

Letter to the client regarding the decision to form a LLC

PREVIEW

1. Clients often forget the advice given to them by their attorney. Since the decision to chose one form of corporate or partnership organization over the other can have both tax and business consequences, the letter summarizes the office conference that occurred between the client and the attorney

Form: Letter to the client regarding the decision to form a LLC.

[Date]

[Name of client]

[Client's address]

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Dear [Client's salutation]:

Per our meeting, enclosed please find a summary of our discussion concerning organizing your limited liability company.

The first consideration was to decide whether the business entity should be formed as a corporation, (close or regular), professional corporation or association, limited liability company, professional limited liability corporation, general partnership, limited partnership, registered limited liability partnership or sole proprietorship.

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After discussing the above mentioned business entities, you have informed me that you have chosen the limited liability company form as the most appropriate legal entity for your business.

We also discussed the differences between a "close" and a standard corporation and incorporating in Texas versus other states, such as Delaware. Finally we discussed the Texas Franchise tax and its effect on your proposed business.

After discussing the above issues, I recommended that you consult a qualified tax advisor to advise you regarding the following:

1. To determine if a "sub chapter S" election will be beneficial and,
2. To assist you in capitalizing your corporation and determining the stock structure, number of shares to be issued, whether the shares will be par or no par, and the cost per share.

After your limited liability company is approved and you meet with your tax advisor I can assist you in issuing stock certificates. The charge for capitalizing your company and issuing stock is not included in the initial fee. If what is based on the agreed hourly rate, if you request me to perform those legal services.

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You told me that the limited liability company name that you have chosen is _____
[Proposed limited liability company's Name].

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We also discussed the steps required to form a limited liability company which include the following:

1. Preparation of the Certificate of Formation and filing the documents with the Secretary of State's office in order to obtain a corporate charter and file number,
2. Preparation of the limited liability Company Agreement,
3. Organizing the limited liability company by holding an organizational meeting, or signing a Waiver in Lieu of holding the Organizational Meeting,
4. Capitalizing the limited liability company by the issuance of stock and imposing stock restrictions if desired,
5. Adopting resolutions including but not limited to a Section 1244 stock plan, medical or health care reimbursement plan, and
6. Preparation of manager and member agreements.

Pursuant to your request, I shall prepare the Certificate of Formation and file the same with the Secretary of State's office.

At the time of filing, the filing fee must be paid. Additionally I recommend the payment of the special handling fee to expedite the filing of your limited liability company.

After we have filed the articles, the Secretary of State will issue a file number.

Thereafter the limited liability company must be organized pursuant to an organizational meeting of the initial board of members. This is the time and place where the limited liability company is actually organized. The initial board of members accepts the resignation of any members who cannot continue and new members may be appointed.

The members or managers should meet and approve the limited liability company's Company Agreement setting forth the rules and restrictions under which the limited liability company will operate.

At this meeting the following items are usually discussed and approved:

1. Establishment of bank accounts;
2. Terms of compensation for the members and key employees or officers.

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3. Approval of initial employment contracts and/or management contracts; and

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You must hold your organizational meeting and the issue stock certificates. If you do not hold your organizational meeting, and complete the required paper work (minutes) your limited liability company will not be complete. Consequently your actions could be subject to contest and you and the other members may be personally liable for all business obligations.

Please review the enclosed draft of your Certificate of Formation and make sure that I have spelled each person's name correctly. If the Certificate of Formation meets with your approval, then please have each incorporator sign the Certificate of Formation.

Please review the above and contact me if you have any questions regarding the preparation and formation of your limited liability company.

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Very truly yours

[Attorney's name]

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THANK YOU

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