



PADGETT LAW, P.A.
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LIMITED LIABILITY COMPANY

Formation

An LLC is formed by filing Articles of Organization with the applicable state regulatory authority supervising business organizations. This process is similar to filing articles of incorporation for a corporation. In some states an LLC must have at least two members at the time of formation. While most states permit a single member LLC, some states do not afford the same level of asset protection to a single member LLC.

Operation & Management

Although some state LLC statutes do not require an operating agreement, prudent business practices require a written operating agreement, which specifies the authorized business of the LLC and how the LLC will be managed. An advantage of the LLC is flexibility in the manner in which the entity is managed. Most state LLC statutes permit the members to choose either of two forms of management; either management directly by all of the members (a “member-managed LLC”), or management by one or more managers who are appointed by the members. Finally, most states allow non-members to be managers. Normally, LLC members vote in proportion to their capital contributions or profits interests, unless the articles of organization or an operating agreement provides otherwise.

Taxation

Most LLCs elect to be classified as a partnership for federal income tax purposes, and the income tax rules for the LLC are identical to those of a partnership. A single-member LLC is considered to be a disregarded entity, and is taxed similarly to a proprietorship. In some cases, an LLC may elect to be taxed as a C or S corporation.

Dissolution

A limited liability company is dissolved and its business wound up under the following circumstances:

- ◆ At the time specified in the operating agreement, or the maximum number of years provided under state law if such time is set forth in the operating agreement;
- ◆ Upon the happening of events specified in the operating agreement;
- ◆ The written consent of all members; or,
- ◆ The death, retirement, resignation, expulsion, bankruptcy or dissolution of a member.