

“What’s An LLC?”

Q: What are limited liability companies (“LLCs”), and what should businesses know about them?

A: LLCs are a new type of business entity that emerged in the early 1990s. They have many important legal and tax characteristics, but the key ones are these:

- Liability shield. LLCs provide their owners (called “members”) with a statutory liability shield that is essentially identical to the corporate shield.
- Informality. However, LLC are much more informal than corporations. For example, if you do business through a corporation, you need to set up and regularly maintain a minute book. If you do business through an LLC, you don’t.
- “Pick-your-partner” and “charging order” provisions. LLC statutes contain asset protection provisions, called “pick-your-partner” and “charging order” provisions, that can prevent creditors and other third parties from obtaining ownership of LLC members’ memberships. Corporations don’t provide these protections.
- Tax benefits. For many start-up businesses, LLCs offer better federal tax benefits than corporations.

Because of the above and other legal and tax advantages, roughly five out of every six New Hampshire business start-ups is formed as an LLC rather than as a corporation or partnership. No one should start a new business or advise business start-ups unless they have at least a basic understanding of LLC law and taxes.

There are many basic questions about LLCs that New Hampshire business owners should be able to answer. I’ll address these and other issues regarding business start-up law and taxes in future columns, among them:

- 1) Should my new single-owner business be a sole proprietorship, a single-member LLC, or a single-shareholder corporation?
- 2) I’ve heard that when you form a New Hampshire LLC, it’s better to form it as a two-member LLC, even if the second member is your spouse. Is this true?
- 3) Should I form my new multi-member LLCs as a multi-member LLC, a multi-shareholder corporation or a partnership?
- 4) Can I form my new LLC by myself; or should I hire a lawyer to help me?
- 5) If I’m starting a new LLC with a friend and we want to have a written agreement between us about our business, can we draft one ourselves, or do we have to hire a lawyer? (Or should we just use a LegalZoom form?)

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