

FORM OF ENTITY COMPARISON

BUSINESS CHARACTERISTICS	C CORPORATION	S CORPORATION	GENERAL PARTNERSHIP	LIMITED PARTNERSHIPS	LIMITED LIABILITY PARTNERSHIPS	LIMITED LIABILITY COMPANIES
Limited Liability	Yes	Yes	No	Only for limited partners	Yes	Yes
Ownership (and business) restrictions	At least one shareholder	1. Maximum 100 shareholders (family members may elect to be counted as one shareholder) 2. Shareholders can only be individuals other than nonresident aliens, certain trusts and estates and certain charities (e.g., no corporations, partnerships, LLCs, or nonresident aliens)	1. At least 2 partners 2. Limited by publicly-traded partnership rules 3. Any individual or entity may be a partner	1. At least 1 general partner and 1 limited partner 2. Limited by publicly-traded partnership rules 3. Any individual or entity may be a partner	1. At least 2 partners 2. Limited by publicly-traded partnership rules 3. Any individual or entity may be a partner 4. In Oregon, limited to professional service businesses	1. At least 1 member (2 members required for treatment as a partnership) 2. Limited by publicly-traded partnership rules 3. Any individual or entity may be a member
Flexibility (e.g., different classes, preferences, shifting interests, special allocations, etc.)	Very flexible	Generally inflexible (only different voting rights and certain minor differences permitted)	Very flexible	Very flexible	Very flexible	Very flexible
Formation	Relatively uncomplicated	Relatively uncomplicated	Default entity	Complex	More complex	Single member - uncomplicated Multiple member – more complex
State filing requirements	Yes	Yes	No	Yes	Yes	Yes
Multi-state recognition	Yes	Yes	Yes	Yes	Some, but differing state rules	Most, but differing state rules
Management	By board of directors	By board of directors	By all partners (default rule)	By general partners only	By all partners (default rule)	By all members unless managers appointed (default rule)
Transferability of interests	Generally unrestricted (subject to agreements and securities law)	Generally unrestricted (subject to agreements and securities law and permissible shareholder rules)	Generally restricted by agreement	Generally restricted by agreement	Generally restricted by agreement	Generally restricted by agreement
Dissolution	Only if shareholders elect	Only if shareholders elect	Automatic on disassociation of next to last partner	Automatic on disassociation of last general partner unless other partners elect to continue	Automatic on disassociation of next to last partner	Only if members elect
TAX ATTRIBUTES: IRS election necessary	No	Yes	No	No	No	No*

* Single member LLCs and LLCs owned by a husband and wife residing in a community property state are (unless an election is made to the contrary) disregarded as entities separate from their owners for tax purposes.

BUSINESS CHARACTERISTICS	C CORPORATION	S CORPORATION	GENERAL PARTNERSHIP	LIMITED PARTNERSHIPS	LIMITED LIABILITY PARTNERSHIPS	LIMITED LIABILITY COMPANIES
Tax on formation or subsequent contribution	Generally none if transferors have 80% control of corporation and transferor's basis in assets contributed exceeds encumbrances		Generally none as long as transferor's basis in contributed property exceeds any reduction in share of liabilities			
Tax treatment of liabilities	Shareholder gets no stock basis increase for entity liabilities	Shareholder gets no stock basis increase for entity liabilities (can, however, apply losses against shareholder's own loans to the corporation)	Partner/member increases entity basis for share of <u>all</u> entity liabilities; a decrease in share of entity liabilities is treated as cash distribution			
Operations	Entity-level tax on all income	<ol style="list-style-type: none"> 1. No entity-level income tax except for built-in-gains tax and/or excess passive income tax on converted C corporations 2. All entity income/loss flows through pro rata to shareholders in character, increasing/decreasing entity basis 3. No special allocations, preferences, shifting allocations allowable 	<ol style="list-style-type: none"> 1. No entity-level tax 2. All entity income/loss flows to the partners/members in character, increasing/decreasing partner's/member's entity basis 3. Special allocations, preferences, shifting allocations, etc., allowable subject to substantial economic effect rules 			
DISTRIBUTIONS: a. Operating (other than deductible payments of compensation)	<ol style="list-style-type: none"> 1. Nondeductible dividends (causing double tax), currently at the reduced capital gains rate 2. If distribution of appreciated asset, corporation taxed on appreciation 	<ol style="list-style-type: none"> 1. Distributions generally applied to basis; excess is gain; non-cash assets applied at fair market value 2. If distribution of appreciated assets, shareholders taxed on appreciation 	Generally tax free except to the extent cash distributed exceeds partners'/members' outside basis. No gain from property distributions until distributee sells distributed property (subject to exceptions under I.R.C. §§ 704(c)(1)(B) and 737)			
b. Liquidating	Double tax: <ol style="list-style-type: none"> 1. Corporate tax on gain from sale or distribution of appreciated assets; and 2. Shareholders taxed on amount by which cash and fair market value of assets received exceeds basis in shares, currently at the reduced capital gains rate. 	Single-level shareholder tax on shareholder's proportionate share of value of corporate assets less shareholder's stock basis. Possible exception for built-in-gains tax on converted C corporations	Generally tax free except to the extent cash received exceeds partner's/member's outside basis. But, see, I.R.C. § 751. Also generally no gain from property distributions until distributee sells the distributed property (subject to exceptions under I.R.C. §§ 704(c)(1)(B) and 737)			
Elective inside basis adjustments	No basis adjustment to entity assets to reflect change in basis of transferred stock or distributed property		Special election to adjust entity's asset basis to reflect change in basis of transferred interest or distributed property			

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Deductible fringe benefits (e.g., medical reimbursements, dependent care, parking, health insurance, etc.)	Yes	Limited	No	Generally no	No	Generally no
Payroll and self-employment taxes	Compensation subject to payroll taxes (but not dividends)	Compensation subject to payroll taxes (but not dividends)	All compensation and all business income (excluding rents, interest, dividends, etc.) subject to self-employment taxes	For general partners, all compensation and business income (excluding rents, interest, dividends, etc.) subject to self-employment taxes For limited partners, only compensation (guaranteed payments for services) subject to self-employment taxes (if no state-law authority to contract on behalf of entity, no personal liability for debts of entity, and participate less than 500 hours/year)	All compensation and all business income (excluding rents, interest, dividends, etc.) subject to self-employment taxes	Unclear. In general, managers and members of member-managed LLCs are treated like general partners of general partnerships and non-manager members of member-managed LLCs may be treated like limited partners of limited partnerships (if no state-law authority to contract on behalf of entity, no personal liability for debts of entity, and participate less than 500 hours/year)
Availability of cash method of accounting	Generally yes	Generally yes	Generally yes	Generally yes	Generally yes	Generally yes
Potential for gift/estate valuation discount	Very good	Very good	Poor	Good	Poor	Very good
Use of equity interests as compensation	Generally, taxable to employee but not to employer. Cannot bifurcate profit and capital interests.	Generally, taxable to employee but not to employer. Cannot bifurcate profit and capital interests.	Generally taxable to employee. Treatment of employer uncertain. Profits-only interest may be granted tax-free to employee and employer.	Generally taxable to employee. Treatment of employer uncertain. Profits-only interest may be granted tax-free to employee and employer.	Generally taxable to employee. Treatment of employer uncertain. Profits-only interest may be granted tax-free to employee and employer.	Generally taxable to employee. Treatment of employer uncertain. Profits-only interest may be granted tax-free to employee and employer.