

Comparison of Various Business Entities

C Corporations and S Corporations.

Similarities

1. An S Corporation is simply a C Corporation (also known as a standard business corporation) that files IRS form 2553 to elect a special tax status with the IRS. The articles of incorporation that are filed with the state are same whether a corporation is a C Corporation or S Corporation.
2. They both are separate legal entities that are created by a state filing. Both offer the same limited liability protection, the owners are typically not personally responsible for the debts and liabilities of the business.
3. Both entities are required to follow the same formalities. They must hold annual meeting of shareholders and directors are required each year and meeting minutes must be kept with the corporate records.

Differences

1. Taxation:

a. The S Corporation is a pass-through tax entity — this means that the income or loss generated by the business is reflected on the personal income tax return of the owners.

b. A C Corporation is a separately taxable entity. The profits and losses are taxed directly to the corporation. This can lead to double taxation on dividends that are paid out of corporate profits to the owners.

2. The ownership of an S Corporation is restricted; however, the C Corporation does not possess these same limitations.

a. The C Corporation can have an unlimited number of shareholders while a subchapter S Corporation is restricted to no more than 75 shareholders.

b. Non-US residents can be owners of a C Corporation while an S Corporation may not have non-US residents as shareholders.

c. Also, S Corporations cannot be owned by C Corporations, other S Corporations, many trusts, LLCs, or partnerships. C corporations are not subject to these restrictions.

3. The S Corporation must make a timely election of S Corporation status. The election, which is made by filing form IRS 2553, must be made by March 15 in order for the election to take effect that year. If the election is made after March 15 but within 75 days of the incorporation date, the election will be effective for the next calendar year. If the S corporation is not a calendar-year taxpayer, the election must be made within 75 days of the beginning of the corporation's tax year.

LLCs and S Corporations

Similarities

- 1.** Both are separate legal entities that are created by a state filing.
- 2.** They offer the same limited liability protection, the owners are typically not personally responsible for the debts and liabilities of the business.
- 3.** Both are pass-through tax entities — this means that the income or loss generated by the business is reflected on the personal income tax return of the owners.

Differences

- 1.** The ownership of an S Corporation is restricted; however, a limited liability company does not possess these same limitations.
 - a.** An LLC can have an unlimited number of members (owners) while a subchapter S Corporation is restricted to no more than 75 shareholders.
 - b.** Non-US residents can be members of an LLC while an S Corporation may not have non-US residents as shareholders.
 - c.** Also, S Corporations cannot be owned by C corporations, other S Corporations, many trusts, LLCs, or partnerships. Limited Liability Companies are not subject to these restrictions.
- 2.** LLCs are allowed to have subsidiaries without restriction.
- 3.** Formalities:
 - a.** A corporation requires formalities, annual meetings of shareholders and directors are required each year and meeting minutes are required to be kept with the corporation's records.
 - b.** LLCs are not required to hold such meeting; however, it is a good idea to document major decisions of the company.
- 4.** A corporation's existence is perpetual. Conversely, an LLC typically has a limited life span. Most states require that an LLC list a dissolution date in its articles of organization and certain events such as the death or withdrawal of a member can cause the LLC to dissolve.
- 5.** The stock of an S Corporation is freely transferable while the interest (ownership) of LLC is not — typically the approval of the other members must be received.
- 6.** An S Corporation may have advantages with self-employment taxes in comparison with an LLC. For more information on this issue, please contact your tax advisor.

LLCs and C Corporations

Similarities

1. Both are separate legal entities that are created by a state filing.
2. Both offer the same limited liability protection, the owners are typically not personally responsible for the debts and liabilities of the business.
3. Both entities have very few ownership restrictions. The owners are not required to be US residents and the number of owners is without limitation. The owners are not required to be individuals as with an S Corporation.
4. The ownership, (stock with Corporation or membership interest with LLC) can be divided into numerous classes.

Differences

1. Taxation:

- a. The LLC is a pass-through tax entity — this means that the income or loss generated by the business is reflected on the personal income tax return of the owners.
- b. A C corporation is a separately taxable entity. The profits and losses are taxed directly to the corporation. This can lead to double taxation on dividends that are paid out of corporate profits to the owners.

2. Formalities:

- a. A corporation requires that certain formalities be followed. The corporation must hold annual meetings of shareholders and directors each year and meeting minutes must be kept with the corporation's records.
- b. LLCs are not required to hold such meetings, however, it is a good idea to document major decisions of the company and hold regular meetings of members.

3. Transferability of Interest:

- a. Transferring stock in a corporation is typically easier than the transfer of ownership with an LLC. Typically, a shareholder of a corporation is not required to get approval of the other shareholders before selling stock. Whereas with an LLC, the usual rule is that the owners must obtain approval of the other owners before ownership can be sold.

Management

- 1. The management of an LLC can be by members, in which case the management is much like that of a partnership. If the management of an LLC is by managers, then the management structure closely resembles a corporation.**