486A.202 Formation of partnership.

1. Except as otherwise provided in subsection 2, the association of two 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 chapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this chapter.

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 of or for any of the following:

(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.

(6) For the sale of the goodwill of a business or other property by installments or otherwise.

98 Acts, ch 1201, §9, 79, 82

Referred to in **§468.506**, **§486A.101**