

Perry Sofferman authors "Florida Limited Liability Company Forms and Practice Manual" published by Data Trace Publishing

KD is pleased to announce the publication by Data Trace Publishing of Florida Limited Liability Company Forms and Practice Manual by Perry Sofferman, Partner and Chair of KD's Corporate and Intellectual Property Practice Group.

Limited liability companies (LLCs) are flexible and pragmatic business entities that can serve a wide variety of needs. The business entity of choice for most startups and small businesses, LLCs can also effectively meet the needs of many much larger companies.

What makes the LLC the ideal choice for so many companies? What are the considerations for forming an LLC, and when might an LLC not be the best option? These are all important questions that founders and executives need to address when starting a company or spinning off an existing line of business.

Benefits of the LLC Business Structure

The LLC business structure offers several benefits—under the right circumstances. Here are some of the primary benefits of forming an LLC:

- **Limited Liability** – As the name suggests, LLCs offer limited liability to their members. This means members generally are not liable for business debts.
- **Limited Administrative Burdens** – LLCs generally involve fewer administrative burdens than corporations.
- **Check the Box Taxation** – The LLC structure allows the form of taxation to be selected by the members. This includes being taxed as a disregarded entity, a partnership, an S corporation or a C corporation.
- **Flexible Structuring** – LLCs can be structured with one or more classes of member interests with different management and voting rights and allows the members to allocate management and economic rights as desired.
- **Transferability of Member Interests** – Depending on the founding members' preferences, LLC member interests can be freely transferable or subject to restrictions.
- **Charging Order Protection** - Depending upon the jurisdiction and the number of members, LLCs often provide protection from outside creditors by limiting judgement enforcement to charging order liens.

Considerations for Forming an LLC

Several considerations go into properly structuring an LLC. While forming an LLC can be a reasonably straightforward process, the process is not as simple as filing a few forms (as many “online legal services” would have you believe). To derive maximum value from the LLC structure, it is necessary to carefully consider things like:

- State of formation
- Number of owners (“members”)

- Classes of members
- Capital contributions
- Management and control (i.e., member-managed vs. manager-managed)
- Distribution rights
- Liquidation
- Transferability of member interests
- Dispute resolution

When Might an LLC *Not* Be the Best Option?

Given the benefits that the LLC business structure offers, when might an LLC *not be the best option*? This is not an easy question to answer, other than to say, “It depends.” As with the process of forming an LLC, the precursor of deciding whether to form an LLC involves several considerations as well, and founders and executives need to make informed and strategic decisions based upon their specific business needs.

Florida Limited Liability Company: Forms and Practice Manual

KD Partner Perry F. Sofferman is Chair of the firm’s Corporate and Intellectual Property Practice Group. He focuses his practice on corporate, intellectual property and international law and represents clients ranging from startups to Fortune 500 companies.

Mr. Sofferman is also the author of Florida Limited Liability Company: Forms and Practice Manual, published by Data Trace Publishing. April 2021 updates to the Forms and Practice Manual include a selective summary of the Tax Cuts and Jobs Act of 2017, revisions related to the Bipartisan Budget Act of 2015 and a compilation of recent case law.

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