

## Starting a New Business

Starting a new business is an exciting process! Before you get too far along, you should consider these important steps:

### Type of Entity

Most small businesses choose either limited liability companies ("LLC") or Sub-S corporation. The entities are similar in that both: (i) provide some limited personal liability, (ii) allow for pass-through revenue status, (iii) offer centralized management, (iv) have continuity of life beyond the life of its owners (v) allow free transferability of interests and (vi) require formal registration with the state. They are different in that corporations have more procedural formalities associated with them and are usually more recognized and understood by the general public.

### Company Documents

You will need to formalize your entity by executing operating documents such as bylaws, operating agreements, and share certificates.

### Separate Entity

You will need to identify the key players for the entities and their roles. The benefits a corporation and LLC operations flow from its legal recognition as an entity separate from its owners. To enjoy these benefits, you must operate the business as a separate entity and in accordance with certain formal requirements including a separate bank account.

### Tax ID Number

Your new company must obtain a Federal Tax ID Number, and possibly a State Employer ID Number as well. It's helpful to choose a company accountant to help with those issues, but your attorney can help initially.

### Funding and Insurance

It is essential that the entity be sufficiently funded to avoid the appearance of being nothing more than a shell and that personal and business affairs be kept separate. Insurance should also be maintained to cover liability for the entity and its owners.

## Limited Personal Liability

Business should be done in the entity's name. To limit personal liability, it is essential that you avoid any indication that you are acting in a personal capacity. When signing documents, it should always be made clear that you are signing on behalf of the entity. Courts will often look to these formalities when determining if the business has been operating as a separate entity.



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### **Powers, McCulloch & Bennett, LLP**

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