

Any discussion of tax planning for business owners must begin with an examination of the choice of tax entity used by the business. Although this is not an entity selection course, there are a number of features which must now be considered in business formation including the current low “C” corporation tax rate and the 20% QBI flow through deduction.

### Updated for 2017 Tax Cuts & Jobs Act

Factor	Sole Proprietor	General Partnership	Single Owner LLC	Limited Liability Company	S Corporation	C or Regular Corporation
<b>Default Tax Form</b>	Schedule C or F	Form 1065	Schedule C, E or F	Form 1065	Form 1120S	Form 1120
<b>Owner Liability</b>	Unlimited to the extent of all assets owned	Unlimited to the extent of all assets owned	Limited to the amount of investment and guarantees	Limited to the amount of investment and guarantees	Limited to the amount of investment and guarantees	Limited to the amount of investment and guarantees
<b>IRS Form to Establish</b>	None	None	None	None	Employer ID # Form SS-4, S Corporation Election Form 2553	Employer ID # Form SS-4
<b>Income Taxed to Entity</b>	No-Flows to owners	No-Flows to owners	No-Flows to Owners	No-Flows to Owners	No-Flows to Owners	Yes
<b>SE Tax?</b>	Yes	Yes	Yes	Maybe	No	No
<b>State Organization Forms Required</b>	No	No	Yes	Yes	Yes	Yes
<b>Written Operating Agreement Required</b>	No	No-but suggested	Yes in most cases	Yes in most cases	Yes	Yes
<b>Annual Board and shareholder meetings required</b>	No	No	No	No	Yes	Yes

<b>Double Tax Issues-1 at entity, 1 to owners</b>	No	No	No	No	No	Yes
<b>Profit Distribution tax rates</b>	Ordinary 37% Max	Ordinary 37% Max	Ordinary 37% Max	Ordinary 37% Max	Ordinary 37% Max	Capital 20% Max
<b>Excluded owners because of tax rules?</b>	No	No	No	No	Yes	No
<b>Range of # of Owners</b>	1	2-Unlimited	1	2-Unlimited	1-100	1-Unlimited
<b>Duration of Existence</b>	Life of Owner	Per agreement	Lesser of Agreement or life of owner	Per agreement	Unlimited	Unlimited
<b>Year End</b>	12/31	12/31, other under special rules	12/31	12/31, other under special rules	12/31, other under special rules	Any
<b>20% 199A Flow thru Deduction</b>	No, but on 1040	No, flows to owners	No, but on 1040	No, flows to owners	No, flows to owners	No
<b>Minor child wage benefit available</b>	Yes	No unless only owners are husband and wife	Yes	No unless only owners are husband and wife	No	No
<b>106 Health Insurance for owner treatment</b>	Take on 1040 as SE health deduction unless spouse employed, then on Schedule	Add to guaranteed payments, deduct on 1040 unless non-owner spouse employed, then on 1065	Take on 1040 as SE health deduction unless spouse employed, then on Schedule	Add to guaranteed payments, deduct on 1040 unless non-owner spouse employed, then on 1065	Add to Box 1 of W-2, deduct on 1120S, deduct on 1040 as SE health	Deduct on 1120
<b>105 HRA and Medical Reimbursements for owners</b>	Deduct on schedule if spouse employed, otherwise	Add to guaranteed payments unless non-owner spouse	Deduct on schedule if spouse employed, otherwise	Add to guaranteed payments unless non-owner spouse	Add to Box 1 of W-2, deduct on 1120S, deduct on Schedule A	Deduct on 1120

	Schedule A only	employed, then on 1065	Schedule A only	employed, then on 1065		
<b>Home office deduction allowed</b>	Yes	Yes as unreimbursed, only by written agreement	Yes	Yes as unreimbursed, only by written agreement	No	No
<b>At Risk Basis of owners</b>	All amounts at risk	Investment plus share of recourse and qualified non-recourse debt	All amounts at risk	Investment plus share of recourse and non-recourse debt	Investment plus direct loans to entity	Investment
<b>Penalty Taxes: (A) AMT, (B) BIG, (C) Accum. Earnings, (D) PSC, (E) PHC, (F) Excess Passive Income</b>	A	None	None	None	B, F	A, C, D, E,
<b>Allocate income other than as owners' %</b>	N/A	Yes	N/A	Yes	No	N/A
<b>Special step-up basis election on buyout</b>	N/A	Yes	N/A	Yes See 754 Step Up Basis	Rare-See 338 Step Up Election	No
<b>Special 351 rules for formation apply?</b>	No	No	No	No	Yes	Yes
<b>Treatment of non-cash distributions</b>	Exempt	Exempt after 2 years	Exempt	Exempt after 2 years	Taxed at FMV to both corp & individual	Taxed at FMV to both corp & individual
<b>Unreasonable High Compensation Issues</b>	N/A	N/A	N/A	N/A	N/A	Yes

Inadequate Compensation Issues	No	No	No	Possible as regards SE tax	Possible	No
IRS Audit Concern	Average	Minimal	Average	Minimal	Minimal	Average
Owners Payment for Services	Draw	Guaranteed Payments	Draw	Guaranteed Payments	W-2	W-2
State Tax Uniformity	Yes	Yes	Yes	No	No	Yes
Liquidation	N/A	Nontaxable to extent of basis	Nontaxable to extent of basis	Nontaxable to extent of basis	Taxable to shareholder	Taxable to both corp & shareholder
Owner's Fringe Benefit Usage	Poor	Poor	Poor	Poor	Average	Excellent
Leveraged loss deduction from loan basis	Yes	Yes	Yes	Yes	No	No
Ownership Sale subject to 3.8% NII surtax if active?	No	No	No	No	No	Yes