

§1022. Formation of partnership

1. Formation of partnership. Except as otherwise provided in subsection 2, the association of 2 or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

[PL 2005, c. 543, Pt. A, §2 (NEW).]

2. Not partnership. An association formed under a statute other than this chapter, a predecessor statute or a comparable statute of another jurisdiction is not a partnership under this chapter.

[PL 2005, c. 543, Pt. A, §2 (NEW).]

3. Determination of formation; rules. In determining whether a partnership is formed, the following rules apply.

A. Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property. [PL 2005, c. 543, Pt. A, §2 (NEW).]

B. The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived. [PL 2005, c. 543, Pt. A, §2 (NEW).]

C. A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

- (1) Of a debt by installments or otherwise;
- (2) For services as an independent contractor or of wages or other compensation to an employee;
- (3) Of rent;
- (4) Of an annuity or other retirement or health benefit to a beneficiary, representative or designee of a deceased or retired partner;
- (5) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds or increase in value derived from the collateral; or
- (6) For the sale of the goodwill of a business or other property by installments or otherwise.

[PL 2005, c. 543, Pt. A, §2 (NEW).]

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SECTION HISTORY

PL 2005, c. 543, §A2 (NEW).

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