



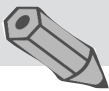
Excerpted from
FastTrac® GrowthVenture™



TAKE CHARGE OF YOUR BUSINESS®
A program of the Kauffman Foundation

Assessing My Business's Legal Form

In an ideal world, you would select a legal form of business understanding every legal and tax implication. The reality is that you must rely on the advice of your attorneys and accountants to make this decision. Attorneys and accountants can anticipate many situations based on their experience and on the information you provide. Still, the legal structure of the business is your decision to make and live with. Use My Business's Legal Form to check that the structure you operate under best covers the factors you are concerned about and best aligns with your business's strategy and goals.



My Business's Legal Form

Use the steps below to help decide whether your current legal structure is best for you. Then get help from an accountant and lawyer. Ultimately, however, this decision is yours. You need to be informed. In Step 1, answer the questions as honestly as you can, given what you know about yourself and your business right now. These answers will help you think about what is important to you in evaluating your legal structure. There are no right or wrong answers, only your opinion on the topic. Then use your answers in Step 1 to help you complete Step 2.

Step 1 Answer the questions on the chart below by circling *Yes*, *Maybe*, or *No*.

a.	Do you want to have control over your business's direction and decision-making?	Yes	Maybe	No
b.	Are you willing to give up some control for the potential of higher rewards?	Yes	Maybe	No
c.	Do you care about how the profits are disbursed—whether they flow directly to you, or whether they go to shareholders, or whether they are retained in the business? Keep in mind that this decision has tax implications.	Yes	Maybe	No
d.	Are you willing to be personally liable for debts or injuries caused by doing business?	Yes	Maybe	No
e.	Will you need to raise money from outside sources to get your business started or help it grow?	Yes	Maybe	No
f.	Do you have time to fulfill extra reporting requirements needed for some types of business structures?	Yes	Maybe	No
g.	Will you need to have flexibility to change the business structure as your business changes and grows?	Yes	Maybe	No
h.	Do you care if the business survives after your death or the death of one of the other owners?	Yes	Maybe	No
i.	Will your profit margins be so thin or your need for profit so high that tax considerations will drive the type of business structure you choose?	Yes	Maybe	No
j.	Might your business qualify to be a nonprofit organization?	Yes	Maybe	No



My Business's Legal Form continued

Step 2 Circle the cells within the Legal Structures Comparison Table below that most reflect your concerns based on the questions in Step 1 above.

Legal Structures Comparison Table

	Sole Proprietor	Partnership	Corporation	S Corporation	Limited Liability Company (LLC)	Nonprofit Corporation
a. Do I control the business?	Yes. You are the big cheese.	Only if your share of the partnership is greater than 50%.	Only if you control more than 50% of the shares of stock.	Only if you control more than 50% of the shares of stock.	Only if your share of the LLC is greater than 50%.	Only if you control a majority of votes on the board of directors.
b. What happens to the profits?	Profits are all yours.	Profits are split between you and your partner(s) as detailed in your partnership agreement.	Profits belong to the corporation and may be paid to shareholders as dividends.	Profits go directly to the owners, split as a percentage of shares owned.	Profits are split as detailed in your operating agreement.	Profits must be retained. So in some sense, there are no profits.
c. Am I responsible for financial obligations?	Yes. You have unlimited personal liability for the business.	Yes. You and your partner(s) have unlimited personal liability.	Not directly. Liability is generally limited to the assets of the business.	Not directly. Liability is generally limited to the assets of the business.	Your liability is limited to the assets you invested in the business.	Not directly. Liability is generally limited to the assets of the business.
d. Is money relatively easy to raise?	No.	No.	Yes. Money is easier to raise.	Yes. Money is easier to raise.	Somewhat. Money can be raised from members.	If approved, nonprofits can receive tax-deductible donations.
e. Is it relatively easy and inexpensive to get started and fulfill the legal requirements on an ongoing basis?	Yes. Using this structure is relatively easy.	Yes. Using this structure is relatively easy, but a partnership agreement should be prepared by an attorney.	More difficult. Corporations require some investment in time and money to start and to fulfill legal obligations.	More difficult. Corporations require some investment in time and money to start and to fulfill legal obligations.	No. LLCs are arguably the most complex and expensive business structure because of the operating agreement.	More difficult. Corporations require some investment in time and money and the IRS approval process is complex.
f. Can I easily change the legal structure of the business?	Yes. But it requires closing the existing form and starting another.	Yes. But it requires closing the existing form and starting another.	No. It is difficult to change from a corporate to non-corporate structure.	No. It is difficult to change from a corporate to non-corporate structure.	No. It is very difficult to change from an LLC to another structure.	No. It is difficult to change from a nonprofit to a profit structure.
g. What happens if one of the owners dies?	Your business dies when you die.	Partnerships die, unless otherwise specified in the partnership agreement.	Corporations survive the death of an owner.	Corporations survive the death of an owner.	LLCs can survive if specified by agreement or vote.	Non-profits have no owners but can survive death of founder or principal.
h. What tax advantages and/or disadvantages exist?	Taxes are easy. Allows fewer expense deductions.	Taxes are fairly easy. Allows fewer expense deductions.	Double taxation is a disadvantage. Allows more expense deductions.	No double taxation. Allows more expense deductions.	No double taxation. Allows fewer expense deductions.	No taxes, but still must file informational returns.

Step 3 Review the circles on the table to determine which structure delivers the most positive impact for your business. Take this information to a trusted legal adviser for review.