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 Latino Tax Professionals Association



LATINO TAX FEST
 2017

**Which Business Entity
 is Right For You?**
1120S, LLC, 1065?

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Your Presenter

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Today's Presentation

You will learn the following:

- Legal and Tax Differences
- New EIN?
- Understand the Importance of Form 8832
- When Whould an S Corp be beneficial?
- Payroll and SE Tax
- The Differences between an LLC and C Corps

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Forms of Ownership

The business entity determines which tax forms to file. The most common are:

1. Sole proprietorship
2. Partnership
3. Corporation
4. S corporation

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Types of Business

There are two common types of businesses:

"Pass-through" Businesses: Pass-through businesses are those in which the profits and losses of the business pass through to the owners or shareholders. In other words, the business income is considered as the owner's or shareholder's income, and the owner/shareholder pays the tax on his or her personal tax return.

Separate Business Entities: Corporations are separate businesses entities. The profits and losses of the corporation are taxable to the corporation, not the owners (shareholders).

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Sole Proprietorship

1. Start-up costs are inexpensive
2. Owner controls all facets of the business
3. The business and the owner are one
4. The owner is liable for all debts and actions of the company
5. The life of the business continues to exist as long as the business owner is alive
6. File on Schedule C

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Limited Liability Companies (LLC)

No limit to number or type of members
Members may be any combination of individuals or business entities
May choose to follow any of the classifications:

- Sole Proprietor
- Partnership
- C-Corporation
- S-Corporation

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First Create an Operating Agreement



- Name of the company (Check SOS website)
- Company formation
- Who is the member(s)
- What is the term
- Continuation of the company

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Second File with Secretary of State

- Go to sos.ca.gov website for Articles of Organization
- Complete form
- Make sure to have client sign form and send original form to SOS
- Filing fee for California is \$70 Check to payable to Secretary of State
- Send certified mail

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Third File for EIN number

- Certified copy comes back and look online for processing times
- Once accepted print out information from SOS website
- Go to irs.gov to file SS-4 online
- When filing for LLC, make sure to select the correct amount of members
- Complete application and receive EIN online

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Third File for Statement of Information

- Make sure to go back online to SOS.ca.gov to fill out Statement of information
- Filing fee will be \$20
- You cannot e-file form, so form must be mailed out to SOS with original signatures
- You will not get any information back, but to be on the safe side certify everything you send to SOS.

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Fourth Make Minimum Payment

- LLC minimum payment is \$800 each year, including the first year you create the company.
- Example:
 - Client forms LLC on December 5th 2015,
 - Client gets accepted for LLC on December 29th 2015
 - Client must make a minimum payment of \$800 even if client did not actively engage in company business for the month of December. Company is protected the year the SOS accepted it

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Fifth File Tax Return

- You must file a tax return for California even if business made NO money for the year, Form 568.
- Every year estimated payments will be due for the LLC

2016 Limited Liability Company Return of Income 568

For calendar year 2016 or fiscal year beginning 2016

Check accounting method: Cash Accrual Other (attach explanation)

Check the applicable box: Initial return FINAL RETURN Amended return

During this taxable year, did another person or legal entity acquire control or majority ownership (more than a 50% interest) of this LLC or any legal entity in which the LLC holds a controlling or majority interest that owned California real property (i.e., land, buildings, leased such property for a term of 20 years or more, or leased such property from a government)? Yes No

During this taxable year, did the LLC receive control of majority ownership (more than 50% interest) in another legal entity that owned California real property (i.e., land, buildings, leased such property for a term of 20 years or more, or leased such property from a government) during the year? Yes No

During this taxable year, has more than 50% of the LLC's economic interests cumulatively transferred to one or more transferees other than the LLC or its partners or owners? Yes No

Single Member LLC

An individual owner of a single-member LLC that operates a trade or business is subject to the tax on net earnings from self employment in the same manner as a sole proprietorship

The activities of the Single Member LLC will generally be reflected on:

- Form 1040 Schedule C
- Form 1040 Schedule E
- Form 1040 Schedule F
- Disregarded Entity

Corporations

- Why Incorporate?
- Protect Personal Assets
- Increase Tax Savings
- Raise Capital
- Ensure Continuity
- Ensure Corporate Discounts
- States Grant Corporate Protection

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Corporations

- Management
- Board of Directors
- Officers
- Owner(s)
- Manager - Payroll
- Hold Meetings
- Record Minutes
- By Laws
- Articles of Incorporation

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Corporations

Corporations may choose two different tax classifications:

1. C- Corporation
2. S- Corporation

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C Corporations

- Traditional Corporation
- Subject to double taxation
- Profit and dividends
- No limit to the number or type of shareholders
- Fringe Benefits
- Golden Parachutes
- Foreign Investors

Key Features C Corporations

1. As opposed to a sole proprietor or an LLC, corporations are usually at a lower risk of being audited by the government.
2. The owners and the shareholders of a C corporation have a limited liability towards business debts.
3. A C corporation can deduct the cost of benefits as a business expense.
4. A C corporation can be used to split the corporate profit between the owners and the corporation.

The image shows a detailed screenshot of a 2016 U.S. Corporation Income Tax Return (Form 1120). The form is titled "U.S. Corporation Income Tax Return" and includes the year "2016" in the top right corner. It features a grid for reporting various types of income and deductions, such as "Return and allowances", "Dividend income", "Interest", "Capital gain or loss", and "Charitable contributions". The form is organized into sections like "Income", "Deductions", and "Credits". The bottom of the form includes a summary of the total income and tax liability.

S Corporations

- Blend of C Corp and partnership
- Profits and losses pass through and reported by shareholders
- No more than 100 shareholders
- Shareholders must be an individual, estate or certain trusts
- Stock must be the same
- Shareholders must be legal residents of the U.S.
- Usually a franchise fee to state

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Key Features S Corporations

1. Forming an S corporation generally allows the shareholder to pass business losses through to their personal income tax return, where they can use it to offset any income that they and their spouse, if they are married have from other sources.
2. When the S corporation is sold, the taxable gain on the sale of the business can be less than it would have been had the shareholder operated the business as a regular corporation.
3. S corporation shareholders are not subject to self-employment taxes (active LLC owners are).

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Formation of Your Corporation

- Look for a Business Attorney
- Small Corp or Large Corp - Same
- Articles of Incorporation – State
- By Laws
- Board of Directors
- Operating Agreement
- SS-4 Become a C Corp First
- File 2553 within 75 Days
- IRS Will Send Acceptance Letter

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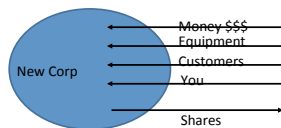
Steps After Forming a Business

- Separate Personal Assets from the Corporation (etc. Registration, loans and property)
- Register your Corporation fro state tax (EDD and BOE)
- Accounting

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Illustration



- You now own the shares of the corporation
- The Corporation owns the checkbook, contracts, equipment, etc.
- You are now the President – sign all docs as President
- You must pay yourself Reasonable Compensation

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Licenses and Permits

- Once your business is registered, you must obtain *business licenses and permits*.

Annual Obligations

- File annual Minutes with the Board of Directors
- Statement of Information (For California)
- Make estimated tax payments
- File annual return (1120)

S Corp Tax Savings

Schedule C Profits	
\$100,000	
SE Tax 15.3%	Income Tax
\$15,300	- Std Deduction
	-Itemized
	-Exemptions
Sub S Profits	
\$100,000	
	-Etc.
-\$50,000 Payroll for Shareholder	
\$50,000 subject to Income Tax Only	
Payroll Tax on \$50,000	Income Tax
\$7,650	- Std Deduction
Instant Savings of \$7,650	-Itemized
This impacts SS and Medicare	-Exemptions
	-Etc.

Questions?

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