

Business Structures: Which One is Right For You?

One of the many decisions facing business owners is deciding the proper business structure under which to do business. There are significant legal and tax consequences you need to contemplate. Here are some areas you should consider before selecting an appropriate form of doing business (Sole Proprietor, Partnership, C and S Corporation, or LLC/LLP). Feel free to contact our office for more information or assistance.

There are significant legal and tax consequences to contemplate when deciding on the proper business structure.

ATTRIBUTE	SOLE PROPRIETOR	PARTNERSHIP	C CORP.	S CORP.	LLC*/LLP
Continuity of Life	Ceases on owner's death	Terminates if 50% or more of business interest is sold/exchanged in 12 months	Indefinite	Indefinite	Limited
Owner's Liability	Unlimited	Depends on structure but general partners have unlimited liability	Limited to assets in corp. even if owners participate in management	Limited to assets in corp. even if owners participate in management	Limited to contribution even if owners participate in management.
Management	Centralized	Depends on structure	Centralized	Centralized	Depends on structure
Interest Transferability	Easy	Generally restricted unless authorized by agreement	Can be restricted through buy/sell approval agreements; most effective and flexible	Can be restricted through buy/sell approval agreements; most effective and flexible	Restricted typically requires approval of majority of members
Taxability of Income	Taxed to owner	Taxed to partner, special allocations possible	Taxed to corp. Distributions to owners are taxed again.	Taxed to shareholder	Taxed to members, special allocations possible
Tax Year	Use tax year of owner	Calendar year	May select fiscal year	Generally calendar year	Calendar year
Deductibility of Losses	Deducted by owner	Deducted by partner, up to basis special allocations possible	Deducted by corporation	Deducted by shareholder	Deducted by member up to basis, special allocations
Distribution to Owners	Non-taxable	Non-taxable unless cash distribution in excess of basis	Non-deductible by corp. Generally, ordinary income to shareholder	Non-taxable to extent of basis in stock; special rules apply to former C Corps.	Non-taxable unless cash distribution in excess of basis
Gain on Sale of Ownership	Capital and/or ordinary	Capital and/or ordinary	Capital	Capital	Capital and/or ordinary
Loss on Sale of Ownership	Capital and/or ordinary	Generally, capital	Ordinary to extent of Section 1244 stock; otherwise, loss is capital	Ordinary to extent of Section 1244 stock; otherwise, loss is capital	Generally, capital
Liquidating Distribution	Non-taxable	Generally, tax free unless cash in excess of basis is distributed	Taxed to shareholder	Generally, taxed to shareholder	Generally, tax free unless cash in excess of basis is distributed

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* Treated as a partnership for tax purposes