



SPIEGEL & UTRERA, P.A.

L A W Y E R S

www.amerilawyer®.com

THANKS FOR INQUIRING!

Just think - you can form a Limited Liability Company right over the phone, or online. It's easy. It's quick. And you'll save a substantial amount of money.

Listen, we are glad you inquired about our services regarding the formation and registration of a Company in the State of Florida. In our experience, the most **tax advantageous** type of company for Non Residents of the United States is the Limited Liability Company (in some Countries this is referred to as "Sociedad de Responsabilidad Limitada").

Similar to a Sub Chapter S Corporation for Citizens of the U.S., in a Limited Liability Company, the earnings flow directly to the owners, thereby eliminating Corporate Income Taxes. A regular corporation would be subject to Federal Corporate Income Tax and State Corporate Income Tax. These combined rates can be as much as 40% of the Profits.

Let us explain:

The Limited Liability Company which chooses to be taxed as a Partnership, (hereinafter the "LLC") is **exempt from Federal Corporate Income Taxes**. In recent years, the LLC has become a very popular form of business due to these tax advantages.

For Example:

Regular Corporate Status:

Taxable Income **\$1,000,000.00**
Less Corporate Tax \$340,00.00
Distribution to Owners **\$660,000.00**

Limited Liability Company Status:

Taxable Income **\$1,000,000.00**
Less Corporate Tax \$ 0.00
Distribution to Owners **\$1,000,000.00**

We will form your Limited Liability Company under the personal direction of a qualified attorney who makes certain that all requirements are met.

For one low fee of \$154.95, you get...

- **Articles of Organization**
- **Company Minutes**
- **Company By-Laws**
- **Corporate Kit**
- **Membership Certificate**
- **Company Seal**
- **And a preliminary name search.**

Included in this fee are the attorney's fee and the State of Florida filing fee. The works!

Questions? Please call us!

Toll Free:

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Limited Liability Company Detailed Explanation:

The LLC is a hybrid entity that is taxed as a partnership while providing limited liability protection for all of its members. For federal tax purposes, an LLC, like a partnership, is a pass-through entity; thus, its income and losses are taxed only at the member level. However, all members of an LLC, like the shareholders of an S corporation, have limited liability for the LLC's debts and claims against the LLC. No member will be burdened with the personal liability of a general partner.

The main advantage of the LLC is that it is not burdened with the numerous restrictions imposed on an S corporation. An LLC may have more than 75 members; but as few as one. Its interests may be held by corporations, partnerships, Non Resident Aliens, trusts, pension plans and charitable organizations; the LLC may make special allocations, thereby avoiding the single class of stock requirement applicable to S corporation; and it may own more than 80% of the stock of a corporation and, therefore, may be a member of an affiliated group.

An LLC taxed as a partnership may also have advantages over an S corporation with respect to the amount of deductible losses. The amount of an S corporation shareholder's deductible losses is limited to the sum of the shareholder's basis in his stock and any loans from the shareholder to the corporation. In contrast, a partner can deduct losses in an amount up to the sum of his basis in the partnership interest, his allocable share of partnership income, and his allocable share of qualifying partnership debt.

How the taxes work is simple. For example, each of 10 individuals contribute \$100,000 to a newly formed entity to acquire an office building. The entity borrows from a bank an additional \$5,000,000 as the balance of the building's \$6,000,000 purchase price. If the entity is taxed as an S corporation, each shareholder's loss deductions are limited to \$100,000. However, if the entity is an LLC taxed as a partnership, each member can deduct losses up to \$600,000 (\$100,000 basis plus \$500,000 share of entity's debt). These losses may then be used by the individuals to offset other income they may have from other sources.

MORE SERVICES & FEES

General Counsel & Registered Agent Service

Our firm has what we call the "General Counsel Service". For an annual fee of only \$139.95, you get unlimited telephone consultations all year long on all your legal matters, both business and personal, plus our firm will prepare the Notice and Minutes of your corporation's Annual Meeting of Shareholders or Directors or your LLC's Annual Meeting of Members or Managers; our firm will comply with all statutes and applicable laws relating to your corporation's or LLC's Registered Agent & Registered Office; our firm will review all mandatory State corporation or LLC filing documents as required by the Secretary of State; our firm will act as your corporations' or LLC's General Counsel; you will receive our firm's newsletter, "Entrepreneur's Alert[®]", which is published six times a year and provides valuable insight into running your business from a legal and business point of view. Select this valuable service at the time of ordering your corporation or LLC and receive an additional one month Bonus – so that your first year of service will cover 13 months PLUS take a \$50. discount, so you pay only \$89.95 for the first 13 months of service.

Detours and Contradictions

Want more out of your LLC? Then don't miss Lawrence Spiegel's, 223 page Detours and Contradictions. Use this book, and all your available resources, to begin the challenging yet fulfilling journey of entrepreneurship. As we'll see... having a marketable idea is only the first step in a lengthy process. Along the way you'll encounter numerous detours and contradictions, risks and rewards. The regular price of Detours and Contradictions is \$16.50 but if you order when forming your LLC, the price is just \$13.50, almost a 20% saving. PLUS there is no extra charge for shipping, handling and processing as your book will be shipped with your LLC. **Also, as an added bonus, your copy of Detours and Contradictions will be personally autographed by Lawrence J. Spiegel.**

Service Agreement

If your LLC is a service business, you'll need a Service Agreement.

The bedrock foundation of many service businesses is a customized written agreement entered into with its customers. Many franchises sold for tens of thousands of dollars are business formats revolving around a Service Agreement. The key with a Service Agreement is to make it work as a marketing tool

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offering the business services in the widest variety of formats to your customers. For example, a one-time use customer needs to be converted to a monthly, quarterly or annual type repeat customer. At Spiegel & Utrera we want to help you get, and keep, your customers while looking professional and at the same time maximizing each sale with a friendly service agreement. A Service Agreement is only \$367.95 if ordered at the time of forming your LLC. We will prepare a draft of your Service Agreement and deliver the draft by fax or email to you for your review. Once you have had an opportunity to review the Service Agreement we will meet over the telephone to discuss the various aspects of the draft Service Agreement. Thereafter, Spiegel & Utrera will make changes to the Service Agreement to finalize it. Once the Service agreement has been finalized and delivered to you, you should take it to your printer to be printed and padded so it will always look professional and non-negotiable.

TAX RELATED

Federal Tax ID Number

The equivalent of a social security number for a Company. You will need it to operate your business and open a bank account for the Company. We can obtain this number for you and the advantage of allowing us to get it for your Company, is that we will deliver it with your Company for only \$35., so you may open your bank account immediately.

IRS Section 1244 Corporate Stock / 1244 LLC Membership Interests

This is another powerful tax provision which can be used by almost all corporations and LLC's taxed as a corporation. This special provision of the Internal Revenue Code allows you to deduct as an ordinary loss, rather than as a capital loss, a loss on the sale, trade or worthlessness of the stock in your corporation or LLC taxed as a corporation. The amount you can deduct as ordinary loss is up to \$50,000 per year or \$100,000 per year, if filing a joint return with your spouse. Generally, without 1244 stock, your loss would

be limited to \$3,000 per year or \$6,000 per year, if filing a joint return with your spouse. A corporation or LLC taxed as a corporation that issues 1244 stock and elects to be an S corporation gives its shareholders the best of both possible worlds from a tax stand point. The issuance of 1244 stock costs only an additional \$50 when ordered with the formation of your corporation or LLC and comes with all the necessary documents, including corporate resolutions, 1244 plan and special stock certificates.

Florida Unemployment Tax Account Number

This number is used to withhold Florida Unemployment Taxes from your Company's payroll. If you have any employees on the payroll, including yourself, you will need this account number. We can initiate the paperwork for this account number for you and deliver it with the Company. The cost at the time of incorporating is only \$35.

Florida Sales Tax Number

This account number allows you to buy goods for resale or export and not pay any State of Florida sales tax. We can initiate the paperwork for you to obtain this number. The fee to prepare the documents is \$35. when included as part of your incorporation package.

Registration for Worker's Compensation Exemption [Construction]

Recently the Florida Legislature enacted Senate Bill 50-A drastically changing the Workers Compensation laws in the State of Florida. However, they failed to address how the changes would affect a Florida Limited Liability Company. After review of Florida Senate Bill 50A, and consultation with the Bureau of Compliance, Division of Worker's Compensation of the Florida Department of Financial Services, our interpretation of the law as it is in force today is as follows:

Construction contractors with one or more employees must purchase workers compensation insurance coverage. In the Construction industry you must carry Workers Compensation Insurance on ALL of your employees. Please be advised that ALL Members (owners) in an LLC are classified as employees by the State of Florida. However you can exempt up to three LLC Managing Members in the Limited Liability Company. (These are owners who must also be listed as Managers with the Florida Department of State.) The Workers Compensation exemption requirements for the construction industry are very strict. Only Managers of an LLC who also own at least 10% of the total membership interest in the LLC are eligible for the construction industry exemption. If you need an exemption to avoid paying those high Workers

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Compensation Insurance premiums, it is essential that all your documentation is prepared correctly otherwise your application can be denied or significantly delayed. We can initiate the documentation for you to be exempt and the fee is \$125 for one Manager, \$150 for two Managers or \$175 for three Managers.

If you need to add someone as an owner to ensure they qualify for the exemption we can also draft a special employment agreement and operating agreement so they hold a membership interest as long as they are employed by the LLC. After the employment terminates for whatever reason. The employee's membership interest would automatically revert to the LLC. Please ask your Spiegel & Utrera Associate for details.

Registration for Worker's Compensation Exemption [Non - Construction]

In 2003 the Florida Legislature enacted Senate Bill 50-A drastically changing the Workers Compensation laws in the State of Florida. However, they failed to address how the changes would affect a Florida Limited Liability Company. After review of Florida Senate Bill 50A, and consultation with the Bureau of Compliance, Division of Worker's Compensation of the Florida Department of Financial Services, our interpretation of the law as it is in force today is as follows:

Florida law requires every non-agricultural employer of four or more full-time or part-time persons to have workers' compensation coverage. Therefore, in the Non-Construction industry, the Limited Liability Company would have to have Workers Compensation Insurance if it has four or more employees. ALL Members/Managers are automatically exempt under current State interpretation of the law. This would mean that the exempt Members/Managers could not elect to be employees of the LLC and be covered under the company's Workers Compensation Insurance Policy. However, there could be various instances where the Member/Manager would want to be considered an employee.

We expect that the Florida Legislature in its 2004/2005 session will amend the law to clarify many issues concerning Workers Compensation compliance in Florida as it relates to LLC's.

Dual Class LLC

The Spiegel & Utrera, P.A. Lawyers Dual Class LLC is designed after IRS proposed regulations which allow an LLC to be deemed a partnership for Federal Income Tax purposes to have members/owners qualified as limited partners for Self Employment ("SE") tax purposes. The use by Spiegel & Utrera, P.A. of a Dual Class LLC ownership to distinguish between a manager and a non-manager class of ownership is used to allow the non-manager membership class to be treated as a limited partner class. More importantly, the Spiegel & Utrera, P.A. Dual Class LLC is structured to admit both active management providing members in addition to more passive, capital contributing members. For those LLC members who could qualify as both, they would own a portion of each class of the Spiegel & Utrera, P.A. Dual Class LLC.

The Spiegel & Utrera, P.A. Dual Class LLC is divided as follows:

Class A General Member Units: The smaller manager class receives a priority preferred return of income (for example, a management or sales fee arrangement) that is contingent on the profitability of the LLC. It may not be a fixed compensation amount or it will constitute a guaranteed amount which is prohibited.

Class B Limited Member Units: This portion of the LLC membership interests is the cash contributing members' interest and is structured as a non-manager class qualifying for limited partner status. This class receives a cumulative preferred-priority return of profits based on their unreturned capital contributions, whereas the smaller active manager class would not.

The cost of adding the additional features required of the Spiegel & Utrera Dual Class LLC is just \$399.95 if ordered at the time of forming your LLC and, as an added bonus, it includes the required Dual LLC Operating Agreement.

Every Dual Class LLC must enter into a written Management Agreement between the LLC and its Manager(s), the Manager(s) are generally Class A member(s) of the Dual Class LLC. The Management Agreement should be drafted in such a way so that it conforms with the provisions of the Dual Class LLC Operating Agreement and, in addition thereto, it will:

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- Spell out the terms of employment, such as the duties, responsibilities and compensation of the LLC Manager(s). It states that the Manager(s) will not compete against the LLC for a specific period of time after leaving the LLC;
- Prohibit the Manager(s) from disclosing any of the LLC's business records, computer data, trade secrets, methods of operation, et cetera;
- Prevent the Manager(s) from soliciting customers or clients of the LLC;
- Prevent the Manager(s), after leaving the LLC's, from soliciting the LLC's employees to work elsewhere.

The cost of the Management Agreement is just \$150, if ordered at the time of forming your Dual Class LLC.

SPEED OF SERVICE OPTIONS

REGULAR SERVICE -- The regular processing time for a Company is approximately two weeks. The Corporate Package includes all the documents and the Corporate Seal.

SHIPPING INFORMATION-- Corporate Packages, generally weigh approximately 4 pounds and are available for Pick up at any of our offices or may be shipped to you via Ground (2-3 day) Service for a charge of \$17.95 or via Overnight Delivery for a charge of \$30.95.

SPEED OF SERVICE OPTIONS (Cont'd)

Fast Corp

If you need to incorporate fast, we offer a 3 Business Day Incorporation Service for an additional \$100. We will expedite the registration of the Corporation and preparation of the Corporate Records and the Corporate Package will be ready in 3 business days, after receipt of payment.

Next Day Corp

If you need your corporation formed urgently, for an additional \$175.00, we will expedite the registration of the Corporation and preparation of the Corporate Records and the Corporate Package will be ready the next business day, after receipt of payment. Orders received after 3:30 p.m. will be processed the following business day.

An Important Note about our RUSH SERVICES

We offer two levels of rush service. When you opt for one of our rush services, we guarantee to promptly deliver your Corporation or Limited Liability Company to the State for processing, however, if the State is backlogged, you may experience a delay in receiving your documents. Generally we have experienced delays of one to two days for Next day orders and 4 to 5 days for 3 day orders. We strive to have all rush orders ready as soon as humanly possible, however if time is of the essence you may opt for one of our Reddi Corps which are ready for immediate delivery.

PROTECT YOURSELF!

Indemnification Agreement and Covenant Not to Sue

We strongly recommend that you include special provisions in your Articles of Organization and additional agreements which trigger this important protection requiring the Company to indemnify and hold harmless it's Managers and Managers from any actions they take on behalf of the Company. If a Director or Manager is ever sued for actions taken on behalf of the Company, these provisions require that the Company be held responsible, as agreed upon by the Directors and Managers and the Company. These important provisions and agreements cost only an additional \$75. if ordered at the time of Incorporation.

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Lender's Agreement & Promissory Note

Initially an LLC needs a cash infusion. Additionally, the LLC may require a continuing advance of funds for some time. Its important to minimize the amount of money a member is required to pay for the membership in the LLC because the members could be held personally liable by the LLC and/or the creditors of the LLC for not contributing all the funds the members had initially agreed to contribute to the LLC. How does the LLC get the money? After the initial purchase of its membership interests, generally, the LLC has two choices for obtaining additional money: (1) members can contribute additional funds for their membership interest (not the preferred method as previously stated) or (2) loan money to the LLC. Lending money to the LLC is the preferred method to advance money to the LLC because the lender is seen as a creditor of the LLC. The lending of money to the LLC is accomplished with a Lender's Agreement and a Promissory Note. Both of these instruments together provide for an initial amount of a loan to the LLC and also provide for future advances of money the lender might make to the LLC. In the event of failure of the business, the loan will be fully tax deductible by the lender as a bad debt. Additionally, the lender may take this concept one step further and secure the loan to the LLC by using a Security Agreement. The Security Agreement is much like a mortgage generally securing all the assets of the LLC and the Security Agreement can be recorded to perfect the lien the lender may have against any other subsequent creditors of the LLC. The fee for the Lender's Agreement and Promissory Note, if ordered at the time of the formation of your LLC, is only \$75 and the Security Agreement, if ordered at time of organization, is an additional \$75.

Operating agreement

If your Company has more than one owner, we **strongly recommend** you enter into a Operating agreement. This agreement is entered into by the owners to define their duties and responsibilities to each other and to the Company. It is like a partnership agreement between the Owners. A draft of this agreement will be prepared as part of our service, so you may review the Agreement and make changes and discuss it with one of our Attorneys. Normally, the fee to prepare such a comprehensive agreement of this nature would be \$1,500. or more.

However, your cost of the Operating Agreement is only \$99.95 for a single member LLC or \$149.95 for a multi member LLC if prepared in conjunction with the formation of your LLC.

Just look at it's many provisions:

- Provides a frame work for the settlement of disputes between owners.
- Prevents a owner from selling his stock to a third party without first offering it to existing owners.
- Providing a framework for the purchase of stock by the remaining owners in the event a owner dies, or becomes disabled.
- Preventing a owner from competing against the Company both now and as an ex-owner for a stated period of time.
- Requiring owners to maintain the confidentiality of all customer names and other corporate records.
- Preventing a owner from impairing the goodwill of the Company.
- Preventing a owner from soliciting customers of the Company except for the Company's business.

Obviously, this is a very thorough Contract. It is drafted by our attorneys and used by business owners such as yourself. This agreement is very versatile and an absolute necessity for a company with multiple owners. Remember the old adage, "An ounce of prevention is worth a pound of cure."

Single Member LLC for U.S. Citizens or Permanent Residents.

If you are a single member LLC, and the single member is an individual who is a citizen or permanent resident of the United States of America, or a Sub-S Corporation, our office can prepare the necessary documentation for you LLC to elect to be taxed as a Corporation. We will also prepare the necessary documentation for the LLC to be taxed as an S Corporation, in order to receive the maximum tax benefits available to you. The fee for our office to prepare all your documentation is \$125.

Single Member LLC for NON U.S. Citizens or Permanent Residents.

If you are a single member LLC and the single member is an individual who is not a citizen or permanent resident of the United States of America, nor a Sub-S Corporation, our office can prepare the necessary documentation for your LLC to elect to be taxed as a Corporation. The fee for our office to prepare all your documentation is \$50. If you instead wish to be taxed as a partnership, then we would recommend that you consider adding another member, it could be a parent, a sibling, a child, or perhaps by forming

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another corporation to be the other member. The other member could have a very small percentage of ownership interest in the LLC and you could limit their ability to vote, it is therefore also important to prepare and enter into an Operating Agreement between the members, and LLC to clearly spell out all the terms and conditions between the members and the LLC.

LEASE/AGREEMENT CONSULTATIONS

Avoid costly mistakes, **always, always, always** have any type of Contract/Lease or otherwise legally binding agreement reviewed by an Attorney BEFORE you sign it. We offer Consultations at all of our offices and over the phone for \$100. per half hour or a fraction thereof. For your convenience, you can fax us the documents that need to be reviewed and the attorney can advise you over the phone. Some of the topics you may wish to discuss include:

Real Estate Purchase Reviews: Review of purchase/sale agreements associated with the purchase of real property. **Business Purchase Review:** Review of purchase/sale agreements associated with the purchase or sale of a business. **Commercial Lease Reviews:** (including Business Spaces such as: Offices, Stores, Warehouses, and Commercial Lofts) Our staff has many years of experience representing Tenants. Having your lease reviewed BEFORE you sign on the dotted line can save you thousands of dollars.

- Rentable vs. Usable Space
- Reasonable Rental Rates
- Free Rent
- Best Length of Lease
- Options to Extend the Lease & Purchase the Premises
- Leasing contiguous space for expansion
- Assignment and Subletting
- Caps on Rent increases and expenses demanded by Landlords
- Repair Responsibilities
- Exclusivity of Tenant's Business
- Early Termination Rights
- Personal Guarantees, should you or should you not
- Renewal Terms
- Zoning Issues
- Landlord buildout costs
- Change of Control of Tenant
- Signage Protection

TAX SAVING LEASE AGREEMENTS

Home Office Lease

Agreement detailing the leasing of office space by a homeowner or tenant with a Company for use as the Company's principal place of business. The typical tax savings under this agreement can exceed \$1,200. – per year. The Home Office Lease is only \$150. when ordered with your Company, and as an added bonus to our clients, we draft the Lease in such a manner that it is automatically renewable.

Motor Vehicle Lease

If you use your vehicle for business purposes, it is usually much more advantageous to keep the vehicle in your name and lease the vehicle to the Company. The typical tax savings under this type of arrangement ranges between \$1,500. and \$3,000. per tax year. We can prepare the lease for only \$150. when ordered with your Company.

Office Equipment Lease

A lease which details the leasing of office equipment by a business. Once again, by leasing equipment to the Company, you create a legitimate business expense for the Company and a Tax Deduction. Typically, the tax savings under this type of arrangement can exceed \$1,000 per tax year. The cost for an Office Equipment Lease is only \$150., when ordered with your Company.

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EMPLOYEES / INDEPENDENT CONTRACTORS

Employment Agreement

If you are using employees in your business, it is important to have a written Employment Agreement to document the conditions of Employment. An Employment Agreement can be very advantageous for a business and should be required for all employees, whether new or existing. It creates a clear understanding of the arrangement between the employee and the Company and provides protection for the business. The Employment Agreement also contains other important provisions:

- It spells out the terms of employment, such as the duties, responsibilities and compensation of the employee. It states that the employee will not compete against the Company for a specific period of time after leaving its employment.
- It prohibits the employee from disclosing any of the Company's business records, computer data, trade secrets, methods of operation, et cetera.
- It prevents the employee from soliciting customers or clients of the Company.
- It prevents an employee, after leaving the Company's employment, from soliciting the Company's employees to work elsewhere.

The Employment Agreement is prepared in such a way that you can use it over and over again to avoid additional costs in the future. By having this Employment Agreement, the Company is given substantial clout in preventing an employee from joining a competitor, or competing against the Company and disclosing business secrets to anyone. The Agreement may be re-used by the Company as it hires additional employees, the cost of the Employment Agreement is just \$150.

INDEPENDENT CONTRACTORS AGREEMENT

There are many reasons for using Independent Contractors, however, simply verbally stating that a worker is an Independent Contractor is not enough according to the IRS. Certain criteria must be met. The IRS considers 11 factors in three specified areas: Behavioral Control, Financial Control and Type of Relationship. So, before you engage the services of an Independent Contractor, it is essential that you document that relationship with a written Independent Contractor's Agreement, otherwise the IRS could hold your Company and you personally liable for the Independent Contractor's Income Tax, Social Security, Medicare Tax and Federal Unemployment Tax, which should have been withheld. As a signatory on the check used to pay the Independent Contractor, you could be held **personally liable** for these taxes. The Independent Contractor's Agreement also contains other important provisions:

- It spells out the duties, responsibilities and compensation of the Contractor.
- It states that the Contractor will not compete against the Company for a specific period of time after the project is completed.
- It prohibits the Contractor from disclosing any of the Company's business records, computer data, trade secrets, methods of operation, et cetera.
- It prevents the Contractor from soliciting customers or clients of the Company.
- It prevents the Contractor, after leaving the Company, from stealing the Company's employees.

For a detailed explanation of the Benefits of using Independent Contractors' Agreements, including a breakdown of the 11 factors the IRS analyzes and Industry examples provided by the IRS, please refer to document 239 of this Free Faxback Service. We can provide an Independent Contractor's Agreement that covers all the legal requirements and many business advantages for your Company for only \$150.

Our FREE FaxBack Service is loaded with lots of FREE information for you!
Just dial 800 303 3300 or order your Company online at:

www.amerilawyer.com

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