

Chart of Entity Comparison

| | Sole Proprietor | Partnership | C Corporation | S Corporation | LLC |
|---|---|--|---|---|---|
| Legal Status | Same entity as owner | Separate entity from owner | Separate entity from owner | Separate entity from owner | Separate entity from owner |
| Separate Taxable Entity from Owner | No | No | Yes | No | Depends on tax status as sole proprietorship, partnership, or corporation |
| Ease of Formation | Very easy | Partnership agreement is helpful | Articles of incorporation generally required | Articles of incorporation generally required | Articles of organization generally required |
| Management | Owner | May be divided among partners | Board of Directors | Board of Directors | Per articles of organization |
| Continuity of Life | Terminates with death of owner | Cessation of business; ceasing to operate as a partnership; sale or exchange of 50% or more of the profits and capital within a 12-month period; may terminate with death of partner if agreement specifies. | Continuous | Continuous | Per articles of organization |
| Number of Owners | One | Unlimited | Unlimited | 100 | Depends on tax status as sole proprietorship, partnership, or corporation |
| Eligible Owners | Individuals | Unlimited | Unlimited | Some limitations | Depends on tax status as sole proprietorship, partnership, or corporation |
| Owner Liability | Unlimited exposure | Unlimited if general partner; limited to investment if limited partner | Limited to investment, except for personal services | Limited to investment, except for personal services | Limited to investment, except for personal services |
| Transferability of Ownership | Only by sale of entire business or creation of a different entity | Can sell all or a portion of partnership interest | Can sell all or a portion of stock | Can sell all or a portion of stock | Per articles of organization; commonly has some limitations |
| Ability to Raise Capital | Limited to owners' assets and borrowing ability | Limited to owners' assets and borrowing abilities; can sell interests to raise capital | Limited to owners' contributions and corporation borrowing abilities; can sell interests to raise capital | Limited to owners' contributions and corporation borrowing abilities; can sell interests to raise capital | Limited to owners' contributions and LLC's borrowing abilities; can sell interests to raise capital |

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| Ownership Rights | Total | Divided among partners | Divided among shareholders | Divided among shareholders | Divided among members |
| Tax Year | Same as owner | Majority interest rules; principal partner rules; or the least aggregate deferral of income rule; exceptions may be the business purpose of §444 election | Calendar or fiscal year | Calendar year; §444 election; or business purpose demonstrated | Depends on tax status as sole proprietorship, partnership, or corporation |
| Allocation of Income | 100% to owner | Based on partnership agreement if it has substantial economic reality | 100% to corporation | Normally pro-rata based on per share/per day rule | Depends on tax status as sole proprietorship, partnership, or corporation |
| Tax on Formation if in Control | No gain or loss | Gain to the extent debt relief exceed basis of property transferred | No gain if debt relief does not exceed basis of property transferred and no other assets received by transferee | No gain if debt relief does not exceed basis of property transferred and no other assets received by transferee | Depends on tax status as sole proprietorship, partnership, or corporation |
| Tax on Formation if Not in Control | Not applicable since always in control | Gain to the extent debt relief exceeds basis of property transferred | Gain or loss as if sold property transferred for the FMV of the stock received | Gain or loss as if sold property transferred for the FMV of the stock received | Depends on tax status as sole proprietorship, partnership, or corporation |
| Original Basis of Stock if Not in Control | Not applicable since always in control | Basis of property transferred less debt relief | FMV of stock received | FMV of stock received | Depends on tax status as sole proprietorship, partnership, or corporation |
| Basis Increases from Operations | Additional purchases or cash invested | Increased by profits, and increase in partner's share of debts | Increased by additional investments | Increased by profits and additional contributions | Depends on tax status as sole proprietorship, partnership, or corporation |
| Basis Decreases from Operations | Normal basis adjustments; depreciation, amortization, etc. | Decreased by losses, deductions, distributions, and decreases in partner's share of debts | Decreased by nontaxable return of capital, if any | Decreased by losses, deductions, and distributions | Depends on tax status as sole proprietorship, partnership, or corporation |
| Deductibility of Losses | Normal limitations, at-risk, passive | Passed through to partners, normal limitations apply, basis, at risk, passive | Stay at corporate level, not passed through to shareholders | Passed through to shareholders, normal limitations apply, basis, at risk, passive | Depends on tax status as sole proprietorship, partnership, or corporation |
| Nonliquidating Distributions | 100% belongs to owner | Based on partnership agreement | Pro-rata among shares | Rights must be pro-rata among shares | Pro-rata among shares if a corporation; 100% if a sole proprietorship; or based on partnership agreement if a partnership |

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| Liquidating Distributions - Owner Level | Not a separate entity; therefore all reported as part of owner's return | Gain if cash, debt forgiveness, and marketable securities exceed basis or if partner receives a disproportionate share of unrealized receivables | Sold stock for value of cash and property received | Sold stock for value of cash and property received | Depends on tax status as sole proprietorship, partnership, or corporation |
| Worthlessness of Investment | Already has written off or capitalized all investments; loss sale of assets if sold | Capital loss of remainder of basis | Capital loss of remainder of basis; may qualify for \$1244 ordinary loss treatment | Capital loss of remainder of basis; may qualify for \$1244 ordinary loss treatment | Depends on tax status as sole proprietorship, partnership, or corporation |
| Charitable Contributions | Generally 50% limitation | Generally 50% limitation at partner level | Generally 10% limitation | Generally 50% limitation at shareholder level | Depends on tax status as sole proprietorship, partnership, or corporation |
| Alternative Minimum Tax | Applies at individual level | Applies at partner level | Applies at corporate level | Applies at shareholder level | Depends on tax status as sole proprietorship, partnership, or corporation |
| Death - Basis Adjustments | Basis of assets is generally FMV on the date of death | Basis of partnership interest is generally FMV on the date of death; \$754 election available at partnership level | Basis of stock is generally FMV on the date of death | Basis of stock is generally FMV on the date of death | Depends on tax status as sole proprietorship, partnership, or corporation |
| Self-employment Tax | Yes | Yes if general partner, generally no if limited partner | No, since payment for services is in the form of wages | No, since payment for services is in the form of wages | Depends on tax status as sole proprietorship, partnership, or corporation |
| Salaries Paid to Family Members | Exempt from FICA for wages paid to children of owner who are under the age of 18; spouse and parents exempt from FUTA | Exempt from FICA for wages paid to children of owner who are under the age of 18 only if all partners are parents of children | No exemption for any family member | No exemption for any family member | Depends on tax status as sole proprietorship, partnership, or corporation |
| Accounting Method | Any method that clearly reflects income | Any applicable method; cannot use cash method of partnership is a tax shelter or has a corporation as a partner | Any applicable method; cannot use cash if it's a tax shelter, required to use inventories, or has annual gross receipts over certain limits | Any applicable method; cannot use cash if it's a tax shelter, required to use inventories, or has annual gross receipts over certain limits | Depends on tax status as sole proprietorship, partnership, or corporation |
| Fringe Benefits - Entity Level | Most are nondeductible; may be able to deduct 100% of qualifying health insurance premiums | Most are nondeductible; partner may be able to deduct 100% of qualifying health insurance premiums | Most are deductible | Most are nondeductible; shareholder may be able to deduct 100% of qualifying health insurance premiums | Depends on tax status as sole proprietorship, partnership, or corporation |

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| Fringe Benefits - Owner Level | See box above | See box above | Most are tax free | Most are taxable, although may be exempt from FICA if they are nondiscriminatory | Depends on tax status as sole proprietorship, partnership, or corporation |
| Capital Losses | Deductible by the owner up to capital gains plus \$3,000; excess is carried over until death | Passed through to partners with normal limitations applying at partner level | Allowed only to the extent of capital gains. Any net capital loss for the year is carried back three tax years as short-term capital loss then forward five years | Passed through to shareholders with normal limitations applying at shareholder level | Depends on tax status as sole proprietorship, partnership, or corporation |
| Income Characterization | Treatment depends on income; ordinary income, capital gains/losses, investment income, passive, etc. | Passed through to partners; character is the same as if partner received it directly | Dividend income when reported to shareholder | Passed through to shareholders; character is the same as if shareholder received it directly | Depends on tax status as sole proprietorship, partnership, or corporation |
| Exempt Income (i.e., municipal bond interest) | Exempt | Passed through to partners; retains character as exempt | Remains exempt for income tax, may be subject to AMT | Passed through to shareholders; retains character as exempt | Depends on tax status as sole proprietorship, partnership, or corporation |
| Retirement Plans | Any retirement plan, including SEPs, SIMPLEs, Keoghs, solo-401(k) | Any retirement plan, including SEPs, SIMPLEs, Keoghs, 401(k); must be established at partnership level; contributions passed through to partner and deductible by partner | Any retirement plan except Keogh; deductible at corporate level | Any retirement plan except Keogh; deductible at corporate level; must be established at S corporation level | Depends on tax status as sole proprietorship, partnership, or corporation |

Note: This chart is intended for informational purposes only and may not include all aspects of tax law. When choosing a business entity, extreme care must be taken to ensure all federal and state laws are being followed.