

**A STEP BY STEP GUIDE
TO FORMING A
LIMITED LIABILITY COMPANY IN PENNSYLVANIA**

Prepared by Jennifer Bonacci, Legal Research Assistant 2006
Penn State Dickinson School of Law
Agricultural Law Resource and Reference Center

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ESSENTIAL SOFTWARE and TECHNICAL TROUBLESHOOTING:

All forms available through this site are .pdf files. To download the latest version of Adobe Acrobat, visit: http://www.adobe.com/products/acrobat/readstep2_allversions.html
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➤ **WHAT IS AN LLC?**

A Limited Liability Company (LLC) is a relatively new business structure first authorized by Pennsylvania in 1995. An LLC provides limited liability to its members (owners) and can be formed with one or more members. There is no maximum number of members an LLC can have.

LLCs are popular because they are multi-faceted. On the one hand, they are similar to a corporation, giving the owners (known as *members*) limited personal liability for the debts and actions of the LLC. On the other hand, the characteristics of the LLC that make it more like a partnership provide management flexibility and the benefit of pass-through taxation.¹ An LLC may be thought of as a limited partnership without a general partner.

The **Corporation Bureau of the Pennsylvania Department of State** reiterates this view, defining an LLC as a

“...hybrid between a partnership and a corporation. This business structure provides the liability protection of a corporation with the advantage of being treated as a partnership.”

The advantages and disadvantages to organizing as an LLC vary according to the type of business. Individuals considering doing business as an LLC should consult a professional to determine whether this type of organization is appropriate for their situation.

LLC's are defined in Title 15, Chapter 89 of the Pennsylvania Consolidated Statutes entitled: *Corporations and Unincorporated Associations*. Copies of the law are available through the **Legislative Reference Bureau**, which can be reached by writing:

Legislative Reference Bureau
641 Main Capitol Building
Harrisburg, PA 17120-0033

or calling: (717)783-1960

➤ HOW DO I FORM AN LLC IN PENNSYLVANIA?

To form an LLC, a *Certificate of Organization* is required to be filed with the **Corporation Bureau of the Pennsylvania Department of State**, in conjunction with a *Docketing Statement* and all applicable fees. (Online access to these forms and others is found below.) In completing the forms, the following requirements must be met:

- The Limited Liability name must be available for use
- An actual street or rural route number must be used as an address. A P.O. Box alone is not acceptable. A **Commercial Registered Office Provider's** Address is acceptable. (See below for more information)
- The name and address, including street and number, if any, of each organizer must be listed.

¹ United States Department of Treasury, Internal Revenue Service. Forms – Limited Liability Company/Partnership (LLC/LLP). <http://www.irs.gov/businesses/small/article/0,,id=99160,00.html>

- The application must be signed by all organizers listed, with their addresses.

➤ GENERAL INFORMATION

The Corporation Bureau of the Commonwealth of Pennsylvania

The Corporation Bureau is the official record keeper and repository for the records and business documents of more than 1.5 million companies authorized to do business in the Commonwealth of Pennsylvania. All records maintained in the office (such as “sales of new business” lists updated daily) are public and may be inspected upon request. The Bureau assists the general public and business community during all phases of filing, but it does not offer legal advice; nor does it have investigative, enforcement, or legislative powers.

Persons desiring to do business in Pennsylvania may have to apply to the Secretary of the Commonwealth for authority to conduct business, incorporate, or file an assumed or fictitious name. Through the Corporation Bureau, the Secretary of the Commonwealth files documents evidencing various kinds of business transactions. The Bureau may assist in registration of businesses or in obtaining information on existing businesses.²

Information and Corporation Bureau forms can be acquired through either the Department of State website at <http://www.dos.state.pa.us/corps/site/default.asp>, or www.paopenforbusiness.state.pa.us, from various stationery or form supplier stores, or from computer diskettes containing all corporate and Uniform Commercial Code (UCC) forms supplied by the Bureau. The order form for the diskette may be obtained by calling the Corporation Bureau at (717) 787-1057 or may be downloaded from the Department website at www.dos.state.pa.us.

Monday through Friday, the Corporation Bureau general offices are open from 8:00 a.m. to 5:00 p.m.; the Bureau’s Public Records room is open from 8:30 a.m. to 4:30 p.m.; and the Bureau’s Customer Service line closes at 4:45 p.m. To reach them via telephone or fax, call:

(717) 787-1057
(717) 783-2244 (fax) or visit them at

206 North Office Building
Harrisburg, PA

➤ WHEN IS PRIOR APPROVAL NEEDED *BEFORE* FILING?

² Guide to Business Registration in PA, pg 7 http://www.dos.state.pa.us/corps/lib/corps/guide_to_business_guide_in_pa.pdf

The prior written approval of certain professional and occupational boards or commissions of the **Bureau of Professional and Occupational Affairs (BPOA)** must be obtained when a filer is seeking to reserve or register a corporate name (this includes the name of a Limited Liability Company) or register a *fictitious name* which contains words implying that an entity is engaging in the practice of that profession or occupation. Therefore, please consult with the administrator of that board or commission by calling the **Bureau of Professional and Occupational Affairs** at (717) 787-8503 prior to submitting your filing.

➤ NAMING YOUR LLC AND FILING A FICTITIOUS NAME

The prior written approval of certain professional and occupational boards or commissions of the **Bureau of Professional and Occupational Affairs (BPOA)** must be obtained when a filer is seeking to reserve or register a corporate name (this includes the name of a limited liability company) or register a *fictitious name* which contains words implying that an entity is engaging in the practice of that profession or occupation.

The surname of a person -- standing alone or coupled with words that describe the business -- is not a fictitious business name. The inclusion of words that suggest additional owners, such as Company, & Company, & Sons, & Associates, makes the name an assumed or fictitious name.

Please note: For partnerships, the last name of **all** partners must be listed or the fictitious name rule applies.

Name Reservation criteria include:

- Name reservations are available by written request for \$70.00 for a period of 120 days. Reservations are requested by letter as there are no preprinted forms. Names can be re-reserved for a \$70.00 fee based upon availability.
 - Written requests may be mailed, faxed (provided you have a **Customer Deposit Account** – see the Payment section below) or hand delivered to the Bureau. The Bureau will reserve corporate names, limited partnership names, limited liability company names and limited liability partnership names. The customer will receive a computer generated printout as confirmation of their reservation.
 - ***Fictitious names cannot be reserved as they do not have name exclusivity and are not protected names.***
 - Reservation requests are thoroughly checked for availability and guarantee the use of the name.
- A proposed corporate name that is not distinguishable upon the Corporation Bureau records from the name of an existing corporation may be accepted if the existing corporation gives consent.

How to Register a Fictitious Name

To register an assumed or fictitious business name, the *Application for Registration of Fictitious Name* form must be filed. This application must contain the following information:

- The fictitious name. It may not contain a corporate designator such as “corporation” or “limited,” unless the owner is a corporation. The use of the word “company” or “co.” in a fictitious name by a sole proprietorship or a corporation is permissible.
- A brief statement concerning the character or nature of the business activity to be transacted.
- The address, including number and street, if any, of the principal place of business. A post office box alone is not acceptable.
- The name and address of each individual, corporation or partnership interested in the business.

Filing under the fictitious names act does not create any exclusive or other right to the use of the name.

If you have any questions, please consult with the administrator of that board or commission by calling the **Bureau of Professional and Occupational Affairs** at (717) 787-8503 prior to submitting your filing.

➤ **FILING GUIDELINES**

To establish an LLC in Pennsylvania, a *Certificate of Organization* is required to be filed with the Corporation Bureau on form DSCB: 15-8913, accompanied by a *Docketing Statement*, form DSCB: 15-134A. The Corporation Bureau requires the following guidelines be met in order to properly and efficiently process the documents it receives:

- The Limited Liability name must be available for use.
- The name and address, including street and number, if any, of each organizer must be listed.
- Documents must be submitted on the forms listed below or on 8.5" x 11" paper.
- These forms **do not** require notarization.
- Documents should be typed or printed in blue or black ink and be legible for microfilming.
- Legible fax copies or copies of documents are acceptable.
- All entities filed with the Bureau with the exception of fictitious names and trademarks, require a Pennsylvania address complete with street and number, if any.
- A Post Office Box alone is **not** acceptable. A list of [Commercial Registered Office Providers](#) is available to provide you with an address if needed.
 - Under Pennsylvania law (15 P.S. Sec. 109), entities required to provide a registered office address in any document filed in the Department of State may enter into a contract for the services of a Commercial Registered Office Provider (CROP), and may list the name of the CROP in lieu of providing a registered office address. This option is also available for any corporation or association that does not have a physical location or mailing address in the Commonwealth of Pennsylvania. Listing a CROP without having entered into a contract to acquire the services of that CROP could subject a filer to civil and criminal penalties. Fictitious Name registrations may not use a CROP.

➤ **DOCUMENTATION**

The following may be requested by letter or fax (provided you have a Customer Deposit Account) with the appropriate fees:

Pre-clearance of Documents

The purpose of this procedure is to confirm the accuracy of the filing document prior to the actual submission of documents. When a document is submitted, it is verified for correct filing information, and if applicable, name availability. This service is available for any document at a fee of \$70.00. The pre-clearance of the document is processed with the daily workload and may be expedited for an additional \$70.00 fee, provided a name reservation has been filed when required. Pre-clearance of document does not reserve an entity name.

Immediate Certified Copy (Same Day Filing)

Fictitious name registration and trademark registrations are not subject to this service.

Documents may be submitted to the Department of State by any of the following methods:

- Hand delivered at least 4 hours before the close of business on any day (by 1:00 p.m.). Processed documents will be available for pick-up by 5:00 p.m. on the day of the request.
- Express mail service (only if delivered before 1:00 p.m.) containing corresponding letter stating “immediate certified copy is requested” along with a pre-addressed and pre-paid air bill and envelope if filer desires express return.
- Faxed at least 4 hours before the close of business on any day (1:00 p.m.). This service is only available for Customer Deposit Account holders. Processed documents will be faxed back by 5:00 p.m. on the day of the request.
- Documents received after 1:00 p.m. on any day will be processed in the next day’s work. (File dates will not be affected.) The status of expedited filings will immediately be reflected on Corporation Bureau records.
- A signed confirmation copy must accompany the original document.
- In the instance when a document creates a new association or effects a change in a name, the document must be accompanied by a confirmed name reservation.
- The fee for this service is \$70.00 added to the fee for the filed document. This \$70.00 fee should be submitted by separate check. The Corporation Bureau will examine the documents according to relative sections of the General Associations Act. Upon completion of the examination, the Corporation Bureau will either certify the documents for acceptance, or prepare a written statement of the reason(s) for not doing so.
- If a document is examined and refused for certification (filing), the \$70.00 will not be refunded by the Corporation Bureau. If another immediate certified copy is requested for the same document, an additional \$70.00 fee will be charged, as that transaction will be treated as a new request.
- The following certification statement will appear on the copy of the filed document: “This is a true copy of the original signed document filed with the Department of State.” Expedited requests for good standing certificates and certified copies of submitted filings for immediate certified copy are available. These requests are processed by the Certification Section for an expedited fee in addition to the required photocopy fees.

Fax Service

Filing documents, name reservations, record searches, photocopy service requests and Uniform Commercial Code filings can be both requested and sent via fax vis a vis the Bureau. Fax service expedites the receipt of the documents only and does not expedite the documents unless expediting procedures are followed. Documents submitted via fax are time and date stamped upon receipt. Document received by the close of business receive that business day’s filing date.

Customers receive their faxed receipt as confirmation that the Department received their fax.

Fees associated with filing transactions and service requests done via fax cannot be faxed and necessitate the entity to establish a Corporation Bureau Customer Deposit Account. (For how to open a Deposit Account, see the “Payment” section below.)

Fax information:

- The Bureau fax number is 717-783-2244.
- All corporate, fictitious name, limited partnership, and other filings should include the same documents such as *Docketing Statements*, letters of consent, clearance certificates (as they would through the mail or hand delivery). Please include a cover letter explaining the transaction along

with any special instructions. Please do not duplicate filings by both faxing and mailing them to the bureau.

- A fax cover letter should contain the account number to be charged.
- If a stamped, accepted confirmation copy of the filed documents is desired while the original is undergoing the microfilming process, please indicate in the cover letter. Please include a duplicate copy in the fax. A fee of \$3.00 per page must be provided or will be deducted from the customer's deposit account. If an extra copy is not provided, the original documents will not be returned until the microfilming process is completed. The Bureau does not fax back copies confirming a received date.
- Name reservations, record searches and photocopy requests should be submitted in the same manner as filed documents including the cover letter, special instructions and customer account number to be charged.
- Please indicate in the cover letter if the accepted filing, name reservation, record search, photocopies or rejection letter should be faxed back. There is a \$3.00 per page fee for all documents and communications faxed from the Bureau. These fees can be deducted from the customer deposit account. The front and back of a document are considered two pages.

➤ PAYMENT

For any services rendered by the Corporation Bureau:

- Customers may pay by check or money order made payable to the **PA Department of State**.
- Checks may not be more than six months old.
- Customer Deposit accounts may be established for payment. (See below)
- Cash or credit cards are *not* accepted.

Customer Deposit Account

A Customer Deposit Account may be established with the Corporation Bureau. To open a Customer Deposit Account:

- Please submit a written request stating the company name, if any, that is to appear on the account, along with the name, mailing address, telephone number and fax number of the contact person.
- A check for a minimum of \$500.00 made payable to the Department of State must accompany the written request.

Customer Deposit Account Policies

- A credit line of \$200.00 will be available to all accounts in order for work to be processed while the account is being replenished. However, per Corporation Bureau Regulations, (19 Pa Code Section 3.103, Extension of Credit by the Department), credit will not be extended for filing fees.
- All accounts will be monitored on a daily basis.
- Please report any discrepancies in the deposit account within 30 days.
- The Department reserves the right to deny credit to a person, corporation, or company due to a poor credit rating or previous record of default.

Note: A positive account balance is required.

- Any questions relating to fax services may be directed to 717-787-1057.

➤ WHERE DO I FILE?

Apply online at:

www.paopenforbusiness.state.pa.us and click on the “Online Business Registration” link; or

Send your application through the US Postal Service to:

Department of State
Corporation Bureau
206 North Office Building
Commonwealth Avenue & North Street
Harrisburg, PA 17120

➤ TAX ISSUES FOR LIMITED LIABILITY COMPANIES IN PENNSYLVANIA

General tax information and corporate box numbers may be obtained from the Pennsylvania Department of Revenue at (717) 787-1064 or www.revenue.state.pa.us.

Commonly Asked Questions:³

- **How are LLCs taxed by the IRS?**

The IRS classifies LLCs as flow-through entities. If the LLC has two or more members, the IRS considers the LLC to be a partnership. If the LLC has a single member, the IRS considers the LLC to be a disregarded entity. If the single member is a natural person, the LLC is considered to be a sole proprietorship. If the single member is a corporation, the LLC is considered to be a branch or division. The IRS permits all LLCs to elect to be treated as a corporation.

- **Does Pennsylvania follow the Federal laws for LLCs?**

For tax years 1995 through 1997, LLCs were subject to all state corporate taxes (Capital Stock/Franchise, Loans, and Corporate Net Income) regardless of their Federal filing status. Beginning in tax year 1998, the law changed and LLCs were exempted from the Corporate Net Income Tax if they elected partnership treatment. Only LLCs that are *classified* as federal corporations are subject to Corporate Net Income Tax.

At the same time, LLCs (except multi-member Restricted Professional Companies formed by two or more licensed professional) remain subject to the Capital Stock/Franchise and Loans Taxes.

- **Can an LLC file a PA S election?**

³ Pennsylvania Department of Revenue. Commonly Asked Questions: Limited Liability Companies.
<http://www.revenue.state.pa.us/revenue/lib/revenue/rev-750.pdf>

An LLC may file a PA S corporation election if 1) the LLC has elected to be a corporation for Federal income tax purposes; and 2) the LLC has a valid Federal S corporation election in effect.

- **Does a corporate member of an LLC become subject to the Capital Stock/Franchise Tax?**

A corporate member of an LLC will not be considered subject to the Capital Stock/Franchise Tax simply because of the LLC activity. The corporation must *be doing business* in Pennsylvania on its own.

- **What kind of tax return does an LLC file?**

Every LLC files a PA Corporate Tax Report (RCT-101), regardless of how they are classified federally. However, if the LLC is classified as a corporation for Federal Income Tax purposes, they also have to complete the Corporate Net Income Tax portion of the RCT-101. If they are classified as a partnership, they also have to file a Partnership Information Return (PA-20S/65).

- **For tax years beginning in 1998, how do LLCs compute and file PA taxes?**

All LLCs, other than qualified RPCs, are required to file the RCT-101, reporting the Capital Stock/Franchise and Corporate Loan Taxes. If the LLC is classified as a corporation for Federal Income Tax purposes, the LLC must also report PA Corporate Net Income Tax.

A tax professional should be consulted to verify the tax consequences of forming an LLC.

For Capital Stock/Franchise Tax purposes, the book income that are corporations or partnerships for Federal Income Tax purposes is derived from their Federal returns. However, LLCs that are disregarded entities for Federal Income Tax purposes do not file a Federal return. Therefore, such LLCs are required to use the book income that would have been set forth on the Federal Income Tax return if a return had been made.

LLCs that are disregarded entities must maintain separate books and complete a pro forma Federal return to be attached to their RCT-101 to satisfy this statutory requirement.

The type of pro forma Federal return required to be completed and attached depends upon the entity classification of the LLCs single member for Federal Income Tax purposes. If the single member of the LLC is classified as a corporation for Federal Income Tax purposes, the LLC is required to complete and attach a pro forma separate company US Corporation Income Tax Return (Form 1120).

If the single member of the LLC is classified as a partnership for Federal Income Tax purposes, the LLC is required to complete and attach a pro forma separate company US Partnership Income Tax Return (Form 1065).

If the single member of the Federal “disregarded entity” LLC is a natural person, the LLC is required to complete and attach a schedule of net book income supported by the change in the net worth from the beginning to the end of the tax year. This schedule will be used to complete the average net income section of the Capital Stock/Franchise Tax report. The LLC will be required to explain any discrepancies between the net book income and the change in net worth.

Section 601(a) of the Tax Return Code provides that the “net worth [of an LLC] for any tax year shall be the entity’s assets minus its liabilities as of the close of such tax year.” 72 P.S. §7601(a) (definition of

⁴ <http://www.revenue.state.pa.us/revenue/cwp/view.asp?A=11&Q=225172>

“net worth”). Therefore the Department requires that the Capital Stock/Franchise Tax report include a statement of the LLCs assets and liabilities. This statement must be prepared from separate books maintained by the LLC.

A PA-20S/65 must also be filed by an LLC that is classified as a partnership. An LLC with non-resident partners must withhold and remit estimated Personal Income Tax.

Corporation Taxes for Limited Liability Companies⁴

Effective January 1, 2004

- Limited Liability Companies and Business Trusts are subject to the Capital Stock/Franchise Tax with the following exceptions:
 1. Restricted Professional Companies deemed to be limited partnerships.
 2. A business trust which qualifies as a regulated investment company under section 851 of the Internal Revenue Code of 1986 and which is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 or a related business trust which confines its activities in this Commonwealth to the maintenance, administration and management of intangible investments and activities of regulated investment companies.
 3. A business trust which is either a real estate investment trust or a qualified real estate investment trust subsidiary, as defined in section 856 of the Internal Revenue Code of 1986, unless the business trust is a captive REIT/QRS. A captive REIT/QRS is a real estate investment trust or qualified real estate investment trust subsidiary that has more than 50 percent of the voting power or value of the trust owned or controlled by a single corporation. A captive REIT/QRS owned by a REIT, a QRS, a bank or a mutual thrift institution or their affiliates is not subject to the CSFT.

- Business Trusts and Limited Liability Companies which are classified as corporations for Federal Income Tax purposes are subject to the Corporate Net Income Tax while the income generated by Business Trusts and Limited Liability Companies which are classified as partnerships or disregarded entities is passed through and reported on the PA Income Tax Returns of the members. A business trust that is classified as a corporation for Federal income tax purposes is not subject to corporate net income tax if it is:
 1. A business trust which qualifies as a real estate investment trust under section 856 of the Internal Revenue Code of 1986 or which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 ; or
 2. A business trust which qualifies as a regulated investment company under section 851 of the Internal Revenue Code of 1986 and which is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 or a related business trust which confines its activities in this Commonwealth to the maintenance, administration and management of intangible investments and activities of regulated investment companies.

Note: *For Corporate Net Income Tax, a corporation that owns an interest in a business trust that is a captive REIT/QRS shall be considered to own a direct ownership interest in the assets of the REIT/QRS. A captive REIT/QRS is a real estate investment trust or qualified real estate investment trust subsidiary that has more than 50 percent of the voting power or value of the trust owned or controlled by a single corporation. This provision does not apply to a REIT/QRS owned by a REIT, a QRS, a bank or a mutual thrift institution or their affiliates.*

- In the calculation of the Capital Stock/Franchise Tax, a corporation's investment in a Limited Liability Company or a Business Trust is treated in the same manner as an investment in a corporate entity. Limited Liability Companies and Business Trusts are also entitled to the same exemptions as any other entity subject to this tax.

➤ FEDERAL TAX ISSUES FOR LIMITED LIABILITY COMPANIES⁵

A Limited Liability Company (LLC) is an entity formed under state law by filing *Articles of Organization*. LLCs are a relatively new concept in business structures and taxpayers have many questions regarding how becoming an LLC affects their tax return. Since the Federal Government *does not* recognize an LLC as a classification for Federal Tax purposes, such entities must file their federal returns as one of the following: a corporation, partnership, or sole proprietorship.

Federal tax laws will automatically classify and tax *certain LLC business entities as corporations*. These entities include:

- A business entity formed under a Federal or State statute or under a statute of a federally recognized Indian tribe if the statute describes or refers to the entity as incorporated or as a corporation, body corporate, or body politic.
- An Association under Regulations section 301.7701-3.
- A business entity formed under a Federal or State statute if the statute describes or refers to the entity as a joint stock association.
- A business entity taxable as a corporation under a provision of the code other than section 7701.(a)(3).

➤ WHAT KIND OF FEDERAL INCOME TAX RETURN SHOULD YOU FILE?

1. *Single Member LLCs*

Generally, when an LLC has only one member, the fact that it is an LLC is ignored or “disregarded” as an entity separate from its owner and reports its income and deductions on its owner's federal income tax return. An owner who is an individual may use a *Schedule C* or *C-EZ*.⁶ Remember, this is only a mechanism for tax purposes. It doesn't change the fact that the business is legally a Limited Liability Company.

- a. If the only member of the LLC is an individual, the LLC income and expenses are reported on *Form 1040, Schedule C, E, or F*.
- b. If the only member of an LLC is a corporation, the LLC income and expenses are

⁵ Department of the Treasury, Internal Revenue Service. Tax Issues for Limited Liability Companies: What You Should Know About Limited Liability Companies. <http://www.irs.gov/pub/irs-pdf/p3402.pdf>

⁶ Department of the Treasury. Tax Guide for Small Businesses (for Individuals who use Schedule C or C-EZ). IRS, Publication 334, Catalog Number 11063P. <http://www.irs.gov/pub/irs-pdf/p334.pdf>

reported on the corporation's return, usually *Form 1120* or *Form 1120S*.

- If you prefer to file as a corporation instead of as a “disregarded entity,” [Form 8832, Entity Classification Election](#), must be submitted. Otherwise, you don't need to file *Form 8832*.
- Single member LLCs may *not* file a partnership return.

2. Multiple Member LLCs

Most LLCs with more than one member file a partnership return, *Form 1065*. If you would rather file as a corporation, [Form 8832, Entity Classification Election](#), must be submitted. You don't need to file a *Form 8832* if you want to file as a partnership.

The forms necessary for filing as an LLC depend on the type of federal tax entity that is either elected or defaulted to. Choose the entity that best represents the tax entity under which you will file your federal tax.

Forms for Federal Tax Entities:

- [Sole Proprietor \(Disregarded entity / 1 person\)](#)
- [Partnership \(2 or more people\)](#)
- [Corporation \(defaulted or elected\)](#)

Please also see:

- [Other small business and self-employed forms and publications.](#)
- [Filing Season Central Homepage](#)
- [Forms and Publications By U.S. Mail](#)
- [Prior Year Forms, Instructions and Publications](#)

Tax on the income of a LLC is paid at the same level for Pennsylvania as for the IRS. In general, LLCs are subject to the Capital Stock or Foreign Franchise Tax and the Corporate Loans Tax. Additional information on the taxation of LLCs is available in the Corporation Tax Instruction Booklet (CT-1) or in the Corporation Tax Section of the Department of Revenue of the Commonwealth of Pennsylvania's website.

- **How Does A Business Elect an Entity Classification?**

An LLC that is not automatically classified as a corporation can file *Form 8832* to elect their business entity classification. A business with at least 2 members can choose to be classified as an association taxable as a corporation or a partnership, and a business entity with a single member can choose to be classified as either an association taxable as a corporation or disregarded as an entity separate from its owner, a “disregarded entity.” The *Form 8832* is also filed to change the LLC's classification.

⁷ LLC Reporter <http://www.llc-reporter.com/34.htm>

- **What is the effect of Not Electing and Entity Classification, the Default Rules?**

If an LLC does not File Form 8832, it will be classified, for Federal tax purposes under the default rules. The default rules provide that if the LLC has at least two members and is not required to be classified as a corporation, it will automatically default as a partnership, and be required to file a partnership return. An LLC that has only a single member and is not required to be classified as a corporation will automatically default to the classification of disregarded entity. The disregarded entity files as a sole proprietorship and completes the appropriate schedules as part of the single owners Form 1040.

- **What is the Effective Date of My Election?**

The election to be taxed as the new entity will be in effect on the date the LLC enters on line 4 of [Form 8832](#). However, if the LLC does not enter a date, the election will be in effect as of the form's filing date. The election can not take place more than 75 days prior to the date that the LLC files Form 8832 and the LLC cannot make the election effective for a date that is more than 12 months after it files Form 8832. However, if the election is the "initial classification election," and not a request to change the entity classification, there is relief available for a late election (more than 75 days before the filing of the Form 8832). See the instructions for Form 8832.

- **What you need to file a return.**

You must provide a Taxpayer Identification Number so that the Department of Revenue can Process you returns.

- There are two kinds of Taxpayer Identification Numbers:
 - Social Security Number
 - Employer Identification Number
 - An Employer Identification Number is obtained by contacting the U.S. Department of the Treasury, Internal Revenue Service at (800) 829-1040 or on its website at www.irs.gov.
- **WHY?** You could be subject to a penalty for delaying the administration of the tax law if you do not furnish your Identifying Numbers to others who file returns or documents such as (but not limited to):
 - Interests, dividends, royalties, etc. paid to you;
 - Amounts paid to you or your business that total \$600.00 or more for the year;
 - Any amount paid to you as a dependent care provider; and/or
 - Alimony paid to you.

- **What form should the LLC file, and how does income get from the LLC to the Form 1040, U.S. Individual Income Tax Return?**

The business structure of the LLC and/or the election the business made dictates which federal tax form the business must file.

If the LLC is a sole proprietor for federal tax purposes, the entity should file either:

- [Form 1040 Schedule C](#), Profit or Loss from Business (Sole Proprietorship)
- [Form 1040 Schedule E](#), Supplemental Income or Loss
- [Form 1040 Schedule F](#), Profit or Loss from Farming
- [Form 1040 Schedule J](#), Income Averaging for Farmers and Fisherman

If the business has net income over \$400, it may be required to file [Schedule SE](#), Self-Employment Tax.

If the LLC is a partnership, it should file a [Form 1065](#), U.S. Return of Partnership Income. Each owner should show their pro-rata share of partnership income (reduced by any tax the partnership paid on the income), credits and deductions on [Schedule K-1 \(1065\)](#), Partner's Share of Income, Deductions, Credits, etc.

Finally, if the LLC is a corporation, it should file a [Form 1120](#), U.S. Corporation Income Tax Return. The 1120 is the corporate income tax return, and there are no flow-through items to a 1040 from a corporate return. However, if the LLC filed as an S Corporation, it should file a Form 1120S, U.S. Income Tax Return for an S Corporation and each owner reports their pro-rata share of corporate income, credits and deductions on [Schedule K-1 \(Form 1120\)](#), Shareholder's Share of Income, Deductions, Credits, etc.

For further assistance, call the Pennsylvania State Revenue and Taxation Department directly at:⁷

717-787-6611
717-787-3990 Fax

Or write:

Neil Weber, Director
11 Strawberry Square
Harrisburg, PA
17128-1100

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the [Tax Code, Regulations, and Official Guidance](#) page. To access any Tax Court case opinions issued after September 24, 1995, visit the [Opinions Search](#) page of the United States Tax Court.

➤ FORMS

- All forms are located on the Pennsylvania Department of State website under the Corporation Bureau at: <http://www.dos.state.pa.us/corps/cwp/view.asp?a=1093&Q=431210&corpsNav=|>

FORM	FEE	WEB ADDRESS
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<p><i>Certificate of Organization for a Domestic LLC (located in PA)</i></p> <p>Must be filed in with a: <i>Docketing Statement</i></p>	<p>\$125.00</p> <p>None</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8913.pdf</p> <p>http://www.dos.state.pa.us/corps/lib/corps/20/7/134A.pdf</p>
<p><i>Docketing Statement (Changes)</i></p>	<p>None</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/134B.pdf</p>
<p><i>Certificate of Amendment of a Domestic LLC</i></p>	<p>\$70.00</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8512-8951.pdf</p>
<p><i>Certificate of Annual Registration</i></p>	<p>\$380.00 times the number of members of the Company</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8221-8998.pdf</p>
<p><i>Certificate of Change of Registered Office of a LLC</i></p>	<p>\$70.00</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8906.pdf</p>
<p><i>Certificate of Election by Professional Association of LLC Status</i></p>	<p>\$125.00</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8908.pdf</p>
<p><i>Articles/Certificate of Division of a LLC</i></p>	<p>\$195.00 plus \$125.00 for each additional Entity in excess of one</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/1954-5954.pdf</p>
<p><i>Merger or Consolidation of a LLC</i></p>	<p>\$150.00 plus \$40.00 for each party in addition to two</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8958.pdf</p>
<p><i>Certificate of Termination</i></p>	<p>\$70.00</p>	<p>http://www.dos.state.pa.us/corps/lib/corps/20/7/8546-8957.pdf</p>

<i>(Merger of Consolidation) of a LLC</i>		
<i>Certificate of Termination (Division) of a LLC</i>	\$70.00	http://www.dos.state.pa.us/corps/lib/corps/20/7/8962.pdf
<i>Dissolution of a Domestic LLC</i>	\$70.00	http://www.dos.state.pa.us/corps/lib/corps/20/7/8975-8978.pdf
<i>Application of Registration of Fictitious Name</i>	\$70.00	http://www.dos.state.pa.us/corps/LIB/corps/20/7/311.pdf

➤ **FEE SCHEDULE⁸**

DOMESTIC LIMITED LIABILITY COMPANY:	
Certificate of Organization.....	\$125
Each ancillary transaction.....	\$70
Certificate of Merger, Consolidation or Division (Base fee - see additional fee below).....	\$70
Additional fee for each association which is a party to a merger or consolidation.....	\$ 40
Additional fee for each new association resulting from a division.....	\$125
Annual Registration.....	at least \$380
FICTITIOUS NAME:	
Registration.....	\$70
Each ancillary transaction.....	\$70
TRADEMARK:	
Registration.....	\$50
Renewal.....	\$50
Assignment.....	\$50
INSIGNIA, MARKED ARTICLES AND LIKE MATTERS:	
Registration.....	\$50
Amendment.....	\$50
CHANGE OF REGISTERED OFFICE BY AGENT.....	\$5
NAME RESERVATION/REGISTRATION.....	\$70
CERTIFICATION FEES:	

⁸ Guide to Business in Pennsylvania pg 35 http://www.dos.state.pa.us/corps/lib/corps/guide_to_business_guide_in_pa.pdf

Certified copy.....	\$55+ \$3 per page
Plain copy.....	\$15 search fee + \$3 per page
Subsistence Certificate	\$ 40
Engrossed Certificate.....	\$70

REPORT OF RECORD SEARCH.....\$15

UNIFORM COMMERCIAL CODE:

UCC-1 Financing Statement	\$84
UCC-3 Change Statement.....	\$84
Only one (1) transaction is accepted per UCC-3 form.	
Attached pages to UCC-1 or UCC-3 filings.....	NO CHARGE
Correction Statement.....	\$84
UCC-11 Information Request.....	\$12
UCC-11 Copy Request.....	\$12 + \$3 per copy
Certification.....	\$28

OTHER FEES:

Expedited.....	\$70
FAX (outgoing fax).....	\$3 per page
Business Lists.....	\$0.25 per entity name
Name Availabilities (written, up to three names).....	\$15

➤ **FREQUENTLY ASKED QUESTIONS⁹**

Q: Why do so many businesses file in Pennsylvania?

A: Pennsylvania is a logical jurisdiction in which to incorporate for any corporation doing business or expecting to do business anywhere in the United States, and especially if the corporation will have any activities in Pennsylvania, regardless of whether the corporation is a publicly held corporation.

Q: Is there an Internet site where I can get information I need to start a business in Pennsylvania?

A: Yes. To learn more about starting a business in Pennsylvania, or to obtain the necessary forms required by different Pennsylvania state agencies, log on to www.paopenforbuisness.state.pa.us.

Q: Does the Corporation Bureau issue licenses which are required for corporations to conduct specific business activities?

A: No. Corporations are formed and fictitious names are registered in filings made with the Corporation Bureau. You should, however, contact your local county, city, borough or township for additional licensing requirements that may apply to your business.

Q: Must I seek legal counsel to incorporate?

⁹ Guide to Business in Pennsylvania pg 32 http://www.dos.state.pa.us/corps/lib/corps/guide_to_business_guide_in_pa.pdf

A: No, but there are many pitfalls for the unwary. Please be advised that the Corporation Bureau acts in an administrative capacity only. You should consult with an attorney for advice about the many State and Federal laws that might apply to your business.

Q: Is it a requirement to have a Pennsylvania address in order to have a business in the Commonwealth?

A: Yes. The only entities not required to have a Pennsylvania address are those registering trademarks and fictitious names. You may also elect to have a commercial registered office provider in lieu of a physical address in Pennsylvania.

Q: Does Pennsylvania require annual report filings?

A: Pennsylvania requires annual filings for all limited liability partnerships, domestic and foreign, as well as restricted professional limited liability companies, domestic and foreign. Nonprofit corporations are also required to file annual reports if there has been a change in corporate officers during the preceding calendar year.

Q: Does the Department of State have the ability to amend corporate officers on its records?

A: Changes in corporate officers are made by completing form REV. 1605 CT (names of corporate officers) and mailing to the Department of Revenue when filing tax reports. This form may be obtained by calling the Department of Revenue at (717) 772-3635 or by visiting its website at www.revenue.state.pa.us. Upon receipt, the Revenue Department will notify the Corporation Bureau of the officer changes and they will be reflected on our records.

Q: Are bylaws required to be filed?

A: No. Bylaws are kept with the records of the business.

Q: Does the Corporation Bureau issue certificates as evidence of filing?

A: Yes. Certificates can be obtained for an additional fee of \$70.00.

Q: Is a list of new businesses or associations available from the Corporation Bureau?

A: Yes. Lists of all new associations are generated on a monthly basis. Lists evidencing specialized data are also available. The information contained on these lists are name, file date, address, purpose, if applicable, entity number and owners (fictitious names only). The fee is 25 cents per name.

Q: What type of information can the Corporation Bureau offer?

A: The Corporation Bureau's function is that of a filing agency and keeper of records. The Bureau may assist in registration of businesses or in obtaining information on existing businesses. The Bureau does not legislate, administer or enforce penalties incurred by entities for non-registration.

Q: Where do I obtain tax information in Pennsylvania?

A: Pennsylvania tax information may be obtained by contacting the Department of Revenue's new Taxpayer Services Center at (717) 787-1064, or by visiting their website at www.revenue.state.pa.us. Federal tax information may be obtained by contacting the Internal Revenue Service at (800) 829-1040, or through its website at www.irs.gov.

Q: Can corporate seals and corporate kits be obtained from the Corporation Bureau?

A: No. They may be obtained from a local stationery or any office supply store.

➤ **ADDITIONAL RESOURCES:**

- **Bankruptcy Clerk** www.palawcenter.com/usmiddle/
 - Middle District.....717-782-2260
- **Better Business Bureau** www.bbb.org/bureaus/state.asp?st=PA
 - Lancaster.....717-291-1151
 - Eastern PA.....215-985-9313
- **Entrepreneurs_guide.pdf** (Will not open with Mozilla Firefox).
<http://www.newpa.com/download.aspx?id=5>
- **Federal Switchboard**.....800-688-9889
- **Feirick, Jeff J.D.** *Using a Limited Liability Company to Operate a Pennsylvania Family Farm Business.* The Agricultural Law Resource and Reference Center at The Pennsylvania State Dickinson School of Law.
http://www.dsl.psu.edu/centers/agpubs/Agricultural_Business_files/Using%20a%20Limited%20Liability%20Company%20to%20Operate%20a%20Pennsylvania%20Family%20Farm%20Business.pdf
- **Funding and Program Finder for new Agriculture-based Businesses** (through the PA Department of Community and Economic Development)
<http://www.newpa.com/programFinder.aspx?typeID=1>
- **Guide to Business Registration in Pennsylvania, A.** Corporation Bureau, Pennsylvania Department of State
http://www.dos.state.pa.us/corps/lib/corps/guide_to_business_guide_in_pa.pdf
- **Pennsylvania Bar Association**.....717-238-6715
www.pabar.org
- **Pennsylvania Chamber of Business and Industry**.....717-255-3252
www.pachamber.org/home.asp
www.bbb.org/bureaus/state.asp?st=PA
- **Pennsylvania Department of Community and Economic Development**.....717-787-3405
<http://www.newpa.com/default.aspx?id=223>
 - Small Business Resource Center.....783-5700 or 800-280-3801
- **Pennsylvania Department of Labor and Industry** www.dli.state.pa.us
 - Building Occupancy Permit.....717-787-3806
 - Unemployment Compensation717-787-2097

- o Benefits and Allowances.....717-787-3547
- o Tax.....717-787-6647
- o Workers' Compensation.....717-772-4447 or 800-482-2383
- o Job Centers.....800-982-7567

- **Pennsylvania Department of Revenue.** *Starting a Business in Pennsylvania: A Beginner's Guide.*
<http://www.revenue.state.pa.us/revenue/lib/revenue/rev-588.pdf>

- **Pennsylvania Department of Revenue** www.revenue.state.pa.us

- o General Tax Inquiries.....717-787-8201
- o Corporation Taxes (Rate & Base Changes) Sub S Forms.....717-783-6035
- o Tax Lien Certificates.....717-772-6940
- o Small Games of Chance.....717-787-8275
- o Bulk Sales Clearance.....717-783-6052
- o Sales Tax Questions (Taxability of an Item).....717-787-6229
- o Sales Tax Questions (On a Sales Tax Account).....717-787-8326
- o Sales Tax Licensing/employer Reg.....717-772-2340
- o 1% Local Sales and Use Tax (Phila./Allegheny Co.).....717-787-6229
- o Employer Withholding Tax (Questions).....717-783-1488
- o Employer Tax Account (Payments).....717-787-1586
- o Cigarette Tax.....717-783-9374
- o Malt Beverage Tax.....717-783-9354
- o U.S. Tax (Aircraft, Water craft, Motor Vehicle, Misc.).....717-783-9735
- o Public Transportation Assistance Fund & Tax Fees.....717-787-2104
- o Personal Income Tax.....717-787-8201
- o Specific Legal Questions on Tax Changes.....717-787-1382
- o Electronic Funds Transfer (All Business Tax Types).....800-892-9816

- **Pennsylvania Department of State** www.dos.state.pa.us

- o Corporation Bureau.....717-787-1057
- o Bureau of Charitable Organizations.....717-783-1720 or 800-732-0999
- o Bureau of Professional and Occupational Affairs.....717-783-7200
- o Licensing Boards (General Information).....717-787-8503
- o State Athletic Commission.....717-787-5720
- o Commissions, Elections and Legislation Office.....717-787-5280

- **Pennsylvania State Government** www.state.pa.us

- o Pennsylvania Department of General Services (Vendor Services) 717-787-2199 or 717-787-4705
www.dgs.state.pa.us
- o Pennsylvania Securities Commission.....717-787-8061
www.psc.state.pa.us
- o Pennsylvania Insurance Department.....717-787-2317
www.insurance.state.pa.us
- o Pennsylvania Department of Banking.....717-787-2665
www.banking.state.pa.us
- o Office of Attorney General (Consumer Protection).....717-787-9707
www.attorneygeneral.gov

- Pennsylvania Liquor Control Board.....717-783-7637
www.lcb.state.pa.us
- Public Utility Commission.....717-783-1740
<http://puc.paonline.com>
- Minority Business Advocate Office.....717-787-9147
www.dced.state.pa.us
- Women’s Business Advocate Office.....717-787-3339
www.dced.state.pa.us
- Internal Revenue Service (IRS)-(EIN numbers).....800-829-1040
www.irs.gov
- Tax Exempt Forms for 501C3 Status.....800-829-3676
www.irs.gov
- Immigration and Naturalization Service (INS).....800-755-0777
www.ins.usdoj.gov

- **Pennsylvania Open for Business** www.paopen4business.state.pa.us

- **Service Corps of Retired Executives (SCORE)** Harrisburg.....717-761-4304
www.score.org

- **United States Small Business Administration** www.sbaonline.sba.gov
- Harrisburg.....717-782-3840
- Philadelphia.....610-962-3800
- Pittsburgh.....412-644-2780
- Wilkes-Barre.....717-826-6497

- **United States Patent & Trademark Office**.....800-786-9199
www.uspto.gov