

Sy Accountancy Corporation

Member, American Institute of CPAs

704 Mira Monte Place, Pasadena, California 91101

Tel (626) 744-0200 • Fax (626) 744-0300 • vsy@victorsycpa.com • www.victorsycpa.com

LIMITED LIABILITY COMPANIES (LLC) **(Choosing the Proper Entity for Your Business – Part 4)**

By Victor Sy, CPA, MBA

LIMITED LIABILITY COMPANY (LLC) is a hybrid that combines the pass-through attributes of a partnership with the limited liability of a corporation. An LLC with more than one member is taxed as a partnership (or as a corporation if not organized properly). The owners are called “members” who hold “interests” and are governed by an “operating agreement.”

A. Advantages:

1. The liabilities of members are limited to their investments.
2. No double income tax.
3. A Limited Liability Partnership (LLP) for professionals allows protection from claims involving the wrongful acts of other partners (vicarious liability).
4. No double tax on liquidation.
5. Can specially allocate profits and losses.
6. A member contributing appreciated assets to an LLC in exchange for membership interest is not required to recognize gain on that exchange.
7. Distributions of appreciated property from an LLC are generally received without gain.
8. Receipt of an interest in an LLC for a profit interest is generally not taxable.
9. It is not subject to accumulated earnings tax, personal holdings tax, or alternative minimum tax.
10. It is not required to maintain certain formalities such as corporate minutes.
11. The basis of a member's interest can be increased by the member's share of LLC debts.

B. Disadvantages:

1. California LLCs pay additional annual fee based on gross receipts. (This is the main reason why I seldom recommend LLCs for my clientele). The annual fee increased every year and has doubled since its introduction. It is now permanently set at \$900/2500/6000/11790 for gross receipts of \$250K, 500K, 1M, and 5M.
2. A member's net earnings are subject to self-employment tax, whether distributed or not.
3. Loss from the sale of LLC interest is a capital loss (limited to \$3000 per year).
4. An LLC will be constructively terminated if 50% or more of total interest is sold or exchanged within 12 months.
5. Disassociation events such as death, retirement or bankruptcy dissolve the LLC unless all remaining members consent to reinstate the entity.