Entity Selection & Formation

Sex Workers Organizing Against Barriers Conference

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

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Choosing a Legal Entity
Considerations for Choosing the Correct Business Entity

- Protection of Personal Assets (Limited Liability)
- Attractiveness to Investors and Lenders
- Ease of Formation
- Costs (Startup & Ongoing)
- Tax Strategies
  - Note: Non-tax factors are the primary considerations for this decision because business entities can choose how they are treated for tax purposes
- Management Requirements

Disclaimer: The content of these materials does not constitute legal advice and does not create an attorney-client relationship.
Choosing the Correct Business Entity: Overview

**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)

**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

**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

**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

<table>
<thead>
<tr>
<th>Entity</th>
<th>C-Corporation</th>
<th>S-Corporation</th>
<th>LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited Liability?</td>
<td>• Yes</td>
<td>• Yes</td>
<td>• Yes</td>
</tr>
<tr>
<td>Ease of Formation</td>
<td>• File certificate of incorporation with state</td>
<td>• Same as C-Corporation</td>
<td>• File certificate of formation with state</td>
</tr>
<tr>
<td></td>
<td>• Must have basic corporate governance documents</td>
<td></td>
<td>• Documentation more flexible than C-Corporation</td>
</tr>
<tr>
<td></td>
<td>• Particularly in Delaware, the procedures are well-established to streamline the process</td>
<td></td>
<td>• New York requires LLCs to publish notice of formation in 2 newspapers for 6 weeks</td>
</tr>
<tr>
<td>Management</td>
<td>• Managed by directors and officers</td>
<td>• Same as C-Corporation</td>
<td>• Managed either by the members or by a designated manager</td>
</tr>
<tr>
<td></td>
<td>• Directors owe fiduciary duties of care and loyalty to the business</td>
<td></td>
<td>• May (but is not required to) have a board of directors</td>
</tr>
<tr>
<td>Tax Treatment</td>
<td>• Corporate profits are subject to “double taxation”</td>
<td>• Same as LLC</td>
<td>• LLC is a “pass-through” entity – the entity itself does not pay federal or state income taxes</td>
</tr>
<tr>
<td></td>
<td>1. Corporation itself pays income tax (21% tax rate);</td>
<td>• To receive pass-through tax status, the corporation must file a pass-through tax status election with the IRS</td>
<td>• 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</td>
</tr>
<tr>
<td></td>
<td>2. Shareholders pay personal income tax on any dividends paid out</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entity</td>
<td>General Partnership</td>
<td>Limited Partnership</td>
<td>Sole Proprietorship</td>
</tr>
<tr>
<td>-----------------------</td>
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<td>---------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td><strong>Limited Liability?</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
|                       | • No (unlimited personal liability) | • Yes for limited partners  
                       |                                    | • Must have general partner, who bears unlimited personal liability | • No (unlimited personal liability) |
| **Ease of Formation** |                     |                     |                     |
|                       | • File certificate of formation with state  
                       | • No publication requirement  
                       | • Must have basic partnership agreement | • File certificate of formation with state  
                       |                       | • New York requires LPs to publish notice of formation in 2 newspapers for 6 weeks  
                       |                       | • Must have basic partnership agreement | • Requires no registration if individual is using his/her/their own name  
                       |                       |                       | • As soon as individual starts business, individual has sole proprietor business  
                       |                       |                       | • Need DBA if using any other name |
| **Management**        | • Managed by all general partners | • General partners assume liability and handle operations  
                       |                                      | • Limited partners are investors only and have no authority over business | • Cannot bring on partners  
                       |                                      |                                      | • Cannot pass business along |
| **Tax Treatment**     | • Pass-through taxation | • Pass-through taxation | • Business income taxed as personal income |
**Legal Entity Selection (cont’d)**

<table>
<thead>
<tr>
<th>Entity</th>
<th>Benefit Corporation</th>
<th>Non-Profit 501(c)(3)</th>
<th>Fiscal Sponsorship</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Limited Liability?</strong></td>
<td>• Yes</td>
<td>• Yes</td>
<td>• Yes</td>
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</table>
| **Ease of Formation**     | • Formal registration process similar to traditional corporations  
                          | • Also requires statement of its social or environmental purpose                    | • Requires detailed application to IRS – review can take months  
                          |                                                                                     | • Once IRS approves application, must register as a charity in state(s) of operation  
                          |                                                                                     | • Can be an onerous process                                                                |
| **Management**            | • Owned by shareholders  
                          | • Shareholders are entitled to profit distributions, annual reports and voting rights  
                          | • Shareholders do not exercise day-to-day oversight  
                          | • Day-to-day oversight done by management and is overseen by the board of directors | • Most non-profits do not have owners; they are entirely run by the board of directors  
                          |                                                                                     | • 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  
                          |                                                                                     | • Depends on agreed-upon relationship between Fiscal Sponsor and Project  
                          |                                                                                     | • Different models depending on maturity of Project and relationship between Fiscal Sponsor and Project  
                          |                                                                                     | • Donations to Projects must be directed to Fiscal Sponsor  
                          |                                                                                     | • Project benefits from Fiscal Sponsor’s federal tax-exempt status                       |
| **Tax Treatment**         | • Not tax-exempt  
                          | • Taxed as an S or C Corp  
                          | • Exempt from federal income taxes  
                          | • State tax exemptions vary: some states require separate application, whereas others follow federal status | • Project benefits from Fiscal Sponsor’s federal tax-exempt status                       |
### Legal Entity Privacy Implications

<table>
<thead>
<tr>
<th>Entity</th>
<th>Privacy Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporations</td>
<td></td>
</tr>
<tr>
<td>DE:</td>
<td>• No personally identifiable information is available online, as long as you use a 3rd party to sign the certificate of incorporation</td>
</tr>
<tr>
<td></td>
<td>• Portions of the annual report (including names of directors &amp; officers) are obtainable in hard copy for a fee</td>
</tr>
<tr>
<td>NY:</td>
<td>• No personally identifiable information is available online, as long as you use a 3rd party to file the certificate of incorporation</td>
</tr>
<tr>
<td></td>
<td>• Biennial reports are part of public record, but you can get creative to protect your privacy</td>
</tr>
</tbody>
</table>
### Legal Entity Privacy Implications (cont’d)

<table>
<thead>
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</table>
| Limited Liability Company (LLC) | • 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  
  - There are anonymous LLC states (e.g., Delaware, New Mexico, Wyoming)  
  • Benefits:  
    - Prevents others from accessing your info and using in malicious/harassing manner  
    - 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  
    - An anonymous LLC owner can conduct business without being associated with any negative fallout that may be generated from the business  
    - Helps to avoid frivolous lawsuits  
  • Other Considerations:  
    - Not guaranteed to protect member privacy, but can likely protect member privacy  
    - Does not guarantee complete anonymity from your bank and the IRS (still need an EIN)  
    - If used improperly, confidential LLCs are still subject to piercing the corporate veil  
    - In DE the ownership information is still disclosed to the state, but it is not published  
    - The business can still be subject to lawsuits and can be required to identify the owners if a subpoena is filed through an attorney |

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## Legal Entity Privacy Implications (cont’d)

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</table>
| **Non-Profit 501(c)(3)**| • Not very private  
• Application for 501(c)(3) status requires the founders’ name(s) and mailing address(es)  
• State charities bureaus also require initial registration and ongoing reports  
  • This information is part of the public record  
• Tax filings—Form 990—must be filed with the IRS each year and must have the name and address of the principal officer  
  • The address is permitted to be the address used for the non-profit entity  
  • Form 990 also requires a listing of all officers, directors, trustees, key employees, and highest compensated employees |
| **Fiscal Sponsorship**  | • Model A Fiscal Sponsorships are housed completely with the Sponsor (501(c)(3)) entity  
  • The project has no legal entity or identity outside of the Sponsor  
  • 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  
  • Less direct public exposure than a 501(c)(3), but not entirely private  
• Model C Fiscal Sponsorships have their own legal entity and make their own tax filings  
  • Identity disclosure could occur through corporate filings |

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## Legal Entity Privacy Implications (cont’d)

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</table>
| **Sole Proprietorship** | • Generally, there are no public filing requirements if you use your own name as the entity name  
• To operate under another name (DBA) you must register in any state of operations  
• However, DBAs can be traced to the sole proprietor, so this business structure does **not** offer great protection |
| **Partnership**      | • Corporate filings with names of partners are usually not public record but **can be obtained by members of the public upon request and payment of a fee** |

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**Privacy Implications Overview**

<table>
<thead>
<tr>
<th>Corporations</th>
<th>LLC</th>
<th>Non-Profit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Items filed with the state:</strong></td>
<td><strong>Items filed with the state:</strong></td>
<td><strong>Items filed with the government:</strong></td>
</tr>
<tr>
<td>Certificate of Incorporation</td>
<td>Certificate of Formation</td>
<td>Nonprofit Certificate of Incorporation</td>
</tr>
<tr>
<td>Annual Report</td>
<td>Taxes (generally)</td>
<td>Annual Report</td>
</tr>
<tr>
<td>Franchise Taxes</td>
<td></td>
<td>Franchise Taxes</td>
</tr>
<tr>
<td>Taxes (generally)</td>
<td></td>
<td>Form 1023</td>
</tr>
<tr>
<td><strong>Items NOT filed with the state:</strong></td>
<td><strong>Items NOT filed with the state:</strong></td>
<td><strong>Items NOT filed with the state:</strong></td>
</tr>
<tr>
<td>Incorporator’s Statement</td>
<td>Operating Agreement</td>
<td>Bylaws</td>
</tr>
<tr>
<td>Bylaws</td>
<td>Annual Report</td>
<td>Other corporate governance documents</td>
</tr>
<tr>
<td>Other corporate governance documents</td>
<td></td>
<td>Other corporate governance documents</td>
</tr>
</tbody>
</table>

*Documents filed with the state of Delaware are obtainable in hard copy by paying a fee.*
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

- 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

<table>
<thead>
<tr>
<th>Entity</th>
<th>Formation Costs</th>
<th>Publication Costs</th>
<th>State Franchise Taxes</th>
</tr>
</thead>
</table>
| Corporation (C-Corporation or S-Corporation) | • Incorporation fee is $125                          | • N/A                                                                             | • Both C-Corps and S-Corps pay an annual franchise tax in NY. Until the business generates >$100,000 in taxable revenue in any tax year, the franchise tax is $25/year  
• To be treated as an S-Corp in NY, you must:  
  • (1) Elect federal S-Corp taxation by filing IRS Form 2553 within 2 months & 15 days after the earliest of the date on which the company first had shareholders, had assets or was doing business; **then**  
  • (2) Elect NY S-Corp taxation by filing Form CT-6. NY does not automatically follow federal tax treatment of S-corps |
| Limited Liability Company (LLC) | • Filing fee for the articles of organization is $200 | • Notice of formation must be published in two newspapers for six weeks. Costs range from $80-$1,000  
• LLC must then file a certificate of publication with a $50 filing fee | • N/A for LLCs treated as a pass-through entities for federal tax purposes                              |
| Sole Proprietorship       | • No filing costs                                     | • N/A                                                                             | • Generally N/A  
• But if the sole proprietorship is **not** operating under the individual’s personal name, needs New York Doing Business As (DBA)  
  • $100 — for each county within New York City  
  • $25 — for each county outside New York City |
## Legal Entity Cost Comparison: New York (cont’d)

<table>
<thead>
<tr>
<th>Entity</th>
<th>Formation Costs</th>
<th>Publication Costs</th>
<th>State Franchise Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B-Corporation</strong></td>
<td>• Certificate of Incorporation: $125</td>
<td>• N/A</td>
<td>• N/A</td>
</tr>
<tr>
<td><strong>Non-Profit</strong></td>
<td>• Certificate of Incorporation: $75</td>
<td>• N/A</td>
<td>• 501(c)(3) organizations are exempt from corporate and franchise taxes</td>
</tr>
<tr>
<td><strong>Fiscal Sponsorship</strong></td>
<td>• No filing costs</td>
<td>• N/A</td>
<td>• N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• 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.</td>
</tr>
</tbody>
</table>
## Legal Entity Cost Comparison: Delaware

<table>
<thead>
<tr>
<th>Entity</th>
<th>Formation Costs</th>
<th>Publication Costs</th>
<th>Registering as Foreign Entity in NYS</th>
<th>State Franchise Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Corporation</strong> (C-Corporation or S-Corporation)</td>
<td>• 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</td>
<td>• N/A</td>
<td>• If you are doing business in NY, the entity will need to apply for authority to do business in NY as well</td>
<td>• Franchise tax is calculated either on the # of authorized shares or the assumed par value:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• $225 to file the application, which must be accompanied by a DE Certificate of Status ($50)</td>
<td>(1) Authorized Shares Method = $175 minimum</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(2) Assumed Par Value Method = $400 minimum</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td>• If the company registers to do business in NY, it would also pay NY franchise taxes and file a biennial statement</td>
</tr>
<tr>
<td><strong>Limited Liability Company (LLC)</strong></td>
<td>• Formation fee is $90</td>
<td>• 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</td>
<td>• $250 to file the application, which must be accompanied by a DE Certificate of Status ($50)</td>
<td>• Fixed at $300 per year</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• If the company registers to do business in NY, it would also file a biennial statement (see the NY cost table)</td>
</tr>
<tr>
<td><strong>Sole Proprietorship</strong></td>
<td>• N/A if entrepreneur conducts business using his/her/their own name; otherwise, must formally register</td>
<td>• N/A</td>
<td>• If you are doing business in NY, the entity will need to apply for authority to do business in NY as well</td>
<td>N/A</td>
</tr>
</tbody>
</table>
## Legal Entity Cost Comparison: Delaware (cont’d)

<table>
<thead>
<tr>
<th>Entity</th>
<th>Formation Costs</th>
<th>Publication Costs</th>
<th>State Franchise Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B-Corporation</strong></td>
<td>• Certificate of Incorporation is $89 for a one-page certificate and $9 for each additional page</td>
<td>• N/A</td>
<td>• DE franchise tax is calculated on the basis of either the # of authorized shares or the assumed par value, similar to other corporate forms</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• If the company registers to do business in NY, it would also pay NY franchise taxes and file a biennial statement</td>
</tr>
<tr>
<td><strong>Non-Profit</strong></td>
<td>• Certificate of Incorporation is $89 for a one-page certificate and $9 for each additional page</td>
<td>• N/A</td>
<td>• 501(c)(3) organizations are exempt from corporate and franchise taxes</td>
</tr>
<tr>
<td><strong>Fiscal Sponsorship</strong></td>
<td>• N/A</td>
<td>• N/A</td>
<td>• N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• 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.</td>
</tr>
</tbody>
</table>
## Legal Entity Takeaways

<table>
<thead>
<tr>
<th>Entity</th>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
</table>
| **C-Corp** | • Limited liability  
            • Easier to grow and attract investors  
            • Well-established governance procedures  
            • Lower corporate tax rate  
            • Ease for capital raising | • Slightly less private—some information can be accessed for a fee  
            • Double taxation  
            • Increased paperwork |
| **S-Corp** | • Limited liability  
            • Flow-through taxation  
            • Well-established governance procedures  
            • Easily converts to C-corp  
            • Ease for capital raising | • Taxed on profits regardless if some is not distributed  
            • Higher tax rate  
            • Slightly less private—some info can be accessed for a fee  
            • Limitations on ownership |
| **LLC** | • Limited liability  
            • Flow-through taxation  
            • Management flexibility  
            • Anonymous LLC options in some states | • Self-employment tax (i.e., Social Security and Medicare)  
            • NY – Very expensive and cumbersome publication requirement  
            • Harder to grow and attract investors |
## Legal Entity Takeaways

<table>
<thead>
<tr>
<th>Entity</th>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Partnership</strong></td>
<td>• Easy to form&lt;br&gt;• Flow-through taxation</td>
<td>• Unlimited personal liability for business obligations and debts&lt;br&gt;• Can be difficult to dissolve&lt;br&gt;• Hard to grow and attract investors</td>
</tr>
<tr>
<td><strong>Limited Partnership</strong></td>
<td>• Flow-through taxation&lt;br&gt;• Limited partner has limited liability</td>
<td>• General partner has unlimited personal liability&lt;br&gt;• Relatively private</td>
</tr>
<tr>
<td><strong>Sole Proprietorship</strong></td>
<td>• Easy to form and low cost&lt;br&gt;• No corporate taxation&lt;br&gt;• Less paperwork</td>
<td>• Unlimited personal liability&lt;br&gt;• Hard to grow and attract investors&lt;br&gt;• No ongoing business life</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Entity</th>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B-Corp</strong></td>
<td>• Allows your company to focus on and work towards a rewarding purpose  &lt;br&gt; • Limited liability</td>
<td>• Greater governance requirements  &lt;br&gt; • Double taxation – (Note: <strong>Not</strong> a tax-exempt entity)  &lt;br&gt; • Not available in every state  &lt;br&gt; • Slightly less private—some info can be accessed for a fee</td>
</tr>
<tr>
<td><strong>Non-Profit</strong></td>
<td>• Tax-exempt status  &lt;br&gt; • Limited liability  &lt;br&gt; • Working towards a good purpose</td>
<td>• More complicated/expensive to form  &lt;br&gt; • Greater governance requirements  &lt;br&gt; • Less private than other entity forms</td>
</tr>
<tr>
<td><strong>Fiscal Sponsorship</strong></td>
<td>• Greater privacy if operating under Model A Fiscal Sponsorship  &lt;br&gt; • Can enjoy administrative support from Sponsor  &lt;br&gt; • Benefit from Sponsor’s tax-exempt status</td>
<td>• Can be difficult to find a Fiscal Sponsor that is the right fit and is willing to undertake the Project  &lt;br&gt; • Loss of control  &lt;br&gt; • Risk of funds</td>
</tr>
</tbody>
</table>
General Legal Entity Recommendations: For Profit Entities
(Subject to Unique Situations and Priorities)

For Profit Entity

- S-Corporation
  - Pros
    - Limited liability
    - Streamlined formation
    - Pass-through taxation
    - Relatively inexpensive
    - Relatively private
  - Cons
    - Ownership restrictions

- C-Corporation
  - Pros
    - Limited liability
    - Streamlined formation
    - Relatively inexpensive to establish
    - Relatively private
  - Cons
    - Double taxation
General Legal Entity Recommendations: Non-Profit Entities
(Subject to Unique Situations and Priorities)

Non-Profit Entity

501(c)(3) Non-Profit

Pros
- Tax exempt status
- Independent entity with more control

Cons
- Onerous to obtain 501(c)(3) status
- Limited privacy due to public filing requirements
- Highly regulated

Fiscal Sponsorship

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

Cons
- Must find & negotiate with Sponsor
- Cede some control to Sponsor
Fiscal Sponsorship Practical Tips

Fiscal Sponsorship

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

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

Don’t provide specific addresses
Ask donors to redact your name (“To: Recipient”)
For receipts, use approximate mileage
IRS safeguards your disclosures

Disclaimer: The content of these materials does not constitute legal advice and does not create an attorney-client relationship.
Best Practices & Final Tips

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

- 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

(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)

- Don’t commingle funds (don’t mix personal funds with entity funds)
- Importantly, sign all contracts *in entity’s name*, not your own name
Appendix
## LLC to Corporation Conversion (State-Specific Procedure)

### New York
- Involves multiple steps:
  - (1) Form NY Corporation separately
  - (2) Merge NY LLC with NY Corporation
  - (3) Dissolve NY LLC

### Delaware
- One of the only states with a conversion statute (taking another state’s LLC and converting it to DE corporation)
  - Note: Certain states (like CA) do not allow for DE conversion
- Process is a bit more streamlined and slightly cheaper
  - However, still requires some paperwork to be filed
- Note: Creation of nonprofits is a separate process (cannot convert)