

FINDING YOUR IDENTITY

Legal Forms of Business Organization

LEGAL STRUCTURE	ADVANTAGES	DISADVANTAGES
<p>Sole Proprietorship</p>	<ul style="list-style-type: none"> ~ Ease of formation. ~ Sole ownership, control, and decision making. ~ Flexibility in responding to business requirements. ~ Minimal legal restrictions. ~ Minimal start-up and continuation costs. 	<ul style="list-style-type: none"> ~ Unlimited liability ~ Difficult to access to capital and financing ~ Limited viewpoint or experience may constrict decision making ~ Hard to attract some highly skilled, entrepreneurial employees ~ Continuity of business difficult upon illness or death of owner
<p>General Partnership</p>	<ul style="list-style-type: none"> ~ Ease of formation. ~ Flexibility in management still possible. ~ Broader management base than sole proprietorship. ~ Direct share of profits by partners. ~ Profits and losses are available to partners on their individual returns. ~ Minimal legal constraints and reporting to government. 	<ul style="list-style-type: none"> ~ Each partner has unlimited liability for all debts and liabilities of business. <ul style="list-style-type: none"> * Liability for debt can be minimized by electing Limited Liability Partnership status, which requires annual filings and expenses. ~ Each partner acting alone has power to bind business and other partners. ~ Profits and losses flow through to individual partners, which may be disadvantageous. ~ Continuity of business difficult upon death or withdrawal of partner.
<p>Limited Partnership</p>	<ul style="list-style-type: none"> ~ Obtain equity without surrendering control to investors. ~ Good structure to raise investment capital. ~ Business continues without interruption upon death of limited partner or transfer of limited partner interest. ~ Direct participation in profits. ~ Limited partner's risk is limited. ~ Tax advantages are the same as a general partnership. 	<ul style="list-style-type: none"> ~ Greater formality required in organizing, which increases costs. ~ Greater reporting requirements. ~ Limited partners have no voice in management. ~ One general partner is required to assume unlimited liability. ~ Securities laws apply. ~ Death or withdrawal of general partner can cause dissolution of partnership. ~ Same tax disadvantages as general partnership.

Courtesy of the Albuquerque Small Business Development Center.

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Corporation	<ul style="list-style-type: none"> ~ Limited investor liability. ~ Transferability of ownership. ~ Perpetual existence - not affected by death or disability of any shareholder. ~ Access to investment capital. ~ Delegated authority to hired management. ~ Tax favored fringe benefits - although changes in tax laws are minimizing the differences with other forms of doing business. ~ S Corporation election to alter tax impact (S Corporation tax functionality is very similar to partnership and eliminates double taxation issues). 	<ul style="list-style-type: none"> ~ Relatively high costs of organizing. ~ Regular reporting requirements to government. ~ Statutory formalities must be observed for decision making and action. ~ Control is vested in board of directors, not shareholders. ~ Securities laws apply. ~ Individual shareholders are frequently called upon to guarantee corporate debt, thus limiting the benefit of limited liability. ~ Must qualify to do business in other states. ~ Double taxation. ~ Dissolving the corporation can be expensive.
Limited Liability Companies (LLC)	<ul style="list-style-type: none"> ~ Limited liability of members. ~ Free transferability of ownership without affecting continued existence (this is different than "admission" to LLC). ~ Perpetual existence (if elected) - not affected by death or disability of any member (but member ceases to be a member upon death). ~ Structure for transacting business that involves members - on a day to day basis or like a corporation. ~ Option on method of taxation - corporation or partnership treatment. ~ Flexibility in raising capital through sale of various securities (classes of membership interest). ~ New Mexico allows for single member LLC, where some states don't recognize. 	<ul style="list-style-type: none"> ~ Relatively high costs of organizing (requires articles like a corporation and an operating agreement like a partnership). ~ Regular reporting requirements to government. ~ Control can be vested in less than all members (this could be an advantage as well). ~ Securities laws apply. ~ Individual members are frequently called upon to guarantee debt, this limited benefit of limited liability. ~ New entity - many undecided legal and tax issues.

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