Launching a Law Firm
Entity selection and startup considerations

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DC Bar Lunch + Learn

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Nothing in this presentation is intended as legal advice. The information contained herein is general information. Please consult a lawyer and/or tax professional for application to your specific facts and circumstances. Heather Batzel is licensed in DC, MD, PA and VA only.
Introduction

What’s the difference?

LLP, PC, PLLC, GP

What type of entity makes sense for me?

LLC, C Corp, S Corp

How do I form my firm?

What’s next?
3 Goals for Today

1. Discuss *considerations* relevant to choosing one over another

2. Outline available entity *options* for law firms

3. Equip you with *to-do items* for forming your law firm and beyond
Choice of Entity Considerations
Choice of Entity Considerations

- Liability
- Taxation
- Structural Applicability
- Law Firm Specifics
- Governance
- Other
Liability: Limited vs. Unlimited

• **Limited* liability**
  – Owner’s liability is limited to the amount of capital contributed
    • * Professional liability exception: Lawyers aren’t shielded from liability for own professional acts.
    • Additional exception: Personal guarantees

• **How to accomplish limited liability**
  – Register a limited liability entity
  – Observe applicable formalities
  – Don’t commingle funds
  – Don’t act outside authority
Taxation: Single vs. Double

• Some entities are taxed separately and some have “pass-through” treatment
  – Income from “pass-through” entities is allocated directly to ultimate owners rather than federal income tax at entity level.
  – Consider both federal and District/state treatment
    • DC generally assesses income taxes on registered entities
      – Non-recognition of S Corp status
      – Unincorporated Business Franchise Tax of 9.2%

• Nuances and Complications
  – DC exception to Unincorporated Business Franchise Tax
  – Inter-jurisdictional aspects
  – Tax returns
  – Deductions
Structural Applicability

• Ownership
• Control
• Involvement
• Compensation structure
• Later goals
Special Considerations for Law Firms

• No limitation of liability for own professional acts
• Generally, ownership/financing restricted
• Variation on Corp and LLC prescribed
  → PC and PLLC
• Naming
  – DC naming requirements at § 29–103.02
  – DC Bar Rules of Professional Conduct (and your other jurisdictions)
Governance

• Management structure
  – Simplicity/ease/flexibility/fit

• On-going governance
  – Level of formalities
  – Meeting requirements
  – Ease of operations
Other Considerations

- Costs
- Branding
- Preferences
Select Entity Types for Law Firms

- Sole Proprietorship (Sole Prop)
- General Partnership (GP)
- Limited Liability Partnership (LLP)
- Professional Corporation (PC)
- Professional Limited Liability Company (PLLC)
Liability

- Distinction in liability shield is tied to whether entity automatically arises or is created by registration process

<table>
<thead>
<tr>
<th>Unlimited Liability</th>
<th>Limited Liability*</th>
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<tbody>
<tr>
<td>Sole Proprietorship</td>
<td>Professional Corporation</td>
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<tr>
<td>General Partnership</td>
<td>Limited Liability Partnership</td>
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<tr>
<td></td>
<td>Professional Limited Liability Company</td>
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*Professional liability exception*
Taxation

- For federal tax purposes, most of the entities receive pass-through treatment rather than two levels of taxation but need to consider state/local tax treatment.

<table>
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<th>Single Level of Taxation</th>
<th>Double Levels of Taxation</th>
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<tr>
<td>Professional S Corporation *</td>
<td>Professional C Corporation</td>
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Structure + Governance

• In DC, law firms must be the “Professional” version if electing to be a Limited Liability Company or Corporation.
  – Affects naming, ownership, transferability and liability, but otherwise DC laws of those entities apply.
• Structured governance may or may not be desirable (board, meetings). Corp has rigid defaults; LLC is more flexible.
• S Corps further restrict ownership.
• Who can bind the entity varies among entity types.
• How viewed across jurisdictions might be important to you.
To Do Items:
Generally speaking

• Rules of Professional Conduct guide everything we do as lawyers
  – Familiarize yourself with them
  – Monitor them and opinions
  – Be mindful of different rules in different jurisdictions

• Order presented is not the only way
  – Your facts and circumstances may warrant a different course, or order, of action
1: Seek the advice you need.

- Attorney
- Tax Advisor
- Financial/Wealth Advisor
- Business
- DC Bar/PMAS and other available resources
2: Make a plan.

- Before you quit your day job (ideally), sort out what you’re doing and with whom.
- Consider what you are and are not allowed to do while still practicing elsewhere (corporate/partner fiduciary duties, ethics rules, contracts)
- Ensure you have agreement with whomever you are going into business with as to roles, rights and responsibilities.
- Draft governing documents if possible/practical and not inconsistent with duties/undertakings.
- Consider key items like costs/funds, lease, insurance, etc.
3: Form your company.

- Corporate registration for LLP, PLLC, PC
  - [https://dcra.dc.gov/service/corporate-registration](https://dcra.dc.gov/service/corporate-registration)
- Naming requirements
- Foreign registrations/qualifications to do business in other jurisdiction(s)
- Registered Agent(s)
- Finalize governing documents
4: Attend to tax matters.

- **Federal**
  - Apply for Employer Identification Number
  - If applicable, file your S-Corp election

- **DC**
  - Office of Tax and Revenue Registration
    - FR500 Combined Tax Form at [https://mytax.dc.gov/](https://mytax.dc.gov/)

- **Make a plan for ongoing tax requirements**
  - estimated taxes, tax withholding requirements, annual returns.

Batzel Law PLLC
5: Procure necessary permits and licenses.

- Bar license(s)
- Basic Business License (BBL) generally required of all businesses in DC but because law-firm principals are regulated by another licensing body, DC currently does not require BBLs for law firms.
- Certificate of Occupancy and/or Home Occupancy Permit
6: Procure needed insurance.

- Professional Liability Insurance
  - Check if you are in a jurisdiction requiring insurance.

- General Business Liability Insurance
  - Check your lease for requirements as well.

- Workers Comp

- Unemployment Insurance through DC Department of Employment Services (DOES).

- Others: Life, Disability, Business Continuity
7: Open bank accounts.

- **Operating Account**
  - Take certificate of formation/incorporation and your IRS EIN letter
  - Some banks ask for operating agreement.

- **Trust Account**
  - IOLTA
    - STRICT requirements in accounting and handling.

- **Remember to keep operating funds separate from personal funds, if a registered entity, and in any case to keep client funds held in trust and separate from operating funds.**
8: Plan compliance and governance.

- Calendar regulatory requirements such as:
  - DC’s Biennial Report due April 1 every other year beginning with first year
  - Applicable tax return (annual deadline depends on entity) and quarterly estimated tax payments
  - Issuing 1099s by Jan 31 (and then filing with IRS)
- Determine how and when to hold meetings and keep records.
- Make a plan for accounting and financial books and records.

- **Software for law practice management**
  - Conflicts
  - Billing
  - Accounting

- **Workspace arrangements/Lease**

- **Staffing**
  - Employees
  - Independent contractors
  - Virtual assistance
  - Bookkeeper, CPA

- **Legal research resources**
Additional Online Resources

- https://www.lexisnexis.com/hottopics/dccode/
- http://dccode.org/simple/Title-29/
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