

### **362.180 Rules for determining the existence of a partnership.**

In determining whether a partnership exists, these rules shall apply:

- (1) Except as provided by KRS 362.225 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 such 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 such profits were received in payment:
  - (a) As a debt by installments or otherwise,
  - (b) As wages of an employee or rent to a landlord,
  - (c) As an annuity to a widow, or widower or representative of a deceased partner,
  - (d) As interest on a loan, though the amount of payment vary with the profits of the business,
  - (e) As the consideration for the sale of a goodwill of a business or other property by installments or otherwise.

**Effective:** June 26, 2007

**History:** Repeal the prior repeal contained in 2006 Ky. Acts ch. 149, sec. 239, which was to have been effective January 1, 2008, 2007 Ky. Acts ch. 137, sec. 180, effective June 26, 2007. -- Repealed 2006 Ky. Acts ch. 149, sec. 239, effective January 1, 2008. -- Amended 1974 Ky. Acts ch. 386, sec. 66. -- Created 1954 Ky. Acts ch. 38, sec. 7, effective June 17, 1954.