

Should I Be a Business Entity? Which One?

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Business Entity

- Should you organize your business activity into an entity?
- An entity would not change the powers of the business, but would change the relationship between the business entity and the owners, among the owners, between the owners and third parties, and between the entity and the Internal Revenue Service.

Business Entities in Alabama

- Single Owner
 - Sole proprietorship
 - Limited liability company
 - Corporation, S or C
 - Business trusts
- Multiple Owner
 - General partnership
 - Registered limited liability partnership
 - Limited partnership
 - Limited liability limited partnership
 - Limited liability company
 - Corporation
 - Cooperative
 - Business trust
 - Real estate investment trust

General Partnership

- The default business entity
 - The association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership. §10A-8-2.02
 - The sharing of gross returns does not by itself establish a partnership
 - The key is “gross returns,” any sharing of expenses, e.g. net income creates a partnership
 - Owners are “partners” or general partners

Limited Liability Partnership

- A general partnership that has filed a statement of limited liability partnership
 - A partnership that has filed a statement of limited liability partnership is for all purposes, except limited liability, the same entity that existed before the statement of limited liability partnership was filed and continues to be a partnership under the laws of this state

Limited Partnership

- An entity, having one or more general partners and one or more limited partners
 - Owners are either
 - General partners or
 - Limited partners
 - A person may be both a general partner and a limited partner
- Since January 1, 2017, a limited partnership may be a limited liability limited partnership

Limited Liability Company (LLC)

- An entity formed or existing under Chapter 5A
 - Owners are called “members”
 - A limited liability company agreement may establish one or more designated series of assets that has separate rights, powers, or duties with respect to specified property or obligations of the limited liability company, or profits and losses associated with specified property or obligations; or has a separate purpose or investment objective. §10A-5A-11.01

Corporation

- A corporation is a business entity incorporated under or subject to the provisions of Chapter 2.
 - Owners are called shareholders
- A nonprofit corporation is governed by Chapter 3 as well as Chapter 2
 - No part of the income or profit is distributable to its members, directors, or officers

Employee Cooperative Corporation

- Any corporation formed under Chapter 2 may elect to be governed as an employee cooperative corporation and be subject to Chapter 11 as well as Chapter 2
 - No person may be accepted as a member unless employed by the employee cooperative on a full-time or part-time basis (at least half-time)
 - Each member shall own only one membership share, and only members may own such shares

Choice of Entity

- The choice of which business entity to select is determined by the characteristic that is most important to the owner, such as,
 - limited liability,
 - management,
 - transferability of interest, or
 - income tax characteristics.
- Most small businesses will be organized as a general partnership, limited partnership, limited liability company or corporation

Liability of Owners

GP/LLP	LP/LLLP	LLC	Corp.
<p>The partnership is liable first</p> <p>All partners are liable jointly and severally for all obligations of the general partnership</p> <p>Partners in an LLP are not liable unless the partner was negligent</p>	<p>The partnership is liable first</p> <p>General partners are jointly and severally liable for the debts of the LP</p> <p>Limited partners are not personally liable</p> <p>The GP's in an LLLP are not personally liable</p>	<p>The LLC is liable</p> <p>Members are not liable for obligations of the LLC for acts or omissions of any other member</p> <p>A member may become liable because of his own conduct.</p>	<p>The corporation is liable</p> <p>A shareholder is not personally liable for the acts or debts of the corporation (except amount contributed)</p> <p>“Piercing the corporate veil”</p>

Agency

GP/LLP	LP/LLLP	LLC	Corp.
Each general partner is an agent for the partnership and actions bind the partnership	Each general partner is an agent for the partnership and actions bind the partnership	No person has the power to bind the LLC unless authorized in the limited liability company agreement	Directors or officers may bind the corporation Shareholders are not agents

Internal Agreement

- Partnership agreement governs the relations among the partners and between the partners and the partnership
 - To the extent not addressed in the partnership agreement, the Alabama Partnership Law and the provisions of Chapter 1 govern such relations
 - As to partners, the partnership agreement prevails over the certificate of formation if there is a conflict
 - May not eliminate the implied covenant of good faith and fair dealing, eliminate or limit the liability for an act or omission that constitutes bad faith, or vary the power of a partner to dissociate

Internal Agreement

- Limited liability company agreement (f/k/a operating agreement), written, oral or implied, governs the relations among the members and between the members and the limited liability company or series thereof
 - To the extent not addressed then Chapter 5A controls
 - The implied contractual covenant of good faith and fair dealing may not be eliminated
 - May provide that a member or transferee who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement shall be subject to specified penalties or specified consequences;

Internal Agreement

- Bylaws shall be adopted by the board of directors or shareholders
 - The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

Participation in Management

GP	LP/LLLP	LLC	Corp.
<p>Partners have a statutory right to participate in management – majority rules on ordinary decisions</p> <p>Extraordinary requires consent of all partners unless otherwise stated in the partnership agreement</p>	<p>General partners participate in management – majority of general partners rules on ordinary decisions</p> <p>Limited partners are prohibited from participating in management</p> <p>Extraordinary requires consent of all partners</p>	<p>Members, managers, or some other governance structure as provided in the LLC agreement</p> <p>Extraordinary requires consent of all partners</p> <p>A series may have different management</p>	<p>All corporate powers are exercised or under the authority of a board of directors</p> <p>Officers may be appointed by the board or authorized in the bylaws</p> <p>Shareholders participate in management by electing directors</p>

Financial Rights

GP/RLLP	LP/LLLP	LLC	Corp.
<p>All profits and losses are allocated to owners equally (regardless of contribution), unless modified by the partnership agreement. Owners are not employees and do not receive W-2 wages but are self-employed. Form K-1</p> <p>Right to an interim distribution is specified in the partnership agreement (ordinary course of business)</p> <p>In general, may be allocated in any manner the partners agree so long as the allocation is in accordance with the partners' interests or otherwise has substantial economic effect (special allocation)</p>			<p>Board authorizes distributions subject to articles and solvency</p> <p>Profits – pro rata to number of shares, (plus salary)</p> <p>C-corp. – only profits are passed to s/h</p> <p>S-corp. – profits and losses are allocated to s/h</p>

Classification for Income Tax Purposes

- Disregarded entity or unincorporated entity disregarded as separate from its owner
 - Typically a sole proprietor or single-member LLC
- Unincorporated organization having two or more owners taxed as a partnership
 - GP, LLP, LP, LLLP or LLC
 - May elect to be treated as a tax corporation
- C corporation
- S corporation
 - a tax corporation that elects to be treated as an S corporation. Form 2553 – Election by small business corporation

To elect S status must be a small business

- does not have more than 100 shareholders;
- does not have an organization (other than a estate, certain trusts, or an exempt organization) as a shareholder;
- does not have a nonresident alien as a shareholder;
- does not have more than one class of stock;
- is not a financial institution using the reserve method of accounting;
- is not an insurance company;
- does not elect Puerto Rico tax credit; and
- is not a former domestic international sales corporation. I.R.C. § 1362.

Classification for Tax Purposes

GP/RLLP	LP/LLLP	LLC	Corp.
<p>Generally taxed as a partnership which means “flow through” taxation (entity files an information return, but the owners pay the tax on their individual returns)</p> <p>Income is from self-employment so FICA rate = 15.3%, except for limited partners</p> <p>Entity can elect to be taxed as a corporation.</p>			<p>A C-corp. is subject to double taxation</p> <p>An S-corp. is taxed similar to a partnership</p>

FICA and SECA

- Employees and their employer are subject to the Federal Insurance Contribution Act (“FICA”)
- FICA is made up of Old Age Survivor and Disability Insurance (“OASDI”) and Medicare Hospital Insurance (“HI”)
 - OASDI is paid by the employee and employer and each pays 6.2 percent of wages up to the Contribution and Benefits Base (\$128,400 for 2018)
 - HI is also paid by each at a rate of 1.45 percent of all wages
 - For unmarried individuals with wages greater than \$200,000 and married filing jointly greater than \$250,000 there is an additional HI tax of 0.9 percent paid by the employee and not the employer
- Self-employed individuals are subject to the Self-Employment Contributions Act which is made up of OASDI and HI.

Comparison of Partnership and S corporation

	Partnership	2017	S corporation	
Income		\$100,000		\$100,000
Salary			\$60,000	
FICA - ee	$100,000 * .9235 * .153$	\$14,130	$60,000 * 0.0765$	\$4,590
FICA - er				4,590
Total		\$14,130		\$9,180
Taxable income	$100,000 - 7,065 - 12,700$	\$80,235	$60,000 - 12,700$ $40,000 - 4,590$	\$82,710
Inc. tax @ 25%		\$11,536		\$12,155
Remainder	$100,000 - 14,130 - 11,536$	\$74,334		\$78,665
Difference			\$4,331	

Comparison of Partnership and S corporation

	Partnership	2018	S corporation	
Income		\$100,000		\$100,000
Salary			\$60,000	
FICA - ee	$100,000 * .9235 * .153$	\$14,130	$60,000 * 0.0765$	\$4,590
FICA - er				4,590
Total		\$14,130		\$9,180
Taxable income	Income - $\frac{1}{2}$ FICA - QBI - std $100,000 - 7,065 - 20,000 - 24,000$	\$48,935	$60,000 + 35,410 - 24,000 - 7,082$	\$64,328
Inc. tax @ 22%		\$5,491		\$7,338
Remainder	$100,000 - 14,130 - 5,491$	\$80,379		\$83,482
Difference			\$3,103	

Capital Accounts

- Each partner is deemed to have an account that is:
 - Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and
 - Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses

Contribution of Property

- Generally, neither the contributor nor the tax partnership will recognize gain on the contribution of property in exchange for a partnership interest.
- The partnership will take a basis in the contributed property equal to the contributor's basis, and the contributor will take a basis in the partnership equal to the basis of the contributed property.
 - If a partner contributes property subject to a liability, the partnership assumes the liability, and the assumed liabilities exceed the contributor's basis in the partnership to partner recognizes gain
 - For corporations, the contributors must be in control (80%)

Income Taxation

- A single-member LLC that is disregarded for tax purposes will include all items of income, deduction, gain and loss of the LLC on his own return
- A tax partnership is a pass-through organization and is not subject to federal income tax. The tax items of the partnership are allocated among the tax partners, and each partner reports and pays taxes on the partner's allocable share
- A C corporation reports and is taxed on its taxable items, and the TCJA reduced the rate to a flat 21 percent. A C corporation does not allocate tax items among shareholders.
- The tax items of an S corporation are allocated among the shareholders on a per-share, per-day basis and reported to the shareholders on a Form K-1.

Income Taxation

- Disregarded entity includes a Schedule C or Schedule F with the individual's Form 1040
- Tax partnerships files a Form 1065 that includes Form K-1's that are distributed to owners
- C corporations file a Form 1120 and distribute income to shareholders on Form 1099-DIV
- S corporations file a Form 1120S and distribute K-1's to shareholders

Tax Year

- A tax partnership will normally have the same taxable year as a majority of its partners
 - If most of the partners are natural persons then the partnership will use a calendar year
- A C corporation may adopt any taxable year unless it is a personal services corporation
- An S corporation is normally obligated to use a calendar year

Method of Accounting

- Generally a tax partnership may use the cash method
 - a partnership may not use the cash method if it sells goods from inventory, its interest are sold in a registered offering, more than 35 percent of its losses are allocated to limited partners, or its principal purpose in using the cash method is the avoidance or evasion of federal income tax
- A C corporation must use the accrual method unless it is a personal service corporation, or, starting in 2018, if the average annual gross receipts for the three prior taxable years does not exceed \$25 million
- An S corporation and a personal service corporation may generally use the cash method unless it sells goods out of inventory

Treatment of Losses

- The owner of a disregarded entity will generally be able to deduct business losses against other income
 - If the owner does not “materially participate,” the activity may be classified as passive, in which case, passive losses can only be deducted against passive income
- Partners of a tax partnership may deduct business losses against other income subject to basis, at-risk and passive loss rules
- A C corporation does not pass losses out to shareholders

Material Participation

- Material participation is defined in I.R.C. Reg. § 1.469-5(a).
 - The general rule is that 500 hours constitutes material participation, but there are 6 other categories that may qualify an owner who does not work 500 hours for material participation
 - For limited partners and LLC members the participation level to establish material participation is higher than for general partners and usually requires the 500 hours of participation.

C Corporation

- Under the new law all corporate income will be taxed at the 21% rate
 - Employees have to be paid reasonable compensation
- Example: \$100,000 of corporate income after paying \$50,000 of wages to the farmer/owner and suppose spouse earns \$40,000 off-farm
 - \$3,825 of Corporate-paid FICA

Comparison

- Corporation
 - 21% corporate tax ($\$153,825 - \$50,000$ salary – 3,825 employer FICA = $\$100,000$) or $\$21,000$
 - State income tax of 5% = $\$5,000$
- Individual
 - $\$74,000$ of dividend = $\$9,615$
 - Income tax on $\$66,000$ = $\$7,539$
 - $\$90,000$ wages - $\$24,000$ = $\$66,000$
 - FICA at 7.65% of $\$90,000$ = $\$6,885$
 - State income tax on $\$140,000$ = $\$7,000$
 - Total tax = $\$60,864$
 - After tax ($\$193,825 - 60,864$) = $\$132,961$

Comparison

- Sole proprietor
 - QBI deduction (20% of \$153,825) = \$30,765
 - FICA on \$142,057 ($\$153,825 * 92.35\%$) of SE income = \$19,892
 - Income tax on \$129,114 = \$19,892
 - $\$153,825 + 40,000 - 9,946 (1/2 \text{ FICA}) - 24,000 - 30,765$
 - State income tax at 5% = \$6,456
 - FICA on spouse ($\$40,000 * 7.65\%$) = \$3,060
 - Total tax = \$49,692
 - After tax ($193,825 - 49,692$) = \$144,133
 - \$11,172 more after tax for sole proprietor

Comparison

- Limited Liability Limited Partnership, \$50,000 guaranteed payment to GP and \$103,825 to LP interest
 - QBI deduction (20% of \$103,825) = \$20,765
 - Income tax on \$145,528 = \$23,895
 - FICA on \$46,173 = \$7,064
 - State income tax at 5% = \$7,262
 - FICA on spouse (\$40,000 * 7.65%) = \$3,060
 - Total tax = \$41,296
 - After tax \$193,825 - 41,296 = \$152,529
 - \$8,396 more than sole proprietor

Comparison

- S corporation paying \$50,000 of wages and remainder as a qualified dividend
 - QBI deduction (20% of \$100,000) = \$20,000
 - Income tax on \$149,825 = \$24,841
 - \$153,825 + 40,000 - 20,000 - 24,000
 - State income tax ($\$146,000 * .05$) = \$7,300
 - FICA at 7.65% on \$50,000 = \$3,825
 - Corporation also pays \$3,825
 - FICA on spouse ($\$40,000 * 7.65\%$) = \$3,060
 - Total tax = \$43,042
 - After tax ($\$193,825 - 43,042$) = \$150,783
 - \$1,746 less than the LLLP

Transferability of Interest

GP/LLP	LP/LLLP	LLC	Corp.
<p>A partner's or member's interest is transferable, but the assignee only gets the owner's share of profits and losses and the owner's right to distributions</p> <p>Unless provided otherwise the assignee only becomes a partner/member with the unanimous consent of the other partners/members.</p> <p>The partnership/operating agreement can limit a partner/member's right to withdraw or assign his interest.</p>			<p>Shares are freely transferable, subject to restrictions in the organizational documents</p>

Transferability of Interest

- A transfer does not by itself cause the owner's dissociation
- Upon transfer, the transferor retains the rights and duties of an owner other than the transferable interest
- A transfer does not entitle the transferee to participate in the management or conduct of the partnership's business
- Except for dissolution and winding up, the transferee does not have access to required information, records, or other information

Creditor Rights

GP/RLLP	LP/LLLP	LLC	Corp.
<p>A court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest (a charging order)</p> <p>The judgment creditor has only the right to receive any distribution to which the judgment debtor would otherwise be entitled in respect of the transferable interest</p> <p>the judgment creditor shall have no right to foreclose, under this chapter or any other law, upon the charging order, the charging order lien, or the judgment debtor's transferable interest</p>			<p>C-corp.: creditor can seize stock</p> <p>S-corp.: creditor can seize stock</p>

Formation

- Filing entities include corporations, limited partnerships including a limited liability partnership, limited liability companies, professional associations, employee cooperative corporations, and real estate investment trusts
- To form a filing entity, a certificate of formation complying with Sections 10A-1-3.03, 10A-1-3.04, and 10A-1-3.05 must be filed in accordance with Article 4.
 - <https://sos.alabama.gov/business-entities/business-downloads>

Certificate of Formation

- To become a **limited liability partnership**, the original partnership agreement shall state that the partnership is formed as a limited liability partnership, and the partnership shall deliver to the Secretary of State for filing a statement of limited liability partnership
- A **limited liability company** may establish or provide for the establishment of one or more designated series of assets that has separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations; or has a separate purpose or investment objective
- The **articles of incorporation** must prescribe the classes of shares and the number of shares of each class that the corporation is authorized to issue
 - After incorporation the initial directors shall hold an organizational meeting

Name

- The name may not imply an unauthorized activity
- The name may not be the same or indistinguishable from a name already on the records of the Secretary of State
- A person shall reserve the exclusive use of an entity name by delivering an application to the Secretary of State for filing.

Name

GP/LLP	LP/LLLP	LLC	Corp.
<p>Effective 1/1/19, the name of a general partnership that has filed a statement of partnership must include the words "general partnership" or the abbreviation "G.P." or "GP."</p> <p>Shall contain the words "[Registered] Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP"</p>	<p>Must contain the phrase "limited partnership" or "Limited," or the abbreviation "L.P.," "LP," or "Ltd"</p> <p>Must contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P."</p>	<p>Must contain the words "Limited Liability Company" or the abbreviation "L.L.C." or "LLC"</p>	<p>Must include "corporation" or "incorporated" or an abbreviation of one of those words</p> <p>Must contain the words "professional corporation" or the abbreviation "P.C." or "P C"</p>

Office and Agent

- Each filing entity and each general partnership that has an effective statement of partnership, shall designate and continuously maintain in this state:
 - a registered agent; and
 - A registered agent is an agent of the entity on which may be served any process, notice, or demand
 - a registered office
 - The registered office must be located at a street address where process may be personally served on the entity's registered agent; and may not be solely a mailbox service or a telephone answering service.

Dissociation

GP	LP/LLLP	LLC	Corp.
<p>A partner has the power to dissociate at any time, rightfully or wrongfully</p> <p>Terminates management rights</p> <p>Partnership must pay the dissociated partner his proportionate share of the fair market value of the partnership; offsets</p> <p>May be expelled</p>	<p>A LP does not have the right to dissociate; may be expelled</p> <p>A GP may dissociate, rightfully or wrongfully, at any time</p> <p>A person does not have a right to receive a distribution on account of dissociation; owns transferable interest as a transferee</p>	<p>A member has the power to dissociate</p> <p>It is wrongful only if it is in breach of the LLC agreement</p> <p>No obligation to purchase the interest of a former member</p> <p>A member may be expelled</p>	<p>Normally shares are freely transferable, but the articles, bylaws or an agreement may restrict the transfer of shares</p> <p>Dissenter's rights on merger, share exchange, sale of substantially all of the assets, or amendment that would affect rights</p>

A person is dissociated from a partnership as a partner upon the occurrence of certain events, such as,

- an event stated in the partnership agreement as causing the person's dissociation as a partner occurs;
- the person is expelled as a partner pursuant to the partnership agreement;
- the person is expelled as a partner by the unanimous consent of the other partners or by judicial order;
- if the person dies, there is appointed a guardian or conservator for the person or there is a judicial determination that the person has otherwise become incapable of performing the person's duties as a partner; and
- the person becomes a debtor in bankruptcy, executes an assignment for the benefit of creditors, or seeks, consents, or acquiesces to the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property

Events of Dissolution

- An event or circumstance that the partnership agreement states causes dissolution
- Consent of all partners to dissolve
- When there are not at least two partners, or for a limited partnership there is no remaining general partner and limited partner
- On application by a partner, the entry of an order dissolving the partnership on the grounds that it is not reasonably practicable to carry on the limited partnership's activities and affairs in conformity with the partnership agreement
- A series may be dissolved and its activities and affairs may be wound up without causing the dissolution of the limited liability company

Dissolution – Claims

- A dissolved partnership or limited liability company may dispose of any known claims against it by giving notice of the dissolution in writing to the holder of any known claim
 - The holder of the claim will have 120 days to present the claim
 - If the claim is denied, the claimant must commence a proceeding within 90 days
- A notice may also be published in a local newspaper stating that claims against a partnership or limited liability company will be barred unless presented within two years after publication

Dissolution – Distribution of Assets

- First to payment of creditors, including owners who are creditors
 - For a partnership, if the assets are not sufficient to pay creditors, each partner must contribute in proportion to their right to receive distributions
- Second to return of contribution (capital account)
- Last to each owner in proportion to which they share in distributions before dissolution
- The dissolution of a partnership or limited liability company does not transfer title to the entity's property

Corporate Dissolution

- The Board recommends dissolution and the shareholders must approve the proposal by two-thirds of votes, unless otherwise stated in the articles
- A corporation may be dissolved by the written consent of all of its shareholders, whether or not otherwise entitled to vote, without action by the corporation's board of directors
- In a judicial proceeding because of a deadlock in management, directors are acting in an illegal, oppressive or fraudulent manner, or corporate assets are being misapplied or wasted

Corporate Dissolution

- A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:
 - Collecting its assets;
 - Disposing of its properties that will not be distributed in kind to its shareholders;
 - Discharging or making provision for discharging its liabilities;
 - Distributing its remaining property among its shareholders according to their interests; and
 - Doing every other act necessary to wind up and liquidate its business and affairs.

Conversion

- An Alabama business entity may convert to any other form of entity
 - Generally, all the owners must approve the conversion unless provided otherwise in the entity's certificate of formation or internal agreement (bylaws, partnership agreement or limited liability company agreement)
 - In the case of a conversion to a partnership or limited partnership, the written approval of all those who will be general partners is required
- There must be a plan of conversion

Conversion

- The converting organization shall file a statement of conversion
- All property owned by the converting organization remains vested in the converted organization without reservation or impairment; and
- All debts, obligations, or other liabilities of the converting organization continue as debts, obligations, or other liabilities of the converted organization and neither the rights of creditors, nor the liens upon the property of the converting organization shall be impaired by the conversion

Merger

- Pursuant to an approved plan of merger, a corporation, limited partnership, limited liability company, general partnership, real estate investment trust, or any other entity may merge with any other entity or entities, whether the other entity or entities are the same or another form of entity
 - There must be a plan of merger

Merger

- When a merger becomes effective the surviving organization continues or, in the case of a surviving organization created pursuant to the merger, comes into existence;
 - each constituent organization that merges into the surviving organization ceases to exist as a separate entity;
 - all property owned by each constituent organization that ceases to exist vests in the surviving organization without reservation or impairment;
 - all debts, obligations, or other liabilities of each constituent organization that ceases to exist continue as debts, obligations, or other liabilities of the surviving organization and neither the rights of creditors, nor any liens upon the property of any constituent organization, shall be impaired by the merger

Fiduciary Duties

- A general partner/member has a duty of loyalty and care to the partnership
 - Refrain from competing with the partnership/LLC in the conduct of the partnership/LLC business
- A limited partner does not have any duty but must act consistently with the implied covenant of good faith and fair dealing
- A Director must exercise his duties in good faith, with the care an ordinarily prudent person would exercise, and in the best interest of the corporation

Required Records

- A current list of the full name and last known street and mailing address of each partner, in alphabetical order
- Copies of any filed statement
- Copies of the partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years
- Copies of the then effective partnership agreement and any amendment thereto
- Copies of any financial statement of the partnership for the three most recent years

Required Records

- Unless contained in a partnership agreement made in a writing, a writing stating:
 - the amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;
 - the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made; and
 - any events upon the happening of which the partnership is to be dissolved and its business or not for profit activity wound up. §10A-8A-1.11

Required Records

- For a corporation
 - Minutes of all s/h meetings,
 - Correspondence with s/h,
 - The annual report delivered to the Secretary of State, and,
 - Upon request, its annual financial statements which must include
 - Balance sheet
 - Income statement
 - Statement of changes in s/h equity

Access to Required Records

- A partner, without having any particular purpose for seeking the information, may inspect and copy during regular hours at a reasonable location specified by the partnership, required information and any other records maintained by the partnership regarding the partnership's business and financial condition
- Limited partners have to make a written demand 10 days prior

Access to Required Records

- Reasonable restriction for confidential information and nondisclosure and safeguarding obligations are permissible
- If there are trade secrets or information the disclosure of which would not be in the best interest of the business, that information may be kept confidential from the owners

Questions?
