



WHAT KIND OF BUSINESS STRUCTURE IS RIGHT FOR MY BUSINESS?

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Business formation law in the United States is regulated by state authorities and most state business formation laws are very similar. A few federal laws affect business formation such as federal tax laws and employment laws. Popular business entities include the following:

Sole Proprietorships are a form of business in which one person owns all of the assets of the business in his or her name and has sole responsibility for managing the business. Often, these are businesses that require minimal amounts of capital.

A sole proprietorship is not a separate legal entity, like a partnership or a corporation, and as such, no legal formalities are necessary to create this form of business, other than appropriate licensing to conduct business and registration of a trade name if it differs from that of the owner. Because a sole proprietorship is not a separate legal entity the sole proprietor must report income and expenses from the business on her or his own personal federal income tax return.

Often a major concern for persons organizing a business enterprise is limiting the extent to which their personal assets, unrelated to the business itself, are subject to claims of business creditors. A sole proprietorship gives no protection because the

personal liability of the sole proprietor is generally unlimited. Both the business assets and the personal assets of the business owner are subject to claims of the business's creditors.

General Partnerships are a joint business in which responsibility for management, profits, and, most importantly, the liability for debts is shared by the general partners. Anyone entering into a general partnership must remember that each general partner is liable for all of the debts of the partnership. Furthermore, any partner alone can bind the partnership on contracts. In essence, a general partnership is a collaboration between two or more sole proprietors. Partnerships only succeed when the partners get along and share the same vision for the business. Ideally, each partner will bring a different expertise to the business.

Limited Partnerships are a special type of partnership which are very common when people need funding for a business, or when they are putting together an investment in a real estate development. A limited partnership requires a written agreement between the business management, who are general partners, and all of the limited partners. Each limited partner makes an investment

of funds into the partnership and is supposed to receive a predetermined share of the profit. The maximum number of limited partners is sometimes set by state law to prevent using interests in the limited partnership as if they were shares of stock in a corporation. In addition to priority in profit, tax deductions, and potential share in the success of the enterprise, the limited partner is "limited" in potential loss, since all he or she can lose is his or her investment, and the general partners alone are subject to claims and lawsuits against the partnership. One important feature to a limited partnership is that by law, the limited partner can have no decision making authority in the operation of the business; that rests solely with the general partners.

Corporations are an organization formed with state governmental approval to act as an artificial person to carry on business, which can sue or be sued, and can issue shares of stock to raise funds with which to start a business or increase its capital. Ownership of shares of stock represents ownership of the business. Corporations become separate legal entities from their owners, so liability for debts or damages caused by the business are limited to the company's assets. There

are two primary types of corporations: S Corporations and C Corporations. The biggest differences between these types of corporations have to do with how stocks are held and how taxes are assessed.

Limited Liability Company (LLC) is a non-corporate business entity whose owners actively participate in the organization's management and are protected against personal liability for the organization's debts and obligations. The LLC is a hybrid legal entity that has both the characteristics of a corporation and of a partnership. An LLC provides its owners with corporate-like protection against personal liability. It is, however, usually treated like a general partnership for tax purposes. In recent years, LLCs have become much more popular for small businesses than the use of corporations.

Business formations can be simple or difficult depending on many factors. The assistance of an attorney and/or accountant may be helpful in choosing what business type to use and establishing the business entity.



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