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EXTENSION

**GROWING A NEW GENERATION
OF ILLINOIS FRUIT AND VEGETABLE FARMERS**

CHOOSING YOUR SMALL FARM BUSINESS STRUCTURE

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Objectives

- As they start their farms, beginning fruit and vegetable growers will:
 - Know about the various types of business structures available to Illinois farms
 - Have some understanding of the pros and cons of these various business structures
 - Consult an attorney before making the final decision on which structure is of most benefit



The Basics

- Factors to consider:
 - Simplicity
 - Flexibility
 - Cost
 - Protection from personal liability



The Basics

- Structures to consider:
 - Sole proprietorship
 - Partnership
(and its variants)
 - Limited Liability Company
(LLC)
 - Corporation
(and its variants)



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Sole Proprietorship

- Simple to form, owner and business are one and the same
 - Business taxes filed with personal taxes
- No filing fee or annual report fee with the Secretary of State
- If operating under an “assumed” name:
 - There may be a DBA filing fee with your county clerk
 - Will have to publish intention to operate under assumed name in the newspaper for three consecutive weeks



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Sole Proprietorship

- The major drawback:
 - Since you and your business are one entity, you are personally responsible for the liabilities of the business



<https://www.flickr.com/photos/wallyg/>



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Partnership

- Similarly simple and cheap
 - Tax liability passes through to owners' tax returns
 - Registration of assumed name with county clerk
- Both owners authorized to act on behalf of the business



<https://www.flickr.com/photos/birkbeckmediaservices/>



Partnership

- Drawbacks:
 - Again, both owners responsible for all liabilities of the business
 - Including obligations entered into by other partner
 - If a partner leaves, partnership may dissolve
 - Partnership shares are not freely transferable

Partnership

- Limited Partnership (LP)
 - Reduces exposure of certain partners to unlimited personal liability by creating two classes of partner:
 - General partners – remain personally liable for partnership's obligations
 - Limited partners – NOT personally liable for partnership's obligations



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Corporation

- Owners, called shareholders, finance the corporation by purchasing stock
 - Shareholders elect board of directors, who are responsible for day to day affairs
 - Board of Directors designates officers
- Corporation separate legal entity from shareholders
 - Owners' personal assets protected from business' debts and liabilities



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Corporation

- Drawbacks
 - Paperwork and formalities
 - Articles of incorporation, issuance of stock, election of board and officers, annual meeting and minutes
 - “Double taxation”
 - Corporation pays taxes on profits, on which shareholders pay income taxes when received as dividends
 - Cost
 - \$281.25 to start (\$150 filing fee, \$25 franchise tax fee, \$100 expedited fee, \$6.25 payment processing fee)
 - \$75 annual report filing



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Corporation

- Subchapter S
 - Corporate profits and losses pass directly through to shareholders without being taxed
- Close corporations
 - Stock is “closely held” by few individuals
 - Avoids some formalities by permitting broad shareholder agreements and operation without a board of directors



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Limited Liability Company (LLC)

- Simple to start, flexible
- Owners, called members, are protected from unlimited personal liability
 - As long as best business practices are followed
- Pass-through entity, so members account for profits and losses on personal taxes
- No requirement for formal meetings or elected boards/officers



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Limited Liability Company (LLC)

- Drawback
 - Cost
 - \$600 to start (\$500 filing fee, \$100 expedited fee)
 - \$250 annual report filing



Summary

- Choose the best balance of **simplicity, flexibility, cost,** and liability **protection**
- Think beyond farm business **creation,** and into business **maintenance** and **continuity**
- Seek **professional legal counsel**
- Do your **due diligence**



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Resources

- [Farm Commons](#)
 - [Archived webinar](#) on exactly this topic
- Illinois [directfarmbusiness.org](#)
- [Illinois Secretary of State Business Services](#)
 - [A Guide for Organizing Domestic LLCs](#)
- Your local legal and tax professionals



To reach us

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