

COMPARISON OF BUSINESS ENTITIES

Applicable Factor	C Corporation	S Corporation	Sole Proprietor	Partnership	Limited Liability Company
I. <u>Formation</u>					
A. <u>Method</u>	Articles of Incorporation	Articles of Incorporation	None	Partnership Agreement	Articles of Organization
B. <u>Owner Eligibility</u>					
1. <i>Number of Owners</i>	No limit	35 for tax years beginning before 1997; 100 currently	One	Two or more for limited partnership; one or more general and one or more limited for general partnership	No limit
2. <i>Type of Owners</i>	No limitation	Individuals and certain trusts and estates for tax years beginning before 1998; certain tax-exempt organizations for tax years beginning after 1997	Individual	No limitation	No limitation
3. <i>Affiliate limits</i>	No limitation	No subsidiaries (except name holding) for tax years beginning before 1997; may own 80% or more of C Corporation stock and 100% of qualified subchapter S subsidiary thereafter	No limitation	No limitation	No limitation
C. <u>Capital Structure</u>					
1. <i>Equity</i>	No limitations (multiple classes permitted)	Only one class of stock	No stock	No limitations (multiple classes)	No limitations
2. <i>Debt</i>	No specific limits on debt/equity ratio	Safe-harbor for debt	No specific limits	No specific limits	No specific limits
D. <u>Status Determination</u>					
1. <i>Election by Entity</i>	No election requirement	Required election	No election requirements	No election requirement but state law filing	No election requirement

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2. <i>Owner Consents</i>	None required	Consent required	None required	None required	None required
E. <u>Liability</u>	Limited to shareholder's capital contributions	Limited to shareholder's capital contributions	Unlimited	General partners jointly and severally liable. Limited partners generally limited to capital contributions	Limited to member's capital contributions
II. <u>Operational Phase</u>					
A. <u>Tax Year</u>	Any year permitted (limit for personal service corporation)	Generally calendar year	Calendar year	Generally calendar year	Generally calendar year
B. <u>Tax on Income</u>	Corporate level	Owner level	Individual level	Owner level	Member level
C. <u>Elections</u>	Corporate level	Corporate level	Individual level	Partnership level	Corporate level
D. <u>Allocation of Income/Deductions</u>	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. <u>Character of Income/Deductions</u>	No flow-through to shareholders	Flow-through to shareholders	Flow-through to individual	Flow-through to partners	Flow-through to members
F. <u>Net Operating Losses</u>	No flow-through	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. <u>Net Capital Losses</u>	No flow-through, but three-year carryback and five-year carryforward	Flow-through to shareholders	Flow-through to individual	Flow-through to partners	Flow-through to members
H. <u>Effect of Statutory Limitations</u>	Imposed at corporate level	Imposed at shareholder level	Imposed at individual level	Imposed at partner level	Imposed at member level
III. <u>Compensations Arrangements</u>					
A. <u>Fringe Benefits</u>	Shareholder-officers qualify for benefits	Certain benefits includible in 2% shareholder's income	Generally subject to limits applicable to individuals	Limited participation for partners	Limited participation for members

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B. <u>Retirement Benefits</u>	Shareholder-officers included in qualified plans	Certain limits on shareholder-employees; ESOPs available for tax years beginning after 1997 (although certain special tax breaks available to C corporations will not be available)	Generally subject to limits applicable to individuals	Certain limits applicable to partners	Certain limits applicable to members
C. <u>Reasonable Compensation Limits</u>	Applicable to shareholder-employees	Applicable to shareholder-employees	N/A	May be applicable in a family partnership context where capital is a material factor	May be applicable in a family LLC context where capital is a material factor
IV. <u>Transaction with Owners</u>					
A. <u>Distribution of Cash</u>	Dividends to extent of earnings and profits	No effect until previously taxed income fully recovered	No effect	No effect except in calculation of basis	No effect except in calculation of basis
B. <u>Distribution of Property</u>	Dividend treatment; gain recognition to entity	Gain recognition to entity	No effect	No gain or loss to entity but partners may recognize gain on certain appreciated property distributions	No gain or loss to entity but members may recognize gain on certain depreciated property distributions
C. <u>Purchase of Owner's Interest</u>					
1. <i>Partial Interest</i>	Probable dividend treatment	Tax-free; but gain for proceeds in excess of basis	N/A	N/A	N/A
2. <i>Entire Interest</i>	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 assets	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. <u>Property Sales to Entity by Owner</u>	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

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V. <u>Treatment of Entity or Owner Interest</u>					
A. <u>Sale of Interest by Owner to Third Person</u>	Capital gain; no effect on basis of corporation's assets	Capital gain; no effect on basis of corporation's assets	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. <u>Death of Owner</u>	Estate continues as shareholder; FMV at date of death (or alternate valuation date) is a basis for shares; no effect on basis of corporation's assets	Estate continues as shareholder; FMV at date of death (or alternate valuation date) is a basis for shares; no effect on basis of corporation's assets	Estate takes over business	Estate as partner subject to agreement, FMV at date of death is basis for interest	Estate as member subject to agreement, FMV at date of death is basis for interest
C. <u>Liquidation Distributions</u>					
1. <i>Effect to Distributor</i>	Gain recognition if appreciated property distributed; no increase in shareholder basis for gain	Gain recognition if appreciated property distributed; increase in shareholder basis for gain	N/A	No gain recognition on asset distributions	No gain recognition on asset distributions
2. <i>Effect to Recipient</i>	Capital gain on excess value received over basis	Capital gain on excess value received over basis	N/A	Substituted basis in assets equal to basis in partnership interest; gain may be recognized depending on assets distributed	Substituted basis in assets equal to basis in LLC interest; gain may be recognized depending on assets distributed
D. <u>Reorganizations</u>	Tax-free to shareholders if qualifying under reorganization provisions (§354 & §368)	Tax-free to shareholders if qualifying under reorganization provisions (§354 & §368)	N/A	No taxability on merger of partnership	No taxability on merger of LLC
E. <u>Carryover of Tax</u>	Carryover of tax	Carryover of tax attributes	N/A	N/A	N/A

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<u>Attributes</u>	attributes to successor entity if tax-free reorganization	to successor entity if tax-free reorganization			