

## **Thinking of forming an LLC?**

### **What is an LLC?**

An LLC is a Limited Liability Corporation. It is an entity, a corporation, created through the Secretary of State of Ohio. LLCs can be recognized by either “LLC” or “Ltd” or “Limited Liability Company” as part of the company name.

### **How do I set up an LLC?**

An attorney can set an LLC for you. Also, there are companies on-line that will set up an LLC for you for a fee. And you can do it yourself. The Secretary of State of Ohio website (<http://www.sos.state.oh.us/>) has the forms you need to complete to form an LLC. If you have questions throughout the process, they are usually very helpful. Ohio charges a fee of \$125 to file the Articles of Incorporation.

### **Does it give me any liability protection? Can I be sued?**

An attorney can best answer these questions. You may gain some liability protection by forming an LLC, but the amount of protection probably depends on the type of business and the type of damage / negligence that occurred. An attorney can best answer your specific concerns regarding your specific business. Often, if you are the owner and the only worker, and you make the mistake, you may be liable despite the LLC.

### **What effect does it have on my tax situation?**

The IRS considers LLCs “disregarded entities”. That means they have very little effect on your taxes. You can elect a variety of tax treatments.

For a single-member LLC, the default tax treatment is to be taxed as a sole-proprietor. Business income and expenses are reported on Schedule C. This all is part of your individual tax return, exactly the same way as if you were not an LLC.

For an LLC with more than one owner / member, the default tax treatment is to be taxed as a Partnership. This requires a separate tax return, Form 1065. Each member will receive a K1 for their share of the profit or loss from the

business. This will cost more for tax preparation, because an additional return must be created. Just like a single member LLC, each member's taxable income should be the same as if they were not an LLC.

**Are there any tax advantages?**

For any LLC, you can elect different tax treatment than the defaults listed above. You can elect to be taxed as a C or an S Corporation. S Corporations do offer some tax breaks for profitable companies. Some of the profit of the company can be *distributed* to the shareholders, rather than paid out as *compensation*. These distributions are taxable income to the shareholder, but are not subject to Self-Employment tax (15.3% rate). Beware: These rules can be tricky and it is loophole that the IRS is aware of. They watch S Corporations carefully to make sure compensation is being paid.

**Are there any disadvantages?**

Some states do not recognize the LLC status at all, so you would most likely have no liability protections in those states.

Also, when you create this entity, you must take steps to dissolve the entity when your business ends; you can't just stop. Many people forget to dissolve their corporation, and end up paying various fees for not filing tax returns, etc.

**Conclusion**

Think about your business and where it is going. Talk with an attorney to find out if the LLC will really give you the protection you seek. And lastly, consider the costs. There are costs of forming the LLC, possibly additional tax returns to file, and a cost if you need to dissolve the corporation.

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