Business Organization Structure

Choosing the organization structure of your business is an important decision. Therefore, the advice of an attorney can be especially valuable. The organization selected should be based not only on the immediate needs of the business but what is anticipated for the future. The form of business is also important from a tax and personal liability standpoint. The three principal forms of business structure are the sole proprietorship, the partnership, and the corporation. LLC and Sub-Chapter S are varieties of a corporation.

Refer to the table below for characteristics, advantages and disadvantages for each.

	Business Structures-Advantages & Disadvantages			As of 10/13/09
Preferred Business Structure	Sole Proprietor	Partnership	Corporation (S or C)	Limited Liability Company
Tolerance for Liability	Sole-owner business where taxes or product liability are not a concern	Business with one or more people where taxes or product liability are not a concern	Sole or multiple-owner business where owner(s) need company-funded fringe benefits and liability protection	Sole or multiple-owner business where owner(s) need limited liability but want to be taxed as a partnership
Number of Owners	One	Two or more to be classified as a partnership	1-75 for S Corp; More than 1 for C Corp	One or more (initially, and can be classified as a partnership)
Type of Owners	Individual	Any	S Corp limited to U.S. residents and citizens and to certain trusts/estate; Any for C Corp	Any
Attributes of Entity	Inseparable from owner	Inseparable from owner but can have debt or property in its name	Separate legal entity	Separate legal entity
Major Advantages	Inexpensive to form. Few administrative duties	Inexpensive to form. Few administrative duties	Limited liability. Capital is easy to raise through sale of stock. Company-paid fringe benefits (C only). Tax savings through income splitting (C only)	Limited liability as a corporation. Capital is easy to raise through sale of interests. Pass-through taxation like a partnership. Unlimited number of owners
Major Disadvantages	No tax benefits. Unlimited liability. Business dissolves upon death of owner	No tax benefits. Unlimited liability, also liable for partners' acts. Legally dissolves upon death or change of a partner	Can be costly to form. More administrative duties. S Corp must have fewer than 100 shareholders	Can be costly to form. More administrative duties
Liability and Tax	Owner is responsible.	Partners are responsible.	C Corp pays taxes and	Deductibility of Losses

Reporting	File Schedule C with form 1040	File form 1065	files form 1120. S Corp passes taxes thru to owner and files 1120S	
Deductibility of Losses	Losses may be used by owner subject to passive loss rules	Partnership losses passed thru to partners subject to at-risk rules and passive loss rules	Do not pass thru to shareholders (C Corp). Passed thru to shareholders subject to at-risk rules for S Corp	Same as partnership
Choice of Fiscal Year	Calendar year	Must be same as principal partners unless IRS consents	No restrictions for C Corp. S Corp must use calendar year or show a business reason for other fiscal period	Same as partnership
Cost of Formation	Nominal	None for general partnership. $50 filing fee for limited partnership	$250 filing fee. $20 annual report fee (online); $25 (hard copy)	$250 filing fee $200 annual report fee (minimum)
How Register	County Register of Deeds	County Register of Deeds	Secretary of State and County Register of Deeds	Secretary of State and County Register of Deeds