

Choice of Entity Chart

	C Corporation	S Corporation	General Partnership	Limited Partnership	Limited Liability Company
Number of Owners	No limit	1 to 100	At least two	At least two	No limit
Types of Owners	No restrictions	Individuals (US Citizens/residents), estates, certain types of trusts; no corporations, LLCs, or non-resident aliens	No restrictions	No restrictions	No restrictions
Formation	Articles of Incorporation; EIN; bylaws/shareholder agreements; filing fee	Same as C corp; IRS form 2553 (S Election)	No statutory formation requirements; EIN; partnership agreement	File with state; EIN; partnership agreement; filing fee	Filing requirements with State; EIN; Operating Agreement; filing fee
Different Classes of Owners	Unlimited	Only one class of stock permitted; voting differences are permitted	General Partners only	At least one GP; multiple classes of LPs	unlimited
Advantages	Most widely recognized business entity in the world; premier entity for going public; stability; attractive for investors; most developed body of law	Pass through taxation; corporate form recognized by investors; see also C corp	Pass through taxation; minimal formalities	Pass through taxation; limited liability of limited partner	Pass through taxation; limited liability shield; few corporate formalities; flexibility in operation and tax classification
Disadvantages	Double taxation on earnings and profits of business; corporate formalities must be maintained	Limitation on shareholders; limited to one class of stock; corporate formalities	No limited liability for partners; death of withdrawal of partner causes immediate dissolution	General partner is fully liable for the debts and obligations of the limited partnership	Most creditors will require a personal guarantee; filing fee; case law still developing, refer to new Supreme Court case, <i>Olmstead v. FTC</i> (2010)
Best Suited For...	Businesses that have large start-up costs that look for outside investors, may want to go public, multiple classes of stock that is sold to anyone (most suited to businesses that sell products, have	Low start-up costs, do not need to purchase significant amount of assets to begin operations, no storefront, low operating costs, no warehouse (internet only business) John Edwards example	Businesses where there is adequate insurance for partnership activities and partners want flexible relationship (maybe two car companies form a partnership in creating a new	Business where there are many partners and some do not want to be involved in the management and operation of the business and also want to limit their liability (real estate tax credit developments)	Businesses that hold real estate or other tangible assets, particularly assets prone to dangers, flexibility in management and ease of governance without having to adhere to

	a storefront and employees with a warehouse and inventory) Deckers Outdoor Corporation traded as DECK		electric car)		corporate formalities (real estate holding companies, operating and management companies) our development clients
	C Corporation	S Corporation	General Partnership	Limited Partnership	Limited Liability Company
Continuity of Life	yes	yes	no	No unless partners reconstitute	yes
Liability	Limited to extent of capital contribution	Limited to extent of capital contribution	General partners personally liable, jointly and severally with other partners	General partners personally liable; limited partners liable to extent of capital contribution	Limited to extent of capital contribution
Management	No restrictions; usually in BOD who may or may not be shareholders	No restrictions; usually BOD who may or may not be shareholders	No restrictions except as may be laid out in a partnership agreement	LPs cannot participate in the management	No restrictions except as laid out in operating agreement; usually member managed or manager managed
Separate Taxable Entity	Yes	No	No	No	Usually a partnership which is not a separate entity
Taxation of Income	Taxed to corporation and Shareholders taxed upon distribution of dividends.	Directly to shareholders at their rates. If there is built-in gain the S corporation is taxed.	Directly to Partners at their rates.	Directly to Partners at their rates.	Directly to Members at their rates.
Contribution of property in exchange for ownership interests	No gain or loss recognized if the transferors are in control of the company after the exchange. Possible exception if contributed property is subject to debt or entity is an investment company.	No gain or loss recognized if the transferors are in control of the company after the exchange. Possible exception if contributed property is subject to debt or entity is an investment company.	No gain or loss recognized unless the contributed property is subject to debt or entity is an investment company.	No gain or loss recognized unless the contributed property is subject to debt or entity is an investment company.	No gain or loss recognized unless the contributed property is subject to debt or entity is an investment company.

Contribution of services in exchange for ownership interest	Taxable	Taxable	Taxable. Possible exception if ownership interest is only a profits interest.	Taxable. Possible exception if ownership interest is only a profits interest.	Taxable. Possible exception if ownership interest is only a profits interest.
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Special allocation of income or losses to partners or shareholders	No	No	Yes, if has substantial economic effect.	Yes, if has substantial economic effect.	Yes, if has substantial economic effect.
Distribution to Owner	Any gain in distributed property taxable to the entity.	Distribution of appreciated property results in gain at shareholder level but shareholder gets basis increase.	No gain or loss recognized on distribution of property other than money until partner disposes of the property.	No gain or loss recognized on distribution of property other than money until partner disposes of the property.	No gain or loss recognized on distribution of property other than money until partner disposes of the property.
Character of income and loss	Not applicable	Character is passed through from entity.	Character is passed through from entity.	Character is passed through from entity.	Character is passed through from entity.
treatment of liabilities with regard to basis	Not applicable	No increase in basis for share of entity liabilities Increase in basis for debts to shareholders.	increase in basis for share of entity liabilities; decrease in share of entity liabilities treated as a cash distribution.	increase in basis for share of entity liabilities; decrease in share of entity liabilities treated as a cash distribution.	increase in basis for share of entity liabilities; decrease in share of entity liabilities treated as a cash distribution.
Deduction of losses on owner's tax returns	No. Deductible against corporate income. NOLs generally can be carried back 2 years and carried forward 20 years.	Yes. Deductible by shareholders to the extent of basis in stock and loans from shareholder to corporation. Deductibility may be limited by passive loss and at-risk rules.	Yes. Deductible by partner to the extent of basis. Deductibility may be limited by passive loss and at-risk rules.	Yes. Deductible by partners to the extent of basis in partnership. Deductibility may be limited by passive loss and at-risk rules.	Yes. Deductible by members to the extent of basis in partnership. Deductibility may be limited by passive loss and at-risk rules.
Basic ownership unit	Share	Share	Partnership interest implicitly bifurcated into governance and financial rights	Partnership interest implicitly bifurcated into governance and financial rights	LLC interest implicitly bifurcated into governance and financial rights
Member participation in management	Management of corporation vested in the board of directors. Shareholders elect directors and vote on organic changes.	Management of corporation vested in the board of directors. Shareholders elect directors and vote on organic changes.	All partners have equal rights to manage and participate in business except as restricted by partnership agreement.	Limited partners may not participate in management without losing limited liability. General partner manages partnership.	Subject to LLC agreement.

Transferability of interest	Freely transferable, absent restrictions in stockholder agreement	Freely transferable, absent restrictions in stockholder agreement. However, a transfer to an ineligible party may result in termination of S corporation status.	Economic rights may be assignable; transfer of governance rights requires consent of partners; agreement would govern	Governed by agreement	Subject to LLC agreement
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Liquidation	Corporation and shareholders generally recognize gain or loss	Corporation recognizes gain or loss which is taxed to shareholders	Generally, no gain or loss recognized. Gain or loss may be recognized for certain non-pro rata distributions.	Generally, no gain or loss recognized. Gain or loss may be recognized for certain non-pro rata distributions.	Nontaxable to the extent of a member's basis
Fringe benefits	Shareholder employees may receive tax qualified fringe benefits without restriction	Owner of more than 2% of S corporation shares generally cannot receive tax-free benefits. Expenses for benefits are deductible in computing taxable income but amounts used to purchase benefits for more than 2% shareholders flow through as income to them.	Partners generally not eligible for tax-free fringes	Partners generally not eligible for tax-free fringes	Members generally not eligible for tax-free fringes
Employment taxes	FSCA tax payable by the corporation and employees	FSCA tax payable by the corporation and employees	Self employment tax applies to compensation of partners	Self employment tax applies to compensation of partners	Self employment tax applies to compensation of members
IRS election required	None	Yes	None	None	None
Federal tax return	Form 1120	Form 1120-S	Form 1065	Form 1065	Form 1065