

Corporations & Limited Liability Entities

Corporations are no longer the only form of business entity which will permit you to limit your personal liability in your business and real estate dealings. Limited liability partnerships and companies are now viewed more favorably than other business entities in limiting the liability of their owners.

CONSIDERATIONS FOR LIMITED LIABILITY ENTITIES:

- Formation of (or Conversion to) a Limited Liability Entity – The formation of a limited liability entity or the conversion of your existing proprietorship or partnership to such a limited liability organization is oftentimes advisable. Although each situation is specific to the business, corporations and other limited liability entities are generally more advantageous and the tax consequences and differences in respect to proprietorships and partnerships
- Maintaining the Integrity of Your Corporation – Maintaining the integrity of your corporation is critical. Statutes and case law support the contention that a corporation must maintain minutes and show other evidence of the separate existence of the corporation. If these formalities are disregarded, the “corporate veil” can be pierced by third parties. We strongly suggest that you regularly update your corporate records and that you conduct your business in such a fashion as to allow no third parties to claim their dealings with you are personal rather than protected by the corporate shield.
- Closely Held Corporations – A closely held corporation allows for avoidance (to some extent) of the technicalities that are imposed upon general corporations if the shares in the corporation are held by only a very limited number of shareholders. Your rights under a closely held corporation agreement include your right to permanently lock-in director and officer positions; set salaries and other forms of compensation; restrict the transfer of shares; and other rights which may allow for more control and authority than otherwise granted under the general statutes governing corporations. Many of our clients have amended their Articles of Incorporation to provide for Close Corporation status, particularly when others become involved in their corporate dealings.
- Buy-Sell Agreements – There is an old saying that “there is no such thing as a perfect partnership, just necessary ones.” Same applies to ownership in limited liability entities. Changes in philosophies, goals and objectives; the death of an equity owner or divorce; unexpected disability; and, in general, an equity owner's desire to terminate existing relationships can result in “new” shareholders who might disrupt your existing business environment or might attempt to force the sale of your business, notwithstanding your desire to continue forward. Through the creation of appropriate buy-sell agreements and by combining other elements (such as those referenced above in respect to close corporations), alternatives are available so as to allow for continued business operations in the event another equity owner, voluntarily or involuntarily, terminates his/her relationship with your limited liability entity.