

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

CARELESS

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 • Managementism
Independent	Employer not liable
Contractor's torts	Except negligent activities
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 STATUS

- Partners are taxed on proportional shares of income; taxes include accumulated & distributed earnings
- Proportionate share of capital gain; no tax on exempt income which is received from item
- Partnership plan may vary (for example, full 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 contribution 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

PRIVATE FRANCHISE

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

COMMON DUTIES

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
Duty of Loyalty	Intrinsic, dispassionate • Top selling business opportunities • Protect confidential information

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

Law And Business Manual

CL Gary



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Table of Contents Law And Business Manual

1. Understanding the eBook Law And Business Manual
 - The Rise of Digital Reading Law And Business Manual
 - Advantages of eBooks Over Traditional Books
2. Identifying Law And Business Manual
 - 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 Law And Business Manual
 - User-Friendly Interface
4. Exploring eBook Recommendations from Law And Business Manual
 - Personalized Recommendations
 - Law And Business Manual User Reviews and Ratings
 - Law And Business Manual and Bestseller Lists

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