



**Presented by**

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# THE IDEA



*Key considerations are:*

- 1. Ownership structure*
- 2. Liability protection*
- 3. Operating your business*
- 4. Tax considerations*

# YOUR BUSINESS STRUCTURE



**There are different legal structures that will protect you in different ways and offer different tax advantages**

- **Sole Proprietorship**
- **General Partnership**
  - **Corporation**
- **Limited Liability Company (LLC)**

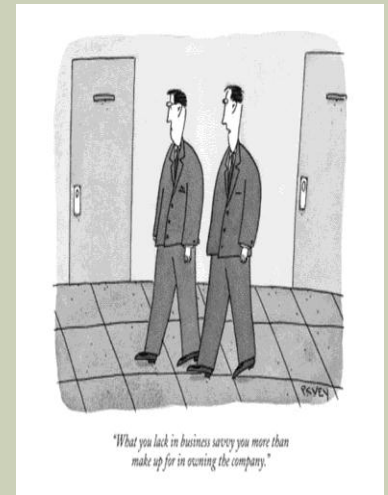
# WHY FORM AN ENTITY?

- Business owners need to choose the structure that best suits their needs.
- Is my business too small? NO
- Is it worthwhile for my small business? YES
  - Limit personal liability for business losses
  - Formalities (Attorney)
  - Expenses (CPA)
  - Income tax considerations (CPA)
  - Insurance needs (Agent)



# SOLE PROPRIETORSHIP

- Starting a Sole Proprietorship is not complicated
  - Decide on a business name
  - The business name must be registered with local County Clerk - if not in owner's name
  - Business License – Check Department of Consumer Affairs
  - No formation document required
  
- Advantages
  - Simple and inexpensive to form and operate
  - Benefit of not paying separate business taxes
  - Profits and losses are filed under the owner's personal income tax return
  
- Disadvantages
  - No liability protection – full personal liability to owner for business losses
  - Owner cannot raise capital by selling an interest in the business
  - Can't have co-owners



# GENERAL PARTNERSHIP

- Partnership agreement
- Profits, liabilities and management duties are divided as agreed among partners
- Individual liabilities for each partner
- File Certificate of Assumed Name with County Clerk in the county of operation
  
- Advantages
  - Generally inexpensive and easily formed business structure
  - Shared financial commitment
  
- Disadvantages
  - Similar to sole proprietorship, partnerships retain full, shared personal liability among the owners. Liable for their own actions, but also for the business debts and decisions made by other partners
  - Personal assets can be used to satisfy partnership debts or losses
  - Disagreements among partners
  - Since partnerships are jointly owned, the profits and losses are shared



# SUBCHAPTER S – CORPORATION

- S Corporation is a corporation under the laws of the state where it is organized
- Must file an “election” with IRS
- Benefits of corporate structure – limits personal liability of shareholders for business losses
- Generally, S Corporation does not pay any federal income taxes – “flow through taxation” or “single taxation” benefit
- Income or losses are divided among and passed through to its shareholders
- Shareholders then must report income or loss on their own personal income tax returns
- Requires annual meetings, elections of directors and minutes of meetings
- Lower initial costs than a Limited Liability Company- no advertising or operating agreement
- Shareholders agreement if two or more shareholders

# LIMITED LIABILITY COMPANY

- Formed by filing articles of organization in the state where it is organized
- Requires an operating agreement
- New York requires that an LLC advertise formation, proof of which must be filed with the NYS Secretary of State – cost may be an issue
- Pass-through income taxation – like a partnership or Subchapter S Corporation
- More flexible than a corporation and is often well suited for companies needing expansion and financing
- Owners are considered members not shareholders- limited liability
- Fewer formalities than a Corporation



# LIABILITY

- General rule is – “Keep business and personal things separate”
- Maintain business formalities – election of directors or members and maintenance of separate business records
- Analogy to Will – review and update annually
- Do not commingle personal and business funds
- Maintain organized financial records
- Check insurance for general liability, auto liability, homeowners coverage for business activities
- Must indicate “LLC” or “INC” on corporate and financial records such as checkbook, contracts and agreements
- Sign documents such as checks and contracts as “President” or “Managing Member”
- Work closely with your attorney, accountant and insurance agent

