



# Types of LLCs

# What is an LLC?

- An LLC is an abbreviation for Limited Liability Company.
- A Limited Liability Company is a business structure formed under specific state statutes.
- This formal business structure is the simplest to form and maintain.
- It is a hybrid of a partnership and a corporation.
- It is a separate legal entity from its owners (known as “members”).
- The main benefit is, as the name suggests, limiting liability of the owners.
- The other advantage is that profits are taxed as personal income, and this is usually lower than what corporations pay.

# Benefits of Forming an LLC

- **Simplicity** – The business registration paperwork to form an LLC is minimal as are the ongoing filing requirements.
- **Personal Liability Protection** - Because an LLC is considered a separate legal entity from its members, its financial and legal responsibilities are also its own.
- **Financing and Credit** - Financing can be easier to obtain because the LLC is a formal legal entity with known assets and obligations.
- **Tax Treatment Options** - By default, an LLC is considered a “disregarded entity” for tax purposes. As such, income tax is applied in the same way as it is to sole proprietorships and partnerships.
- **Management Flexibility** - An LLC may be either member managed or manager managed.

# Personal Liability Protection

- **Your LLC's Debts** – Your LLC's creditors can go after your LLC's bank accounts and other property, but they can't touch your personal property, such as your personal bank accounts, home, or car.
- **Actions of LLC Co-Owners and Employees** - The owner or employee who committed the act might also be personally liable for his or her actions but a co-owner of the LLC who was not involved in the act or wrongdoing would not be.
- **Your Own Actions Related to the Business** - Forming an LLC will not protect you against personal liability for your own negligence, malpractice, or other personal wrongdoing that you commit related to your business.
- **Other Member's Personal Debts** - An LLC's money or property cannot be taken by creditors of an LLC's owner to satisfy personal debts against the owner.

# LLC Structures



# LLC Structure Options

- Single-Member vs. Multiple-Member
- Member-Managed vs. Manager-Managed
- Domestic vs. Foreign
- LLC vs. PLLC

# Single-Member LLCs

- **Ownership** - A single-member LLC has one owner, who has full control over the company.
- **Management** - A single-member LLC has one member, who is also considered the manager.
- **Personal Asset Protection** - The single-member LLC protects the owners' personal assets, however, owners might be held personally responsible in situations such as fraud or unpaid debt.
- **Income Tax Treatment**
  - For federal income tax purposes, a single-member LLC is treated the same as a sole proprietor.
  - The IRS refers to Single Member LLCs as a “Disregarded Entity” in that the LLC is disregarded and the LLC’s activities are reported on Schedule C, E or F.
  - IRS disregards Single Member LLCs for tax purposes. For example, in a rental property the single member reports the income on schedule E, Form 1040 if an LLC or not.
- **Compliance** - A single-member LLC will have less-complex requirements.

# Multiple-Member LLCs

- **Ownership** - A multi-member LLC has two or more owners (members) that share control.
- **Management** - Owners of a multi-member LLC, however, must decide if they would like the business to be member-managed or manager-managed.
- **Personal Asset Protection** - The multi-member LLC protects owners' personal assets, however, owners might be held personally responsible in some situations such as fraud or unpaid debt.
- **Income Tax Treatment** - For federal income tax purposes, a multi-member LLC is treated as a partnership.



# Member Managed vs. Manager Managed

- A member-managed LLC is used when all members participate in running the business.
- A manager-managed LLC is used when only certain members, designated nonmembers, or a combination of the two, handle running the business.
- Most multi-member LLCs choose the member-managed LLC option.
- Most states consider an LLC to be member-managed unless specified on the company's Articles of Organization.
- For manager-managed LLCs, an LLC's Articles of Organization must specify that it will operate as a manager-managed LLC, and it should have an operating agreement that defines the roles and responsibilities of its managers and members.

# Domestic vs. Foreign LLC

- Domestic and foreign in this context refers to the state where the LLC is created.
- A company which is registered as an LLC in Michigan and which does business in Michigan is operating as a domestic LLC.
- If the same company is doing business in Illinois (a physical presence), it is operating as a foreign LLC in the other state.
- This commonly comes up when LLCs are formed in states with business-friendly tax laws but do business in their home State. It may also occur when a business starts expanding into other States.
- A foreign LLC is required to register with the Secretary of State in the foreign State. The LLC certificate (and other documents) issued by the home State will be needed.

# LLC vs. PLLC

- A PLLC is a professional limited liability company.
- These exist in States that require LLCs composed of state license holders to use this category. They differ from regular LLCs in that only a license holder (doctor, lawyer, others) may register the company and there may be limitations on ownership.
- Some states require all of the members have the specific license for the service offered while in others it may be as low as 50% professional ownership.
- In all states that require PLLCs, notification and approval of the State regulatory board for that profession must be obtained.
- Difficulties arise when a licensed member dies, loses their license or wishes to exit the PLLC. In some cases, the company has to be dissolved (and perhaps recreated). Transfer of ownership in a sale may also have restrictions at the state level.

# S Corporation vs. LLC

## Ownership Eligibility

- The eligibility requirements to become an S Corporation shareholder are more restrictive than those for an LLC.
- To elect tax treatment as an S Corp, an LLC must be a domestic company with owners who are individuals, certain trusts, or estates.
- Partnerships, corporations, and non-resident aliens may not be S Corp shareholders.
- Other restrictions on S Corps are a limit of only up to 100 shareholders and the stipulation that they issue only one class of stock.

## Liability Protection

- Both the LLC and S Corp protect business owners' personal assets.
- However, a court might rule that an LLC's members or S Corp shareholders are personally responsible for debts and legal issues of the business if they acted fraudulently, personally guaranteed business loans, or were negligent or reckless in some way that caused harm.

# S Corporation vs. LLC

## Business Income

- To get paid by the business, LLC members take money out of their share of its profits.
- An S Corporation's owners (called "shareholders") who do substantial work for the S Corp are considered employees and must be on the company payroll.

## Pass-Through Taxation

- By default, an LLC is considered by the IRS to be the same tax-paying entity as its owners. LLC members are responsible for income tax and self-employment taxes (Social Security and Medicare) on their company profits.
- With S Corp tax treatment, LLC members still have pass-through taxation. However, the owners only pay Social Security and Medicare taxes on their wages and salaries from the business. Income taken as distributions is not subject to self-employment taxes.

# LLC Formation & Compliance



# Here's How You Can Help Clients Form a New LLC

- File articles of organization with the state
- Designate a registered agent
- Create an operating agreement
- Obtain an EIN (employer identification number)
- Request foreign qualification if operating in multiple states
- Obtain business licenses and permits
- Register for sales tax (applies to most states)
- Register for payroll taxes (if you have employees)

# Here's How You Can Help Clients Keep Their LLC Compliant

- Maintain a registered agent
- File an annual report
- Hold an annual meeting and record minutes of meetings
- Renew business licenses and permits
- Filing Articles of Amendment to notify the state of any significant changes to the business entity



# CorpNet Tools Are Your Resources

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