

JOHN CUNNINGHAM'S LLC NEWSLETTER FOR TAX AND FINANCIAL PROFESSIONALS

ISSUE NO. 1 (AUGUST 1, 2003)

WHY DO LLCs MATTER?

THIS NEWSLETTER IS ABOUT LLC LAW, TAX AND PRACTICE. WHY BOTHER READING IT? HERE'S WHY.

In New Hampshire and many other states, LLCs are rapidly replacing corporations and other traditional business entities as the entities of choice for business start-ups. What are the reasons for this LLC Revolution? What does the LLC Revolution mean for your clients? And what does it mean for you as a CPA, EA or other tax or financial professional?

For many business people starting new businesses, LLCs have become the entities of choice because they offer BETTER LAW; for many others, because LLCs offer BETTER TAX; and for still others, because LLCs offer a better COMBINATION of law and tax.

To explain:

- LLC Legal Advantages for Single-owner Businesses. For individuals who are starting a new business, LLCs are the only entity that can simultaneously provide a LIABILITY SHIELD, CONTRACTUAL FLEXIBILITY, STATUTORY INFORMALITY, and OPTIMAL MANAGEMENT STRUCTURE. (I will explain all of these concepts in later issues of this Newsletter.)

By contrast, corporations provide ONLY a liability shield, they are relatively formal and inflexible, and their management structure makes no sense for many small businesses. In short, for most individuals starting new businesses, LLC LAW IS BETTER LAW.

- LLC Tax Advantages of LLCs for Single-owner Businesses. Under the famous "Check-the-Box Regulations," LLCs are the only entities that can provide individuals who are starting new businesses with a choice between sole proprietorship taxation and taxation under Subchapters C and S.

By contrast, state-law sole proprietorships can't provide Subchapter C or Subchapter S taxation, and corporations can't provide sole proprietorship taxation. In other words, for many individuals starting new single-owner businesses, LLC TAX IS BETTER TAX.

In particular, only an LLC can simultaneously provide an individual business owner with (i) a liability shield and (ii) sole proprietorship taxation. Neither a corporation nor any other non-LLC entity can do this.

- LLC Legal and Tax Advantages for Multi-owner Businesses. LLCs offer multi-owner businesses the same legal advantages that they offer individuals. They also

offer these businesses STATUTORY BUSINESS ASSET PROTECTION (a unique and critically important LLC legal advantage I'll discuss in future issues of this Newsletter). And they are the only entities that can simultaneously provide multi-owner businesses with (i) a complete liability shield and (ii) a choice between taxation under Subchapter K (i.e., partnership taxation), Subchapter C and Subchapter S.

By contrast, corporations can't provide statutory business asset protection and they can't provide partnership taxation.

In short, when two or more persons form a business corporation to conduct their business, THIS IS VERY OFTEN A MISTAKE. The corporation should have been an LLC.

What does all this mean for you as a tax or financial professional? I'll address this question in the next issue of this Newsletter.

Has this Newsletter been useful to you? How can I improve it? What other topics should I address in it? Please let me know at lawjmc@comcast.net or give me a call at (603) 228-0125. And feel free to call me at that number if you have any questions about the Newsletter or about other LLC matters.

JOHN CUNNINGHAM
OF COUNSEL
RANSMEIER & SPELLMAN, P.C.
CONCORD, NH
www.law-nh.com (Ransmeier & Spellman Website)
www.cunningham-seminars.com