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## Should I Form my North Carolina Business as an LLC or an S-corp.?

This is one of the most common questions I hear with regard to North Carolina business formation and classification. Hopefully, any lawyers and accountants reading this have already realized that the above title is intentionally misleading; you can't really "form" an S-corp.! In my 15+ years as a practicing attorney, this is by far the most common misperception I have come across in business law matters. (Another common mistake is thinking that an LLC is a limited liability corporation, when in fact it's a limited liability company.) Let's take a look at what business entities you can actually form in NC, according to the North Carolina Secretary of State, Division of Corporations:

- Business Corporation
- Nonprofit Corporation
- LLC / PLLC (Professional LLC)
- Limited Partnership
- Limited Liability Partnership

That's it. You'll notice that there is no "S-corp." on that list in North Carolina.

Then what's an S-corp.? A detailed explanation will follow in a future article, but essentially an S-corp. is a tax classification, not a type of business entity. **In the right circumstances, an LLC can choose to subject to tax laws which would also apply to certain corporations, with the result being that an LLC is treated as an "S-corp." for IRS purposes only. This choice does not and cannot transform an LLC into an S-corp.**

*[McGrath & Spielberger, PLLC is a law firm](#) which provides business formation assistance and other business law advice and services in North Carolina and other states. One practical and price-friendly service the Firm offers is telephone / e-mail consultations. Is it wiser to spend frustrating hours searching the internet for the "answers" to your business law questions or to pay a limited fee to an experienced attorney for [quick, professional and customized advice over the phone or via email?](#)*

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