

BUSINESS LAW



AGENCY

Principal-agent	Agent may replace principal • Agent acts on own discretion
Employer-employee	Employer's right to manage employee's physical conduct
Employer-independent contractor	Contractor is not an employee • No control over details of physical performance

PRINCIPAL-AGENT

Agreement	Formed by express consent or implied from conduct
Revocation	Principal, by act or agreement, ceases conduct of third person who acted outside authority
Estoppel	Principal causes third person to act on the belief that another person is the agent
Operation of law	Social duty or emergency where principal not available

TERMINATION OF AGENCY

Act of the parties	Lapse of time • Purpose achieved • Mutual revocation • Termination by one party
Operation of law	Death or insanity • Impossibility • Changed circumstances • Bankruptcy • War between trading countries

AGENT'S AUTHORITY

Express	Expressly given to agent
Implied	Custom, or position of the agent through principal's actions
Apparent	Principal's conduct leads third party to follow agent

LIABILITIES

Contracts	Principal bound where agent has authority • Agent bound by express agreement • Agent contracts without authority
Agent's torts	Principal's own tortious conduct • Principal authorizes tortious conduct • Doctrine of respondent superior • Misrepresentation
Independent Contractor's torts	Employer not liable
Agent's crimes	Employer not liable
Subagent's acts	Principal is liable where authority exists

PARTNERSHIP

- Uniform Partnership Act governs the operation of partnerships in absence of express agreements
- Association of two or more persons acting as co-owners of business

CREATION OF PARTNERSHIP

Intent	Consent of parties involved
Formalities	Oral, written, or implied by conduct
Duration	Term or at will
Capacity	Legally capable
Estoppel	Third party liability

TAX ISSUES

- Partners are taxed on proportional shares of income; taxes include accumulated & distributed earnings
- Proportionate share of capital gains; no tax on exempt income which is received from firm
- Partner plan may vary (for example, SBA self-employment tax required)
- No exemption for payments to partner's beneficiaries; not subject to state taxes

DISSOLUTION OF PARTNERSHIP

- Death of partner(s)
- Either partner may end it; winding up requires notice
- Bankruptcy, and so on

TYPES OF PARTNERSHIPS

General	Created by mutual agreement of parties involved • Not treated as entity (limited partners) • Unlimited debt liability • Equal management unless agreement states otherwise • Capital contribution set by agreement
Limited	Comply with statutory requirements • One or more general partners, and one or more limited partners • Limited partners not involved in management • Liable for distribution amount only

SOLE PROPRIETORSHIP

- Created at will by the owner
- Owner is the business; not separate entity
- Duration depends on owner; dissolved upon death
- Transfer of interest ends individual's ownership
- Management at owner's discretion
- Unlimited liability
- Owner pays personal taxes on business income
- Generally no limit on out-of-state business transactions

FRANCHISE

- Distributorship, chain-style business, or manufacturing/processing plant
- Agreement: Franchisor pays for license • Franchisee pays for goods from franchisor • Purchases by standards • Conditions provided for in franchise • Retail price of goods cannot change

DUTY OF CARE

Duty of Care	Discharged in good faith with care in reasonable manner • Best interests of business entity • Liability limited to gross negligence or willful misconduct
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DUTY OF LOYALTY

Duty of Loyalty	Intrinsic business test • No self-dealing • No competing business • No secret confidential information
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Notes: Please be advised that this chart does not account for jurisdictional differences • It is an informational tool that should be supplemented by more comprehensive materials and/or professional legal counsel

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Table of Contents Quick Guides To Business Law

1. Understanding the eBook Quick Guides To Business Law
 - The Rise of Digital Reading Quick Guides To Business Law
 - Advantages of eBooks Over Traditional Books
2. Identifying Quick Guides To Business Law
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Quick Guides To Business Law
 - User-Friendly Interface
4. Exploring eBook Recommendations from Quick Guides To Business Law
 - Personalized Recommendations
 - Quick Guides To Business Law User Reviews and Ratings
 - Quick Guides To Business Law and Bestseller Lists
5. Accessing Quick Guides To Business Law Free and Paid eBooks

- Quick Guides To Business Law Public Domain eBooks
 - Quick Guides To Business Law eBook Subscription Services
 - Quick Guides To Business Law Budget-Friendly Options
6. Navigating Quick Guides To Business Law eBook Formats
 - ePub, PDF, MOBI, and More
 - Quick Guides To Business Law Compatibility with Devices
 - Quick Guides To Business Law Enhanced eBook Features
 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Quick Guides To Business Law
 - Highlighting and Note-Taking Quick Guides To Business Law
 - Interactive Elements Quick Guides To Business Law
 8. Staying Engaged with Quick Guides To Business Law
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Quick Guides To Business Law
 9. Balancing eBooks and Physical Books Quick Guides To Business Law
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Quick Guides To Business Law
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Quick Guides To Business Law
 - Setting Reading Goals Quick Guides To Business Law
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Quick Guides To Business Law
 - Fact-Checking eBook Content of Quick Guides To Business Law
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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