

## **Entity Selection & Formation**

### ***Sex Workers Organizing Against Barriers Conference***

***April 23, 2021: 12-1:30pm EST***



**Cornell Law School**

Entrepreneurship Law Clinic

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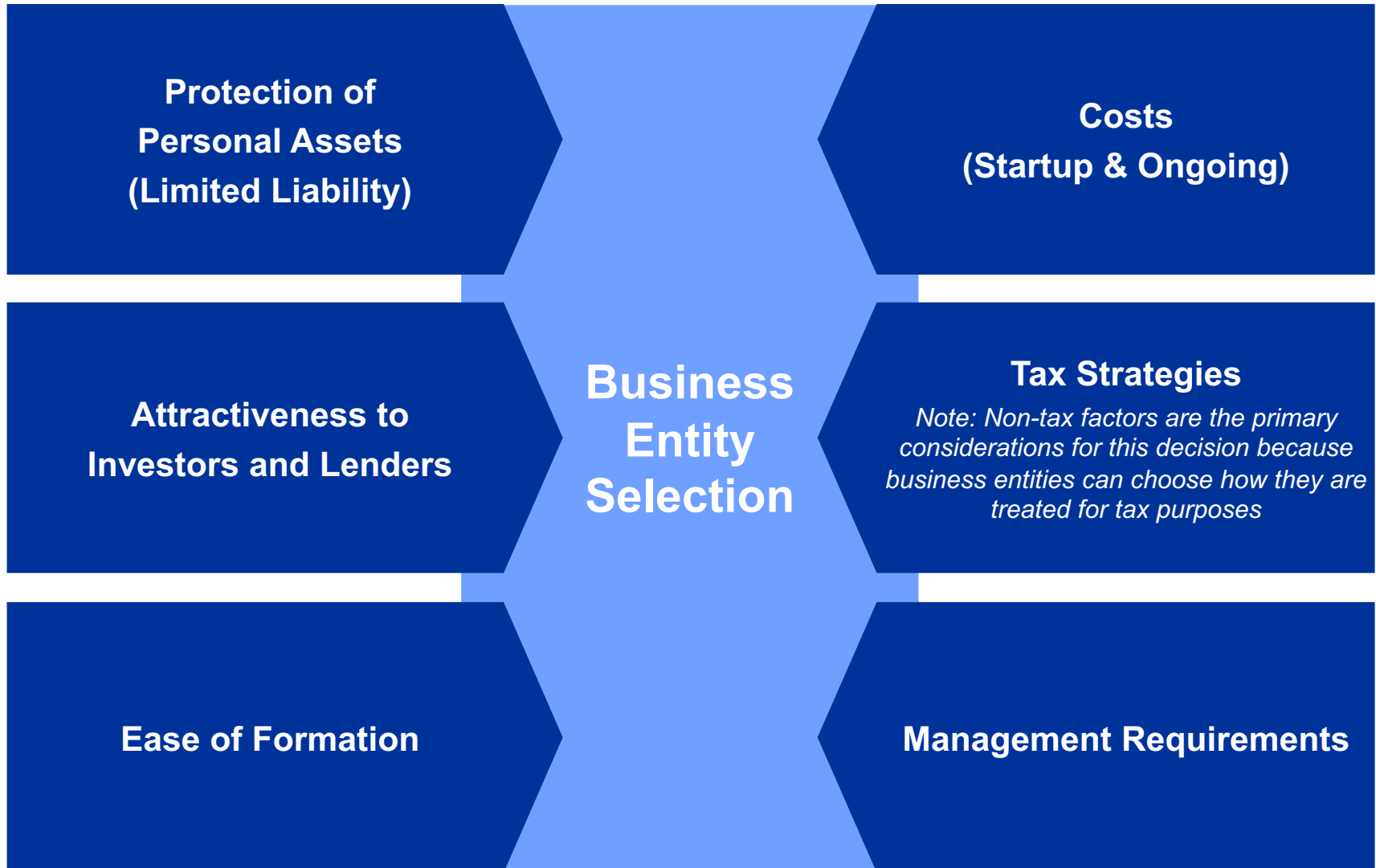
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# ———— **Choosing a Legal Entity** ————

## Considerations for Choosing the Correct Business Entity

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## Choosing the Correct Business Entity: Overview

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### Significant Characteristics

#### Corporations: C-Corp & S-Corp

- Owned by stockholders and managed by a board of directors
- Most large business organizations operate as corporations
- Principal attractions: (1) limited liability; (2) well-understood governance laws; (3) ability to transfer ownership easily
- **Double taxation**

#### Partnership

- Separate entity for some purposes but not for others
- “Pass-through taxation”: Partnership does not pay taxes; instead, taxes are paid by its partners based upon their respective interests in its profits
- Many venture capital and investment funds **cannot** invest in partnerships or LLCs

#### Limited Liability Company (“LLC”)

- Attempts to combine the best attributes of the corporation and partnership
- Pass-through taxation
- Many venture capital and investment funds **cannot** invest in partnerships or LLCs

#### Sole Proprietorship

- Owned by one person and has little legal significance separate from its owner
- Most prevalent business form due to large number of family businesses in U.S.
- **Unlimited personal liability**

## Choosing the Correct Business Entity: Overview (*cont'd*)

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### Significant Characteristics

#### Benefit Corp

- New type of legal entity
- Entity pursues three goals: (1) generating a competitive return for shareholders; (2) pursuing a stated public benefit; and (3) promoting the best interests of those materially affected by its conduct

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#### Non-Profit

- Entity pursues its stated charitable goals only – must provide a public benefit
- Most (but not all) non-profit organizations have 501(c)(3) designation
- No part of a section 501(c)(3) entity's net earnings may benefit private shareholder or individual

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#### Fiscal Sponsorship

- Not a legal entity per se
- A 501(c)(3) organization (“Fiscal Sponsor”) sponsors another entity or individual (“Project”) that furthers its non-profit mission
- Fiscal Sponsor provides the Project with 501(c)(3) benefits
- Fiscal Sponsor assumes legal responsibilities for the activities of Project
- Different models (Model A or Model C) depending on maturity of the Project and relationship between Fiscal Sponsor and Project

## Legal Entity Selection

Entity	C-Corporation	S-Corporation	LLC
Limited Liability?	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>
Ease of Formation	<ul style="list-style-type: none"> <li>• File certificate of incorporation with state</li> <li>• Must have basic corporate governance documents</li> <li>• Particularly in Delaware, the procedures are well-established to streamline the process</li> </ul>	<ul style="list-style-type: none"> <li>• Same as C-Corporation</li> </ul>	<ul style="list-style-type: none"> <li>• File certificate of formation with state</li> <li>• Documentation more flexible than C-Corporation</li> <li>• New York requires LLCs to <b>publish notice of formation in 2 newspapers for 6 weeks</b></li> </ul>
Management	<ul style="list-style-type: none"> <li>• Managed by directors and officers</li> <li>• Directors owe fiduciary duties of care and loyalty to the business</li> </ul>	<ul style="list-style-type: none"> <li>• Same as C-Corporation</li> </ul>	<ul style="list-style-type: none"> <li>• Managed either by the members or by a designated manager</li> <li>• May (but is not required to) have a board of directors</li> </ul>
Tax Treatment	<ul style="list-style-type: none"> <li>• Corporate profits are subject to <b>“double taxation”</b> <ol style="list-style-type: none"> <li>1. Corporation itself pays income tax (21% tax rate);</li> <li>2. Shareholders pay personal income tax on any dividends paid out</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• Same as LLC</li> <li>• To receive pass-through tax status, the corporation must file a pass-through tax status election with the IRS</li> </ul>	<ul style="list-style-type: none"> <li>• LLC is a “pass-through” entity – the entity itself does not pay federal or state income taxes</li> <li>• Rather, all profits and losses are “passed through” to the LLC’s owners, who account for profits and losses on their personal income tax returns</li> </ul>

## Legal Entity Selection (*cont'd*)

Entity	General Partnership	Limited Partnership	Sole Proprietorship
Limited Liability?	<ul style="list-style-type: none"> <li>No (unlimited personal liability)</li> </ul>	<ul style="list-style-type: none"> <li>Yes for limited partners</li> <li>Must have general partner, who bears unlimited personal liability</li> </ul>	<ul style="list-style-type: none"> <li>No (unlimited personal liability)</li> </ul>
Ease of Formation	<ul style="list-style-type: none"> <li>File certificate of formation with state</li> <li>No publication requirement</li> <li>Must have basic partnership agreement</li> </ul>	<ul style="list-style-type: none"> <li>File certificate of formation with state</li> <li>New York requires LPs to publish notice of formation in 2 newspapers for 6 weeks</li> <li>Must have basic partnership agreement</li> </ul>	<ul style="list-style-type: none"> <li>Requires no registration if individual is using his/her/their own name</li> <li>As soon as individual starts business, individual has sole proprietor business</li> <li>Need DBA if using any other name</li> </ul>
Management	<ul style="list-style-type: none"> <li>Managed by all general partners</li> </ul>	<ul style="list-style-type: none"> <li>General partners assume liability and handle operations</li> <li>Limited partners are investors only and have no authority over business</li> </ul>	<ul style="list-style-type: none"> <li>Cannot bring on partners</li> <li>Cannot pass business along</li> </ul>
Tax Treatment	<ul style="list-style-type: none"> <li>Pass-through taxation</li> </ul>	<ul style="list-style-type: none"> <li>Pass-through taxation</li> </ul>	<ul style="list-style-type: none"> <li>Business income taxed as personal income</li> </ul>

## Legal Entity Selection (*cont'd*)

Entity	Benefit Corporation	Non-Profit 501(c)(3)	Fiscal Sponsorship
Limited Liability?	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>
Ease of Formation	<ul style="list-style-type: none"> <li>• Formal registration process similar to traditional corporations</li> <li>• Also requires statement of its social or environmental purpose</li> </ul>	<ul style="list-style-type: none"> <li>• Requires detailed application to IRS – review can take months</li> <li>• Once IRS approves application, must register as a charity in state(s) of operation</li> <li>• <b>Can be an onerous process</b></li> </ul>	<ul style="list-style-type: none"> <li>• Can be shortcut for Project to obtain 501(c)(3) benefits in meantime</li> </ul>
Management	<ul style="list-style-type: none"> <li>• Owned by shareholders</li> <li>• Shareholders are entitled to profit distributions, annual reports and voting rights</li> <li>• Shareholders do not exercise day-to-day oversight</li> <li>• Day-to-day oversight done by management and is overseen by the board of directors</li> </ul>	<ul style="list-style-type: none"> <li>• Most non-profits do not have owners; they are entirely run by the board of directors</li> <li>• Another option is to have members who are entitled to vote on major decisions where the members do not own a financial stake in the business</li> </ul>	<ul style="list-style-type: none"> <li>• Depends on agreed-upon relationship between Fiscal Sponsor and Project</li> <li>• Different models depending on maturity of Project and relationship between Fiscal Sponsor and Project</li> <li>• Donations to Projects must be directed to Fiscal Sponsor</li> </ul>
Tax Treatment	<ul style="list-style-type: none"> <li>• Not tax-exempt</li> <li>• Taxed as an S or C Corp</li> </ul>	<ul style="list-style-type: none"> <li>• Exempt from federal income taxes</li> <li>• State tax exemptions vary: some states require separate application, whereas others follow federal status</li> </ul>	<ul style="list-style-type: none"> <li>• Project benefits from Fiscal Sponsor's federal tax-exempt status</li> </ul>



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# **Legal Entities & Privacy**

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## Legal Entity Privacy Implications

Entity	Privacy Details
Corporations	<ul style="list-style-type: none"><li data-bbox="374 454 1845 682">• <u>DE</u>:<ul style="list-style-type: none"><li data-bbox="471 508 1845 586">• No personally identifiable information is available online, as long as you use a 3<sup>rd</sup> party to sign the certificate of incorporation</li><li data-bbox="471 608 1845 682">• Portions of the annual report (including names of directors &amp; officers) are obtainable in hard copy for a fee</li></ul></li><li data-bbox="374 761 1845 946">• <u>NY</u>:<ul style="list-style-type: none"><li data-bbox="471 815 1845 893">• No personally identifiable information is available online, as long as you use a 3<sup>rd</sup> party to file the certificate of incorporation</li><li data-bbox="471 915 1845 946">• Biennial reports are part of public record, but you can get creative to protect your privacy</li></ul></li></ul>

## Legal Entity Privacy Implications (*cont'd*)

Entity	Privacy Details
Limited Liability Company (LLC)	<ul style="list-style-type: none"><li>• An anonymous LLC is a regular LLC that has been created in one of the states that does not require you to disclose the managers or the members of the LLC<ul style="list-style-type: none"><li>• There are anonymous LLC states (e.g., Delaware, New Mexico, Wyoming)</li></ul></li><li>• <u>Benefits:</u><ul style="list-style-type: none"><li>• Prevents others from accessing your info and using in malicious/harassing manner</li><li>• Legally there is no difference between registering as an anonymous LLC and a regular LLC—so benefits include tax advantages, flexibility, survivability and limited liability</li><li>• An anonymous LLC owner can conduct business without being associated with any negative fallout that may be generated from the business</li><li>• Helps to avoid frivolous lawsuits</li></ul></li><li>• <u>Other Considerations:</u><ul style="list-style-type: none"><li>• Not guaranteed to protect member privacy, but can likely protect member privacy</li><li>• Does not guarantee complete anonymity from your bank and the IRS (still need an EIN)</li><li>• If used improperly, confidential LLCs are still subject to piercing the corporate veil</li><li>• In DE the ownership information is still disclosed to the state, but it is not published</li><li>• The business can still be subject to lawsuits and can be required to identify the owners if a subpoena is filed through an attorney</li></ul></li></ul>

## Legal Entity Privacy Implications (*cont'd*)

Entity	Privacy Details
Non-Profit 501(c)(3)	<ul style="list-style-type: none"><li>• <b>Not very private</b></li><li>• Application for 501(c)(3) status requires the founders' name(s) and mailing address(es)</li><li>• State charities bureaus also require initial registration and ongoing reports<ul style="list-style-type: none"><li>• This information is part of the public record</li></ul></li><li>• Tax filings—Form 990—must be filed with the IRS each year and must have the name and address of the principal officer<ul style="list-style-type: none"><li>• The address is permitted to be the address used for the non-profit entity</li><li>• Form 990 also requires a listing of all officers, directors, trustees, key employees, and highest compensated employees</li></ul></li></ul>
Fiscal Sponsorship	<ul style="list-style-type: none"><li>• Model A Fiscal Sponsorships are housed completely with the Sponsor (501(c)(3)) entity<ul style="list-style-type: none"><li>• The project has no legal entity or identity outside of the Sponsor</li><li>• But if the project is a significant part of the Sponsor's activities, the Sponsor may need to identify the Project in its Form 990<ul style="list-style-type: none"><li>• <b>Less direct public exposure than a 501(c)(3), but not entirely private</b></li></ul></li></ul></li><li>• Model C Fiscal Sponsorships have their own legal entity and make their own tax filings<ul style="list-style-type: none"><li>• <b>Identity disclosure could occur through corporate filings</b></li></ul></li></ul>

## Legal Entity Privacy Implications (*cont'd*)

Entity	Privacy Details
Sole Proprietorship	<ul style="list-style-type: none"><li>• Generally, there are no public filing requirements if you use your own name as the entity name</li><li>• To operate under another name (DBA) you must register in any state of operations</li><li>• However, DBAs can be traced to the sole proprietor, so this business structure does <b>not</b> offer great protection</li></ul>
Partnership	<ul style="list-style-type: none"><li>• Corporate filings with names of partners are usually not public record but <b>can be obtained by members of the public upon request and payment of a fee</b></li></ul>

## Privacy Implications Overview

### Privacy Summary

#### Corporations

##### Items filed with the state:

- Certificate of Incorporation
- Annual Report
- Franchise Taxes
- Taxes (generally)

##### Items NOT filed with the state:

- Incorporator's Statement
- Bylaws
- Other corporate governance documents

#### LLC

##### Items filed with the state:

- Certificate of Formation
- Taxes (generally)

##### Items NOT filed with the state:

- Operating Agreement
- Annual Report
- Other corporate governance documents

#### Non-Profit

##### Items filed with the government:

- Nonprofit Certificate of Incorporation
- Annual Report
- Franchise Taxes
- Form 1023
- Form 990 and Annual Tax Return

##### Items NOT filed with the state:

- Bylaws
- Other corporate governance documents

## Summary: Legal Entity Privacy Implications

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# Identity Protection

- **Sole proprietorship**
- **501(c)(3)**

- **Model A fiscal sponsorship**

- **Corporation**
- **Partnership**
- **Model C fiscal sponsorship**

- **Anonymous LLC**

- In addition to the public disclosure implications, a sole proprietorship is the only business structure that would require an individual to include identifying information on a Form W-9 if providing services to another company
- All of the other legal business entities can fill out a W-9 in the company's name, not the name of the individual owner

## **Privacy of Other Individuals**

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- Generally, a payment of \$600 or more to an individual requires completion of a Form 1099
  - 1099s are not made public, but do require that the payee provide identifying information to the payor, including name and social security number
- But a payment is exempt from the 1099 requirement if it is provided to fulfill a “need” rather than to provide a benefit
  - E.g., a bus pass for a low-income individual to commute to work; rent paid directly to a landlord
  - Cash payments to individuals can be interpreted as serving a “need,” but the need must be well documented
- It would be challenging for a for-profit entity to justify payments to individuals as meeting a “need”



# Legal Entity Cost Comparison

## Legal Entity Cost Comparison: New York

New York			
Entity	Formation Costs	Publication Costs	State Franchise Taxes
Corporation (C-Corporation or S-Corporation)	<ul style="list-style-type: none"> <li>Incorporation fee is \$125</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Both C-Corps and S-Corps pay an annual franchise tax in NY. Until the business generates &gt;\$100,000 in taxable revenue in any tax year, the franchise tax is \$25/year</li> <li><u>To be treated as an S-Corp in NY, you must:</u> <ul style="list-style-type: none"> <li>(1) Elect federal S-Corp taxation by filing IRS Form 2553 within 2 months &amp; 15 days after the earliest of the date on which the company first had shareholders, had assets or was doing business; <b>then</b></li> <li>(2) Elect NY S-Corp taxation by filing Form CT-6. NY does not automatically follow federal tax treatment of S-corps</li> </ul> </li> </ul>
Limited Liability Company (LLC)	<ul style="list-style-type: none"> <li>Filing fee for the articles of organization is \$200</li> </ul>	<ul style="list-style-type: none"> <li>Notice of formation must be published in two newspapers for six weeks. Costs range from \$80-\$1,000</li> <li>LLC must then file a certificate of publication with a \$50 filing fee</li> </ul>	<ul style="list-style-type: none"> <li>N/A for LLCs treated as a pass-through entities for federal tax purposes</li> </ul>
Sole Proprietorship	<ul style="list-style-type: none"> <li>No filing costs</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Generally N/A</li> <li>But if the sole proprietorship is <b>not</b> operating under the individual's personal name, needs New York Doing Business As (DBA)</li> <li>\$100 — for each county within New York City</li> <li>\$25 — for each county outside New York City</li> </ul>

## Legal Entity Cost Comparison: New York (cont'd)

New York			
Entity	Formation Costs	Publication Costs	State Franchise Taxes
B-Corporation	<ul style="list-style-type: none"><li>Certificate of Incorporation: \$125</li></ul>	<ul style="list-style-type: none"><li>N/A</li></ul>	<ul style="list-style-type: none"><li>N/A</li></ul>
Non-Profit	<ul style="list-style-type: none"><li>Certificate of Incorporation: \$75</li></ul>	<ul style="list-style-type: none"><li>N/A</li></ul>	<ul style="list-style-type: none"><li>501(c)(3) organizations are exempt from corporate and franchise taxes</li></ul>
Fiscal Sponsorship	<ul style="list-style-type: none"><li>No filing costs</li></ul>	<ul style="list-style-type: none"><li>N/A</li></ul>	<ul style="list-style-type: none"><li>N/A</li><li>Note: There may be associated fees paid to Fiscal Sponsor (typically between 4-12% of annual revenue). However, this is to be negotiated and contracted for between Fiscal Sponsor and Project outside of state purview.</li></ul>

## Legal Entity Cost Comparison: Delaware

Delaware				
Entity	Formation Costs	Publication Costs	Registering as Foreign Entity in NYS	State Franchise Taxes
Corporation (C-Corporation or S-Corporation)	<ul style="list-style-type: none"> <li>Formation fee is a minimum of \$89. This minimum fee assumes 1,500 shares at no par value; it may increase, depending on the number of shares and their par value</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>If you are doing business in NY, the entity will need to apply for authority to do business in NY as well</li> <li>\$225 to file the application, which must be accompanied by a DE Certificate of Status (\$50)</li> </ul>	<ul style="list-style-type: none"> <li>Franchise tax is calculated either on the # of authorized shares or the assumed par value:                             <ul style="list-style-type: none"> <li>(1) Authorized Shares Method = \$175 minimum</li> <li>(2) Assumed Par Value Method = \$400 minimum</li> </ul> </li> <li>If the company registers to do business in NY, it would also pay NY franchise taxes and file a biennial statement</li> </ul>
Limited Liability Company (LLC)	<ul style="list-style-type: none"> <li>Formation fee is \$90</li> </ul>	<ul style="list-style-type: none"> <li>Because the LLC will likely need to register to do business in NY, it will need to comply with the same NY publication requirements as an LLC organized in NY</li> </ul>	<ul style="list-style-type: none"> <li>\$250 to file the application, which must be accompanied by a DE Certificate of Status (\$50)</li> </ul>	<ul style="list-style-type: none"> <li>Fixed at \$300 per year</li> <li>If the company registers to do business in NY, it would also file a biennial statement (see the NY cost table)</li> </ul>
Sole Proprietorship	<ul style="list-style-type: none"> <li>N/A if entrepreneur conducts business using his/her/their own name; otherwise, must formally register</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>If you are doing business in NY, the entity will need to apply for authority to do business in NY as well</li> </ul>	N/A

## Legal Entity Cost Comparison: Delaware (cont'd)

Delaware			
Entity	Formation Costs	Publication Costs	State Franchise Taxes
B-Corporation	<ul style="list-style-type: none"> <li>Certificate of Incorporation is \$89 for a one-page certificate and \$9 for each additional page</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>DE franchise tax is calculated on the basis of either the # of authorized shares or the assumed par value, similar to other corporate forms</li> <li>If the company registers to do business in NY, it would also pay NY franchise taxes and file a biennial statement</li> </ul>
Non-Profit	<ul style="list-style-type: none"> <li>Certificate of Incorporation is \$89 for a one-page certificate and \$9 for each additional page</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>501(c)(3) organizations are exempt from corporate and franchise taxes</li> </ul>
Fiscal Sponsorship	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> <li>Note: The Project typically pays fees to Fiscal Sponsor (typically between 4-12% of annual revenue). However, this is to be negotiated and contracted for between the Fiscal Sponsor and Project, outside of state purview.</li> </ul>

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## **Key Takeaways**

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## Legal Entity Takeaways

Entity	Pros	Cons
C-Corp	<ul style="list-style-type: none"><li>• Limited liability</li><li>• Easier to grow and attract investors</li><li>• Well-established governance procedures</li><li>• Lower corporate tax rate</li><li>• Ease for capital raising</li></ul>	<ul style="list-style-type: none"><li>• Slightly less private—some information can be accessed for a fee</li><li>• Double taxation</li><li>• Increased paperwork</li></ul>
S-Corp	<ul style="list-style-type: none"><li>• Limited liability</li><li>• Flow-through taxation</li><li>• Well-established governance procedures</li><li>• Easily converts to C-corp</li><li>• Ease for capital raising</li></ul>	<ul style="list-style-type: none"><li>• Taxed on profits regardless if some is not distributed</li><li>• Higher tax rate</li><li>• Slightly less private—some info can be accessed for a fee</li><li>• Limitations on ownership</li></ul>
LLC	<ul style="list-style-type: none"><li>• Limited liability</li><li>• Flow-through taxation</li><li>• Management flexibility</li><li>• Anonymous LLC options in some states</li></ul>	<ul style="list-style-type: none"><li>• Self-employment tax (i.e., Social Security and Medicare)</li><li>• NY – Very expensive and cumbersome publication requirement</li><li>• Harder to grow and attract investors</li></ul>

## Legal Entity Takeaways

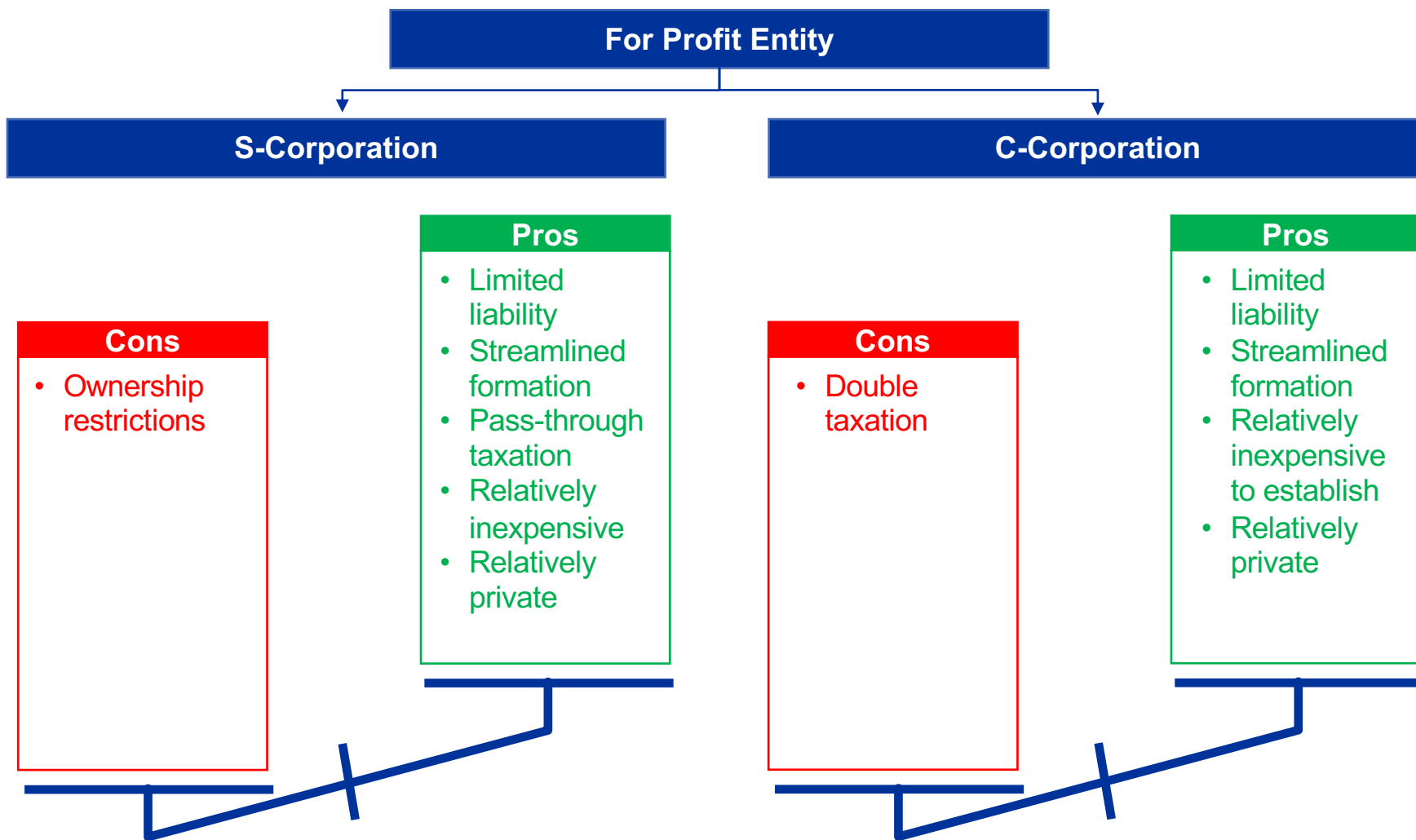
Entity	Pros	Cons
<b>General Partnership</b>	<ul style="list-style-type: none"><li>• Easy to form</li><li>• Flow-through taxation</li></ul>	<ul style="list-style-type: none"><li>• Unlimited personal liability for business obligations and debts</li><li>• Can be difficult to dissolve</li><li>• Hard to grow and attract investors</li></ul>
<b>Limited Partnership</b>	<ul style="list-style-type: none"><li>• Flow-through taxation</li><li>• Limited partner has limited liability</li></ul>	<ul style="list-style-type: none"><li>• General partner has unlimited personal liability</li><li>• Relatively private</li></ul>
<b>Sole Proprietorship</b>	<ul style="list-style-type: none"><li>• Easy to form and low cost</li><li>• No corporate taxation</li><li>• Less paperwork</li></ul>	<ul style="list-style-type: none"><li>• Unlimited personal liability</li><li>• Hard to grow and attract investors</li><li>• No ongoing business life</li></ul>



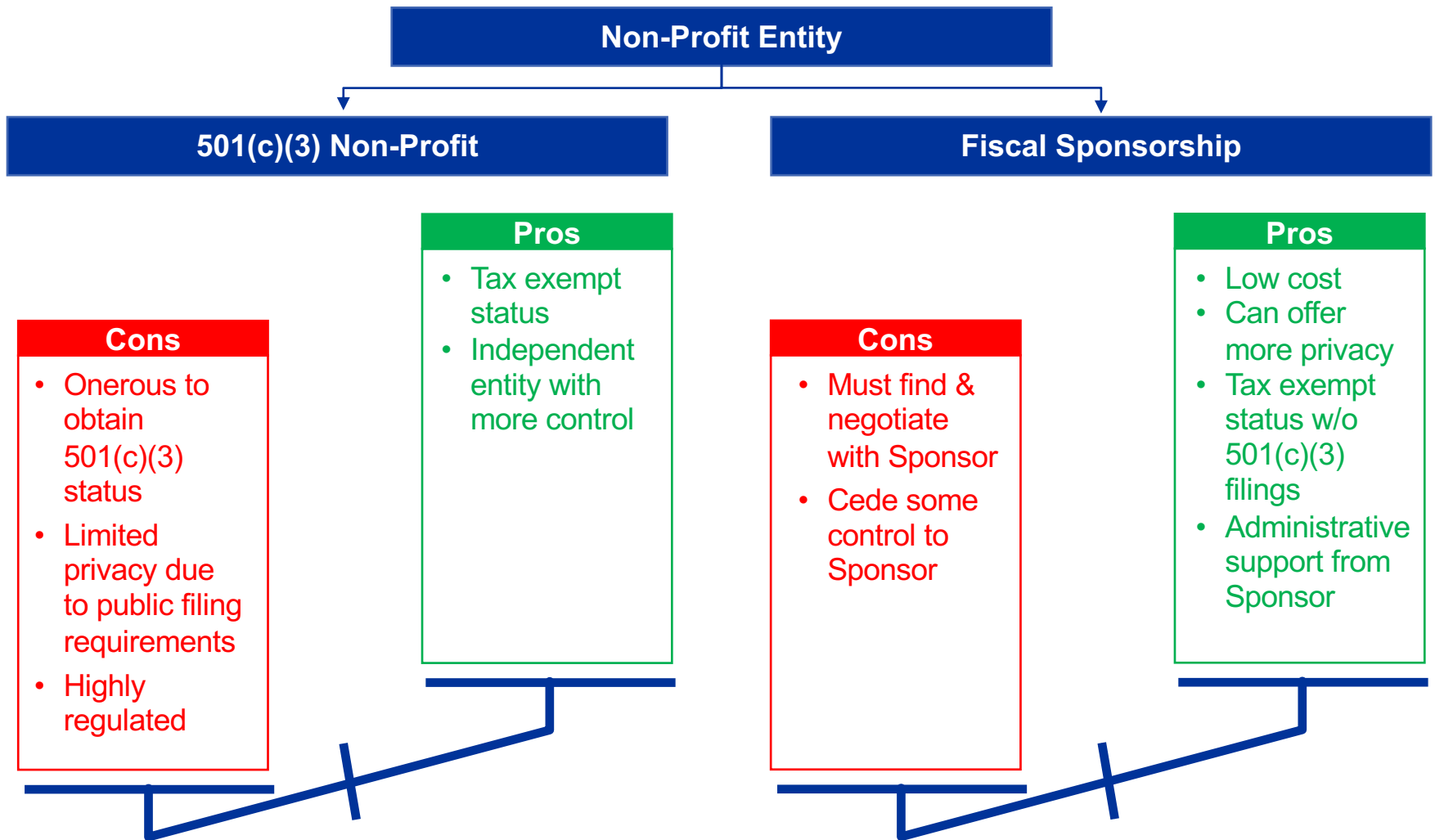
## Legal Entity Takeaways

Entity	Pros	Cons
B-Corp	<ul style="list-style-type: none"><li>• Allows your company to focus on and work towards a rewarding purpose</li><li>• Limited liability</li></ul>	<ul style="list-style-type: none"><li>• Greater governance requirements</li><li>• Double taxation – (Note: <b>Not</b> a tax-exempt entity)</li><li>• Not available in every state</li><li>• Slightly less private—some info can be accessed for a fee</li></ul>
Non-Profit	<ul style="list-style-type: none"><li>• Tax-exempt status</li><li>• Limited liability</li><li>• Working towards a good purpose</li></ul>	<ul style="list-style-type: none"><li>• More complicated/expensive to form</li><li>• Greater governance requirements</li><li>• Less private than other entity forms</li></ul>
Fiscal Sponsorship	<ul style="list-style-type: none"><li>• Greater privacy if operating under Model A Fiscal Sponsorship</li><li>• Can enjoy administrative support from Sponsor</li><li>• Benefit from Sponsor's tax-exempt status</li></ul>	<ul style="list-style-type: none"><li>• Can be difficult to find a Fiscal Sponsor that is the right fit and is willing to undertake the Project</li><li>• Loss of control</li><li>• Risk of funds</li></ul>

# General Legal Entity Recommendations: For Profit Entities (Subject to Unique Situations and Priorities)



# General Legal Entity Recommendations: Non-Profit Entities (Subject to Unique Situations and Priorities)



## Fiscal Sponsorship Practical Tips

### Fiscal Sponsorship

#### Cons

- Must find & negotiate with Sponsor
- Cede some control to Sponsor

#### Pros

- Low cost
- Can offer more privacy
- Tax exempt status w/o 501(c)(3) filings
- Administrative support from Sponsor

Don't provide specific addresses



Ask donors to redact your name ("To: Recipient")



For receipts, use approximate mileage



IRS safeguards your disclosures



## Best Practices & Final Tips

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**(1) Form an entity (corporation, LLC -- but NOT a sole proprietorship)**

**(2) Respect separation of entity & owner to avoid the veil piercing doctrine (limited scenarios when an LLC or corporation's owners, members, or shareholders are personally responsible for business debt)**

**Maintain separate corporate bank account**

**If corporation:  
Have bylaws, officer(s), directors(s) (it's fine even if there is only one founder)**

**If LLC:  
Have operating agreement & manager**

**Don't commingle funds (don't mix personal funds with entity funds)**

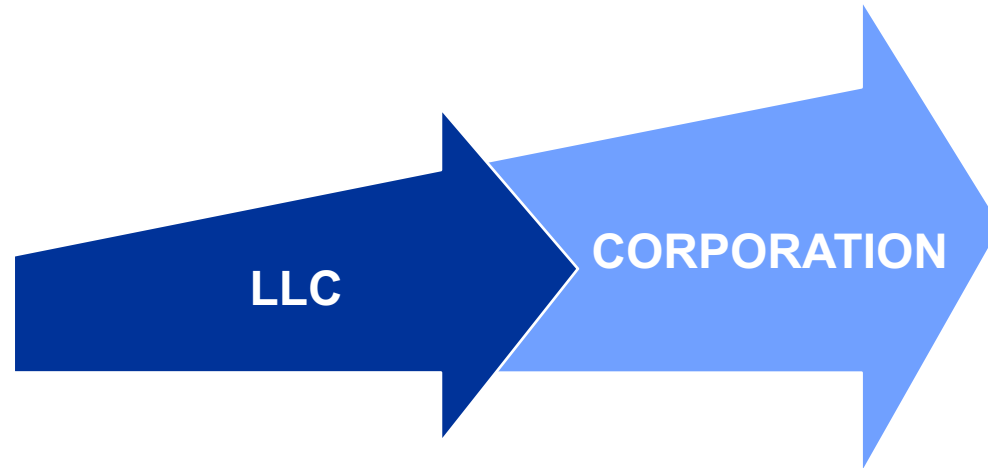
**Importantly, sign all contracts *in entity's name*, not your own name**

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# Appendix

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## LLC to Corporation Conversion (State-Specific Procedure)



State	Conversion Details
New York	<ul style="list-style-type: none"><li>• Involves multiple steps:<ul style="list-style-type: none"><li>• (1) Form NY Corporation separately</li><li>• (2) Merge NY LLC with NY Corporation</li><li>• (3) Dissolve NY LLC</li></ul></li></ul>
Delaware	<ul style="list-style-type: none"><li>• One of the only states with a conversion statute (taking another state's LLC and converting it to DE corporation)<ul style="list-style-type: none"><li>• Note: Certain states (like CA) do not allow for DE conversion</li></ul></li><li>• Process is a bit more streamlined and slightly cheaper<ul style="list-style-type: none"><li>• However, still requires some paperwork to be filed</li></ul></li><li>• Note: Creation of nonprofits is a separate process (cannot convert)</li></ul>