

Creating an LLC? Maybe Not as Easy as it Looks

By: [Beth S. Cohn](#)

If you are considering forming a new company, many people decide that a limited liability company (LLC) will be the best type of company structure for them. However, selecting to form a LLC may be the easy part! There are many considerations when setting up your LLC. We've listed just a few below.

- Should your LLC be member managed or manager managed?
- If there is more than one member,
 - Which member is running the business?
 - Which member is best suited to be the manager?
 - Are there certain decisions that need the approval of the other members?
 - What are the consequences if one of the members is putting in money or capital and another is providing sweat equity?
 - Are buy-sell provisions needed on the death, disability or divorce of one of the members?
 - If one of the members is actively involved in the business of the LLC and the other is not, is there a mechanism for removing the member who is running the business if that member isn't performing?
 - If a member leaves, are restrictive covenants necessary to protect the business interests of the LLC?
- How should the LLC be taxed?
 - Is the LLC a disregarded entity and taxed on a Schedule C of the member?
 - Should the LLC be taxed as a corporation? If yes, should a Subchapter S election be taken?
 - Should the LLC be taxed as a partnership?
- What are the reasons for forming a LLC versus a corporation?
- Are there any measures that can be taken by a member to help protect both the assets and the business of the LLC from creditors of a member?

These are some of the questions that we ask our clients to consider when helping them form a LLC. The issues are unique and depend on both the type of business as well as the venture. Having a qualified lawyer help you answer these and other questions, will ensure that you have a LLC that fits your business and your needs.

About the author: [Beth S. Cohn](#) is a shareholder at the Phoenix law of [Jaburg Wilk](#). She chairs the [business law](#) department and is a State Bar of Arizona certified tax specialist and a CPA. She can be reached at 602.248.1000.

This article is not intended to provide legal advice. This article only covers United States Law. Always consult an attorney for legal advice for your particular situation.