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GENERAL PARTNERSHIP

Formation

Under state law partnership rules, a general partnership can be formed by an oral or written agreement between the parties. A written partnership agreement should include:

- ◆ the firm name and the identity of the partners;
- ◆ the nature and scope of the partnership business;
- ◆ the duration of the partnership;
- ◆ the capital contributions to be made by each partner;
- ◆ the division of profits and the sharing of losses;
- ◆ the duties of each partner in the management of each partnership;
- ◆ a provision for salaries for services provided by the partners to the partnership;
- ◆ restrictions, if any, on the authority of particular partners to bind the partnership;
- ◆ the rights of a partner to withdraw from the partnership, and the terms, conditions, and required notice in the event of that withdrawal; and,
- ◆ a provision for the continuation of the business by the remaining partners in the event of the death of a partner, and a statement of the method or formula for appraisal and payment of the interest of the deceased or former partner.

Operation & Management

A general partner who has a minority interest in the partnership may be granted significant participation in the management of partnership affairs. In contrast, a minority shareholder of a corporation has no such powers. Unlike a corporation, a general partnership ordinarily does not have to register in every state where it intends to do business.

Taxation

A partnership is not required to pay federal income tax, but must file an information return which states the name of each partner and the amount of income and loss derived from the partnership by each partner. The individual partner includes his share of the partnership income or loss in his individual tax return. Partnership income is currently taxed to the individual partners even if it is not actually distributed.

Dissolution

A partner can sell his partnership interest to another partner or to a third person (not currently a partner in the affected partnership). This is similar to a corporate shareholder selling shares to a third person or to a shareholder other than the corporation.