



Article 162

November 8, 2010

## **Limited Liability Format Appeals to Many New Businesses**

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Many businesses new to the game choose to organize as a limited liability company, or LLC — a hybrid of a partnership and corporation that attempts to reap the benefits of both. The owners in an LLC are called members, and each member holds a membership interest — similar to stock or shares — in the company. These membership interests are sometimes broken down into units.

As with a corporation, an LLC can have classes of membership interests, each with varying rights and preferences. Most important to members of an LLC: They usually are not personally liable for the LLC's obligations.

### **Choice and flexibility**

An LLC can operate in any commercial area and is often used as a holding company for differing sub-entities.

Unlike other types of companies, a limited liability company can choose how it would like to be taxed: as a partnership, S corporation or C corporation. Most LLCs choose to be partnerships (if there is more than one member) or S corporations so the LLC's profits and losses can flow through to the members. Few LLCs choose to be taxed as a C corporation because C corporations are subject to double taxation — shareholders are taxed on dividends, and the corporation's profits also are taxed before dividends are distributed.

Most states do not require LLCs to submit ongoing regulatory filings beyond the initial articles of organization or certificate of organization. This money-saving feature of an LLC can make it an attractive entity for a new business. But if a business owner needs to raise venture capital, she probably will need to convert the LLC into a corporation at some point. Most investors prefer dealing with a corporation because a corporation has a more formal structure with more oversight.

### **Managing an LLC**

An LLC can be managed by a manager or by the members, who are then referred to as "managing members" or "member-managers." A manager doesn't have to be a member of the LLC.

As with partnerships, all members of an LLC should sign on to a comprehensive operating agreement — analogous to a partnership agreement — that outlines the members' management responsibilities, contribution amounts, allocation of expenses, distributions, management authority and limitations, dissociation, buyout rights, dispute resolution, admission of new members and dissolution procedures. Relying on oral agreements among members or with outside parties is one of the most common mistakes of unseasoned business owners and can result in confusion, misunderstandings and litigation.

Regardless of what form a business chooses to take, all of its owners should protect their individual and mutual interests by maintaining comprehensive, organized, written records and documentation. They should also consult attorneys and accountants for advice on the risks and rewards of different LLC formats.

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