**Legal Structure**

Forming a new business requires choosing the legal [business structure](https://sos.wv.gov/FormSearch/Business/Documents/BusStructuresList.pdf) - sole proprietorship, corporation, limited liability company, or partnership. The structure you choose will depend on various factors, such as:

* the number of people who will control the company
* how business operation decisions are to be made
* considerations involving legal and tax implications
* liability issues
* management structure
* the ability to transfer ownership

**Sole Proprietorship**

* One owner business formation structure
* Direct management control
* No personal liability protection provided by law
* Owner liable for the debts and obligations of the business
* Most common, least expensive to start, and simplest form of business structure
* Business income and expenses is reported on IRS Schedule C
* Health insurance premiums are not deductible as a business expense
* Tax deductible contributions to a retirement plan are limited to individual retirement accounts or self-employed 401K plans.
* Taxable income is subject to self-employment tax (Social Security 15.3%) in addition to regular income tax (maximum rate 35%)

**Partnership**

* For profit entity with two or more owners
* No personal liability protection provided by law
* Each partner could be personally liable for debts, judgements, and liabilities
* Company operated under partnership agreement
* General Partnership: each partner incurs obligations and unlimited liability
* Limited Partnership: has a general partner who manages the entity plus limited partners who share in the profits.
* Partners have equal ownership unless defined in partnership agreement
* Health insurance premiums are not deductible as a business expense
* Tax deductible contributions to a retirement plan are limited to individual retirement accounts or self-employed 401K plans
* Partnership income and expenses are reported on IRS form 1065
* IRS K-1 forms required for each partner listing percentage of ownership and their allocated share of the business income.
* Considered a “pass through” tax entity by the IRS – partners pay the tax, may qualify for a 20% reduction in income.
* Taxable income is subject to self-employment tax (Social Security 15.3%) in addition to regular income tax (maximum rate 35%)
* WV Annual Report must be filed yearly

**Corporation**

* For profit entity whose owners are shareholders
* Law provides personal liability protection for directors and officers acting in good faith. The personal assets of the shareholders are not at risk.
* Articles of Incorporation filed with WV Secretary of State
* Corporation operated under a WV charter and by-laws
* May issue stock and may have more than one type of stock
* Shares are freely transferable
* May raise capital by selling shares of stock
* Shareholders elect a Board of Directors
* Board of Directors elect officers - must have at least two officers
* Officers: CEO, vice president, treasurer, secretary
* Corporate income and expenses are reported on IRS Form 1120
* Corporate tax rate is 21%
* Employee Health insurance premiums are deductible as a business expense
* Tax deductible retirement plan contributions can be maximized with select retirement plans.
* WV Annual Report must be filed yearly or entity will be dissolved by WVSOS.

**Subchapter S Corporations**

* Corporations can elect to be taxed as a Subchapter S Corporation
* Subchapter S Corporation: File IRS form 1120, entity not subject to taxation, limited to 100 shareholders, and may issue only one class of stock.
* S corporation avoids double taxation by IRS.
* Taxable income is subject to self-employment tax (Social Security 15.3%) in addition to regular income tax (maximum rate 35%)
* Health insurance premiums are not deductible as a business expense for stockholders owning more than 2% of the stock.

**Limited Liability Company (LLC)**

* Law provides personal liability protection for members and managers acting in good faith.
* For profit entity operated under WV Articles of Organization
* May be fixed term or perpetual
* May be single-member or multiple-member
* Members have authority defined in the operating agreement
* May be member-managed or manager-managed
* Members have equal ownership (%) unless defined by operating agreement
* WV Annual Report must be filed yearly or entity will be dissolved by WVSOS.
* May be taxed as partnership, corporation or sole proprietorship by IRS.
* Professional Limited Liability Company (PLLC) is two or more licensed professionals (attorney, accountant, doctor, engineer, architect, etc.)

*Consult accountants and attorneys for professional advice*