DC Bar Lunch + Learn: Business Entity Selection and Formation for Law Firms

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Disclaimers

• Not tailored, not legal advice and should not be relied upon
• Expertise is corporate law, not taxation and not rules of professional conduct
• Licensed in DC, MD and PA only
Authority (DC)

• DC Code Title 29 DC Business Organizations Act
  – https://www.lexisnexis.com/hottopics/dccode/
  – http://dccode.org/simple/Title-29/

• See also DCRA Regulations
  – http://dcra.dc.gov/page/regulations-dcra
Questions for Discussion

• What are my options?
• What are the general considerations?
• Are there distinctions for law firms?
• How do I choose one form over another?
• How do I form once I’ve decided?
• What else do I need to be aware of?
Select Entity Types

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

– Liability (unlimited or limited)
– Taxation (double or single)
– Costs
– Operational ease
– Structural applicability
Special Circumstances for Law Firms

- Professional Liability
- Requirements and limitations in requisite entity forms
- Financing/Ownership
- Rules of Professional Conduct
Forming an entity in DC

• Sole Prop: automatic
• GP: automatic
• LLP: file Statement of Qualification
  – DC Form DLLP-1
• PC: file Articles of Incorporation
  – DC Form DPR-1
• PLLC: file Articles of Organization
  – DC Form DLC-1
Process in DC

• In person, by mail or online
  – https://corp.dcra.dc.gov

• Generally, the formation filing is $220 (exceptions, e.g. corporations capitalized with more than $100,000)
  – 1 day service $100 extra (walk-ins automatically pay this)
  – 3 day service $50 extra

• Registered Agent requirement
Then what?

• Taxation registration
• Permits and licenses
  – Including CoO and/or Home Occupancy
• Name registration
  – “trade name”/“fictitious name”/“assumed name”
• Foreign registrations
• Bank Account
• Insurance
Tax Registration

- DC Office of Tax and Revenue Registration
  - FR500 Combined Tax Registration
- MD State Department of Assessments and Taxation (SDAT)
  - Automatic if forming Corp, LLC and certain partnerships
  - Sole Props and GPs that own or lease personal property or need a business license need to separately register with SDAT

Talk to your tax advisor about what taxes and related forms apply to you!
Foreign Registration

• When doing business in a state other than the one where incorporated/formed/registered, registration with “foreign” state might be required → **state by state assessment**
  
  
  – MD [http://www.dat.state.md.us/sdatweb/forcp.pdf](http://www.dat.state.md.us/sdatweb/forcp.pdf)
  
  
Ongoing DC Filing Requirements

• Biennial Report
  – Due April 1 every other year § 29–102.11

• Tax/Franchise Filings
  – Annual deadline depends on entity

• Registered Agent
  – Must maintain, penalties for failure

• Business licenses, permits, other
Corporate Formalities

- Governing documents
- Meetings
- Records
- Handling of funds/separate accounts
- Insurance
- Contracts
- Jurisdictional requirements
Summary +
Chief Considerations

• Business considerations
• Liability
• Tax consequences
  – Key to review with competent tax advisor
  – Consider specific jurisdictions (DC, other implicated state and federal)
• Limitations based on law practice
• Insurance

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Additional Online Resources

- [http://commerce.maryland.gov/start](http://commerce.maryland.gov/start)
- [http://www.pasbdc.org/resources/start-up/business-checklist](http://www.pasbdc.org/resources/start-up/business-checklist)
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