

LLC Start-Up Basics



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Introduction

Congratulations, you're an entrepreneur! Starting a business is exciting and represents the culmination of dreaming, hard work, and sleepless nights. This simple e-book will guide you through the basics of starting your business.

This E-Book is designed to help you with the basics of your new LLC, but it is not a substitute for professional legal assistance. This should not be construed as legal advice, because nothing can substitute the assistance of a licensed attorney consulting you for your specific business needs.

"Your work is going to fill a large part of your life, and the only way to be truly satisfied is to do what you believe is great work. And the only way to do great work is to love what you do."

— Steve Jobs

How Do I Know What Type of LLC I Need??

Single Member LLC: if you are the only owner of your LLC, you get to call the shots! All LLCs should have an Operating Agreement; in a single member LLC there is a temptation not to create one because your decisions function as you Operating Agreement. However, creating an Operating Agreement can be helpful even if you make the decisions alone. Operating agreements force you to think through procedures and operations that you may otherwise put off until faced with a problem. I highly recommended you go through the steps of creating a formal Operating Agreement. This forces you to think through a lot of the operations and procedures you may otherwise not contemplate until you are faced with a problem.

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Multi Member LLC: If there is more than one owner (“Members”) of the LLC, you should have an Operating Agreement. This document is like your corporate bylaws, it outlining how your business will operate from a big picture standpoint and day-to-day operations.

Member Managed: In this structure, Owners/Members of the LLC actively run the business. As noted above, having a clear Operating Agreement that outlines the roles and authority of the members can help you avoid big problems in the future.

Manager Managed: In some situations, LLC owners may want to have someone run the business for them. In this situation they engage a manager to run the operation – note that either a member or an outside hire can be brought in to run the business. An Operating Agreement is essential in a manager-managed LLC to clearly outline the power and authority the manager has when it comes to operating the business.

How Will My Business Be Taxed?

Single Member LLC: A single member LLC is taxed like a sole proprietor. An LLC acts as a “pass through,” which means all the money the LLC makes is treated as the income of the single owner.

Multi Member LLC: Here, the LLC is still subject to “pass through” taxation, but the business is treated like a partnership. The Operating Agreement will outline the share of any losses each member is responsible for and the share of profits the member is due. That amount will be reported to each Member’s personal income taxes.

S-Corp Tax Election: An S-Corp is a tax election, not an entity itself. Electing to be taxed as an S-Corp can save money for Owner-Members who make about \$75,000 per year or more. Talk to an Attorney or Accountant about this decision before getting your EIN.

"People don't buy what you do, they buy why you do it"

– Simon Sinek

Do I Need an Operating Agreement?

In an Operating Agreement, Members outline rights, operations, and duties. This agreement governs how the LLC will be controlled and managed. North Carolina law allows an Operating Agreement to be oral, written, or a combination. Do not be tempted, however, to skip a written Operating Agreement just because the law allows for it.

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For Multi-Member or Manager-Managed, if you do not have an Operating Agreement, or your Operating Agreement is silent as to an issue, the North Carolina law “gap filling” provisions will apply. This means in the event of conflict the state provision makes the decision for you. This is why it is important to have a lawyer help you with your Operating Agreement – you may not be looking at all the angles or be aware of what decisions you are giving up the power to make.

This point cannot be stressed enough – we hope for the best and plan for the worst. Every group of people who get together to start a business need to have a clear plan outlined in an Operating Agreement. Even if it is you and your best friend or your cousin, let the document be the bad guy when cooler heads fail to prevail!

Common Questions an Operating Agreement Should Address

1. What is the share of profits and losses among members?
2. When should profit distributions happen?
3. What is the process for admitting new members of the LLC?
4. What are the requirements for a new member?
5. Who will maintain the files and keep up with government compliance?
6. What happens when Members disagree on a business decision?

There are many things your Operating Agreement should address. Doing this at the outset will help you think through your business operations and head off any conflict that may arise later.

"It's very hard to live with yourself if you don't stick with your moral code."

– James "Mad Dog" Mattis

What Else Do I Need to Know?

Consider a PO Box: A number of companies will allow you to lease a mailbox and provide you with a real street address. There are good reasons to do this if your business does not have a physical location, like privacy and liability protection. If you do this, use this address for your corporate paperwork (note that this will not work for your Registered Agent's address).

Open a Business Bank Account: Keeping your business income separate from your personal bank account is important. All income and expenses for the business should come out of the business bank account. If you spend on your business out of your personal account, reimburse yourself and document it, keep receipts for tax purposes.

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Set a reminder for Annual Reports: Every state requires annual reports, most with annual fees. In North Carolina, for LLCs, this report is due on April 15th the Secretary of State and comes with a \$200 annual fee.

Hire an Accountant: An accountant, just like a lawyer, can save you a lot of headaches later. Making major decisions about your business with the assistance of your accountant and lawyer can ensure compliance, save you money, and streamline tax season.

Record Keeping Process: Decide who will keep company records; how they will be stored; and who can inspect them. Even if it's just a file cabinet or "bankers box" that holds the files, it is important to have and implement a plan.

Obtain any necessary licenses or permits: The Small Business Administration has helpful tools to assist you in figuring out what you may need to operate in compliance. www.sba.gov/business-guide/lau...

Consider Insurance: The Small Business Administration has helpful tools to assist you in figuring if you may need insurance or what type: <https://www.sba.gov/business-g...>

State and local taxes: Visit the NC Department of Revenue website to evaluate your business type and consider your taxation requirements.



About The Author

Jason Cline is a licensed Attorney with active bar memberships in Arkansas and North Carolina. He has founded and assisted businesses in various states across multiple industries.

He practices real estate and business law in Wilmington, NC, as Managing Partner at the Cline Law Group PLLC, a firm he and his wife founded together.

Jason also serves as an Infantry Officer with the North Carolina Army National Guard.