LLC Business Structures

A limited liability company is a popular business structure because it combines the liability protection offered by incorporation while retaining some of the tax advantages of a partnership or sole proprietorship. They are relatively easy to form and tax obligations (at the Federal level) flow through to the owners (members) and are paid as personal taxes (instead of corporate).

Single Member LLC vs Multiple Member LLC

A single member LLC is a business structure that emerged in the 1990s. Over time, it has become recognized in all States. As the name implies, an SLLC has a single owner. Because income from an SLLC isn't divided (as it would be for a partnership or a multiple member LLC) there are no separate taxes to file with the IRS. The IRS treats an SLLC just like a sole proprietorship. (This isn't necessarily true for State level taxation.)

This brings up one disadvantage of an SLLC – the possibility that the company's assets will be taken when a suit arises from the personal – non-business – actions of the single owner. Case law for multiple member LLCs is clear, but because SLLCs are newer, the law in some States is less so. For instance, what happens when the owner of an SLLC dies or goes personally bankrupt? Can the company assets be transferred in the same manner as a simple asset? The arguments revolve around how legally different a SLLC is from a sole proprietorship. This also highlights the importance of keeping SLLC assets and liabilities separate from personal – excellent record keeping and attention to formal rules is key.

Member Managed LLC vs. Manager-Managed LLC

A member managed LLC is run by the owners of the company. This is the usual structure. Another structure is the manager-managed type, which, as the name implies, has a separate manager responsible for daily operations.

The managers are named in the operating agreement, which all owners sign. Manager-managed LLCs set out certain rights and responsibilities for named managers that differ from other owners – note, a manager is usually one of the owners of the LLC. Mangers usually have voting rights and the ability to negotiate loans or handle other business financial and operational tasks. Non-managing members are still owners, but they are able to remove themselves from the direct operations of the business.

This works well if an LLC is started with investors who, by their nature (family members or silent partners) would prefer to sit back and reap the rewards of their investment without being directly involved. A less obvious advantage of the member-managed structure is that the LLC is more easily identified as a business separate from the owners if the LLC is sued and has to be recognized as a legal entity by a court.

Domestic LLC vs Foreign LLC

Domestic and foreign in this context refers to the State where the LLC is created. A company which is registered in Michigan and which does business in Michigan is operating as a domestic LLC. If the same company is doing business in Illinios (a physical presence), it is operating as a foreign LLC in the other State.

This commonly comes up when LLCs are created in States with business-friendly tax laws but do business in their home State. It may also occur when a business starts expanding into other States. A foreign LLC is required to register with the Secretary of State in the foreign State. The LLC certificate (and other documents) issued by the home State will be needed.

The purpose of registering is to meet regulatory and tax requirements of the foreign State.

Operating in a State generally means:

- Having a bank account in that State.
- Selling in that State through some party directly tied to the LLC (a distributor or rep).
- Owning property (real estate or a fleet of trucks or example) in the State.
- Having offices, facilities or holding regular meetings in the State.

These hallmarks also vary by State and should be available at the Secretary of State’s office.

LLC vs PLLC

A PLLC is a professional limited liability company. These exist in States that require LLCs composed of State license holders to use this category. They differ from regular LLCs in that only a license holder (doctor, lawyer, others) may register the company and there may be limitations on ownership. Some States require all of the members have the specific license for the service offered while in others it may be as low as 50% professional ownership.

In all States that require PLLCs, notification and approval of the State regulatory board for that profession must be obtained. For instance, a physician partnering with other doctors in a PLLC would have to get approval from the State Medical Board before filing with the Secretary of State.

Difficulties arise when a licensed member dies, loses their license or wishes to exit the PLLC. In some cases, the company has to be dissolved (and perhaps recreated). Transfer of ownership in a sale may also have restrictions at the State level.