

Sec. 152.052. RULES FOR DETERMINING IF PARTNERSHIP IS CREATED. (a) Factors indicating that persons have created a partnership include the persons':

(1) receipt or right to receive a share of profits of the business;

(2) expression of an intent to be partners in the business;

(3) participation or right to participate in control of the business;

(4) agreement to share or sharing:

(A) losses of the business; or

(B) liability for claims by third parties against the business; and

(5) agreement to contribute or contributing money or property to the business.

(b) One of the following circumstances, by itself, does not indicate that a person is a partner in the business:

(1) the receipt or right to receive a share of profits as payment:

(A) of a debt, including repayment by installments;

(B) of wages or other compensation to an employee or independent contractor;

(C) of rent;

(D) to a former partner, surviving spouse or representative of a deceased or disabled partner, or transferee of a partnership interest;

(E) of interest or other charge on a loan, regardless of whether the amount varies with the profits of the business, including a direct or indirect present or future ownership interest in collateral or rights to income, proceeds, or increase in value derived from collateral; or

(F) of consideration for the sale of a business or other property, including payment by installments;

(2) co-ownership of property, regardless of whether the co-ownership:

(A) is a joint tenancy, tenancy in common, tenancy by the entirety, joint property, community property, or part ownership; or

(B) is combined with sharing of profits from the property;

(3) the right to share or sharing gross returns or revenues, regardless of whether the persons sharing the gross returns or revenues have a common or joint interest in the property from which the returns or revenues are derived; or

(4) ownership of mineral property under a joint operating agreement.

(c) An agreement by the owners of a business to share losses is not necessary to create a partnership.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.