

LLC's: Why You Need Them

I. WHY CREATE AN LLC?

- A. Shield from liability
 - If something happens on the property, “injured” party can only sue LLC (not you)
- B. Shield for your personal assets
 - Only LLC’s assets are on the line if you ever get sued
 - Can’t reach your home, cars, boats, etc...
- C. Insurance is not enough
 - Insurance company could deny your claim–“gross negligence”
 - Damages may exceed policy limits–other personal assets on the line

II. STEPS TO CREATE A LLC

- A. Prepare/File Articles of Organization with the State (Dept. of Financial Institutions)
 - Makes the LLC “official” and recognized by the State
 - Can be filed online, fee is \$130.00
 - Determine if the LLC is “member managed” or “manager managed”

NOTE: Many people do this on their own and stop here—but just filing as an LLC is not enough to protect you from personal liability! We must continue...

- B. Prepare/file form with IRS, obtain tax I.D. number (EIN) for LLC
 - Can choose to be taxed as a partnership (pass-through taxation) or as a corporation (LLC will file its own tax returns)
 - Suggest you talk to your accountant about these options
- C. Prepare Member Agreement and Operating Agreement
 - Lays out how the LLC will be governed, voting procedures, dissolution process
 - Follows Chapter 183, Wisconsin Statutes
- D. Prepare Property Schedule
 - What are you putting into the LLC in exchange for your ownership shares?
 - Real estate
 - Time/services

- E. Prepare Membership/Share Certificates
- F. Optional
 - Where needed: Prepare Buy/Sell Agreement
 - Recommended where there are 2 or more members
 - Decide in advance what to do if someone "wants out"
 - Who gets what, how to value ownership
- G. Client steps:
 - 1. Open bank account in LLC name
 - 2. Be sure to keep separate books
- H. Ongoing responsibilities
 - If you do steps A-G at the outset, you are well on your way to protecting your personal assets. But to continue to be protected year after year, there are annual requirements:
 - 1. Annual Report
 - Filed with the State each year, reports any changes in membership
 - Must file even if no changes
 - Cost: \$25 filing fee
 - 2. Annual Meeting and Minutes
 - Members meet each year, prepare minutes and keep in file

III. INFORMATION AN ATTORNEY WILL NEED TO CREATE A LLC

- A. Name for your LLC
 - Preliminary searches on DFI site for name availability
 - Need to have "LLC" as part of the name
 - Should disclose LLC on business cards, leases, etc.
- B. Your SSN and address for IRS application and forms
- C. Property Information
 - We will prepare a quit claim deed to transfer ownership from you to LLC
 - We will record the deed
 - No transfer tax fee applies
 - If you have a mortgage on the property, we will need to get consent from the mortgage company
 - Not easy to get
 - Will probably need a personal guarantee from you
- D. Think about whether you want to be member managed or manager managed, and who the manager will be

- E. Think about how you want to be taxed. Recommended that you talk to an accountant about the tax issues/consequences beforehand