Determining Legal Structure

The very first step before starting your private practice is to decide what business entity or legal structure best fits your needs.

Legal structure refers to the way a business is established and operated. Options can include sole proprietorship, general partnerships, regular corporations, LLCs, and subchapter s corporations; each has unique tax and liability characteristics. It is important for all private practitioners to fully understand the issues involved in determining legal structure at the outset in order to avoid complications in the future. Each legal structure has advantages and disadvantages. Due to its importance, an attorney and/or an accountant should assist in determining the most appropriate legal structure for each individual’s unique situation.

Below is an overview of business structure options.

**Sole Proprietorship**

A sole proprietorship is a business in which there is a single owner entirely responsible for business decisions and liabilities. This is the easiest, lowest cost type of business to start. In a sole proprietorship there is no legal distinction between the business and the owner. All business profits, losses and assets are the personal profits, losses and assets of the owner. The profits are taxed as personal income and are not subject to a corporate tax.

Sole proprietorships are not required to file paperwork with the Secretary of State in order to conduct business in the State of Ohio. If you wish to do business under a name different from that of the sole proprietor (your personal name) you must register a trade name or report the use of a fictitious name with the Secretary of State’s office. To file your fictitious business name (DBA – Doing Business As), you must fill out a Fictitious Business Name Registration and mail it to the Secretary of State at the address listed in the application. The filing fee is $50.

Sole proprietors without employees are not required to have an *Employer Identification Number (EIN) because they can use their Social Security number to report taxes. However, having an EIN may reduce risk of identity theft.

**Partnership**

A general partnership is created whenever two or more people agree to do business together for profit. There is no formal filing or registration required to create a partnership in Ohio; partnerships must comply with registration, filing, and tax requirements applicable to any business.

In choosing a Partnership Name, you may use the surnames of the individual partners or a fictitious business name. See information about fictitious names under Sole Proprietorship.
A partnership agreement is not a mandatory legal requirement for establishing a partnership, however it is a good business practice to reduce misunderstandings between the partners.

Partnerships are required by the IRS to obtain an Employer Identification Number or EIN. This is a nine-digit number issued by the IRS for tax reporting purposes. You may register for an EIN online at the IRS website. This is a free service provided by the IRS.

**Regular (or c) Corporation**

A corporation is its own business entity; any assets owned by the corporation belong to the company. Corporations are a way for people to protect their money and decrease their personal risk.

All corporations must obtain a license from the Ohio Secretary of State to lawfully conduct business in Ohio. The Ohio Secretary of State provides a guide to [Starting a Corporation in Ohio](#).

**Subchapter S Corporation**

The distinction between an s-corporation and a c-corporation is a tax difference. The Small Business Administration provides information about s-corporations under their [Starting a Business](#) webpage. A detailed account of Subchapter S regulations is available by calling the Internal Revenue Service (IRS) at 1-800-829-1040.

**Limited Liability Company (LLC)**

This is the most popular. A limited liability company (LLC) is a business entity, which combines elements of partnership and corporate structures, and may be formed in Ohio for a profit or nonprofit purpose. Many people decide to form a limited liability company because it provides more flexibility than a corporation and is well suited for one-owner companies. The LLC is taxed like a sole proprietorship but with the liability protection of a corporation. An LLC has its own EIN, its own taxes to pay, its own assets, and its own liabilities.

The Ohio Secretary of State provides a guide to [Starting a Limited Liability Company](#) in Ohio.

* Employer Identification Number (EIN)

An Employer Identification Number (EIN) identifies a business for federal and state tax purposes, much like a social security number for individuals. The EIN must appear on all returns, statements and documents. If an EIN is not used, a social security number will need to be used on all forms. Given the potential for identify theft, applying for an EIN through the IRS may be worthwhile.