



## 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 believe agent

## CARELESSNESS

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, 100% 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 • Not seeking business opportunities • Disclosed 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

# Guide To Business Law

**Warwick Dowler, Christine Miles**



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