

### **362.1-202 Formation of partnership.**

- (1) Except as otherwise provided in subsection (2) of this section, the association of two (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.
- (2) An association formed under a statute other than this subchapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this subchapter.
- (3) 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.
  - (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.
  - (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.

**Effective:** July 12, 2006

**History:** Created 2006 Ky. Acts ch. 149, sec. 25, effective July 12, 2006.