

What Corporate Entity Should I Choose?



A very common question that I am asked by clients is what corporate entity is right for them and what is the difference between a partnership, LLC, corporation, etc. A brief summary of some of the different types of business organizations follows:

Sole Proprietorship

In a sole proprietorship, the individual owner controls all assets used in the business and retains all profits of the business. A sole proprietorship is easy to form, simple to operate and subject to minimal regulation. The IRS considers the sole proprietorship and the owner one legal entity. Therefore, the owner reports all of the business's profits and debts on his or her own personal tax return. The owner is also fully responsible for any liability that the business may incur. His or her personal assets are not protected from the business' creditors. Likewise, any of the owner's personal creditors may pursue the business' assets in order to satisfy the owner's personal debt.

Partnerships

A partnership is basically an association of two or more people to operate a business for profit. A partnership is classified as either a general or a limited partnership. To form a general partnership, the parties must simply agree to enter a partnership, either orally or in writing. General partners are subject to personal liability for the debts and obligations of the partnership. General partners are generally entitled to participate fully in the management of the partnership and owe a fiduciary duty to one another. Limited partnerships must be organized under a state's laws, which may include filing a certificate of a limited partnership. A limited partnership is made up of one or more general partners and one or more limited partners. Limited partners cannot generally exercise much control over the business and their liability is limited to their investment in the business.

A registered limited liability partnership (LLP) is a partnership in which partners, with some exceptions, are not liable for damages caused by tortious acts or misconduct by the other partners. Professional partnerships, such as law and accounting firms, often elect to become LLPs because of the additional protections provided by this structure.

Corporations

A corporation is created by filing the required documents with the Secretary of State. By incorporating a business, a separate legal entity is formed. This separation shields the shareholders from any liability for debts and other obligations of the corporation. A corporation typically has a board of directors, elected by the shareholders, which oversees the strategy and dealings of the business. The board selects officers to oversee day-to-day management of the corporation.

Limited Liability Companies

A limited liability company (LLC) is a non-corporate entity. The members of an LLC have limited liability and can participate in management and control of the business. The LLC is a relatively new business structure that has been increasing in popularity. The main purpose of the LLC is to provide individuals with a business entity that avoids some of the complicated regulations of a corporation, but still provides its owners with limited liability. The LLC owners are only liable for the amount that they have invested in the LLC. They are not liable for any further liabilities or obligations of the LLC. An LLC is generally taxed like a partnership and does not pay separate federal income taxes.

Other Types of Business Organizations

Business Trusts

A business trust is an unincorporated business entity in which property is transferred to trustees. Beneficial owners, who hold certificates similar to stock certificates in a corporation, manage this property for them.

Joint Ventures

A joint venture is similar to a general partnership. It is an association of two or more people or entities who contribute money, property, skills or other assets to a separate entity to pursue a particular undertaking.

Non-profit Corporations

The main goal of non-profit corporations is to advance a particular purpose or objective, generally public, religious or charitable in nature. Non-profit corporations are formed according to state statutes.

The above is a short summary of what can be the most important question when forming a new business entity. For further detailed information as to corporate formation and the differences between corporate entity forms, please contact Bullard Law at [407-956-1166](tel:407-956-1166) or admin@bullard-law.com.