

# LLC Mini Course



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## **Welcome to the LLC Mini Course!**

The vast majority of LLCs FAIL to deliver the promised asset protection and never yield any more money.

This mini-course is going to **debunk many of the myths about LLC asset protection** and show you some **tax “loopholes”** that will allow you to make and keep more profit in your business.

I’m Lee Phillips, United States Supreme Court Counselor, Federal Tax Court Attorney, and asset protection student. Yes, after 40 years, I am still learning, because the attacks keep shifting.

Among the thousands of small businesses I have helped, many had already put an LLC or Corporation in place before they ever saw me, and then they started turning the crank as fast as they could to try and make money.

They paid their lawyer \$1,500 (I like that), or a few of them filled out the 5 easy questions on some internet site, and Shazam, they got an LLC.

There’s not a lot of Magic in that! Also, **there’s not much asset protection, and there’s no more money**. When you have a form LLC (from a lawyer or the internet), all you get is what turning the crank produces – after taxes.

Almost everybody – everybody except the smart people – sets up their LLC, and that’s the last thought they give it. Lots of them **don’t even bother to choose a tax structure**, and they get the default structure. Let’s face it, that is not tax planning,

If you manage to pay the annual fee and file a tax return, you probably figure you are “using” your LLC and doing a good job. **But it turns out that you won’t get the asset protection you could out of your LLC.**

You’ve probably never even **looked at the operating agreement**, or you don’t even have one. You’ve never issued membership certificates. You’ve never done anything to “beef up” your charging order protection. You **may not even know what charging order protection is**. Your attorney and the internet site just forgot to explain that one. If I have just described your experience with an LLC, I will tell you that your LLC is failing, but you’re making the attorney who’s going to sue you someday very happy!

**Did you know your LLC design dictates how much “extra” money you get and what happens when you get sued?**

Take a minute **to read through the 5 mini courses** and see the things you need to have to put a proper business foundation in place.

**FACT: When most small business owners are sued, they end up losing a ton of personal assets, if not declaring personal bankruptcy, because their small business isn’t structured to protect them. The sad truth is that with proper structuring and maintenance this doesn’t need to happen.**

Big dreams are in every new business owner's head. But, according to the SBA, **over 50% of businesses fail in the first 5 years**. Then the big dreams turn into nightmares.

What have you done to protect yourself against the losses, or the complete failure of your business? **What legal foundation have you put in place** to ensure your business succeeds and you make more money from your efforts? What if you get sick or die?

Are you going to take the time to protect your profit, your spouse, your kids, your employees, and yourself when disaster hits?

In the mid 80s I was called in to help a man who was starting a business. It was a great business idea and it worked really well. By 1990 he had it up to about \$75 million a year. I had used some simple techniques that I share in my *LLC Wizard training* which showed him how to take most of his profit away from his business and put it into a business his wife owned.

We had to follow some basic legal principles that you can easily follow, but over the years we took tens of millions of dollars out of the business and isolated that money in his wife's business using the exact same legal tools that I share in my [free training](#).

This guy's business was extremely leveraged, because he had to pay millions in advance every week to keep it going. On January 17, 1991, I was in Martha's Vineyard actually doing work for this guy. What happened the evening of January 17, 1991? The Gulf War started. People were afraid. We had never seen a war with live coverage on TV. Instantly, people's spending habits changed. The demand for this man's business went from 60,000 miles an hour to full stop in 48 hours. He hadn't done a thing wrong.

There were over a dozen lawsuits that followed because he couldn't pay his bills. He even owed the post office over \$2 million. The cases were consolidated, and the state attorney general took over. That's unusual.

The AG had named this guy's wife in the lawsuit. The first thing that happened in court was the wife's attorney stood up and said that there was no claim that the wife had done anything wrong. She hadn't been involved in his business. Her husband had never been involved in her business. She had no involvement in these cases. The AG had to agree.

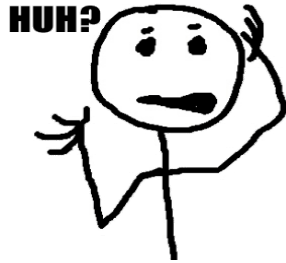
The judge dismissed the case against the wife with prejudice. The wife and her attorney stood up and walked out of the courtroom. There was an audible whisper, "There goes the money." The man and his wife were in their mid 50's, and they never worked again. The last time I saw them was in their penthouse on Maui's Kaanapali beach. This man had taken the steps to protect his wife, his kids, and his assets from a totally unforeseen disaster. If you can see the disaster coming, it's too late.

It turns out there are lots of things you can do to "hedge your bet" and ensure success in your little company. ([Learn more by clicking here.](#))

**Don't find yourself saying these common words:**

*"It won't happen to me."*

# INTRODUCTION



**How do you build an LLC or start a business?** All you need is a little coaching, and you can do it. You should take the time to do it right, and you'll make more money and sleep better at night.

Unfortunately, you can't blindly trust your lawyer to take care of it for you, and definitely the "services" in Nevada or some other state aren't going to do it for you either. The internet sites only get you halfway there. Without some basic knowledge of what needs to be done, you're basically prey for the "system."

Are you just **getting started**? In addition to this mini course, you can check out my [free LLC webinar](#) training.

I'm about to save you a lot of time, frustration, and money in setting up an LLC.

**Already established in a business?** Now is the time to **beef up your asset protection and profit potential**. Or maybe you're worried about how to cut taxes and **prevent lawsuits**.

If you are paying too much of your profits to the IRS, imagine if you could start putting some more money away for yourself. This is an important part of setting up your LLC that is usually overlooked.

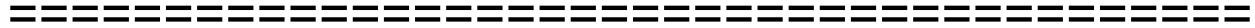
**Wherever you are** on this business continuum, I'm sure you'd like to **make more money**, and you recognize that you need to do something to **get better asset protection** in today's uncertain economic climate and lawsuit happy society.

Here's the central point I want to make for each of you:

The LLC kits, the quickie lawyer documents, or the fill-in-the-blank internet forms are the lowest common denominator documents that offer minimal liability protection and leave you at the mercy of the IRS.

Once you get the documents for your LLC, you're on your own. How to maximize your asset protection and squeeze more money out of your LLC is a mystery! Most people do nothing. They just settle for the "default" IRS status and bag the corporate formalities. Their company never reaches its potential and down the road, everything crashes and burns.

You don't need to settle for second best, and you shouldn't!



# **Course #1:**

## **LLC Basics: How to Setup an LLC**

### **What State?**

**The first thing you must decide: Which state do I form my LLC in?**

**Form your LLC in the state** where you will be making most of your money or where the LLC will be owning property.

You may have heard to incorporate or form your LLC in Nevada. Or if not Nevada, try Delaware or Wyoming. These states want you to believe they have privacy or better asset protection. It is just NOT true!

The reason you hear so much about Nevada as the place to form your LLC is because setting up LLCs in Nevada is a big business. Nevada was one of the first states to enact flexible LLC law and they profited from it. Now Nevada loves the ongoing profit it gets from the continuity of having you pay the registered agent fees every period. It generates a huge income for the companies that can talk you into using their services and registering in the state.

Today, the **Nevada laws and other state laws are all about the same**. You can't really name any advantage to using an out of state LLC unless you are doing business or own property in multiple states. In fact, there is usually a disadvantage because you are double charged. You have to pay in the state where the LLC is formed. Plus, you will also need to register in the state where you are doing business or own property in an LLC, and that state will also charge you its fees and make you subject to its laws and control.

**Forming your LLC in Nevada, or some other state, will just cost you more money** and get you no more asset protection.

You may have heard that **Nevada doesn't have a state income tax**. Actually, that's not true, but it doesn't matter because **you will pay income tax** in the state where you are making money. Creating your LLC in some exotic state won't give you any tax savings, and you'll be filing multiple returns.

Form your LLC in the state where you will be making most of your money or where the LLC will own property – end of discussion.

If you really are doing business in every state, then Nevada, Delaware, Wyoming or one of the glamor states might be a good place to form your LLC. Otherwise, it's simpler and less

expensive to just use the state where you are a resident, making money, or where you own property. If you are only doing business in your state or that's where you own property, you really can't give me a practical reason to put your LLC in a glamor state.

## **Which Agent?**

**The second thing you need to decide: Who will be the state's registered agent?**

**You will be the agent.** If you are forming an LLC in the state where you live, you'll be the registered agent. You have to supply a physical address. The reason for this is that the sheriff has to show up and get you to sign papers if you are sued. Receiving lawsuit papers is basically the only function of the registered agent.

If you are filing in a "foreign" state, you'll have to hire a registered agent. By the way, a hired registered agent won't give you privacy.

People don't like to be their own registered agent because of the privacy issues. There are a number of ways to protect your privacy, if you don't want to list your name and physical address. But paying a registered agent isn't one of the ways.

## **Which Manager?**

**Next you need to pick your management options.**

In the standard process of forming an LLC, a typical check the box question on the template questionnaire is: **Member Managed? or Manager Managed? This is not an intuitive question. The truth is you need to know what you are doing.**

I listened to a guru the other day on a webinar try to explain the difference, and she had no clue. It is important to know what the positions represent. The reality is that the positions do not control voting of shares or who is liable.

Your choice of manager controls your asset protection options. It does determine whether or not you can have "continuity of life" or a "transferability of interests" in your LLC.

Whether to use a member-managed or a manager-managed LLC is a lot more than a check the box issue. It can actually make you more money or cost you money down the road. This is an election that you make according to your company structure and needs. Most of the time you'll pick member-managed.

## **What to File?**

To form an LLC, all you have to do is file the state form for the Articles of Organization. If you are filing your LLC immediately, jump directly to our [\*\*State by State Information\*\*](#) pages to find the forms for your state and get going.

People have lots of questions about how to fill out the state forms where they are going to file their LLC. I go through each line of the state forms in the audio instructions in the [\*\*LLC Wizard\*\*](#), my 7 hour audio tutorial with actual customizable LLC documents.

In starting up an LLC, you really don't need a lawyer. The forms can be filed online in all states now. Your lawyer will simply use the state forms. If he is making the articles of organization more elaborate than the state forms, that's a mistake.

The articles of organization are public documents. They are filed with the state for everyone to read. Never give more information on the form than the minimum required by your state.

I'm sorry if I've burst your bubble on the romance of setting up a Nevada LLC, a Wyoming LLC, or an LLC in some exotic place, like New Mexico or Utah. But the good news is you can easily do everything yourself and get a comprehensive LLC instead of the lowest common denominator one size fits all documents, the template sites generate or the lawyer cranks off the word processor.

If you have an LLC in a state where you aren't actually doing business or owning property, you have wasted your money. Kill the LLC, and cut your losses. There is a tiny argument for using a private Wyoming LLC as a holding company, but the situations where I would recommend that are very rare.

I hope by now you are saying... **"Ok, I'm convinced... I Can Do My Own LLC!"**

**Yes! You CAN do it.** I am going to show you how to get **an LLC that** will actually give you **double asset protection** and **huge tax benefits** you may not get otherwise.

You can start immediately and have your LLC within hours – no middleman.



## **Course #2:** **Creating a Business Name**

Choosing your business name is an important first step in starting a business. Last time, we talked about setting up your LLC Articles of Organization in the state of your choice. It's important you make the best choice, because there are lots of voices out there screaming for your dollars.

You saw how if you just relied on the "sales pitch" from the Nevada, Delaware, and other registered agents, you would pay twice what you need to in order to keep your LLC in place. You saw why the internet template sites, and even your lawyer, are often just doing a minimum job for you, leaving you vulnerable.

I am stunned that there is a seminar company running around talking thousands of people into forming LLCs in Utah. For a mere \$6,000 they will set up three LLCs in Utah for you. I would love to hear their sales pitch, because I live in Utah, and there certainly isn't anything about Utah laws that would give you an advantage to forming an LLC in Utah. I have run onto dozens of people that have fallen for this scam, and I have to tell them to just stop sending any more money to Utah and cut their losses.



If you would like to learn how to do this better than any attorney, on your own with no legal experience needed, for a fraction of the cost, [click here to watch my free training](#).

## **The Name**

So, in creating a business name (if you haven't already got one), how do you create one that will make your business a success in spite of the second-rate legal start you may have gotten if you already set up your LLC?

## **There Are Factors that Predictably Lead to Business Success**

Let's talk about **creating a business name** you'll use **for your company**. To quote Shakespeare, "What's in a name?" **You can remember some names easier** than others. That's usually because you associate the name with the product.

My son was a team leader of computer programmers in a company called 1-800-CONTACTS. He told me the history of the naming of the company. It started out as a project for a college student to "design" a company.

A great deal of their success has resulted from creating a business name that worked. Early on in the company's history, they realized that every time some other company did a major advertising campaign for contacts, the phones at 1-800-CONTACTS went nuts.

Even though **somebody** else was advertising, the people would pick up the phone and call 1-800-CONTACTS. Today, they have over 150 computer programmers and every day they sell a lot of contacts. Everything is in a name and creating a business name can be everything.

## **Playing the Name Game**

Names are protected under various laws, i.e., copyright and trademark laws primarily. Obviously, if you are going into the restaurant business, you better not choose McDonalds as your company name. You'll get sued – guaranteed.

So, in creating a business name, how do you know which names you can use? You can **check trademarks in use at the [USPTO.gov/trademarks/search](https://www.uspto.gov/trademarks/search)** site to see if the name you want is already being used. The government sites are kind of hard to use sometimes, so follow my instructions I share here in my free training.

You can use the same name as somebody else, as long as people won't be confused. If you want to use McDonald's as the name for your drain cleaning company, that's probably OK. People don't **usually** confuse McDonald's hamburgers with sewer cleaning.

You could name it McDonald's Drain Cleaning Service, but not McDonald's Roto Rooter, because Roto Rooter is a trademarked name. So, you can't use that as part of your name.

## **Check State Registries**

**Check with your secretary of state** or the state business department to see if the name you want is available in your state. If you are filing your LLC in Nevada, the name would have to be available with the Nevada business registration department. The name will also have to be available in the state where you are going to do business. (So, exactly what is your advantage to doing your LLC in Nevada?)

All states have an online system for checking “name availability.” It’s pretty easy. If you want the name GoGetEm, LLC, and someone else has GoGetEm, Inc., you won’t be able to use that name.

Once you have found a name you like that’s available, **you can often reserve the name for a short period of time. But, it is so easy to file your LLC, I would usually advise that you just file** your LLC immediately, instead of paying the reservation fees and going through the hassle.

## **The Domain**

Cyberspace may be your biggest market today. I would advise you to **check the availability of the name on the internet as well.** Go to Whois.com, and you can see if the domain name is available. You can probably get the name you want as something other than a dot com, but you want the dot com.

Your company name doesn’t have to be the same as your domain name, but you need a domain name that you can use in cyberspace to advertise your goods and services. This is really important today.

As a little hint, the **internet search engines don’t recognize numbers in the domain name.** For example, newcar.com is the same to the search engines as newcar123.com. Here you are back to the 1-800-Contacts problem. If you do any advertising on your newcar123.com, it will be newcar.com that will get the business, because that’s what people will see first.

## **Don’t Get Sucked into the Name Game**

Yep, **the name can make or break a company. However, when creating a business name, don’t get suckered.** I’ve seen people get totally paralyzed just trying to find a name for their company. **You can do market research, focus groups, pay the big ad agencies, and spend all your startup capital** before you even start the business.

Get the best name you can, and then get started making money.

# Course #3

## Increasing Your Tax Savings

### Get More Money by Using your LLC

In the first course, we discussed how to cross the “t’s” and dot the “i’s” in filing your LLC with the state.\

In the second course, we talked about choosing a name for your company and then making sure it was protected under the law.

Now comes the decision that frankly most people just default on. **How can you save tax money and make the most money out of your LLC?**

**You can’t turn the crank any faster to make more money – you’re already working as hard as you can. BUT you can use your LLC to squeeze every possible dime out of your work. It is often the tax elections you choose** that make all the difference in your bottom line and how much money you take home to spend. What are your tax filing options if you have an LLC, and what happens if you don’t meet the IRS filing deadlines?

I was on the internet looking at LLC sites the other day, and I was stunned to find a number of sites that bragged that an LLC was a “pass-through” entity. They touted the LLC as being better than a corporation, because it was a pass-through taxing entity. Whoops!

**An LLC isn’t a “pass-through” entity.** In fact, it has no “tax structure.” Let me explain.

### How is Your LLC Taxed?

When the LLC was first introduced by Wyoming in 1977, the IRS was asked how the LLC would be taxed. It was expected that the IRS would write a code section to “govern” LLCs.

They had written code sections for corporations (Chapter C and Sub Chapter S). They had also made code sections for partnerships and sole proprietors.

Finally, in **1996 the IRS came back with their answer.** They wouldn’t write a new code section for LLCs. They just said **they didn’t care how the LLC was taxed.** It became a “check the box” game.

**You get to decide how your LLC is taxed.** If you choose to have it taxed using Subchapter S, the IRS doesn’t know, or care, if you have a corporation legal structure or an LLC legal structure. You simply have to follow all the rules under Subchapter S of the IRS Code.

You can choose to have it taxed as a C Corporation using the rules of Chapter C of the IRS Code. Note that if it is taxed under Chapter C, it is not a “pass-through” entity.

Because the IRS doesn't care how you have it taxed, this gives you a great opportunity to save tax money. You get the **double asset protection** of an LLC, and you get to choose how you pay your taxes.

Please note, the asset protection of an LLC does not depend on how it is taxed. **Asset protection and taxes have nothing to do with each other.**

## **Save Tax Money – Don't Let the IRS Assign their Default Tax Structure**

When the attorney hands the LLC papers to you or you get your wad of papers from an Internet Legal website, **the clock starts ticking**. You need to start filing papers with the IRS. It can be quite a complex labyrinth of IRS regulations. Which tax structure do you choose?

**If you don't meet all the deadlines and file the different elections** in the right order, the IRS gives you a **default tax status**. Your LLC will default to a sole proprietorship tax structure if you have a single member LLC, or a partnership tax structure if your LLC has more than one member.

The problem is, **if you get the default tax structure, you may be losing a lot of opportunities to save tax dollars**. You have just flushed the toilet, and a chunk of your spendable cash went down the sewer.

None of the websites will do a tax analysis for you. That's never discussed. Your attorney never really gets into the tax discussion either and nobody ever hires their CPA and pays the big bucks to avoid getting tripped up when they form their LLC. **BIG MISTAKE!!** Let me tell you why.

## **Lower Your AGI – Save Tax**

**AGI stands for Adjusted Gross Income**. It's the number that basically determines what tax bracket you're in. It governs what deductions and credits you get. It is a really important number to control. Yet, most people don't know what it is. **You lower your AGI, and you pay less tax**. There is a line on your 1040 tax return that shows your AGI. Anything above that line adds to your AGI or subtracts from (lowers) your AGI. You need to work above your AGI line.

Accountants call it "working above the line." Unfortunately, most tax and financial advisors work below the line. You have to learn to work above the line.

There is basically nothing you can do above the line as an individual. The contribution to a standard IRA is above the line, but that's about all you can do for yourself that comes in above the line.

The important thing for you to understand is that **your little business is your most important tax shelter**. Everything that happens in your little business comes in above the line on your personal tax return (unless your business is taxed under Chapter C). You will use an LLC for your little business because of its asset protection. But, the tax aspects of your LLC are critical. You can save tax money on every dime you make (even your W-2 income), if you use your LLC right. And, it will lower your AGI.

As a simple **W-2 employee, there isn't much you can do to lower your AGI**. With an LLC, you can do lots of things that will not only give you a deduction, but will actually save tax dollars and lower your AGI. To a large degree, what you get to deduct depends on how you chose to have your LLC taxed. If you are making your money through the sales of goods or services, you need to **look closely at having it taxed under Subchapter S**.

Here are some reasons why:

–The **S taxation structure gives you the option of taking some of your earnings as a “distribution”** rather than as a salary. If you make a distribution, you will save the “social taxes” (Social Security and Medicare) on the amount you take as a distribution. That could **save you over 15% each year** in taxes on the distributed money.

–The S taxation structure also gives you the option of **taking deductions for your business travel and expenses**. Almost all of your travel can be deductible if it is planned around your business trips. This will save you thousands each year and still let you see interesting places.

–The S taxation structure also gives you the option of taking **deductions for your business technology and equipment**. This saves hundreds each year.

I have researched and written (together with a former IRS agent) a comprehensive course on several more tax saving scenarios for small businesses called **Advanced Tax Tactics**, but I hope that you can see the point I am trying to make. You can save hundreds if not thousands in taxes each year.

If your income in your LLC is totally rents (you have designed your LLC to hold a piece of real estate), then you should NEVER have that LLC taxed under Subchapter S. The IRS will screw you blue when they figure out you get all your money in your LLC from rents and your LLC is taxed under Subchapter S.

Of course, to lower your AGI, **you'll need to make the right LLC elections**, and you must learn how to use the law. It isn't something your CPA will do for you at the end of the year. It's something you have to work on all year. But suffice it to say, your LLC gives you more tax advantages than any other entity.

The **tax advantages** you get with your LLC can **mean the difference between business success and business failure**. I have seen small companies double their profits by making the correct tax elections. It's a big deal! When you are ready to save, make sure you study my **Advanced Tax Tactics**.

This is a one-time offer: I'll give you 70% off the *Advanced Tax Tactics* if you use this coupon code: **2QVMHDK7**.



## Course 4:

# **A Mistake to Avoid in Forming an LLC (Don't Lose Your Asset Protection)**

Today, we are going to discuss the **essential elements of an LLC**, and how we use them to your advantage. The lesson to be learned from this discussion is that **“You better watch out.”** There are four elements in a corporation and if you want true LLC protection, you need to understand those elements and how they work.

FREE WEBINAR TRAINING: [Maximizing Your LLC's Money Making and Asset Protection Potential](#)

### **Forming an LLC that Does Not Offer Asset Protection**

One of the big named business families in our state recently brought their “family LLC” into my office for review. The patriarch of the family was near death, and one of the daughters asked me to review everything in preparation for Dad's death. They had the best law firms and accounting firms in the state, but she just wanted me to look at everything. When we got into their paperwork, I figured out they had a disaster.

Their LLC lacked “continuity of life.” By law, their LLC would die when one of the members died. On Dad's death the LLC would be gone. I told the daughter it was easy, and we could reconstruct the LLC to continue after Dad's death. But, I started to ask more questions. A son had died three years earlier. He was a member (owner) of the LLC. By law, that LLC had terminated three years earlier when the son had died. For three years without knowing it, this very sophisticated business family had been operating their multi-million dollar business not as an LLC, but a partnership. They didn't have an LLC as they thought, they just had a piece of paper.

If they had been sued, the plaintiff's attorney would have simply come in and taken everything, both company and personal assets. They didn't have an LLC. They had lost their liability shield. They hadn't been sued, they had paid their taxes, and none of the other major asset protection threats had occurred, so everything was ok. Remember, I told you a lawsuit isn't your biggest asset protection threat by any means.

### **Elements of an LLC**

I hope by now that you realize that you need to understand the essential elements of an LLC before you can see if yours will pass the “basic” legal test.

I am not talking about the bells and whistles that beef up asset protection and money-making opportunities that your LLC can utilize. I'm asking, “Do you even have an LLC? Or do you just have a piece of paper?”

There are dozens of websites and thousands of attorneys dedicated to “setting you up with your LLC” (“setting you up” are the operative words there). Only a select few will lead you through the discussion you’re getting in this mini course.

Before we get started, **you’ve got to understand the basic elements of a corporation**, because an **LLC can be thought of as a “defective corporation.”**

## **Corporate Building Blocks**

There are four elements that define a corporation. The corporation has to have all four of these elements identified in its by-laws.

1. Limited Liability
2. Transferability of Interests
3. Continuity of Life
4. Centralized Management

### **1. Limited Liability**

Obviously, the corporate shield (limited liability) that protects the officers, directors and shareholders is a big deal. That’s why most people get a corporation or an LLC. (The tax opportunities are just as important, but they are not on the list.) Note that the corporate shield for an LLC is **identical** to that of a corporation. The requirements for having the corporate shield protect you are the same in a corporation and an LLC. That means the same formalities that have to be followed in a corporation also have to be followed in an LLC.

My state has a specific law that says LLCs don’t have to follow the corporate formalities, yet every day the courts set aside the limited liability and let the creditors of an LLC go after the owners personally. What happened? Well, in spite of the law stating no corporate formalities are required, the courts still require the formalities, because the basic argument for limited liability shielding is always “is this a real company or the owner’s alter ego”?

The way you prove that it is a real company is by following the corporate formalities. Even in the LLC world, you’ve got to prove that your LLC isn’t just your alter ego if you want the limited liability shield (corporate shield).

### **2. Transferability**

Transferability of interests is also a big deal. Corporations sell stock, and that stock is traded and traded and traded. That is transferability. All of the big New York Stock Exchange corporations have transferability because the interests (stock) are transferable. In fact, one of the required elements of a corporation is transferability of ownership.

### **3. Continuity of Life**

Continuity of life is a confusing concept. When you set up your corporation or LLC, you will choose a “life” for the company. It will be a 20 year life (term), or some other stated term, or you could say your company will go on in perpetuity. That’s not “continuity of life.” Continuity of life

means that the company will survive the death of one of its owners. If an owner of IBM stock dies, IBM goes on just fine. The company has “continuity of life.”

#### **4. Centralized Management**

The management of a corporation is not concentrated in the stockholders. It's the officers and directors that manage. The management is therefore “centralized” in someone other than the owners. The officers and directors do not have to be stockholders. Although, if you sit on the IBM Board of Directors, you'll get a nice bonus of IBM stock.

### **Forming an LLC – A Defective Corporation**

When the LLC laws were first introduced into the US by Wyoming, the central question was how will this new type of company be taxed? Wyoming petitioned the IRS for a ruling. The IRS immediately came back and asked how an LLC was distinguished from a corporation. The answer was an LLC can only have two of the four basic elements of a corporation. Therefore, an LLC can be thought of as a defective corporation, **because by law an LLC is restricted to only having two of the four corporate elements.**

**Most lawyers and internet sites don't understand this restriction placed on an LLC. You probably asked, “Do I want member managed or manager managed for my LLC?” The answer came back, “It doesn't matter – just pick one.” It does matter, because you only get two picks.**

**You get to choose** which two, but if your LLC is going to be “legal,” you can only choose two. Making the right choice can be pretty tricky.

First you want to choose limited liability as one element. Limited liability protects you from all the mistakes you make. It's the corporate shield – limited liability – so of course you will pick that one. But, what to choose next?

If your LLC paperwork says you want it to be manager managed, then you have automatically picked centralized management. That's all the picks you get.

### **These Are the Fine Points of the Law**

If you have more than two of the elements, by law you're not an LLC. If you don't have all four, by law you're not a corporation. That basically leaves you as a partnership and everybody is personally liable.

If the family in the story above had just used my **LLC Wizard Course** and been through Course 2, they would have known how to structure their LLC so that it had continuity of life. The LLC would have passed the basic legal test.

They could have done it themselves, and all of their protection would have been intact.



You can do it too. You'll get an LLC that has a solid legal structure, plus you'll get double asset protection and huge tax saving opportunities.

I hope by now you are saying...**“OK, I’m convinced... I Can Do My Own LLC!”** You can start immediately and have your LLC within hours – no middleman.



## **Course 5:** **Forming an LLC Operating Agreement**

Today I would like to cover the most important part of your LLC. The Operating Agreement is the crux of your asset protection.



### **The Document You Get to Write in Forming an LLC**

The Operating Agreement is the heart and soul of your LLC. So often I see people who have **filed their articles of organization and totally ignored the operating agreement when forming an LLC**. Or, they have a weak boilerplate, “one size fits all” operating agreement.

That’s bad!!

You get to write what you want in your operating agreement. You can have real control over your taxes, your asset protection and your relationships. **It is OK to use your state’s boilerplate forms for your articles of organization, but not so with the operating agreement.**

You must write your operating agreement so you have control. You need to be able to **get maximum tax benefits and double asset protection**, plus **easily operate** your LLC. In forming an LLC, if you write it down and it’s not illegal, **the courts will usually honor your wishes**. When you really think about that, you have a lot of power to dictate how your LLC operates, is taxed, and defends itself when it’s attacked.

For example, if your operating agreement says that the LLC has the power to remove a member that files for bankruptcy, the other members will be protected from any interference from the bankruptcy trustee.

If a member gets divorced, the operating agreement could specify that the payout is only book value rather than fair market value. The divorce court will have to live with it.

The operating agreement can dictate what happens to ownership of membership interests on the death of a member, thus avoiding probate and loss of control.

These are things you probably don't have in your operating agreement. **Read it and see.** Of course, if you're just setting up your LLC, these are all issues you need to think about addressing – and there are dozens of other issues.

## **What Do I Do with My Operating Agreement?**



You must file the articles of organization with the state, but your operating agreement is an “internal document.” It isn't filed. It is “public,” however. So, you need to make it good.

What if you have an operating agreement you need to “fix?” Don't worry. It is OK! **You can amend the LLC operating agreement.** Your current operating agreement will tell you what you have to do to amend it. (Everything about operating your LLC should be laid out in the operating agreement.)

Even if a lawsuit has already been filed, you can amend your operating agreement. That's just fine. But why wait? Let's **redo your operating agreement and beef up your protection!!** It just looks better if you're not doing your amendment on the courthouse steps going into the court when you are sued.

# Wrapping Up: Thank You!

I hope you've learned a lot from this document.

I can't show you in these Mini Courses all the ins and outs of an LLC operating agreement. It's a document that should be unique to you. In the *LLC Wizard* operating agreement course, I give you lots of alternative wording for different issues and let you choose how you want to address the issues.

**Remember** that your **LLC operating agreement can only have TWO of the four elements of a corporation**. If you have more than two described in your operating agreement, the LLC is flawed, and you will lose your asset protection – that's pretty much a given fact.

If you already have an LLC, **maybe you've seen some weak spots in your LLC structure**. Hopefully now you see that you can beef up an existing LLC and greatly improve your asset protection and money-making potential.

If you're just **setting up your LLC, let's help you do it right**.

You may be saying to yourself. "I know what needs to be done, I am just not sure I can do it."

I am here to tell you that you can do it. If you feel like you need a little more help whether you are just starting your LLC or making sure your existing structure is in tip-top shape, consider my *LLC Wizard*.

The *LLC Wizard* comes with the opportunity to call me and ask questions about LLCs. There is no charge when you call as one of my *LLC Wizard* "students." The question is always how long the call-in privileges last. I say that it is a lifetime. I have had the same phone number answered by a real person for the past 35 years. There's a catch though—it's my lifetime, not yours.

The truth is that a proper business foundation really does affect your business success. In my business I often see small business people when it is too late to help them. Don't let this happen. I really do want to help you make your business succeed.

Legalees' *LLC Wizard* is 7 hours of audio instructions and 220 pages of supporting documents that cover the following concepts in depth:

1. How to determine which state you want to form your business in and what you need to do to make the filings. It includes:

- Business Structure Questionnaire
- Business Entity Matrix
- Complete step-by-step filing instructions with each state's website information

2. The best way to get the right name.

- Name Availability Instructions
- USPTO.gov tip

3. Getting the Maximum Tax Opportunities.
  - How to file the tax election step by step
  - Audio discussion of tax “loopholes”
  - Step-by-step instructions for applicable tax forms
4. The fundamental characteristics of an LLC
  - Articles of Organization tips
  - State specific paperwork
5. The heart of Your LLC – the Operating Agreement:
  - Operating Agreement
  - Double asset protection clauses
  - Tax clauses

By taking the time to go beyond getting a wad of papers from an attorney or off the internet, you will get better asset protection and make more money. I will help your little company put an extra \$5,000 or \$10,000 into your pocket every year. By preparing today, I will also help you survive the disaster when it comes. It usually isn't only a matter of “if it comes” but “when it comes”!!

Why do some businesses become successful and others fail? The owners in successful businesses do things right. They control taxes and survive the tax audit because they know the laws and use them to their advantage.

It's not difficult, but they are lucky if they get a little help in advance. Maybe Dad had a successful business and taught them, or they've been lucky and had an advisor that did more than just take their money. Somehow, they have learned how to use the legal tools that help businesses succeed. I can help you and your business succeed!

Once you get your hands on my training, your luck may well change. I'll take the time to walk you through the setup and operation of your company (big or small) and show you what the laws can do for you.

Just take a look at what a student had to say about my training materials:

***“Until listening to your courses, I thought I was safe. But, I have now seen that there were many items I was not doing correctly. Thank you for putting together your program. This is one of the best investments I have made in a long time. I, like most middle class Americans, thought business structuring was for the wealthy big companies. Lucky I found this out from you and not during a lawsuit. Thanks again.”*** [Mark G., Cassville, GA](#)

Try the course now **for a full 30 days**, and return it for a full refund if you are not 100% satisfied. If you're not happy, I'm not happy.

**What have you got to lose?**

[Click Here](#). Enter **“Wizard35”** (without quotes) and you will receive a 35% discount. I want to help you succeed. Call 801-802-9020 if you have questions. We're happy to help.

