



Anthony J. Madonia & Associates, Ltd.
Legal. Business. Tax. Estate. Planning.

Starting a Business is a Journey

ENTITY FORMATION

One of the most important business decisions you make when starting a new business is determining the appropriate legal structure. Your legal structure determines the tax rate, documentation requirements, company and personal liability, and the ability to raise money.

FORMS OF OWNERSHIP

C-CORPORATION

- Independent legal and tax structures separate from owners
- Protects personal assets from business debts
- No limit on number or type of shareholders
- Taxed on corporate profits and shareholder dividends
- Must hold annual meetings and record meeting minutes

S-CORPORATION

- Independent legal and tax structures separate from owners
- Protects personal assets from business debts
- Owners report their share of company profit and loss on personal tax returns
- Limits on number and type of shareholders (must be US citizens or residents)
- Must hold annual meetings and record meeting minutes

LIMITED LIABILITY COMPANY (LLC)

- Independent legal structures separate from owners
- Protects personal assets from your business debts
- Taxed similarly to a sole proprietorship (if one owner) or a partnership (if multiple owners)
- No limit to the number or type of owners
- Not required to hold annual meetings or record minutes
- Governed by operating agreement

LIMITED PARTNERSHIP

- General partners are personally liable for business debts and lawsuits filed against the business; limited partners are not
- State filings required to form a limited partnership
- Not taxed at entity level
- Owners report their share of company profit and loss on personal tax return

GENERAL PARTNERSHIP

- No state filings required
- Partners have unlimited liability
- Not taxed at entity level
- Dissolves upon death of any partner

HOW TO ESTABLISH A BUSINESS ENTITY

- Identify the proper entity for your situation
- Register with the state; if needed
- Prepare formation documents and agreements
- Apply for a federal trademark (optional)
- Obtain a Federal Employment Identification Number
- Determine your liability for unemployment tax
- Satisfy local licensing requirements

Business Structure Basics

Characteristics	C-Corporation	S-Corporation	LLC	Limited Partnership	General Partnership
Ownership	1 or more stockholders; No restrictions	1 - 100 stockholders, U.S. citizens; Converts to C-Corp if failure to meet requirements	1 or more members; No restrictions on owners	2 or more partners (1 general; 1 limited); No restrictions on owners	2 or more partners; No restrictions on type
Equity and Restrictions	Basic equity is capital stock, Two types of capital stock: Common and Preferred; Multiple and Series, Distributions proportionate to stock ownership	Basic equity is common (capital) stock; Different voting rights; Distribution proportionate to stock ownership	Basic equity is percentages or units of membership interests; Multiple classes & series; Distributions can vary; Distribution, liquidation, voting preferences specified in LLC agreement	Basic equity is partnership interests: General Partner (Mgmt) & Limited Partner (Silent); 1 General Partner required; Distribution specified in agreement	Basic equity is partnership interests: All partners are general partners; Distribution proportionate to interest
Taxation	Taxed at Corporate & Stockholder Levels	Taxed at Stockholder Level Only	Taxed at Member Level Only; Taxed as C-Corp if Publicly Traded	Taxed at Partner Level Only; Taxed as C-Corp if Publicly Traded	Taxed at partner level only
Liability	Stockholder liability limited to capital contribution	Stockholder liability limited to capital contribution	Member liability limited to capital contribution	Limited partner liability limited to capital contribution; General partner liability unlimited	Unlimited liability for all partners
Management	Stockholders elect board of directors (BOD), BOD elects officers to manage day-to-day business; Certain decisions require stockholder vote	Stockholders elect board of directors (BOD), BOD elects officers to manage day-to-day business; Certain decisions require stockholder vote	Members decide general business direction; Delegate day-to-day management; Certain decisions require member approval	General partner manages the company; Certain decisions require limited partner approval; Power of general partner may be limited; Silent investors cannot participate in management	General partners manage the company; Voting power proportionate to interest or by agreement
Employee Considerations	Stock options & other equity can be granted; May qualify as incentive stock options	Stock options & other equity can be granted; May qualify as incentive income	Incentive stock options not available; Profit and other equity interests may be granted	Incentive stock options not available; Profit and other equity interests may be granted	Incentive stock options not available; Profit and other equity interests may be granted
Raising Capital	Issue stock or incur debt; Private placement or public stock offering; Limited number of shares; Dilution restrictions	Issue stock or incur debt; Stock only private placement; Must convert to C-Corp when going public	Issue membership interests (private placement) or incur debt; Membership interests mirror types of stock; Dilution restrictions	Issue partnership interests (private placement) or incur debt; Dilution restrictions	Issue partnership interests (private placement) or incur debt; Dilution restrictions



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Questions about the Entity Formation Process?

Contact Us Today.

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