAN and Aadhaar of the promoter, **Udyog Aadhaar registration** and **Trademark Registration** can be obtained optionally to create and protect the identity of the business.

#### Easier to Operate

As a single person is at the helm of affairs, it is easier to operate as the particular person will be the sole decision maker and he need not consider a plethora of opinions. There is no concept of a board meeting or approval from other persons in a proprietorship firm.

#### Sole Beneficiary of Profits

No other business, other than that of a sole proprietorship and **one person company**, entitles the owner as the sole beneficiary of profits. In all other types of an entity like a partnership, LLP or company, a minimum of at least two persons are involved.

#### Compliance & Taxation

Since a proprietorship firm is not registered with any Government authority like the Ministry of Corporate Affairs, the compliance requirements are minimal. Further, the proprietor would only have to **file income tax returns** if the firm has taxable income of more than Rs.2.5 lakhs per annum. In case of proprietors who have attained the age of 60 years or more during the previous year, income tax filing would be required only if the taxable income is more than Rs 3,00,000. In case of proprietors who have attained the age of 80 years or more during the previous year, income tax filing would be required only if the taxable income is more than Rs 5,00,000.

## Advantages of Proprietorship

Finally, the sole proprietor can also reduce the income tax liability by availing the following deductions:

- Contributions to provident fund, life insurance premium, subscription to certain equity shares or debentures etc.
- Contribution to certain pension funds.
- Contribution to notified pension scheme of the Central Government.
- Medical insurance premium.
- Caring for a dependent who is ailing with disability.
- Medical expenses.
- Repayment of loan availed for higher education.
- Payment of rent.
- Income from royalty.
- Royalty on patents.
- Handicapped persons.

### Privacy

Since sole proprietorships are an unregistered form of entity, there is no database maintained by the Government with a list of all proprietorships. Hence, proprietorship firms are more private when compared to a company or LLP whose details are published on the MCA website.

## Disadvantages of Proprietorship

### Unlimited Liability

This is one of the most disturbing aspects of a sole proprietorship firm. On the occurrence of a loss, the proprietor must meet the liabilities at any cost, which implies that if the need occurs, his/her personal assets may have to be used for discharging the liabilities.

### Difficulty in Obtaining Funds

A sole proprietor cannot indulge in sale of business interest or shares, which deprives the entity from the receipt of any type of equity funding.

Further, banks are also wary of lending large sums of money to a proprietorship firm as the existence of the proprietorship firm is tied to the proprietor. On the other hand, in a company or LLP, more than one person would be responsible for the liability and business continuity would be assured in the event of death or insolvency of one of the promoters. Hence, it would be easier for a company or LLP to raise bank loan when compared to a proprietorship firm.

### Higher Tax Incidence

Proprietorship firms are taxed similarly to an individual. Hence, income tax rate for a proprietorship firm is based on slabs. Though the income tax rate for income of upto Rs.10 lakhs is lower when compared to a company, proprietorship firms cannot enjoy various benefits enjoyed by an LLP or Company. Further, for taxable income of more than Rs.10 lakhs, the income tax rate for a proprietorship firm is higher than the income tax rate of a company. Hence, in the long-run, it would be more prudent to register a company to reduce income tax liability.

A new tax regime has been announced where the individuals can pay taxes as per the new slabs subject to certain conditions from FY2020-2021 onwards.

Income range Rate of tax

0-2,50,000

NIL

2,50,001-5,00,000

5%

5,00,001-7,50,000

10%

7,50,001- 10,00,000

15%

10,00,00-12,50,000

20%

12,50,000- 15,00,000

25%

Above 15,00,000

30%

Tax slab rates for sole proprietorship income tax return filing wherein the proprietor's age is above 60 years but less than 80 years at any time during the previous year.

Income Slab Income Tax Rate

Up to Rs. 3,00,000

NIL

Rs.3,00,000 to 5,00,000

5% of the total income above Rs.3,00,000

Rs.5,00,000 to 10,00,000

Rs. 10,000+20 % of the total income above Rs.5,00,000

Above Rs. 10,00,000

Rs. 1,10,000+30% of the total income above Rs. 10,00,0000

Tax slabs for proprietorship firms where the age of the proprietor is above 80 years

Income Slab Income Tax Rate

Up to Rs. 5,00,000

NIL

Rs. 5,00,000 to 10,00,000

20% of the total income above Rs.5,00,000

Above Rs.10,00,000

Rs.1,00,000 +30% of the total income above Rs.10,00,000

Tax slab for sole proprietorship firms where the proprietor is a non-resident individual ( Irrespective of the proprietor's age).

Income Slab Income Tax Rate

Up to Rs. 2,50,000

NIL

Rs. 2,50,000 to 5,00,000

5% of the total income above 2,50,000

Rs. 5,00,000 to 10,000,000

Rs.12,500 + 20% of the total income above Rs. 5,00,000

Above Rs. 10,00,000

Rs. 1,12, 500 + 30 of the total income above Rs. 10,00,000

A surcharge is payable over and above the income tax calculated as per the income tax rate provided above.

Income slab Surcharge Rates

Total Income above Rs. 50 Lakh but then Rs. 1 crore

10% of the income tax

Total Income above Rs. 1 crore