



WRITTEN PARTNERSHIP AGREEMENTS - WHY ALL PARTNERSHIPS SHOULD HAVE ONE

Many farming businesses and other small businesses trade as a partnership. A Partnership can exist simply by agreement between the parties and business partnerships that operate without a written agreement are governed by the Partnership Act 1892 (NSW).

It can be important to have a written partnership agreement to supplement what this Act provides for many reasons, the least of which is to set out the terms of the agreement between the parties. Some of the more important, practical reasons why a partnership agreement should be in writing are:

- The Partnership Act states that the partnership ends immediately on the death of one of the parties. If the business of the partnership was to continue after the death of one of the parties, even for a short period, it would be necessary to:
 - Obtain a new ABN
 - Obtain a new tax file number
 - Open new bank accounts

A written partnership agreement which provides that the partnership continues between the surviving partner and the estate of the deceased partner can avoid these hassles and create taxation advantages for the surviving partners.

- The Partnership Act states that all profits are distributed in accordance with the share of each partner. For example, if a partner holds a 50% interest in the partnership, then they must be distributed 50% of the profit or loss each year.

A written partnership agreement can include a clause that allows one or more partners to be paid a 'salary'. This can be advantageous from a taxation perspective as it creates flexibility in distributing profits of the partnership. For example, if one partner works in other paid employment, adding a 50% share of the profit to their income could put them into a higher tax bracket. With a salary clause in a written partnership agreement, the partner who works more in the business could be given a greater share of the profits through payment of a salary, thereby keeping all in the taxation at the lower tax rate.

To discuss the advantages of a written partnership agreement or to arrange for a partnership agreement to be drawn up for your business partnership, contact one of our helpful staff members for assistance.