

THE ADVANTAGE OF A LIMITED LIABILITY COMPANY

A Limited Liability Company (LLC) has the advantage of being a hybrid between a partnership and a corporation. The advantage of a Limited Liability Company is that most states require the entity to observe fewer formalities than a corporation.

Advantage: One LLC Member Required. Historically, most states required that at least two members comprise an LLC. North Carolina and the IRS recognize the single-member LLC as a legitimate business structure.

Separate Legal Entity: Like limited partnerships and corporations, the LLC shares a similar advantage – it is recognized as a separate legal entity from its “members.”

Limited Liability: Ordinarily, only the LLC is responsible for the company’s debts, thus shielding the members from individual liability. However, there are some exceptions, where North Carolina law may hold individual members liable:

- **Guarantor Liability:** Where an LLC member has personally guaranteed the obligations of the LLC, he or she will be liable. For example, where an LLC is relatively new and has no credit history, a prospective landlord about to lease office space to the LLC will most likely require a personal guarantee from the LLC members before executing such a lease.
- **Alter Ego Liability:** Very similar to the judicial doctrine applied to corporations -- a court may hold the individual share holders liable where the business entity is merely the “Alter Ego” of its shareholders, a member of an LLC also may be held liable for the LLC’s debts if the court imposes its “alter ego liability” doctrine.

LLC Management and Control: Management and control of an LLC is vested with its members unless the articles of organization and operating agreement provide otherwise.

Voting Interest: Ordinarily, voting interest in an LLC directly corresponds to interest in profits, unless the articles of organization or operating agreement provide otherwise.

Transferability: No one can become a member of an LLC (either by transfer of an existing membership or the issuance of a new one) without the consent of members having a majority interest (excluding the person acquiring the membership interest) unless the articles of organization provide otherwise.

Duration: An LLC does not have a reliable continuity of existence. The articles of organization must specify the date on which the LLC's existence will terminate. Unless otherwise provided in the articles of organization or a written operating agreement, an LLC is dissolved at the death, withdrawal, resignation, expulsion, or bankruptcy of a member (unless within 90 days a majority in both the profits and capital interests vote to continue the LLC).

Disadvantage: Cost. North Carolina requires an annual fee of \$200 for LLCs, whereas corporations are only required to pay \$20 annually.