

810-3-24-.04 Transactions between Partner and Partnership.

(1) A partner who engages in a transaction with a partnership other than in his capacity as a partner shall be treated as if he were not a member of the partnership with respect to such transaction. In all cases the substance of the transaction will govern and not its form. The relationship between a partner not acting in his capacity as a partner and the partnership may include, but is not limited to, that of creditor-debtor, vendor-vendee and employee-employer.

(2) To the extent determined without regard to the income of the partnership, payments to a partner for services or for the use of capital shall be considered as made to one who is not a member of the partnership. Such guaranteed payments to partners shall be treated as a deductible business expense in the computation of the partnership net income.

(3) (a) Gain or loss will be recognized by a partner on a contribution of property to a partnership in exchange for an interest in the partnership to the extent provided in § 40-18-8.

(b) 1. Gain or loss will be recognized by a partnership on a distribution of property to a partner to the extent provided in § 40-18-8.

2. Gain or loss will be recognized by a partner on a distribution of property from a partnership to the extent provided in § 40-18-8.

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