

## Comparison of Business Entities

NOTE: THESE COMPARISONS DO NOT CONSIDER STATE IMPLICATIONS.

Applicable Factor	C Corporation	S Corporation	Sole Proprietor	Partnership/Limited Liability Partnership	Limited Liability Company
<b>I. Formation</b>					
A. Method	Articles of Incorporation	Articles of Incorporation	None	Partnership agreement	Articles of Organization filed in state recognizing LLCs
B. Owner eligibility					
1. Number of Owners	No limit	100 (Note family members considered as one)	One	Two or more for general partnership; one or more general and one or more limited for limited partnership	No limit
2. Type of Owners	No limitation	Certain individuals, estates, charities, ESOP, trusts and S corporations	Individual	No limitation	No limitation
3. Affiliate Limits	No limitation	Can own up to 100% of the stock of a C corporation and own 100% of the stock of a qualified sub-s subsidiary. No limitation	No limitation	No limitation	No limitation
C. Capital Structure					
1. Equity	No limitations (multiple classes)	Only one class of stock (can have voting rights differences)	N/A	No limitations (multiple classes)	No limitations (multiple classes)
2. Debt	No specific limits on debts/equity ratio	Safe-harbor for debt	No specific limits	No specific limits	No specific limits
D. Status Determination					
1. Election by Entity	No election requirements	Required election	No election requirements	No election requirement but state law filing	None, unless corporate status is elected
2. Owner Consents	None required	Consent required	None required	None required	None required
E. Liability (check applicable state laws)	Limited to shareholder's capital contributions	Limited to shareholder's contribution	Unlimited	General partners jointly and severally liable. Limited partners are generally limited to capital contributions.	Generally limited to member's capital contributions.

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<b>II. Operational Phase</b>					
A. Tax Year	Any year permitted (limit for personal service corporation)	Generally calendar year	Generally calendar year	Generally calendar year	Generally calendar year
B. Tax on Income	Corporate level	Owner level except QSST, where paid by beneficiary.	Individual level	Owner level	Member or entity if elected
C. Elections	Corporate level	Corporate level	Individual level	Partnership level	Entity level
D. Allocation of Income/Deductions	Not permitted (except through multiple equity structure)	Not permitted (except through debt/equity structure)	N/A	Permitted if substantial economic effect	Permitted if substantial economic effect
E. Character of Income/Deductions	No flow-through to shareholders	Flow-through to shareholders	Flow-through to individual	Flow-through to partners	Flow-through to members
F. Net Operating Losses	No flow-through to shareholders	Flow-through to shareholders (limited to basis)	Flow-through to individual	Flow-through to partners (limited to basis)	Flow-through to members (limited to basis)
G. Net Capital Losses	No flow-through, but five year carryforward	Flow-through to shareholders	Flow-through to individual	Flow-through to partners	Flow-through to members
H. Effect of Statutory Limitations	Imposed at corporate level	Imposed at shareholder level	Imposed at individual level	Imposed at partner level	Imposed at member level
<b>III. Owner Compensation Arrangements</b>					
A. Fringe Benefits	Shareholder-officers qualify for benefits	Shareholder officers qualify for benefits (medical premiums for greater than 2% shareholders treated like partnership guaranteed payments)	Generally subject to limits applicable to individuals	Limited participation for partners	Limited participation for members
B. Retirement Benefits	Shareholder-officers included in qualified plans	Certain limits on shareholder-officers	Generally subject to limits applicable to individuals	Certain limits applicable to partners	Certain limits applicable to members
C. Reasonable Compensation Limits	Applicable to shareholder-officers	Applicable to shareholder-officers	N/A	Applicable where capital is a material factor	Applicable where capital is a material factor
D. Payroll Taxes	Shareholder-officers subject to payroll taxes only on compensation	Shareholder-officers subject to payroll taxes only on compensation	Active owner subject to SE taxes on all income. No SUTA or FUTA.	Active general partner subject to SE taxes on all income. No SUTA or FUTA.	Active member subject to SE taxes on all income. No SUTA for FUTA.

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<u>IV. Transactions with Owners</u>					
A. Distributions of Cash	Dividends to extent of earnings and profits	Dividends, generally no effect until the accumulated adjustment account (AAA) fully recovered (beware transition rules for former C corps)	No effect	No effect except in calculation of basis	No effect except in calculation of basis
B. Distribution of Property	Dividend treatment; gain recognition to entity	Gain recognition to entity	No effect	No gain or loss to entity	No gain or loss to entity
C. Purchase of Owner's Interest					
1. Partial Interest	Probable dividend treatment	Tax-free, but gain for proceeds in excess of basis	Treated as sale of each asset	Capital gain treatment, except ordinary income for ordinary income assets.	Capital gain treatment, except ordinary income for ordinary income assets.
2. Entire Interest	Capital gain treatment with exceptions	Capital gain treatment after basis recovered	Cannot sell entity interest; sale of business is viewed as a sale of each asset	Capital gain treatment, except ordinary income for ordinary income assets and certain §736 payments	Capital gain treatment, except ordinary income for ordinary income assets and certain §736 payments
D. Property Sales to Entity by Owner	Possible dividend treatment or contributions to capital	Any excess value treated as distribution or contribution	N/A	Any excess value treated as distribution or contribution	Any excess value treated as distribution or contribution
E. Property Sales to Owner by Entity	Possible dividend treatment or contributions to capital	Any excess value treated as distribution or contribution	N/A	Any excess value treated as distribution or contribution	Any excess value treated as distribution or contribution
<u>V. Termination of Entity or Owner Interest</u>					
A. Sale of Interest by Owner to Third Person	Capital gain; no effect on basis of corporation's assets (note exception § 338)	Capital gain; no effect on basis of corporation's assets (note exception § 338)	Cannot sell entity interest; sale of business is viewed as a sale of each asset	Capital gain subject to § 751 ordinary income categorization	Capital gain subject to § 751 ordinary income categorization
B. Death of Owner	Estate continues as shareholder; For basis from decedent see Code Section 6018; no effect on basis of corporation's assets	Estate continues as shareholder; For basis from decedent see Code Section 6018; no effect on basis of corporation's assets	Estate takes over business	Estate as partner subject to agreement, For basis from decedent see Code Section 6018	Estate as member subject to agreement, For basis from decedent see Code Section 6018

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C. Liquidation Distributions					
1. Effect to Distributor	Gain recognition if appreciated property distributed	Gain recognition if appreciated property distributed	N/A	No gain recognition on asset distributions	No gain recognition on asset distributions
2. Effect to Recipient	Capital gain on excess value received over basis	Capital gain on excess value received over basis	N/A	Substituted basis in noncash assets equal to basis in partnership interest	Substituted basis in noncash assets equal to basis in LLC interest
D. Reorganization	Tax-free to shareholders if qualifying under reorganization provisions (§ 354 and § 368)	Tax-free to shareholders if qualifying under reorganization provisions (§ 354 and § 368)	N/A	No taxability on merger of partnerships	No taxability on merger of LLC
E. Carryover of Tax Attributes	Carryover of tax attributes to successor entity if tax-free reorganization	Carryover of tax attributes to successor entity if tax-free reorganization	N/A	N/A	N/A