

SUBTITLE 2. NATURE OF A PARTNERSHIP.

9-201. RULES FOR DETERMINING THE EXISTENCE OF A PARTNERSHIP.

IN DETERMINING WHETHER A PARTNERSHIP EXISTS, THESE RULES SHALL APPLY:

(1) EXCEPT AS PROVIDED BY §9-308, PERSONS WHO ARE NOT PARTNERS AS TO EACH OTHER ARE NOT PARTNERS AS TO THIRD PERSONS.

(2) JOINT TENANCY, TENANCY IN COMMON, TENANCY BY THE ENTIRETIES, JOINT PROPERTY, COMMON PROPERTY, OR PART OWNERSHIP DOES NOT OF ITSELF ESTABLISH A PARTNERSHIP, WHETHER THE CO-OWNERS DO OR DO NOT SHARE ANY PROFITS MADE BY THE USE OF THE PROPERTY.

(3) THE SHARING OF GROSS RETURNS DOES NOT OF ITSELF ESTABLISH A PARTNERSHIP, WHETHER OR NOT THE PERSONS SHARING THEM HAVE A JOINT OR COMMON RIGHT OR INTEREST IN ANY PROPERTY FROM WHICH THE RETURNS ARE DERIVED.

(4) THE RECEIPT BY A PERSON OF A SHARE OF THE PROFITS OF A BUSINESS IS PRIMA FACIE EVIDENCE THAT HE IS A PARTNER IN THE BUSINESS, BUT NO SUCH INFERENCE SHALL BE DRAWN IF THE PROFITS WERE RECEIVED IN PAYMENT:

(I) AS A DEBT BY INSTALLMENTS OR OTHERWISE;

(II) AS WAGES OF AN EMPLOYEE OR RENT TO A LANDLORD;

(III) AS AN ANNUITY TO A SURVIVING SPOUSE OR REPRESENTATIVE OF A DECEASED PARTNER;

(IV) AS INTEREST ON A LOAN, THOUGH THE AMOUNT OF PAYMENT VARIES WITH THE PROFITS OF THE BUSINESS; OR

(V) AS THE CONSIDERATION FOR THE SALE OF THE GOOD WILL OF A BUSINESS OR OTHER PROPERTY BY INSTALLMENTS OR OTHERWISE.

REVISOR'S NOTE: This section presently appears as Art. 73A, §7. A cross-reference is conformed.

In paragraph (4) (iii), the term "surviving spouse" is substituted for "widow."

The word "or" is added at the end of paragraph (4) (iv).

In two instances, the word "the" is substituted for the word "such."