

# Deciding Which Form of Practice is Right for You

The following is a brief summary of *some* of the *major* differences between the forms of practice available to lawyers and law firms. It is **NOT** intended to be the only source of information you consult before making your decision! Please retain the services of a tax consultant and/or other lawyer to help you analyze your individual situation. It is strongly suggested that any tax consultant with whom you work have a history of assisting similarly-sized law firms.

## **Sole Proprietorship**

*Who can operate in this form:* anyone who wishes to be the sole owner of a practice?

*Taxes* – file Schedule C, profit or loss from business, with individual 1040

*Liability* – full liability

*Advantages* – extremely simple to set up and maintain; tax parity has been achieved in many areas in the past

*Disadvantages* – some limitation on tax deductions for business expenses; full liability may place personal assets at risk; not an option for more than one person practicing together

## **Partnership**

*Who can operate in this form:* any two or more individuals or PCs who wish to practice together as owners of the firm

*Taxes* – partners file IRS Form 1065 (Partnership Return of Income) and submit Form K-1 with their individual 1040s, along with the Louisiana state tax forms

*Liability* – full liability for acts of malpractice by any of the partners; full liability for business debts and other obligations of the partnership

*Advantages* – simple to set up and maintain; easy to file taxes

*Disadvantages* – liability for malpractice on the part of other partners; liability for debts of the partnership; personal assets may be at risk; some limitation on tax deductions for business expenses; must be reformed when a partner leaves (unless specific provisions made in partnership agreement)

## **Professional Corporation**

*Who can operate in this form:* any one or more individuals who wish to own a firm and who want the advantages of a corporate form

*Taxes* – depending on whether the corporation itself has remaining income after paying its shareholders, the PC may fill out separate income tax forms, state and Federal, on its own behalf along with other state (usually Form 600S) and Federal (including F1120 first year of existence) informational reports and forms

*Liability* – liability for individual acts of malpractice only; liability for debts and obligations of the practice only to the extent of the shareholder's share in the PC

*Advantages* – frequently best position from a tax and tax deduction standpoint; limited liability

*Disadvantages* – complexity; maintenance expenses; sometimes an unwarranted sense of full protection from liability; cannot be practiced across state lines

### **Limited Liability Company**

*Who can operate in this form:* any one or more individuals, existing partnership, or existing professional corporation that wish to begin or convert a practice; must have at least two members to be treated as a partnership for Federal tax purposes

*Taxes* – depending on structure and governance of the LLC, this entity can be taxed as a corporation or as a partnership; almost all law firms who choose this form wish to be taxed as a partnership, which is generally possible

*Liability* – liability for individual acts of malpractice only; liability for debts and obligations of the practice only to the extent of the owner's share in the company

*Advantages* – ease of setup and maintenance combined with limitation on liability for others' malpractice and business debts; fairly good tax situation

*Disadvantages* – in order to be treated as a partnership, must have at least two members; S corporation can have one shareholder; although all states allow single member LLCs, not permitted to elect partnership classification for Federal tax purposes; files Schedule C as a sole proprietor unless it elects to file as a corporation

### **Limited Liability Partnership**

*Who can operate in this form:* an existing general partnership that wishes to make a limited liability election

*Taxes* – should always be classified as a partnership for Federal tax purposes

*Liability* – same as LLC

*Advantages* – extremely easy to set up notice of election and other advantages of LLC

*Disadvantages* – individual partners can commit the partnership to formal business agreements without the consent of the other partners; money and property contributed to the LLP becomes owned by the partnership unless otherwise stated, and the contributor is not entitled to its return except as stated in the partnership agreement