Law on Partnership- Quiz and Notes

BS Accountancy (New Era University)

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It is one where it will exist until the purpose is accomplished

a. Partnership for a particular undertaking
b. Partnership with a fixed term
c. Partnership at will
d. De facto partnership

The correct answer is: Partnership for a particular undertaking

ARTICLE 1783. A particular partnership has for its object:

a) determinate things, their use or fruits, or
b) a specific undertaking, or
c) the exercise of a profession or vocation.

Those who are not really partners but represent themselves. Or consent to another or others representing them to anyone as partners in an existing partnership or in one that is fictitious or apparent.

a. De facto partner
b. Real partner
c. Partner by estoppel
d. Secret partner

The correct answer is: Partner by estoppel

KINDS OF PARTNERS
AS TO LIABILITY

1. General partner – Liability to 3rd persons extends to his separate property
2. Limited partner – Liability to 3rd persons is limited to his capital contribution
3. General-limited partner – all the rights of a general partner except that in respect to his contribution, he shall have the rights against the other members which he would have had if he was a limited partner

AS TO CONTRIBUTION

1. Capitalist Partner — contributes money or property to a common fund.
2. Industrial Partner — Contributes only his industry or personal service

OTHER CLASSIFICATIONS

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1. Managing Partner	–	manages the business or the affairs of the partnership
2. Liquidating partner	–	takes charge of the winding up of the partnership
3. Partner by estoppel	–	AKA Nominal; not a partner but who may become liable as to the third person
4. Ostensible Partner	–	Takes active part & known to the public as partner in the business
5. Secret partner	–	Takes active part but is not known to be a partner by outside parties
6. Silent Partner	–	Does not take active part in the business although he may be to be a partner
7. Dormant partner	–	Does not take active part in the business and is not known or held out as a partner
8. Continuing partner	–	One who continues the business after it has been dissolved by reason of the admission of a new partner, retirement, death or expulsion of one of the partners
9. Surviving partner	–	Remains after a partnership has been dissolved by death of any partner
10. Subpartner	–	Not a member of the Ⓟ who contracts with a partner with reference to the latter's share in the partnership

It means that the contribution of each partner, whether money, property, or industry, is considered as the equivalent of the contribution of the other partners.

a. Consensual
b. Preparatory
c. Commutative
d. Principal

The correct answer is: Commutative

CHARACTERISTICS OF A PARTNERSHIP

1. Consensual	–	perfected by mere consent or meeting of the minds between parties
2. Bilateral	–	*AKA or Multilateral*; reciprocal obligations between 2 or more parties
3. Nominate	–	Special name given by law
4. Principal	–	its existence does not depend on the existence of another contract
5. Onerous	–	certain contributions have to be made

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6. Preparatory	–	Means by which other contracts will be entered into
7. Commutative	–	the contribution of each partner, whether money, property, or industry, is considered as the equivalent of the contribution of the other partners

It is one where it will exist until the purpose is accomplished

a. Partnership for a particular undertaking
b. Partnership with a fixed term
c. Partnership at will
d. De facto partnership

The correct answer is: Partnership for a particular undertaking

PARTICULAR PARTNERSHIP AS TO DURATION

1. Partnership for a fixed term	–	a period for its duration is fixed
2. Partnership for a particular undertaking	–	organized for a certain undertaking which, when attained will cause the termination of the partnership
3. Partnership at will	–	no period is fixed by the parties for its duration

Those who are not really partners but represent themselves. Or consent to another or others representing them to anyone as partners in an existing partnership or in one that is fictitious or apparent.

a. De facto partner
b. Real partner
c. Partner by estoppel
d. Secret partner

The correct answer is: Partner by estoppel

OTHER CLASSIFICATIONS OF PARTNERS

1. Managing Partner	–	manages the business or the affairs of the partnership
2. Liquidating partner	–	takes charge of the winding up of the partnership
3. Partner by estoppel	–	AKA Nominal; not a partner but who may become liable as to the third person
4. Ostensible Partner	–	Takes active part & known to the public as partner in the business

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5. Secret partner	–	Takes active part but is not known to be a partner by outside parties
6. Silent Partner	–	Does not take active part in the business although he may be to be a partner
7. Dormant partner	–	Does not take active part in the business and is not known or held out as a partner
8. Continuing partner	–	One who continues the business after it has been dissolved by reason of the admission of a new partner, retirement, death or expulsion of one of the partners
9. Surviving partner	–	Remains after a partnership has been dissolved by death of any partner
10. Subpartner	–	Not a member of the Ⓟ who contracts with a partner with reference to the latter's share in the partnership

X, Y, and Z are partners who contributed P10,000 each to the capital of the partnership. D owes the partnershipP3,000. Z collected from D P1,000 before X and Y could receive anything from D, who later became insolvent and therefore, they could not collect their shares.

a. X and Y can automatically deduct from the capital contribution of Z in the partnership their respective shares of P333.33
b. X and Y should first exhaust all remedies to collect from D.
c. Z cannot be required to share what he already received from D.
d. Z shall share the P1,000 with his co-partners X and Y.

The correct answer is: Z shall share the P1,000 with his co-partners X and Y.

Those partner in an existing legal partnership.

a. Secret partner
b. De facto partner
c. Partner by estoppel
d. Real partner

The correct answer is: Real partner

It is one where the life or period of existence of the partnership has been agreed upon by the partners.

a. De facto partnership
b. Partnership at will
c. Partnership for a particular undertaking
d. Partnership with a fixed term

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The correct answer is: Partnership with a fixed term

PARTICULAR PARTNERSHIP AS TO DURATION

1. Partnership for a fixed term – a period for its duration is fixed
2. Partnership for a particular undertaking – organized for a certain undertaking which, when attained will cause the termination of the partnership
3. Partnership at will – no period is fixed by the parties for its duration

A group of men pursuing learned art as a common calling in the spirit of public service.

a. Profession
b. Artists
c. Business
d. Service

The correct answer is: Profession

The birth and life of a partnership at will is predicated on the mutual desire and consent of the partners.

a. Partnership for a fixed term
b. Partnership for a particular undertaking
c. Partnership at will
d. None of the above

The correct answer is: Partnership at will

PARTICULAR PARTNERSHIP AS TO DURATION

4. Partnership for a fixed term – a period for its duration is fixed
5. Partnership for a particular undertaking – organized for a certain undertaking which, when attained will cause the termination of the partnership
6. Partnership at will – no period is fixed by the parties for its duration

Those who does not take active part in the business and is not known to the public as partner. Thus, they are both a secret and silent partner.

a. Ostensible partner
b. Dormant partner

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c. Secret partner
d. Liquidating partner

The correct answer is: Dormant partner

OTHER CLASSIFICATIONS OF PARTNERS

1. Managing Partner	–	manages the business or the affairs of the partnership
2. Liquidating partner	–	takes charge of the winding up of the partnership
3. Partner by estoppel	–	AKA Nominal; not a partner but who may become liable as to the third person
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8. Continuing partner	–	One who continues the business after it has been dissolved by reason of the admission of a new partner, retirement, death or expulsion of one of the partners
9. Surviving partner	–	Remains after a partnership has been dissolved by death of any partner
10. Subpartner	–	Not a member of the Ⓟ who contracts with a partner with reference to the latter's share in the partnership

A, B and C are general partners in ABC partnership. X is a debtor to their partnership in the amount of P180,000. A received from debtor X the sum of P60,000 and issued a receipt identifying the amount collected as P60,000.

a. B and C can deduct from the capital of A their share of P60,000.
b. A can be compelled to share with B and C their P60,000.
c. A cannot be compelled to share the P60,000 with B and C.
d. B and C should automatically sue X to collect the P120,000.

The correct answer is: A cannot be compelled to share the P60,000 with B and C.

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With still the same facts, as industrial partner, the share of C in the loss shall be:

a. In proportion to his capital contribution
b. Just and equitable under the circumstances.
c. As agreed upon by the partners before the loss was realized
d. None, he being an industrial partner.

The correct answer is: None, he being an industrial partner.

It is one where it will exist until the purpose is accomplished,

a. Partnership with a fixed term
b. Partnership at will
c. None of the above
d. Partnership for a Particular undertaking

The correct answer is: Partnership for a Particular undertaking

In extra-judicial liquidation, the following will wind-up the partnership except:

a. The managing partner who has the controlling interest
b. The liquidating partners or partners as agreed upon by all of the partners.
c. The legal representative of the last surviving partner who is insolvent
d. The partners who have not wrongfully dissolved the partnership.

The correct answer is: The managing partner who has the controlling interest

The following are obligations of partners, except:

a. To engage in any business which is of the kind in which the partnership is engaged
b. Not to convert partnership money to their own use.
c. To account and hold as trustee for any profits derived without the consent of the other partners.
d. To give their promised contribution

The correct answer is: To engage in any business which is of the kind in which the partnership is engaged

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Where a partnership contract is rescinded on the ground of fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is entitled to, except:

a. Right of subrogation
b. Right of indemnification
c. Right of dissolution
d. Right of lien or right of retention

The correct answer is: Right of dissolution

A and B capitalist partners while C is an industrial partner, both A and B equally contributed P50,000. A contractual liability in favor of X was incurred in the amount of P150,000. After exhausting partnership assets, there is a balance recoverable from:

a. A, B and C
b. B and C only.
c. A, B and C and C can get reimbursement from A and B.
d. A and B only

The correct answer is: A, B and C and C can get reimbursement from A and B.

A, B, and C formed a partnership. They contributed P250,000 each. They also agreed on equal distribution of profit. After 5 years of operation however, C conveys her whole interest in the partnership D, without knowledge and consent of A and B. is the partnership dissolved?

a. The partnership was dissolved because the assignee, D automatically becomes a new partner.
b. It is dissolved since C has ceased to be a partner because of the assignment of his whole interest to D.
c. The partnership is not dissolved because the assignment made by C of his whole interest was without the knowledge and consent of A and B.
d. The partnership is not dissolved because the conveyance of a partner`s interest in the partnership does not of itself dissolve the partnership.

The correct answer is: The partnership is not dissolved because the conveyance of a partner`s interest in the partnership does not of itself dissolve the partnership.

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A and B are partners with A as the managing partner. C owes A P100,000 and the partnership P300,000 which are now both due. A issued a receipt for the payment of C in the amount of P100,000 in his own name. The payment shall be applied to:

a. The credit of A only since the receipt is in his name.
b. The payment shall be applied proportionately to both credits.
c. The payment shall be applied equally in both credits.
d. The partnership credit totally.

The correct answer is: The payment shall be applied proportionately to both credits.

Those who became members of the partnership after its establishment.

a. Partner by estoppel
b. De facto partner
c. Secret partner
d. Incoming partner

The correct answer is: Incoming partner

A, B, and C formed a partnership. They contributed P250,000 each. They also agreed on equal distribution of profit. After 5 years of operation however, C conveys her whole interest in the partnership D, without knowledge and consent of A and B. Which of the following is correct?

a. If A and B want to dissolve the partnership, C as a partner need not consent thereto because he had assigned his interest to D.
b. A, B and C can ask for judicial dissolution of the partnership.
c. D may ask the court for its dissolution being the assignee of C`s interest in the partnership
d. A, B and C may dissolve the partnership even without the consent of D.

The correct answer is: If A and B want to dissolve the partnership, C as a partner need not consent thereto because he had assigned his interest to D.

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Three of the following are property rights of a partner. Which is not?

a. Right to specific partnership property.
b. Right to participate in the management.
c. Right to demand formal accounting of partnership affairs.
d. Interest of the partner in the partnership

The correct answer is: Right to demand formal accounting of partnership affairs.

This is the order of priority in general partnership liabilities:

a. Outside creditors, credit partner, partner`s capital, partner`s profit.
b. Outside creditors, creditor partner, partner`s profit, partner`s capital.
c. Creditor partner, outside creditor, partner`s profits, partner`s capital.
d. Creditor partner, outside creditor, partner`s capital, partner`s profit.

The correct answer is: Outside creditors, credit partner, partner`s capital, partner`s profit.

Those who contribute only their industry or labor to the common fund.

a. Capitalist partner
b. General partner
c. Limited partner
d. Industrial partner

The correct answer is: Industrial partner

A and B are partners with A as the managing partner. C owes A P100,000 and the partnership P300,000 which are now both due. A issued a receipt for the payment of C in the amount of P100,000 in his own name. The payment shall be applied to:

a. The credit of A only since the receipt is in his name.
b. The payment shall be applied proportionately to both credits.
c. The payment shall be applied equally in both credits.
d. The partnership credit totally.

The correct answer is: The payment shall be applied proportionately to both credits.

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The three final stages of a partnership are the following except:

a. Termination
b. Dissolution
c. None of the above
d. Winding up

The correct answer is: None of the above

A is a capitalist partner and B the industrial one. Supposed B engages in business on his own account but different from that of the partnership.

a. B may be excluded from the partnership with damages.
b. If there are profits B and the partnership shall share equally.
c. B may be excluded from the partnership but without damages.
d. If there are losses, B and the partnership shall equally share.

The correct answer is: B may be excluded from the partnership with damages.

The following are instances, except one, when a partnership is unlawful. Which is the exception?

a. A partnership formed for the purpose of buying lands
b. A partnership formed for selling smuggled cars.
c. A partnership formed to create illegal gambling
d. A partnership formed for the purpose of selling illegal drugs.

The correct answer is: A partnership formed for the purpose of buying lands

X and Y verbally entered into a partnership with each of them contributing P2,000 each and some personal properties in the amount of P500 each. The partnership contract is:

a. Void, because it is not registered with the SEC.
b. Valid
c. Unenforceable because the amount involved exceeds P500,00.
d. Void because it is not in public instrument

The correct answer is: Valid

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A, B, C, and D organized a general partnership with A and B as industrial partners and C and D as capitalist partners. C contributed P800,000 and D contributed P600,00 to the common fund. A and B were appointed managing partners. J applied as office assistant and K applied as accountant of the partnership. Suppose the hiring of K was decided upon by A and D, but was opposed by B and C, whose decision shall prevail?

a. The decision of A and D because A is the managing partner and the hiring is an act of administration.
b. That of A and D because D is also a capitalist partner.
c. The decision of A and B because they are the managing partners.
d. The decision of B and C because in case of tie in the decision of managing partners, that of the controlling interest shall prevail.

The correct answer is: The decision of B and C because in case of tie in the decision of managing partners, that of the controlling interest shall prevail.

A and B are capitalist partners while C is an industrial partner. There is no agreement as to the profits and losses. The partnership realized profit in the amount of P150,000. The share of C in the profits shall be:

a. C`s share shall be P150,000
b. Pro rata to his contributed capital
c. A and B will determine C`s share in the profits.
d. Just and equitable under the circumstances.

The correct answer is: Just and equitable under the circumstances.

A, B, C, and D organized a general partnership with A and B as industrial partners and C and D as capitalist partners. C contributed P800,000 and D contributed P600,00 to the common fund. A and B were appointed managing partners. J applied as office assistant and K applied as accountant of the partnership. The hiring of J was decided upon by A and B but was opposed by C and D. whose decision shall prevail?

a. The decision of C and D because they have the controlling interest.
b. The decision of C and D shall prevail because they are the capitalist partners.
c. The decision of A and B because it is an act of ownership.
d. The decision of A and B shall prevail because they are the managers.

The correct answer is: The decision of A and B shall prevail because they are the managers.

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A partnership is dissolved, except:

a. Death of a partner
b. Partnership business can only be carried on at a loss.
c. Insolvency of a partner or of the partnership
d. Partnership business has become unlawful.

The correct answer is: Partnership business can only be carried on at a loss.

Those who takes active part and known to the public as a partner in the partnership.

a. Ostensible partner
b. Liquidating partner
c. Secret partner
d. Dormant partner

The correct answer is: Ostensible partner

The following are the rights of partners, except:

a. Right to demand a formal account.
b. Right to ask for the dissolution of the partnership at the proper time.
c. Right to have access to and inspect and copy partnership books on Sundays and holidays.
d. Right to associate with another person in their share.

The correct answer is: Right to have access to and inspect and copy partnership books on Sundays and holidays.

A, B, C, and E are partners. They contributed to the capital as follows: A-P50,000; B-P100,000; C-P150,000; and E as the industrial partner, his services. The partnership obligation to outsiders exceeds the total net assets byP200,000. Who and by how much will the partners be liable for the payment of the P200,000?

a. A-P45,000; B-P45,000; C-P55,000; E-P55,000
b. A-P50,000; B-P50,000; C-P50,500; E-P50,000
c. A-P33,333; B-P66,666; C-P100,000; E-zero
d. A-zero; B-zero; C-zero; E-zero

The correct answer is: A-P50,000; B-P50,000; C-P50,500; E-P50,000

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Those who contribute money or property and industry or both money, property and industry to the common fund.

a. General- limited partner
b. Industrial partner
c. Capitalist-industrial partner
d. Capitalist partner

The correct answer is: Capitalist-industrial partner

Those who takes charge of the winding up or liquidation of the partnership affairs after dissolution.

a. Secret partner
b. Dormant partner
c. Ostensible partner
d. Liquidating partner

The correct answer is: Liquidating partner

The following are obligations of partners, except:

a. Obligation of a managing partner to credit to the partnership the payment made by a debtor who owes them and the partnership.
b. Not to engage in any business which is of the kind in which the partnership is engaged.
c. Pay for damages suffered by the partnership without their fault.
d. Obligation to share with the other partner the share of the partnership credit which they have received from an insolvent partnership debtor.

The correct answer is: Pay for damages suffered by the partnership without their fault.

A is a capitalist partner and B the industrial one. A engaged personally in the same kind of business as that of the partnership:

a. If there are profits, they will be shared by A and the partnership.
b. If there are profits, A shall give them to the partnership.
c. If there are losses, the partnership will bear the losses.
d. A may be excluded from the partnership with liability for damages.

The correct answer is: If there are profits, A shall give them to the partnership.

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A and B are capitalist partners while C is an industrial partner. There is no agreement as to the profits and losses. The partnership suffered loss in the amount of P150,000, the share of the capitalist partners in the loss shall be:

a. In accordance with their loss sharing agreement.
b. Equally among them.
c. In proportion to their capital contribution.
d. In accordance to their profit-sharing agreement.

The correct answer is: In proportion to their capital contribution.

A, B and C formed a commercial partnership, D represented himself as a partner in the partnership to E who, on the belief of such representation, extended credits of P50,000 to the partnership. Assuming only B and C consented to such representation, who shall be liable to E?

a. Only D who made the representation is liable to E.
b. All of A, B, C, and D are liable because of partnership liability for the credit extended to the partnership by E.
c. Only partners A, B and C are liable to E for the benefit extended to them.
d. B, C and D are partners by estoppel and thus, are liable to E.

The correct answer is: All of A, B, C, and D are liable because of partnership liability for the credit extended to the partnership by E.

Those who contribute money or property and industry or both money, property and industry to the common fund.

a. Capitalist-industrial partners
b. Limited partners
c. Industrial partners
d. General partners

The correct answer is: Capitalist-industrial partners

A partnership that does not fix its term.

a. Partnership at will
b. None of the above
c. Partnership for a particular undertaking
d. Partnership with a fixed term

The correct answer is: Partnership for a particular undertaking

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The following are the legal relations created by a contract of partnership, except:

a. Relations between the partners on one hand and the partnership on the other hand.
b. Relations between third persons.
c. Relations between the partner on one hand and third persons on other hand.
d. Relations between the partnership and the third persons.

The correct answer is: Relations between third persons.

The following are the rights of partners, except:

a. Rights in specific partnership property
b. Right to participate in the management.
c. Appraisal right
d. Interest in the partnership

The correct answer is: Appraisal right

X and Y verbally agreed to form a contract of partnership 18months from today, each one to contribute P15,000. At the arrival of the said date, if one refuses to go ahead with the agreement, can the other enforce the agreement?

a. No, because the agreement was merely verbal.
b. Yes, because the prior agreement was voluntarily made.
c. Yes, since the agreement is to be enforced after one year from the making thereof, the same should be inwriting to be enforceable.
d. Yes, because the contract of partnership is not governed by the statute of frauds.

The correct answer is: No, because the agreement was merely verbal.

If a partner is insolvent, the first in the order of preference in the distribution of his assets is:

a. Partnership creditors
b. Partner`s contribution to the partnership
c. Separate creditors of the partner-debtor
d. Pro-rata between the separate creditors and the partnership creditors.

The correct answer is: Separate creditors of the partner-debtor

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Those who contribute only their industry or labor to the common fund

a. Industrial partners
b. Limited partners
c. Capitalist-industrial partners
d. General partners

The correct answer is: Industrial partners

It is one where persons, by words spoken or written or by conduct represents themselves, or consents to another representing them to anyone, as partners I an existing partnership or with one or more persons not actual partners.

a. Partnership sole
b. Closed partnership
c. Partnership by estoppel
d. Partnership by prescription

The correct answer is: Partnership by estoppel

The following are disqualified to form a universal partnership, except one:

a. Those guilty of the same offense, if the partnership is entered into in consideration of the same
b. Husband and wife
c. Brother and sister
d. Those guilty of adultery or concubinage

The correct answer is: Brother and sister

Arises if all the partners consented to the misrepresentation of a third person who is not a real partner. This creates a partnership obligation.

a. Limited partnership
b. None of the above
c. General partnership
d. Partnership by estoppel

The correct answer is: Partnership by estoppel

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It means the dissociation by a partner inclusive of resignation withdrawal, from the partnership that thereby dissolves it.

a. Termination
b. Dissolution
c. Retirement
d. Liquidation

The correct answer is: Retirement

A, B and C are partner in ABC partnership. A and B contributed P10,000 each while C contributed his service. After payment of the partnership liabilities to creditors, only P15,000 remains. In the absence stipulation to the contrary the share of C shall be:

a. P5,000
b. P5,000
c. P10,000
d. Zero

The correct answer is: Zero

The change in the relation of the parties caused by any partner ceasing to be associated in the carrying on, as might be distinguished from the winding up of, the business.

a. Dissolution
b. Liquidation
c. Termination
d. Winding up

The correct answer is: Dissolution

Who can demand true and full information?

a. Legal representative of any partner under legal disability
b. Legal representative of any deceased partner
c. All of the above.
d. Any partner

The correct answer is: All of the above.

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Where a partnership not duly organized has been recognized as such in its dealings with certain persons.

a. Partnership by estoppel
b. De jure partnership
c. De facto partnership
d. Ordinary partnership

The correct answer is: Partnership by estoppel

It is one where there is at least one general partner and one limited partner.

a. De facto partnership
b. Limited partnership
c. De jure partnership
d. General partnership

The correct answer is: Limited partnership

It compromises all that the partners may acquire by their industry or work during the existence of the partnership.

a. None of the above
b. Universal partnership of all present property
c. Universal partnership of all profits
d. Particular partnership

The correct answer is: Universal partnership of all profits

X, Y, and Z are partners who contributed P10,000 each to the capital of the partnership. D owes the partnershipP3,000. Z collected from D P1,000 before X and Y could receive anything from D, who later became insolvent and therefore, they could not collect their shares.

a. X and Y can automatically deduct from the capital contribution of Z in the partnership their respective shares of P333.33
b. X and Y should first exhaust all remedies to collect from D.
c. Z cannot be required to share what he already received from D.
d. Z shall share the P1,000 with his co-partners X and Y.

The correct answer is: Z shall share the P1,000 with his co-partners X and Y.

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When two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.

a. Sole proprietorship
b. Corporation
c. Cooperative
d. Partnership

The correct answer is: Partnership

Those who manage actively business or affairs of the partnership

a. Managing partner
b. Silent partner
c. Dormant partner
d. Ostensible partner

The correct answer is: Managing partner

A, B and C are partners contributed the following: A-P6,000.00; B-P4,000.00; and C-industry. They agreed that the profits and losses shall be distributed as follows to wit: A-35%; B-25% and C-40%. Suppose it is a profit of P10,000, how shall it be distributed?

a. A- P 3,500; B- P2,500; C-P4,000
b. A- P6,000; B- P4,000; C- none
c. A- P3,333; B- P3,333; C- P3,333

The correct answer is: A- P 3,500; B- P2,500; C- P4,000

The following are the rights of an assignee, except:

a. To receive the profits to which the assigning partner would otherwise be entitled;
b. In case of dissolution, to receive the assignor`s interest; and
c. In case of fraud in the management of the partnership, the assignee ay avail himself of the usual remedies provided by law;
d. In case of dissolution, the assignee may require an account from the date of liquidation

The correct answer is: In case of dissolution, the assignee may require an account from the date of liquidation

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It means that each partner must contribute money, property, or industry of course, a partner can contribute one, some or all of these.

a. Consensual
b. Onerous
c. Nominate
d. Preparatory

The correct answer is: Onerous

X and Y orally agreed to form a partnership. Each contributed cash worth P15,000 to common fund. But they didn't register the partnership with the securities and exchange commission.

a. The partnership is valid and unenforceable
b. The partnership is still valid
c. The partnership is voidable
d. The partnership is void

The correct answer is: The partnership is still valid

Those who do not take active part in the business or affairs of the partnership though they share in the profits or losses.

a. Managing partner
b. Ostensible partner
c. Dormant partner
d. Silent partner

The correct answer is: Silent partner

A, B and C are partners in a partnership with each contributing P100,000 each. D is admitted as a new partner with a contribution of P50,000. At the time of his admission, the partnership has a pre-existing obligation to E in the amount of P150,000.

a. D is liable up to P16,667
b. D is liable up to P50,000.
c. D is liable up to P25,000
d. D is not liable to E for this obligation incurred when he was not yet a partner.

The correct answer is: D is liable up to P50,000.

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It is one where all the partners are general partners.

a. De jure partnership
b. De facto partnership
c. Limited partnership
d. General partnership

The correct answer is: General partnership

The partners contribute all the property which actually belongs to them to a common fund, with the intention of diving the same among themselves, as well as all the profits which they may acquire therewith.

a. Particular partnership
b. Universal partnership of all profits
c. None of the above
d. Universal partnership of all present property

The correct answer is: Universal partnership of all present property

An entity created by law and given certain legal rights and duties of a human being or a being, real or imaginary, who for the purpose of legal reasoning is treated more or less as a human being.

a. Juridical person
b. Natural person
c. Normal person
d. None of the above

The correct answer is: Juridical person

A, B, and C formed a partnership. They contributed P250,000 each. They also agreed on equal distribution of profit. After 5 years of operation however, C conveys her whole interest in the partnership D, without knowledge and consent of A and B. Which of the following is correct?

a. D can take part in the control of the business.
b. D can participate in the management of the partnership.
c. D cannot inspect the books.
d. D can inspect the books because he is a partner and therefore there is a fiduciary relationship.

The correct answer is: D cannot inspect the books.

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Those who contribute money or property or both money and property to the common fund.

a. Industrial partner
b. General partner
c. Capitalist partner
d. Limited partner

The correct answer is: Capitalist partner

A particular partnership has for its object determinate things, their use or fruits, or specific undertaking, or exercise of a profession vocation.

a. Particular partnership
b. Universal partnership of all profits
c. None of the above
d. Universal partnership of all present property

The correct answer is: Particular partnership

Those whose connection with the partnership is not known to the public.

a. Dormant partner
b. Ostensible partner
c. Secret partner
d. Liquidating partner

The correct answer is: Secret partner

The following are requisites of partnership, except;

a. There must be a contribution of money, property, and industry to a common fund;
b. The partnership must be organized for gain or profit; and
c. There must be a valid contract;
d. The partnership should have a lawful object or purpose, and must be established for the common benefit or interest of the partners.

The correct answer is: There must be a contribution of money, property, and industry to a common fund;

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May contribute money, property, or industry to a common fund.

a. Both limited and industrial partner
b. Limited partner
c. General partner
d. Both limited and general partner

The correct answer is: General partner

Which of the following is not a requisite prescribed by law in order that the partnership may be held liable to a third party for the acts of one the partners?

a. The contract must be in the name of the partnership
b. The partner must have the authority to bind the partnership
c. The partner must act on behalf of the partnership.
d. The partners bind the partnership by consenting for obligations he may have contracted in good faith.

The correct answer is: The partner must have the authority to bind the partnership

It is one which has not complied with all the legal requirements for its creation.

a. Ordinary partnership
b. De jure partnership
c. De facto partnership
d. Real partnership

The correct answer is: De facto partnership

A kind of contract which has a name in law.

a. Preparatory
b. Onerous
c. Consensual
d. Nominate

The correct answer is: Nominate

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Those who cannot be held liable to third persons for partnership obligations.

a. Limited partner
b. Industrial partner
c. General partner
d. Capitalist partner

The correct answer is: Limited partner

A document prepared by a notary public in the presence of the parties who sign it before witnesses.

a. Public instrument
b. Private instrument
c. None of the above
d. Commercial instrument

The correct answer is: Public instrument

A, B and C are partners contributed the following: A-P6,000.00; B-P4,000.00; and C-industry. They agreed that the profits and losses shall be distributed as follows to wit: A-35%; B-25% and C-40%. How shall the loss pf P10,000 be distributed?

a. A- P6,000; B- P4,000; C-none
b. A- P3,300; B- P3,333; C- P3,333
c. A - P3,500; B- 2,500; C- P4,000
d. A- P5,000; B- P2,500; C- none

The correct answer is: A- P3,500; B- 2,500; C- P4,000

The following are the effects of unlawful partnership, except:

a. The profits shall be confiscated in favor of the government.
b. The contract is voidable from the very beginning.
c. The instruments or tools and proceeds of the crime shall be forfeited in favor of the government.
d. The contributions of the partners shall not be confiscated.

The correct answer is: The contract is voidable from the very beginning.

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The following are the remedies of capitalist partners against an industrial partner who engaged in business for himself:
STATEMENT I. The capitalist partners may exclude the industrial partner from the partnership plus damages.
STATEMENT II. The capitalist partners may avail themselves of the benefits which the industrial partner may have obtained plus damages.

a. Only I is correct
b. Both are false
c. Both are true
d. Only II is correct

The correct answer is: Both are true

STATEMENT I. A universal partnership of present property shall include the profits which the partners may acquire therewith such as properties to be acquired through legacy, donation or inheritance.
STATEMENT II. After dissolution, the partners may still enter into contracts in the name of the dissolved partnership if it is for the purpose of winding up.

a. Only I is true
b. Only II is true
c. Both are false
d. Both are true

The correct answer is: Only II is true

STATEMENT I. As a rule, when a partnership is dissolved, any of the partners can bind the partnership.
STATEMENT II. Where the dissolution is caused by the act, death or insolvency of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved.

a. Only II is true
b. Both are false
c. Only I is true
d. Both are true

The correct answer is: Only II is true

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STATEMENT I. A partnership transacting business with third persons is disputably presumed to be a limited partnership.
STATEMENT II. The contributions of a limited partner may be cash or property, but not services.

a. Only I is true
b. Both are true
c. Only II is true
d. Both are false

The correct answer is: Only II is true

STATEMENT I. The partner who has been appointed manager in the articles of partnership may execute all acts of ownership. STATEMENT II. If two or more partners have been in trusted with the management of the partnership without specification of their respective duties each one may separately execute all acts of administration.

a. Both are false
b. Only II is true
c. Both are true
d. Only I is true

The correct answer is: Only II is true

There are two test to determine the existence of a partnership:

I. First test: Determine whether or not there is an agreement to contribute money, property, or industry to a common fund.
II. II. Second test: Determine whether or not there is an intent of the contracting parties to divide the profits among themselves.

a. Both are true
b. Only II is true
c. Only I is true
d. Both are false

The correct answer is: Both are true

STATEMENT I. A limited partner`s surname cannot appear in the partnership name, as a rule.
STATEMENT II. After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate.

a. Only II is true

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b. Only I is true
c. Both are true
d. Both are false

The correct answer is: Both are true

STATEMENT I. A limited partner whose surname appears in a partnership name is liable as a general partner to partnership creditors, as a rule.
STATEMENT II. A limited partner whose surname appears in a partnership shall become a general partner, as a rule.

a. Only I is true
b. Only II is true
c. Both are true
d. Both are false

The correct answer is: Only I is true

STATEMENT I. In a limited partnership, a general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners.
STATEMENT II. As a rule. The general partners in a limited partnership can do only acts of ownership.

a. Only I is true
b. Both are true
c. Both are false
d. Only II is true

The correct answer is: Only I is true

STATEMENT I. Associations and societies, whose articles are kept secret among the members, and where in anyone of the members may contract in his own name with third persons, shall also have juridical personality.
STATEMENT II. Immovable property to be acquired must be in the name of the partnership but if conveyed, it is not necessary that it be in the partnership name.

a. Only I is true
b. Both are false
c. Only II is true
d. Both are true

The correct answer is: Both are false

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STATEMENT I. Every partner is a creditor of the partnership for whatever he may have promised to contribute thereto.

STATEMENT II. The mutual contribution to a common fund is the first test in order to have a contract of partnership.

a. Only II is true
b. Both are true
c. Both are false
d. Only I is true

The correct answer is: Only II is true

STATEMENT I. Generally, in the pursuit of a partnership business, its capital is either increased by profits earned or decreased by losses sustained.

STATEMENT II. As a general rule, upon the dissolution of a commercial partnership the succeeding partners or parties have the right to carry on the business under the old name.

a. Only II is true
b. Both are false
c. Both are true
d. Only I is true

The correct answer is: Both are true

STATEMENT I. The dissolution of the partnership means that the juridical entity as immediately terminated and that the distribution of the assets to its partners should perfunctorily follow.

STATEMENT II. The partnership although dissolved, continues to exist until its termination, at which time the winding up its affair should have been completed and the net partnership assets are partitioned and distributed to the partners.

a. Both are false
b. Only I is true
c. Only II is true
d. Both are true

The correct answer is: Only II is true

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STATEMENT I. The legal personality of the expiring partnership persists for the limited purpose of winding up and closing of the affairs of the partnership.
STATEMENT II. After dissolution, all the transactions of the partnership should only pertain to liquidation which will happen over a period of time.

a. Only II is true
b. Both are false
c. Only I is true
d. Both are true

The correct answer is: Both are true

STATEMENT I. In a limited partnership, the general partners need not secure the written consent or ratification by all of the limited partners.
STATEMENT II. A person may be general partner and a limited partner in the same partnership at the same time, provided that this fact shall be stated in the certificate.

a. Only II is true
b. Only I is true
c. Both are true
d. Both are false

The correct answer is: Only II is true

STATEMENT I. A partner who has received his share of a partnership credit, when the other partners have not collected theirs, shall be obliged, if the debtor should thereafter become insolvent, to bring to the partnership capital what he received even though he may have given receipt for his share only.
STATEMENT II. Partners shall render on demand true and full information of all things affecting the partnership to any partner.

a. Both are true
b. Both are false
c. Only II is true
d. Only I is true

The correct answer is: Both are true

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STATEMENT I. Since it is the partnership, as a separate and distinct entity, that must refund the shares of the partners, the amount to be refunded is necessarily limited to its total resources.
STATEMENT II. In other words, the partnership can only pay out what it has in its coffers, which consists of all its assets.

a. Only II is true
b. Both are false
c. Only I is true
d. Both are true

The correct answer is: Both are true

STATEMENT I. A partnership begins from the moment of meeting of the minds.
STATEMENT II. Limited partners have absolute right to participate in the management.

a. Only I is true
b. Both are true
c. Both are false
d. Only II is true

The correct answer is: Both are false

STATEMENT I. In the ordinary course of events, the legal personality of the expiring partnership persists for the limited purpose of winding up and closing of the affairs of the partnership.
STATEMENT II. A withdrawing partner is no longer liable to a third-party creditor of the old partnership.

a. Both are true
b. Both are false
c. Only II is true
d. Only I is true

The correct answer is: Only I is true

STATEMENT I. An assignee acquires all the rights of the limited partner regardless when he becomes a substituted limited partner.
STATEMENT II. A corporation can enter into a partnership contract with natural person.

a. Both are true
b. Only II is true

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c. Both are false
d. Only I is true

The correct answer is: Only II is true

STATEMENT I. The partners are governed by fiduciary relationship, that is, mutual trust and confidence
STATEMENT II. As a rule, the capitalist partners can engage for their own account in any operation which is of the kind of business in which the partnership is engaged.

a. Both are false
b. Only II is true
c. Both are true
d. Only I is true

The correct answer is: Only I is true

STATEMENT I. An inventory is still required is aside from real property, personal property is contributed.
STATEMENT II. The sharing of gross returns does not of itself establish a partnership, except when the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

a. Both are false
b. Both are true
c. Only I is true
d. Only II is true

The correct answer is: Both are true

STATEMENT I. Partnership with a capital of P3,000.00 or more must register with the SEC. Registration requirement is mandatory. STATEMENT II. The receipt by a person of a share of profits of a business is conclusive evidence that he is a partner in the business.

a. Only II is true
b. Only I is true
c. Both are false
d. Both are true

The correct answer is: Both are false

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The following are the remedies of capitalist partners against an industrial partner who engaged in business for himself:
STATEMENT I. The capitalist partners may exclude the industrial partner from the partnership plus damages.
STATEMENT II. The capitalist partners may avail themselves of the benefits which the industrial partner may have obtained plus damages.

a. Only I is correct
b. Both are false
c. Both are true
d. Only II is correct

The correct answer is: Both are true

STATEMENT I. The dissolution if the partnership discharges the existing liability of any partner.
STATEMENT II. The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner, but subject to the prior payment of his separate debts.

a. Only I is true
b. Both are false
c. Only II is true
d. Both are true

The correct answer is: Only II is true

STATEMENT I. In case it should have been stipulated that none of the managing partners shall act without the consent of the others, the concurrence of the majority shall be necessary for the validity of the acts.
STATEMENT II. In case it should have been stipulated that none of the managing partners shall act without the consent of the others, the concurrence of the majority shall be necessary for the validity of the acts.

a. Both are true
b. Both are false
c. Only I is true
d. Only II is true

The correct answer is: Both are false

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STATEMENT I. Q was an accountant in a partnership, with a yearly salary amounting to 10% of the net profits for the year. Thus, he is a partner in the said partnership. STATEMENT II. the receipt by a person of a share of the profits of a business is conclusive evidence that he is partner in the business

a. Both are true
b. Only II is true
c. Both are false
d. Only I is true

The correct answer is: Only I is true

STATEMENT I. The birth and life of a partnership at will is predicated on the mutual desire and consent of the partners.
STATEMENT II. The right to choose with whom a person wishes to associate himself is the very foundation and essence of that partnership.

a. Only I is true
b. Both are false
c. Both are true
d. Only II is true

The correct answer is: Both are true

STATEMENT I. Persons who are prohibited from giving each other any donation or advantage cannot enter into universal partnership. STATEMENT II. Co-ownership or co-possession does not in itself establish a partnership, except when such co-owners or co-possession share in the profits made by the use of the property.

a. Only II is true
b. Both are true
c. Both are false
d. Only I is true

The correct answer is: Both are true

STATEMENT I. Being a contract of partnership, each partner must share in the profits and losses of the venture. That is the essence of a partnership. STATEMENT II. An industrial partner can engage in business for himself, unless the partnership expressly permits him to do so.

a. Only II is true
b. Only I is true

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c. Both are false
d. Both are true

The correct answer is: Only I is true

STATEMENT I. If the things contribute are fungible or if they were contributed to be sold, the risk shall be borne by the partnership.
STATEMENT II. A stipulation which exclude one or more partners from any share in the profits or losses is voidable.

a. Both are false
b. Only I is true
c. Both are true
d. Only II is true

The correct answer is: Only I is true

STATEMENT I. Every partnership shall operate under a firm name, which may or may not include the name of one or more of the partners.
STATEMENT II. The act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership.

a. Both are true
b. Only II is true
c. Both are false
d. Only I is true

The correct answer is: Both are true

STATEMENT I. A conveyance by a partner of his whole interest in the partnership dissolves the partnership.
STATEMENT II. In case of a dissolution of the partnership, the assignee is entitled to receive his assignor`s interest and may require an account from the date only of the last account agreed to by all the partners.

a. Both are false
b. Both are true
c. Only II is true
d. Only I is true

The correct answer is: Only II is true

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STATEMENT I. A person who is a general, and also at the same time a limited partner, shall have all the rights and powers and be subject to all the restrictions of a general partner.
STATEMENT II. A limited partner`s interest is not assignable

a. Both are true
b. Only I is true
c. Only II is true
d. Both are false

The correct answer is: Only I is true

STATEMENT I. A partnership is separate juridical entity, the shares to be paid out to the partners is necessarily limited only its total resources.
STATEMENT II. A partnership must refund the shares of the partners, the amount to be refunded is necessarily limited to its total resources.
STATEMENT III. Before the partners can be paid their shares, the creditors of the partnership must first be compensated. After all, the creditor have been paid, whatever is left of the partnership assets becomes available for the payment of the partners shares.

a. Only I is correct
b. All are false
c. All are true
d. Only II is correct

The correct answer is: All are true

STATEMENT I. A partnership may be constituted in any form. STATEMENT II. A partnership may be constituted in any form, save when immovable property or real rights are contributed thereto or when the partnership property or real rights are contributed thereto or when the partnership has a capital of below P3,000, in which case a public instrument shall be necessary.

a. Both are true
b. Only I is true
c. Both are false
d. Only II is true

The correct answer is: Only I is true

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STATEMENT I. A general partner is liable only to the extent of his contribution while a limited partner is liable beyond his contribution.
STATEMENT II. An oral contract of partnership is as good as a written one.

a. Only I is true
b. Both are false
c. Only II is true
d. Both are true

The correct answer is: Only II is true

STATEMENT I. Where an immovable property is contributed in a partnership a private instrument shall be necessary.
STATEMENT II. Articles of universal partnership, entered into without specification of its nature, only constitute a universal partnership of all present property.

a. Both are true
b. Only I is true
c. Both are false
d. Only II is true

The correct answer is: Both are false

STATEMENT I. The right to choose with whom a person wishes to associate himself is the very foundation and essence of that partnership.
STATEMENT II. An unjustified dissolution by a partner can subject him to action for damages.

a. Only II is true
b. Both are false
c. Only I is true
d. Both are true

The correct answer is: Both are true

STATEMENT I. Capitalist partners are not bound to contribute additional capital. STATEMENT II. Every partner is responsible to the partnership for damages suffered by it through his fault.

a. Both are true
b. Only I is true
c. Both are false
d. Only II is true

The correct answer is: Both are true

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STATEMENT I. When an unlawful partnership is dissolved by a judicial decree, the profits shall not be confiscated in favor of the state. STATEMENT II. A partnership must have a lawful object or purpose, and must be established for the common benefit or interest of the partners.

a. Only II is true
b. Only I is true
c. Both are false
d. Both are true

The correct answer is: Only II is true

STATEMENT I. The partnership cannot use an identical or deceptively confusingly similar to that of any existing partnership or corporation or to any other name already protected by law.
STATEMENT II. All partners shall be liable pro rata with all their property and after all the partnership assets have been exhausted, for the contracts which may be entered into in the name and for the account of partnership.

a. Both are false
b. Only I is true
c. Both are true
d. Only II is true

The correct answer is: Both are true

STATEMENT I. If a person receives a share in the profits of a business, he is prima facie presumed to be a partner in business. STATEMENT II. In partnership, there is co-ownership and co-possession of partnership property.

a. Both are true
b. Only II is true
c. Only I is true
d. Both are false

The correct answer is: Both are true

STATEMENT I. The partnership books shall be kept at the principal place of business of the partnership, and every partner shall at any reasonable hour have access to and may inspect and copy any of them.

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STATEMENT II. Partnership books are examples of partnership property and every partner is a co-owner of specific partnership property.

a. Both are true
b. Only II is true
c. Only I is true
d. Both are false

The correct answer is: Both are true

STATEMENT I. The partners shall contribute equal shares to the capital of the partnership, unless there is stipulation to the contrary. STATEMENT II. The risk of specific and determinate things contributed to the partnership so that only their use and fruits may be for the common benefit, shall be borne by the partner who owns them.

a. Both are true
b. Only II is true
c. Only I is true
d. Both are false

The correct answer is: Both are true

STATEMENT I. The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall make the individual property of the deceased partner liable for any debts contracted by such person or partnership.
STATEMENT II. The liability of a third person becoming a partner in the partnership continuing the business to the creditors of the dissolved partnership shall be satisfied out of the partnership property only, unless there is a stipulation to the contrary.

a. Only II is true
b. Both are true
c. Both are false
d. Only I is true

The correct answer is: Only II is true

STATEMENT I. A limited partnership is dissolved by the insanity of a limited partner.
STATEMENT II. A universal partnership entered into without designation is considered one of profits.

a. Only I is true

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b. Both are false
c. Both are true
d. Only II is true

The correct answer is: Only II is true

STATEMENT I. The transfer by a partner of his partnership interest does not make the assignee of such interest a partner of the firm, nor entitle the assignee to interfere in the management of the partnership business or to receive anything except the assignee`s profit.
STATEMENT II. Generally understood to mean an organization formed for some temporary purpose, a joint venture is likened to a particular partnership.

a. Only II is true
b. Both are false
c. Only I is true
d. Both are true

The correct answer is: Both are true

STATEMENT I. As a rule, the liability of that limited partner is up to the extent of his contribution.
STATEMENT II. An assignee is only entitled to receive the share of the profits or other compensation by way of income, or the return of his contribution, to which his assignor would otherwise be entitled.

a. Only II is true
b. Both are true
c. Only I is true
d. Both are false

The correct answer is: Both are true

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PARTNERSHIP (Art. 1767)

two or more persons bind themselves → contribute money, property, or industry to a common fund → intention of dividing the profits among themselves

General Professional Partnership- two or more persons may also form a partnership for the exercise of a profession

- **Art. 1768.** Has a juridical personality separate and distinct from that of each of the partners, even in case of failure to comply with the requirements of article 1772 (1st paragraph)

ELEMENTS

1. consensual;
2. there must be a contribution of money, property or industry to a common fund;
3. the subject must be a lawful one;
4. there must be an intention of dividing the profit among the partners;
5. there must be a desire to formulate an active union (affectio societatis);
6. a new personality, that of the firm – must arise, distinct from the separate personality of each of the members

ESSENTIAL REQUISITES

1. **Valid Contract** – there must be voluntary agreement among the parties to carry on business as partners. *Delectus personae*, where a person is free to choose those whom he wants to be associated with in a partnership.
2. **Lawful object/ purpose** – Business carried for unlawful purpose is *void ab initio*
3. **Mutual contribution of M, P/I to a common fund** – real, personal, tangible, intangible, physical or intellectual. However, *a limited partner cannot contribute services*
4. **Established for the common benefit** – each partner must receive proportionate interest based on a just and reasonable ratio agreed by all partners
5. **Parties must have legal capacity to enter into the contract**

ART. 1770. A partnership must have a:

1 **lawful object or purpose-**
- within the commerce of man, possible and not contrary to law, morals, good customs, public order or public policy
- if a partnership has several purposes, one of which is unlawful, the partnership can still validly exist so long as the illegal purpose can be separated from the legal purpose

2 **must be established for the common benefit or interest of the partners**.

WHEN UNLAWFUL PARTNERSHIP → dissolved by a judicial decree → Profits shall be confiscated in favor of the State

Judicial decree is not necessary to dissolve an unlawful partnership.
- the contract is void and therefore never existed from the viewpoint of the law

CHARACTERISTIC

1. **Consensual** – perfected by mere consent or meeting of the minds between parties
2. **Bilateral** – *AKA or Multilateral*; reciprocal obligations between 2 or more parties
3. **Nominate** – Special name given by law
4. **Principal** – its existence does not depend on the existence of another contract
5. **Onerous** – certain contributions have to be made
6. **Preparatory** – Means by which other contracts will be entered into
7. **Commutative** –

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WHO MAY BECOME PARTNERS

1. Natural person capacitated to become partner.
2. Partnership can be a partner but a corporation is prohibited from doing such.

RULES TO DETERMINE WHETHER A PARTNERSHIP EXISTS

ART. 1769.

a. persons who are not partners as to each other are not partners as to third persons (Partnership by estoppel);

b. Co-ownership or co-possession ≠ partnership, whether such co-owners or co-possessors do or do not share any profits made by the use of the property

c. Sharing of gross returns ≠ 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

d.

Receipt by a person of a share of the profits of a business = prima facie evidence that he is a partner in the business →

BUT no such inference if such profits were received in payment:

a. As a debt by installments or otherwise
b. As wages of employee or rent to landlord
c. As an annuity to a widow or representative of a deceased partner
d. As interest on a loan, though the amount of payment varies 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.

FORM OF PARTNERSHIP CONTRACT

ARTICLE 1771

GR: ₱ may be constituted in any form

EXC.

Immovable property or real rights contributed → shall appear in a public instrument **(NECESSARY)** →

Art. 1773

Failure to comply → **VOID**

↓

- no inventory of said property
- not signed by parties
- not attached to public instrument

ART. 1772. CAPITAL

₱ capital ≥ 3,000 → Must be in public instrument and recorded with SEC

↓

FAILURE TO COMPLY shall not affect the liability of the partnership and the members thereof to third persons; is still valid and acquires juridical personality

ARTICLE 1774. Any immovable property or an interest therein may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

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CO-OWNERSHIP

ARTICLE 1775. WHEN GOVERNED BY RULES OF **CO-OWNERSHIP**

Associations and societies, whose: 1 articles are kept secret among the members, and 2 wherein any one of the members may contract in his own name with third persons	→	shall have no juridical personality, and shall be governed by the provisions relating to co-ownership

KINDS OF PARTNERSHIP

ARTICLE 1776

object
- ↗ universal
- ↘ particular

→ **ART. 1777**
Universal Ⓟ may refer to
- ↙ (1) all present property
- ↘ (2) all the profits.

liability
- ↗ general
- ↘ limited

AS TO OBJECT

1. UNIVERSAL PARTNERSHIP

a. of all present property

Art. 1778- partners contribute all the property which actually belongs to them to a common fund, with the intention of dividing the same among themselves, as well as all the profits which they may acquire therewith.

exclusive properties of partners → Contribute to **COMMON FUND** → INTENTION:
1 dividing the same among themselves
2 Dividing all the profits which they may acquire

Art. 1779

BEFORE Ⓟ → **CONSTITUTION OF Ⓟ**

↓ exclusive properties of partners → ↓ Becomes COMMON PROPERTY as well as profits they may acquire

A stipulation for the common enjoyment of any other profits may also be made.

IMPORTANT!

the property which the partners may acquire subsequently by inheritance, legacy, or donation cannot be included in such stipulation, except the fruits thereof

b. of all present profits

ARTICLE 1780. A universal partnership of profits comprises all that the partners may acquire by their industry or work during the existence of the partnership.

Movable or immovable property which each of the partners may possess at the time of the celebration of the contract shall continue to pertain exclusively to each, only the usufruct passing to the partnership.

Movable or immovable property each partner may possess at the time of the celebration of the contract
- ↗ continue to pertain exclusively to each
- ↘ only the usufruct passing to the partnership

c. entered into without specification of nature

ARTICLE 1781. Articles of universal partnership, entered into without specification of its nature, only constitute a **universal partnership of profits**

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WHO CANNOT ENTER INTO UNIVERSAL PARTNERSHIP?

ARTICLE 1782. Persons ***who are prohibited from giving each other any donation or advantage*** cannot enter into universal partnership

WHO CANNOT DONATE TO EACH OTHER?

1. Husband and Wife (Art. 133, Family Code)
2. Those guilty of adultery and concubinage (Art. 739, Civil Code)
3. Those guilty of the same criminal offense, if Ⓟ was entered into in consideration of the same

2. Particular partnership

ARTICLE 1783. A particular partnership has for its object:

a) determinate things, their use or fruits, or
b) a specific undertaking, or
c) the exercise of a profession or vocation.

AS TO LIABILITY OF PARTNERS

1. General - Consists of general partners who are liable pro rata and subsidiarily and sometimes solidarily with their separate property for their Ⓟ debts
2. Limited - Formed by 2 or more persons having as members 1 or more general partners and 1 or more limited partners, the latter not being personally liable for the Ⓟ obligations

AS TO DURATION

1. Partnership for a fixed term – a period for its duration is fixed
2. Partnership for a particular undertaking – organized for a certain undertaking which, when attained will cause the termination of the partnership
3. Partnership at will – no period is fixed by the parties for its duration

AS TO LEGALITY OF EXISTENCE

1. De jure - Has complied with all the legal requirements for its establishment
2. De facto - Has failed to comply with all the legal requirements for its establishment

AS TO REPRESENTATION

1. Ordinary/ real - exists among partners and also as to 3rd persons
2. Ostensible/ Ⓟ by estoppel - In reality is not a partnership but is considered a partnership only in relation to those who, by their conduct or mission, are precluded to deny or disprove its existence

AS TO PUBLICITY

1. Secret - Existence of certain persons as partners is not avowed or made known to the public by any of the partners
2. Open or notorious - Existence is avowed or made known to the public by the members of the firm

AS TO PURPOSE

1. Commercial/ Trading - Formed for the transaction of business
2. Professional/ Non-trading - Formed for the exercise of profession

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KINDS OF PARTNERS

AS TO LIABILITY

1. General partner – Liability to 3rd persons extends to his separate property
2. Limited partner – Liability to 3rd persons is limited to his capital contribution
3. General-limited partner – all the rights of a general partner except that in respect to his contribution, he shall have the rights against the other members which he would have had if he was a limited partner

AS TO CONTRIBUTION

1. Capitalist Partner contributes money or property to a common fund.
2. Industrial Partner Contributes only his industry or personal service

OTHER CLASSIFICATIONS

1. Managing Partner – manages the business or the affairs of the partnership
2. Liquidating partner – takes charge of the winding up of the partnership
3. Partner by estoppel – AKA Nominal; not a partner but who may become liable as to the third person
4. Ostensible Partner – Takes active part & known to the public as partner in the business
5. Secret partner – Takes active part but is not known to be a partner by outside parties
6. Silent Partner – Does not take active part in the business although he may be to be a partner
7. Dormant partner – Does not take active part in the business and is not known or held out as a partner
8. Continuing partner – One who continues the business after it has been dissolved by reason of the admission of a new partner, retirement, death or expulsion of one of the partners
9. Surviving partner – Remains after a partnership has been dissolved by death of any partner
10. Subpartner – Not a member of the Ⓟ who contracts with a partner with reference to the latter's share in the partnership

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CHAPTER 2: OBLIGATIONS OF PARTNERS

WHEN DOES A PARTNERSHIP BEGIN?

ARTICLE 1784. A partnership begins from the moment of the execution of the contract, unless it is otherwise stipulated.

ARTICLE 1785. When a partnership for a fixed term or particular undertaking is *continued after the termination* of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership

partnership for a fixed term or particular undertaking is *continued without express agreement* → rights and duties of the partners remain the same as they were at termination

↓

If there was express agreement for the term of existence, then when the term expires, Ⓟ is dissolved and becomes a partnership at will. → CONTINUATION is when there is NO settlement/ liquidation.

ARTICLE 1786.

Every partner is a debtor of the partnership for whatever he may have promised to contribute thereto.

a) also be bound for warranty in case of eviction with regard to specific and determinate things which he may have contributed to the partnership
b) liable for the fruits thereof from the time they should have been delivered, without the need of any demand

ARTICLE 1787.

capital or a part thereof which a partner is bound to contribute consists of goods

- With stipulation → their appraisal must be made in the manner prescribed in the contract of partnership
- no stipulation → it shall be made by experts chosen by the partners, and according to current prices, the subsequent changes thereof being for the account of the partnership.

ARTICLE 1788.

partner who has undertaken to contribute a sum of money → Fails to do so → becomes a debtor for the interest and damages from the time he should have complied with his obligation

partner takes amount from partnership funds → Fails to do so → liability shall begin from the time he converted the amount to his own use

OBLIGATION NOT TO ENGAGE IN OTHER BUSINESS FOR HIMSELF

ARTICLE 1789.
GR: An industrial partner cannot engage in business for himself
EXC. partnership expressly permits him to do so

if he should do so → capitalist partners may either
- ↗ exclude him from the firm, with a right to damages
- ↘ avail themselves of the benefits which he may have obtained in violation of this provision, with a right to damages

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AMOUNT OF CONTRIBUTION

ARTICLE 1790
GR: Partners shall contribute equal shares to the capital of the partnership
EXC. there is a stipulation to the contrary

OBLIGATION TO CONTRIBUTE ADDITIONAL CAPITAL

ARTICLE 1791.
GR: A capitalist partner is not bound to contribute to the partnership more than what he agreed to contribute

EXC.

in case of imminent loss & there is no agreement to the contrary	→	any partner who refuses to contribute an additional share to the capital, except an industrial partner, **to save the venture**, shall be obliged to sell his interest to the other partners.

OBLIGATION OF MANAGING PARTNER WHO COLLECTS DEBT

ARTICLE 1792.
Where a person is separately indebted to the partnership and to the managing partner at the same time, any sum received by the managing partner shall be applied to the two credits in proportion to their amounts, except where he received it entirely for the account of the partnership, in which case the whole sum shall be applied to the partnership credit only.

Requisites for the application of the rule:
1) There exist two debts, one where the collecting partner is creditor, the other, where the partnership is creditor.
2) Both debts are demandable
3) The partner who collects is authorized to manage and actually manages the partnership.

OBLIGATION OF PARTNER WHO RECEIVES SHARE IN PARTNERSHIP CREDIT

ARTICLE 1793.

partner has received, in whole or in part, his share of a partnership credit	→	obliged, if the debtor should thereafter become insolvent, **to bring to the partnership capital what he received** even though he may have given receipt for his share only
↓		
other partners have not collected theirs		**REQUISITES:** 1 A partner has received, in whole or in part, his share in the partnership credit 2 The other partners have not collected their shares. 3 The partnership debtor has become insolvent.

OBLIGATION OF PARTNER FOR DAMAGES TO PARTNERSHIP

ARTICLE 1794.

GR: Every partner is responsible to the partnership for damages suffered by it through his fault, and *he cannot compensate them with the profits and benefits which he may have earned for the partnership by his industry*.

EXC If through the partner's **extraordinary efforts** in other activities of the partnership, **unusual profits** have been realized, the courts may equitably lessen this responsibility.

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ARTICLE 1795.

CONTRIBUTION
- specific and determinate things, which are not fungible, contributed to the partnership → Risk shall be borne by the partner who owns them.
- fungible, or cannot be kept without deteriorating, or if they were contributed to be sold → Risk shall be borne by the partnership

↓

NO STIPULATION
the risk of things brought and appraised in the inventory, shall also be borne by the partnership, and in such case, *claim shall be limited to the value which they were appraised*

ARTICLE 1796. The partnership shall be responsible to every partner for:

a) the amounts he may have disbursed on behalf of the partnership and for the corresponding interest, from the time the expenses are made;
b) answer to each partner for the obligations he may have contracted in good faith in the interest of the partnership business, and for risks in consequence of its management.

RULES FOR DISTRIBUTION OF PROFITS AND LOSSES

ARTICLE 1797.

a) ***Distribution of profits***
   1 According to their agreement
   2 If none,
      i. Share of capitalist partner shall be in proportion to his capital contribution
      ii. Industrial partner shall receive such share as may be just and equitable under the circumstances. If besides his services he has contributed capital, he shall also receive a share in the profits in proportion to his capital
b) ***Distribution of losses***
   1 According to their agreement as to losses
   2 If none, according to their agreement as to profits
   3 If none, in proportion to his capital contribution, but the purely industrial partner shall not be liable for the losses

ARTICLE 1798: WHEN DESIGNATION OF P&L IS INTRUSTED TO A THIRD PERSON

partners have agreed to intrust to a third person the designation of the share of each one in the profits & losses
- ↱ such designation may be impugned only when it is manifestly inequitable
- ↳ In no case may a partner who has begun to execute the decision of the third person, or who has not impugned the same *within a period of three months* from the time he had knowledge thereof, complain of such decision.

The designation of losses and profits CANNOT BE INTRUSTED TO ONE OF THE PARTNERS.

ARTICLE 1799. EXCLUSION OF PARTNER/S IN P&L DISTRIBUTION

A stipulation which excludes one or more partners from any share in the profits/ losses is **void**.

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MANAGEMENT OF PARTNERSHIP

I. WHEN THE MANNER OF MANAGEMENT HAS BEEN PROVIDED FOR IN THE PARTNERSHIP AGREEMENT

ARTICLE 1800. APPOINTMENT OF MANAGING PARTNERS

APPOINTMENT

partner appointed as manager in the **articles of partnership**

1. may execute all acts of administration despite the opposition of his partners, unless he should act in bad faith; and
2. his power is irrevocable without just or lawful cause → The vote of the partners representing the controlling interest shall be necessary for such revocation of power

partner appointed as manager **after constitution of partnership** → may be revoked at any time, with or without just cause

WHEN *2 OR MORE MANAGING PARTNERS* HAVE BEEN ENTRUSTED

ARTICLE 1801: WITHOUT STIPULATION REQUIRING UNANIMITY OF ACTION

2 or more partners as managers

- No specification of their respective duties
- no stipulation that one of them shall not act without the consent of all the others

GR each one may separately execute all acts of administration

EXC. but if any of them should **oppose the acts of the others**,
a. the decision of the majority shall prevail.
b. In case of a tie, the matter shall be decided by the partners owning the controlling interest

ARTICLE 1802: WITH STIPULATION REQUIRING UNANIMITY OF ACTION

There is stipulation that none of the managing partners shall act without the consent of the others

GR	The concurrence of all shall be necessary for the validity of the acts, and the absence or disability of any one of them cannot be alleged
EXC	there is imminent danger of grave or irreparable injury to the partnership

II. WHEN MANNER OF MANAGEMENT HAS NOT BEEN AGREED UPON

ARTICLE 1803.

a. All the partners shall be considered agents and whatever any one of them may do alone shall bind the partnership, without prejudice to the provisions of article 1801.
b. **GR:** Unanimous consent required for the alteration of immovable property of the partnership.
EXC. But if the refusal of consent by the other partners is manifestly prejudicial to the interest of the partnership, the court's intervention may be sought.

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ARTICLE 1804.

Every partner may associate another person with him in his share	→	consent of all the other partners is needed in the admission of associate in the ℗ the, even if the partner having an associate should be a manager

ARTICLE 1805.

partnership books
- ↗ kept at the principal place of business of the partnership (subject to any agreement between the partners)
- ↘ every partner shall at any reasonable hour have access to and may inspect and copy any of them

DUTY TO RENDER INFORMATION

ARTICLE 1806. Partners shall render on demand true and full information of all things affecting the partnership to

a. any partner
b. the legal representative of any deceased partner
c. any partner under legal disability

OBLIGATION TO ACCOUNT FOR ANY BENEFIT AND HOLD AS TRUSTEE UNAUTHORIZED PERSONAL PROFITS

ARTICLE 1807. Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

ARTICLE 1808.

GR:	The capitalist partners cannot engage for their own account in any operation which is of the kind of business in which the partnership is engaged
EXC.	there is a stipulation to the contrary

↳**VIOLATION OF SUCH**: Partner shall:
a. bring to the common funds any profits accruing to him from his transactions,
b. personally bear all the losses.

RIGHT TO A FORMAL ACCOUNT

ARTICLE 1809. Any partner shall have the right to a formal account as to partnership affairs:
1) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners;
2) If the right exists under the terms of any agreement;
3) As provided by article 1807;
4) Whenever other circumstances render it just and reasonable.

SECTION 2

PROPERTY RIGHTS OF A PARTNER

ARTICLE 1810. The property rights of a partner are:
1) His rights in specific partnership property;
2) His interest in the partnership; and
3) His right to participate in the management.

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PARTNER'S RIGHT IN SPECIFIC PARTNERSHIP PROPERTY

ARTICLE 1811. A partner is co-owner with his partners of specific partnership property.
The incidents of this co-ownership are such that:

1)

partner
- ↗ has an **equal right** with his partners to possess specific partnership property **for partnership purposes**
- ↘ has **no right** to possess such property for any other purpose **without the consent of his partners**

2)

partner's right in specific partnership property
- ↗ GR: is not assignable
- ↘ EXC: in connection with the assignment of rights of all the partners in the same property

3)

partner's right in specific partnership property
- ↗ GR: not subject to attachment or execution
- ↘ EXC: on a claim against the partnership

When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws;

4)

partner's right in specific Ⓟ property → not subject to legal support under article 291

ARTICLE 1812. A is his.

partner's interest in the Ⓟ = share of the profits and surplus

EFFECTS OF CONVEYANCE BY A PARTNER OF HIS INTEREST IN THE PARTNERSHIP

ARTICLE 1813.

conveyance of his whole interest ↓ merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled

- ↱ partnership may either remain or be dissolved
- ↗ assignee does not necessarily become a partner
- ↘ assignee cannot interfere in the management or administration of the partnership business or affairs
- ↳ assignee cannot demand information, accounting and inspection of the partnership books

↳ **In case of fraud in the management of the partnership**, the assignee may avail himself of the usual remedies.

↳ **In case of a dissolution of the partnership**, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

ARTICLE 1814. REMEDIES OF SEPARATE JUDGMENT CREDITOR OF A PARTNER
The court may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the

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partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

Redemption of interest charged may be any time before foreclosure

1) With separate property, by any one or more of the partners; or
2) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

Nothing in this Title shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

SECTION 3

OBLIGATIONS OF THE PARTNERS WITH REGARD TO THIRD PERSONS

ARTICLE 1815.

Every partnership shall operate under a firm name, which may or may not include the name of one or more of the partners.

↳Those who, not being members of the partnership, **include their names** in the firm name, shall be **subject to the liability of a partner**.

ARTICLE 1816.

All partners ↗ liable pro rata with all their property and after all the partnership assets have been exhausted, for contracts entered into the name of the partnership

All partners ↘ any partner may enter into a separate obligation to perform a partnership contract

CHAPTER 3: DISSOLUTION AND WINDING UP

WHAT IS DISSOLUTION?

ARTICLE 1828

- the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business

ARTICLE 1829

- partnership is not terminated, but continues until the winding up of partnership affairs is completed

WHAT CAUSES DISSOLUTION?

ARTICLE 1830

(1) Without violation of the agreement between the partners:
   a. By the termination of the definite term or particular undertaking specified in the agreement;
   b. By the express will of any partner, who must act in good faith, when no definite term or particular undertaking is specified;
   c. By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking;
   d. By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this article, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) When a specific thing, which a partner had promised to contribute to the partnership, perishes before the delivery; in any case by the loss of the thing, when the partner who contributed it having reserved the ownership thereof, has only transferred to the partnership the use or enjoyment of the same; but the partnership shall not be dissolved

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by the loss of the thing when it occurs after the partnership has acquired the ownership thereof;
(5) By the death of any partner;
(6) By the insolvency of any partner or of the partnership;
(7) By the civil interdiction of any partner;
(8) By decree of court under the following article. (1700a and 1701a)

WHEN SHALL THE COURT DECLARE DISSOLUTION?

ARTICLE 1831.

(1) A partner has been declared insane or is shown to be of unsound mind;
(2) A partner becomes incapable of performing his part of the contract;
(3) A partner has been guilty of conduct that affect prejudicially the carrying on of the business;
(4) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him;
(5) The business of the partnership can only be carried on at a loss;
(6) Other circumstances render a dissolution equitable.

On the application of the purchaser of a partner's interest under article 1813 or 1814:
(1) After the termination of the specified term or particular undertaking;
(2) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued. (n)

DOES THE DISSOLUTION TERMINATE ALL THE AUTHORITY OF ANY PARTNER TO ACT FOR THE PARTNERSHIP?

ARTICLE 1832.

Yes, except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished. dissolution terminates all authority of any partner to act for the partnership:

1 With respect to the partners,
   a. When the dissolution is not by the act, insolvency or death of a partner; or
   b. When the dissolution is by such act, insolvency or death of a partner, in cases where article 1833 so requires;
2 With respect to persons not partners, as declared in article 1834.

DISSOLUTION CAUSED BY THE ACT, DEATH OR INSOLVENCY OF A PARTNER

ARTICLE 1833.

each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or
(2) The dissolution being by the death or insolvency of a partner, the partner acting for the partnership had knowledge or notice of the death or insolvency.

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