



**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
<b>Ownership</b>	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
<b>Equity and Restrictions</b>	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
<b>Taxation</b>	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
<b>Liability</b>	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
<b>Management</b>	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
<b>Employee Considerations</b>	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
<b>Raising Capital</b>	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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