Choosing the Right Business Entity: A Guide to Corporations, LLCs, and Non-Profits

Services

Business Law

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Starting, buying, or selling a business is an exciting venture that requires careful planning and decision-making. One of the most critical steps is selecting the right business entity, as this decision affects personal liability, tax obligations, and operational structure.

Types of Business Entities in Massachusetts

1. Sole Proprietorship

- **Overview:** The simplest form of business, owned and operated by one individual.
- **Advantages:** Easy to establish, minimal paperwork, and owner retains full control.
- **Disadvantages:** The owner is personally liable for all debts and obligations.

2. Partnership

- **Overview:** A business owned by two or more people. Can be a general partnership (equal responsibility) or a limited partnership (with at least one general partner and limited partners).
- **Advantages:** Simple to form and offers shared responsibilities.
- **Disadvantages:** Partners are personally liable for business debts unless it's a limited liability partnership (LLP).

3. Limited Liability Company (LLC)

- **Overview:** Combines the liability protection of a corporation with the tax benefits and flexibility of a partnership.
- **Advantages:** Owners (called members) are not personally liable for the company's debts or obligations. Flexible tax treatment (can be taxed as a sole proprietorship, partnership, or corporation).
- **Disadvantages:** Requires annual reporting and fees.

4. Corporations

Corporations are separate legal entities that provide strong liability protection for owners (shareholders). They come in several forms:

C Corporation

- Taxed as a separate entity.
- Offers unlimited growth potential through stock sales.

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- Owners are shielded from personal liability.

S Corporation

- Similar to a C Corporation but allows income to “pass through” to shareholders to avoid double taxation.
- Limited to 100 shareholders, all of whom must be U.S. residents or citizens.

Close Corporation

- Typically smaller and less formal.
- Shares are held by a small number of owners, often family or close associates.
- Limits on stock transferability.

5. Non-Profit Organization

- **Overview:** Formed for charitable, educational, religious, or similar purposes.
- **Advantages:** Eligible for tax-exempt status and can receive grants and donations.
- **Disadvantages:** Strict compliance requirements and oversight by regulatory authorities.

Why Form a Corporation or LLC?

1. Personal Liability Protection

One of the primary benefits of forming a corporation or LLC is shielding the owners from personal liability. Properly structured and maintained business entities ensure that:

- Business debts and obligations remain separate from personal assets.
- Owners are not personally responsible for lawsuits against the business.

2. Professional Credibility

Operating as a corporation or LLC often enhances a business’s credibility with customers, vendors, and financial institutions.

3. Tax Benefits

Both corporations and LLCs offer opportunities to optimize tax liability through deductions and flexible taxation structures.

Importance of Legal Counsel in Business Matters

Navigating the complexities of business formation and operations requires expertise. Legal counsel can provide valuable guidance in:

1. Creating a Business

- Choosing the right entity for your goals and circumstances.
- Drafting and filing articles of incorporation or organization.
- Establishing operating agreements or corporate bylaws.

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2. Buying or Selling a Business

- Conducting due diligence.
- Drafting purchase agreements and handling contract negotiations.
- Ensuring compliance with all regulatory and tax obligations.

3. Resolving Business Disputes

- Mediating and negotiating conflicts between partners, shareholders, or other stakeholders.
- Representing your interests in litigation when necessary.

Compliance, Reporting Obligations, and Annual Reporting Requirements

In Massachusetts, corporations and LLCs must file annual reports with the Secretary of the Commonwealth. These reports provide updated information about the business and ensure it remains in good standing.

Consequences of Non-Compliance

Failure to meet annual reporting and filing obligations can result in:

- Fines and penalties.
- Loss of good standing status.
- **Involuntary Dissolution:** The state may dissolve a company for failing to comply with reporting requirements, jeopardizing its legal protections and operations.

Why Work with Cohen Cleary, P.C.?

At **Cohen Cleary, P.C.**, our business attorneys bring extensive experience to every stage of the business lifecycle. Whether you are starting a new venture, buying or selling an existing business, or addressing disputes, we provide the strategic legal guidance you need.

What We Offer:

- Personalized advice tailored to your business goals.
- Comprehensive support with filings, contracts, and compliance.
- Representation in business disputes, negotiations, and litigation.

Contact Us for a Complimentary Case Consultation

If you need assistance creating, buying, selling, or resolving disputes involving a business, **Cohen Cleary, P.C.** is here to help. We can guide you through the complexities of business law and help you protect your investment and interests.

Call us today at 508-880-6677 to schedule a complimentary case consultation. Let us help you build a strong foundation for your business success.

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