

Limited Liability Company – LLC Document Checklist

The business entity information on the Business Knowledge Center website is intended to provide you with background organizational information on the structure of various business entity types. To ensure legal and accounting compliance, you should review and verify your specific organizational documentation with your lawyer and your accountant.

One of the Entity Structure choices you may choose for your business is a Limited Liability Company or LLC. Creating an LLC requires the submittal of a series of documents to the Secretary of State's office in the State you choose to form your business.

The State will charge a filing fee for processing the incorporation application and reviewing the required organizational documents. Filing fees will vary by State and will typically fall in the \$150.00 - \$500.00 range.

When you set up an LLC, you create a separate legal person in the eyes of the law. The LLC will have a birth certificate in the form of a Certificate of Organization. It will have its own Federal Tax Identification Number. An LLC will typically file a Partnership Federal Tax Return – 1065; but will not pay federal income taxes. The income tax payment requirements will be passed through to the members who own the LLC based on how the LLC organizational documentation defines profits distribution for tax purposes.

Single member LLC's may file a Personal Federal Tax Return – 1040. The individual filing the IRS Form 1040 is responsible for the payment of any federal income tax created by the inclusion of taxable income from the LLC in their personal taxable income calculations.

Common reasons why business owners choose an LLC Entity Structure:

Limited Business Liability – LLC owners do not have personal liability exposure for business entity liabilities. Owners are personally liable for what they have invested in the entity plus anything in addition they have intentionally obligated themselves for or have at risk. This includes any business-related obligation(s) they have personally guaranteed like a loan from a financial institution or a lease from a property owner.

Unlimited Business Life – LLCs have unlimited business life. If the business owner(s) becomes sick, disabled or dies, the LLC does not cease to exist. To achieve pass through tax status, LLCs typically intentionally limit business life expectancy to a defined time period.

Unlimited Number of Business Owners – LLCs can have an unlimited number of owners. Owners are called members. They can have different classes of membership units with different ownership rights. Members can be individuals or other legal person business entities.

Ease of Ownership Transfer – Ownership in an LLC can be easily transferred by the sale of units of membership held by the member. The membership units legally represent their ownership interest in the business. To achieve pass through tax status, LLCs typically restrict ownership transfer.

Capital Formation – Additional equity capital can be raised by selling more membership units to an existing member(s) or an incremental member(s). There is no limit to the amount of capital that can be generated through the sale of equity in the business entity. Different types of membership units with unique ownership rights can be created.

Treated for Tax Purposes as a Pass-Through Tax Entity – LLCs can elect to be treated for federal income tax purposes as a pass-through tax entity. To receive pass through tax status, they must intentionally violate at least two (2) of four (4) key C-Corporation structural characteristics. They can also file a 1120 Corporate Tax Return and pay income taxes on their income like a C Corporation.

Important Documents

(Check off after you have filed, recorded, copied, and stored each item)

Articles of Organization

Document filed with the Secretary of State to create a Limited Liability Company. The Articles list the name, address and principal place of business. They define the business purpose of the LLC, the number of membership units authorized, the name and addresses of the initial Board of Managers elected by the Members, the name of the Registered Agent who will accept official mail and legal papers on the LLC's behalf.

Business Name Reservation Form

Reserves a unique name for the business while you complete the incorporation process.

Membership Agreement

Document that supplements the Articles of Organization that will define how the Members and Managers will organize and manage the day-to-day business activities. The Agreement should address how conflicts between the members will be resolved. It should establish protocols for dealing with departing owners as well as incoming new owners and how profits and losses will be divided.

Certificate of Organization

A Certificate issued by the Secretary of State after all required organizational documentation have been submitted, reviewed and approved and the related filing fees have been paid. It serves as the effective birth certificate for the LLC.

Annual Report

A document required to be filed by the LLC annually with the Secretary of State. This report is required to maintain approval to do business in the State. The report updates information on the business's address, the names and addresses of the members, and the contact information for the Registered Agent. A processing fee is required to be paid.

Certificate of Authority

A Certificate issued by the Secretary of State to an LLC organized in another State authorizing it to do business in the State.

LLC Seal

The LLC should obtain an embossing Seal that is used to create an impression on important LLC documents such as contracts, deeds bank accounts and membership unit certificates. The Seal imprint should include the LLC's name, the date it was formed, and the State where it was formed.

Certificate of Existence/Good Standing

A Certificate issued by the Secretary of State as proof the LLC is currently in good standing and authorized to do business in the State.

LLC Membership Records

Records need to be maintained listing the specific units of membership in the LLC issued and are outstanding. Unit Certificates should be numbered and specify the LLC Name, the Member's Name, the Date of the Sale, and the Signature of the Board Member who authorized the sale of the Unit(s). The individual Unit Certificates should have the Company's Seal affixed. The membership unit records should enable a reconciliation between the number of Units authorized, issued, and presently outstanding.

Board of Managers and Member Meetings Records

Minutes should be recorded for all meetings of the Board of Managers and the Members. These meetings effectively document the LLC's business management decisions. The minutes should record who was in attendance and indicate if there is a sufficient quorum present to vote on and make binding all significant governance decisions on behalf of the LLC. State law requires at least an Annual Meeting of the Stockholders.

Board of Managers' Meetings – Resolutions

Board Resolutions document decisions and show specifically how Directors voted on matters affecting the LLC. It is a good idea to create Board Resolutions for key business management decisions like; approving the sale of additional units of membership, taking out a business loan, electing new Directors or appointing new Managers, acquiring another business, signing a lease, or approving a major new contract with a supplier or a customer.

Federal Tax Return – 1065

Partnership Return if more than one (1) member. 1040 if it is an LLC with a single individual person member.

Registered Agent

Person or business entity named in the Articles of Organization to receive notices or service of process.

Registered Office

The office address where the Registered Agent must be located during business hours.

Certificate of Existence/Good Standing

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