Index

Limited Liability Companies, advantages of, 4:102 LLC Operating Agreement, App AK Allocations **See Partnership Tax Allocations for Business Lawyer** (this index) General partnerships, 4:5 **Ancillary probate** One member LLCs - interstate transactions, 4:94 Appreciated property Real estate development with appreciated property, 4:17, 4:71, 4:118 Arizona LLC Operating Agreement, App AZ Asset protection and gift and estate tax planning Generally, 5:1 Basis, **5:11** Business purpose/nonbusiness usage Generally, 5:2 Classification of personal-use LLCs, **5:3** Creditor protection, generally, **5:4** Estate and gift tax considerations, **5:8** Family home, 5:6 Management and transfer benefits, 5:5 Possible business purposes, **5:7** Creditor of debtor-partner General Partnerships, advantages, 4:8 Creditor protection Generally, 5:4 Limited Liability Companies, advantages of, 4:104 Limited Partnerships, advantages of, 4:33 Estate and gift tax considerations, 5:8 Family limited liability companies. See entries throughout this topic Family limited partnerships. See entries throughout this topic I.R.C. § 704(e), 5:9 I.R.C. § 761(b), **5:9** LLC members, minor children, 5:10

Accrual accounting

Agency

Limited Partnerships, disadvantages of, 4:40

General partnerships, mutual agency, 4:11

S-corporations, disadvantages of, **4:80**

Asset protection and gift and estate tax planning —Cont'd Minor children LLC members, 5:10 Partners, 5:10 Partners, minor children, 5:10

At risk rules

C-corporations, passive loss and at risk rules, **4:54** Limited Liability Companies, advantages of, **4:88**

Bankruptcy

Choice of entity and planning considerations, bankruptcy remote entities, **4:105** Limited liability companies, **4:104**

Basis

Asset protection and gift and estate tax planning, 5:11

California

LLC Operating Agreement, **App CA to 1**Single Member LLC Operating Agreement, **App CA**

Capital accounts

Partnership tax allocations for business lawyer, **6:4**

Capital gains and losses

Federal income taxation, **3:6**

C-corporations

See Choice of Entity and Planning Considerations (this index)

Characteristics of the Limited Liability Company

Generally, 1:3

Charging orders

Limited liability companies, advantages of, 4:104

Charts

Choice of entity and planning considerations, charts comparing state tax treatment of limited liability companies and limited liability partnerships, **4:121**

Check-the-box regulations

See **Don't "Check-The-Box" Regulations** (this index)

Children and minors

Asset protection and gift and estate tax planning, 5:10

Choice of entity and planning considerations Generally, 4:1	Choice of entity and planning considerations —Cont'd
Advantages of C-corporations. See C-corporations,	Advantages of Limited Liability Partnerships
below Advantages of general partnerships. See General	(LLP). See Limited liability partnerships, below Advantages of limited partnerships. See Limited
partnerships, below	partnerships, below
Advantages of limited liability companies	Advantages of S-corporations. See S-corporations,
Generally, 4:83	below
Agency, 4:102	C-corporations
Bankruptcy	Advantages
Creditor protection, 4:104	Administration, fiduciary duties, 4:48
Remote entities, 4:105	Control, 4:51
Charging orders, 4:104	Different classes of stock, 4:52
Charts comparing state tax treatment of limited	Liability protection, 4:45
liability companies and limited liability	Lower corporate rates, 4:49
partnerships, 4:121 Community property states, 4:98	Medical benefits, 4:50 Ordinary losses allowed on I.R.C. § 1244
Creditor protection, 4:104	stock, 4:55
Derivative actions, 4:87	Passive loss and at risk rules, 4:54
Entity of choice	Qualified small business stock, ESOPs, 4:53
Generally, 4:120	Reorganizations, 4:47
Charts comparing state tax treatment of	Transfers, 4:46
limited liability companies and limited	Conversion to LLC, 4:62
liability partnerships, 4:121	Disadvantages
Fiduciary duties/transfers/liability standard,	Contributions, 4:60
4:87	Corporate losses, 4:57
Information rights, 4:87	Double taxation, 4:56
Issues for two+-member LLCs, 4:99	Fiduciary duties, 4:59
Judicial dissolution, 4:103	Formalities, 4:59
Liability protection, 4:84	Net operating losses, 4:58
Modern statutory architecture, 4:87	Service providers, 4:61
Nonbusiness usage, 4:106	Charts comparing state tax treatment of limited
Nonrecourse debt, 4:88	liability companies and limited liability partner-
Operating agreements, 4:91 , 4:103	ships, 4:121 Community property states, 4:98
Perpetual life, 4:103	Corporate Transparency Act, 4:1
At risk rules, 4:88	DAOs, 4:1
Series LLCs, 4:85	Disadvantages of limited liability companies
Simplicity, 4:86	Corporate classification and conversion, 4:108
Single-member LLCs	Employment taxes/liability issues, 4:114
Generally, 4:89	Estate planning for families, 4:112
Ancillary probate, 4:94	General partnership similarities, 4:107
Consolidated returns and reorganizations, 4:97	Interstate transactions, 4:109
Converting single-member LLC to multi-	Lack of uniformity/law undeveloped, 4:110
member LLC, 4:96	New partnership audit rules, 4:119
Creditor protection, 4:104	Passive loss rules, 4:116
Employer identification numbers, 4:93	Pre-acquisition investigation, 4:115
Employer taxes, 4:93	Public offering, 4:117
Like-kind exchanges, 4:92	Real estate development with appreciated prop-
One hundred percent penalty, 4:95	erty, 4:118
Operating agreement, 4:91	SALT Cap work-around, 4:111
Start-up expenses, 4:101	State taxation, 4:111
Transfers/liability standard/fiduciary duties,	Use by professionals, 4:113
4:87	W2 partners, 4:114
Transfer taxes, 4:100	General Partnerships
Advantages of Limited Liability Limited Partner-	Advantages
ships, 4:43	Contributions and distributions, 4:2

Choice of entity and planning considerations	Choice of entity and planning considerations
—Cont'd	—Cont'd
General Partnerships—Cont'd	Limited Partnerships—Cont'd
Advantages—Cont'd	Advantages—Cont'd
Creditor of debtor-partner, 4:8	Transfers, 4:30
Partnership debt included in partners' bases,	Conversion to LLC, 4:41
4:4	Disadvantages
Section 754 election, 4:6	Accrual accounting, 4:40
Service patrons, 4:7	Complexity, 4:35
Single level of tax, 4:3	Medical expenses, 4:38
Special allocations, 4:5	One-person limited partnerships, 4:36
Conversion to LLC, 4:18	Public trading, 4:39
Disadvantages	State taxation, 4:37
Dissolution, 4:14	Moore case, 4:1
Employment taxes/liability issues, 4:15	New partnership audit rules, disadvantages of
Fiduciary duties, 4:10	limited liability companies, 4:119
I.R.C. § 708, 4:16	SAFEs, 4:1
Liability	SAFTs, 4:1 SALT Cap Workarounds, 4:1
new partnership audit rules, 4:9 Management, 4:10	S-corporations
Medical expenses, 4:13	Generally, 4:63
Mutual agency, 4:11	Advantages
Real estate development with appreciated	Administration, 4:65
property, 4:17	I.R.C. §§ 704(c) and 751, 4:69
Transfers, 4:12	Ordinary losses allowed on I.R.C. § 1244
Limited liability companies, generally, 4:82	stock, 4:66
Limited Liability Cimpanies, generally, 4.62 Limited Liability Limited Partnerships	Public offering, 4:68
Generally, 4:42	Real estate development with appreciated
Advantages and disadvantages of a LLLP, 4:43	property, 4:71
Conversion to LLC, 4:44	Self-employment/employment taxes, 4:6 7
Limited Liability Partnerships (LLP)	Single level of tax and flow through of
Generally, 1:1 et seq., 4:19	losses, 4:64
Advantages	Still a corporation, 4:64
Generally, 4:20	Subsidiaries/LLCs, 4:70
Discrimination rules, 4:22	Conversion to LLC, 4:81
Ease of conversion, 4:21	Disadvantages
Liability protection, 4:20	Accrual accounting, 4:80
Charts comparing state tax treatment of limited	Contributions and distributions, 4:74
liability companies and limited liability	Corporate-level tax, 4:78
partnerships, 4:121	Medical insurance, 4:79
Conversion to LLC, 4:27	One class stock limitation, 4:75
Corporate Transparency Act advantage, 4:19	Qualification requirements, 4:72
Disadvantages	Service providers, 4:76
Generally, 4:23	State taxation, 4:77
Interstate transactions, 4:25	Tax differences with partnership, 4:73
Lack of uniformity, undeveloped law, 4:26	Token warrants, 4:1
Scope of liability protection, 4:24	Classification abongs to an from comparation
Limited Partnerships	Classification change to or from corporation
Advantages	Corporation to disregarded entity, 2:28 Corporation to partnership, 2:26
Creditor protection, 4:33	
Dissolution, 4:29	Disregarded entity to corporation, 2:27
Estate planning for families, 4:32	Partnership to corporation, 2:25
Law well established, 4:34	Timing, 2:29
Liability protection, 4:28	Classification of entity for federal and state
Management, 4:29	purposes
Self-employment taxes, 4:31	Generally, 2:1 et seq.
State taxation, 4:31	Entity classification election, App 2A
	· remodification of the man

Colorado

LLC Operating Agreement, App CO

Community property states

Choice of entity and planning considerations, 4:98

Connecticut

LLC Operating Agreement, App CT

Consolidated returns-reorganizations

Limited Liability Companies, advantages of, 4:97

Contributions and distributions

C-corporations, disadvantages of, **4:60** General partnerships, advantages of, **4:2** S-corporations, disadvantages of, **4:74**

Conversion to LLC

C-corporations, 4:62

Choice of entity and planning considerations, **4:108** General partnerships, **4:18**

Limited Liability Limited Partnerships, 4:44

Limited Liability Partnerships, 4:27

Limited Partnerships, 4:41

S-corporations, 4:81

Conversion to or from partnership

Revenue Rulings 99-5 and 99-6, conversion of disregarded entity into partnership and vice versa, 2:22 to 2:24

Corporate classification

Limited Liability Companies, disadvantages of, 4:108

Corporate-level tax

S-corporations, disadvantages of, 4:78

Corporate losses

C-corporations, disadvantages of, **4:57**

Corporate transparency act

Choice of entity and planning considerations, 4:1

Creditor of debtor-partner

General partnerships, advantages of, 4:8

Creditor protection

See Asset Protection and Gift and Estate Tax Planning (this index)

Limited liability companies, advantages of, 4:104

Deductions

See **Federal Income Taxation** (this index)

Partnership tax allocations for business lawyer, 6:10

Delaware

Non-series LLC Operating Agreement, **App DE** Series Voting Nonvoting LLC Operating Agreement, **App DE to 1**

Depreciation

Federal income taxation, 3:3

Derivative actions

Limited liability companies, modern statutory architecture, **4:87**

Dissolution

General partnerships, disadvantages of, **4:14** Limited Partnerships, **4:29**

Don't "check-the-box" regulations

Generally, 2:3

Change of election, eligible entity, 2:8

Domestic eligible entity, 2:5

Election, eligible entity, 2:6

Eligible entity

Generally, 2:4

Change of election, 2:8

Domestic eligible entity, 2:5

Election, 2:6

Entities classified as corporations, 2:5

Protective election, 2:7

Entities classified as corporations, 2:5

Foreign entities, 2:11

LLCs created before 1997, 2:9

One member LLCs, 2:10

Protective election, eligible entity, 2:7

Double taxation

C-corporations, disadvantages of, 4:56

Drafting Operating Agreements

Outline, App ST to 1

Economic effect test

See Partnership Tax Allocations for Business Lawyer (this index)

Election

Don't "check-the-box" regulations, **2:6 to 2:8** Entity classification election, **App 2A** General partnerships, § 754 election, **4:6**

Eligible entity

See **Don't "Check-The-Box" Regulations** (this index)

Emergence of the Limited Liability Partnership Generally, 1:5

Employment taxes

General partnerships, disadvantages, **4:15**Limited Liability Companies, disadvantages of, **4:114**

Entity classification for federal and state purposes

Generally, 2:1 et seq.

Entity classification election, App 2A

Estate tax planning

See Asset Protection and Gift and Estate Tax Planning (this index)

Family home

Asset protection and gift and estate tax planning using limited partnerships and limited liability companies, **5:6**

Family Limited Liability Companies

Generally. See Asset Protection and Gift and Estate Tax Planning (this index)
Agreement, App 5B

Family limited liability entities (FLLEs)
See Asset Protection and Gift and Estate Tax
Planning (this index)

Family Limited Liability Partnerships Agreement, App 5A

Family limited partnerships

See Asset Protection and Gift and Estate Tax Planning (this index)

Federal income taxation

Generally, 3:1 et seq.

Abandonment and worthlessness, deduction, **3:7** Capital gains and losses, **3:6**

Deduction

Abandonment and worthlessness, 3:7 Losses, 3:5

Depreciation, **3:3**

Employee status, 3:9

Income, when it is taxed, 3:2

Limitations, deduction of losses, 3:5

Section 199A, 3:8

Taxable income/expenses, 3:3

Tax rates, 3:4

What is income, 3:2

Fiduciary duties

C-corporations, disadvantages of, **4:59**

Choice of entity and planning considerations, general partnerships, disadvantages, **4:10**

Florida

LLC Operating Agreement, **App FL**

Foreign entities

Don't "check-the-box" regulations, 2:11

Formalities

C-corporations, disadvantages of, **4:59**

Limited liability companies, simplicity as advantage of, **4:86**

Fundamental characteristics of the Limited Liability Company

Generally, 1:3

General Partnerships

See Choice of Entity and Planning Considerations (this index)

Georgia

LLC Operating Agreements, App GA

Gift and estate tax planning

See Asset Protection and Gift and Estate Tax Planning (this index)

Illinoi

Manager Managed LLC Operating Agreement, App IL to 2

Manager Managed LLC Operating Agreement with Common and Preferred Interests, App IL to 3

Manager Managed Series LLC Operating Agreement, App IL to 5

Member Managed LLC Operating Agreement, App IL to 1

Not-for-Profit Manager Managed LLC Operating Agreement, **App IL to 4**

Separate Manager Managed Series Agreement, App IL to 7

Separate Member Managed Series Agreement, **App** IL to 6

Income taxation

See **Federal Income Taxation** (this index)

Indiana

LLC Operating Agreement, App IN

Interstate transactions

Limited Liability Companies, disadvantages of, 4:109

Limited Liability Partnerships (LLP), disadvantages of, **4:25**

Introduction

Generally, 1:1

Iowa

LLC Operating Agreement, App IA

I.R.C. § 704(c)

S-corporations, advantages of, **4:69**

I.R.C. § 704(e)

Asset protection and gift and estate tax planning, 5:9

I.R.C. § 708

General partnerships, disadvantages of, 4:16

I.R.C. § 751

S-corporations, advantages of, 4:69

I.R.C. § 761(b)

Asset protection and gift and estate tax planning, **5:9**

I.R.C. § 1244 stock

C-corporations, ordinary losses allowed on I.R.C. § 1244 stock, **4:55**

Kansas

LLC Operating Agreement, App KS

Kentucky

LLC Articles of Correction, App KY to 3

Kentucky-Cont'd

LLC Articles of Organization, App KY

LLC Articles of Organization and Plan of Conversion, **App KY to 2**

Professional LLC Articles of Organization, App KY to 1

Statute list, App KY to 4

Like-kind exchanges

One member LLCs - interstate transactions, 4:92

Limited Liability Companies

Generally. See Choice of Entity and Planning Considerations (this index)

See also entries throughout this index Contributions

C-corporations, disadvantages of, 4:60

Double taxation of incomes/distributions, disadvantages of C-corporations, **4:56**

Minnesota operating agreements, App MN, App MN to 1

Operating Agreement Introduction, **App ST**Ordinary losses allowed on I.R.C. § 1244 stock, advantages of S-corporations, **4:66**

Outline for Drafting Operating Agreements, **App ST to 1**

Partner language, sample tax matters, **App ST to 2**Pennsylvania operating agreements, **App PA**Personal use asset LLC agreement, **App ST to 3**Texas operating agreements, **App TX to 1**W2 partners, choice of entity and planning considerations, **4:114**

Limited Liability Limited Partnerships See Choice of Entity and Planning Considerations (this index)

Limited Liability Partnerships (LLP) See Choice of Entity and Planning Considerations (this index)

Limited Partnerships

See Choice of Entity and Planning Considerations (this index)

Maryland

Internet Company LLC Operating Agreement, App MD to 1

Second Generation LLC Operating Agreement, App MD to 2

Single Member LLC Operating Agreement, App MD

Software Company LLC Operating Agreement, App MD to 3, App MD to 4

Massachusetts

LLC Operating Agreement, **App MA**Single Member LLC Operating Agreement, **App MA to 1**

Medical benefits

C-corporations, advantages of, 4:50

Medical expenses

General Partnerships, disadvantages of, **4:13** Limited Partnerships, disadvantages of, **4:38**

Medical insurance

S-corporations, disadvantages of, 4:79

Michigan

LLC Operating Agreement, App MI

Manager-Managed Model LLC Operating Agreement, **App MI**

Minnesota

LLC operating agreements

Governor-Managed LLC Operating Agreement, App MN to 1

Member-Managed LLC Operating Agreement, App MN

Member Control Agreement, App MN

Mississippi

Manager Managed LLC Operating Agreement, **App**MS

Member Managed LLC Operating Agreement, **App MS to 1**

Moore case

Choice of entity and planning considerations, 4:1

Multi-member LLCs

Converting single-member LLC to multi-member LLC, **4:96**

Creditor protection, 4:104

Issues for two+-member LLCs, 4:99

Series LLCs proposed regulations, 2:16

Mutual agency

General partnerships, disadvantages of, 4:11

Nebraska

LLC Articles of Organization and Operating Agreement, **App NE**

Net operating losses

C-corporations, disadvantages of, 4:58

New Jersey

Certificates of Formation and LLC Operating Agreements, App NJ

New Mexico

LLC Operating Agreement, App NM

New York

LLC Operating Agreement, App NY

Nonrecourse debt

Limited liability companies, advantages of, 4:88

Nonrecourse deductions

Partnership tax allocations for business lawyer, 6:10

North Carolina

LLC Operating Agreement, App NC

Ohio

LLC Operating Agreement, App OH

Oklahoma

LLC Operating Agreement, App OK

One class stock limitation

S-corporations, disadvantages of, 4:75

One-member LLCs

See Single-Member LLCs (this index)

One-person limited partnerships

Limited partnerships, disadvantages of, 4:36

Ordinary losses allowed on I.R.C. § 1244 stock

S-corporations, advantages of, 4:66

Oregon

LLC Articles of Organization and Operating Agreements, **App OR**

Origins and proliferation of the Limited Liability Company

Generally, 1:2

Overview of the Limited Liability Company Generally, 1:1 et seq.

Partnership tax allocations for business lawyer Generally, 6:1 to 6:11

Allocations of nonrecourse deductions, 6:10

Capital accounts, **6:4**

Deductions, nonrecourse deductions, 6:10

Economic effect test

Generally, **6:5 to 6:8**

Alternative economic effect rules, 6:7

Economic effect equivalence, 6:8

Regular rules, 6:6

Partnership entity, 6:2

Substantial economic effect rules, 6:3

Substantiality, 6:9

Passive loss rules

C-corporations, advantages of, 4:54

Limited Liability Companies, disadvantages of, 4:116

Pennsylvania

LLC Operating Agreement, single member, **App PA**

Planning considerations

See Choice of Entity and Planning

Considerations (this index)

Pre-acquisition investigation

Limited Liability Companies, disadvantages of, 4:115

Professional Limited Liability Company

Generally, 1:4

Public offering

Limited Liability Companies, disadvantages of, 4:117

S-corporations, advantages of, 4:68

Public trading

Limited Partnerships, disadvantages of, 4:39

Qualification requirements

S-corporations, disadvantages of, 4:72

Qualified small business stock

C-corporations, advantages of, 4:53

Real estate development

Appreciated property, real estate development with, 4:17, 4:71, 4:118

S corporations, real estate development with appreciated property, **4:71**

Reorganizations

C-corporations, advantages of, 4:47

Limited Liability Companies, advantages of, consolidated returns-reorganizations, **4:97**

Revenue Procedure 95-10 and the four critical characteristics

Classification of entity for federal and state purposes, 2:2

Revenue Rulings 99-5 and 99-6

Conversion of disregarded entity into partnership and vice versa, 2:22, 2:23

Revenue Ruling 99-5, disregarded entity to partnership, 2:23

Revenue Ruling 99-6, partnership into disregarded entity, 2:24

Rhode Island

LLC Operating Agreement, App RI

Multi-member LLC Operating Agreement, App RI to 2

Single member LLC Operating Agreement, App RI to 1

Sample Limited Liability Company Organizational Documents

Generally, App ST

S-corporations

See Choice of Entity and Planning Considerations (this index)

Section 199A

Federal income taxation, 3:8

Section 754 election

General partnerships, advantages of, 4:6

Self-employment taxes

Limited Partnerships, advantages of, **4:31** S-corporations, advantages of, **4:67**

Series LLCs Generally, 2:12	Start-up expenses Limited Liability Companies, advantages of, 4:101
Basic rules of proposed regulations, 2:15 Choice of entity and planning considerations, 4:85 Conclusion, 2:21	State and local tax (salt) cap workarounds Choice of entity and planning considerations, 4:1
Definitions in proposed regulations, 2:14 Identification of owners under proposed regulations, 2:17	State classification and taxation Generally, 2:30 Charts comparing state tax treatment of LLCs and
Information statements, 2:18 Practical considerations, 2:20 Proposed regulations Basic rules, 2:15	LLPs, 4:121 Limited Liability Companies, disadvantages of, 4:111 Limited Partnerships, advantages of, 4:31
Conclusion, 2:21 Definitions, 2:14	Limited Fartnerships, advantages of, 4:37 Limited Partnerships, disadvantages of, 4:37 S-corporations, disadvantages of, 4:77
Identification of owners, 2:17 Information statements, 2:18 Overview, 2:13	Subsidiaries/LLCs S-corporations, advantages of, 4:70
Practical considerations, 2:20 Questions and issues, 2:19 Single entity/multiple entities, 2:16	Tax allocations See Partnership Tax Allocations for Business Lawyer (this index)
Questions and issues regarding proposed regula- tions, 2:19 Single entity/multiple entities in proposed regula-	Taxation, income See Federal Income Taxation (this index)
tions, 2:16 Service partners	Tennessee LLC Operating Agreement, App TN to 1
General partnerships, advantages of, 4:7	Texas
Service providers C-corporations, disadvantages of, 4:61 S-corporations, disadvantages of, 4:76	Forms LLC Operating Agreement, App TX to 1 LLC Articles of Organization and Regulations, App TX to 1
Single level of tax	LLC Operating Agreement, App TX to 1 S Corp LLC Operating Agreement, App TX
General partnerships, advantages of, 4:3 S-corporations, advantages of, 4:64	Token warrants Choice of entity and planning considerations, 4:1
Single-member LLCs Advantages of LLCs Generally, 4:89, 4:90 Ancillary probate, 4:94	Transfers C-corporations, advantages of, 4:46 Employment taxes/liability issues, 4:15
Consolidated returns and reorganizations, 4:97 Converting single-member LLC to multi-	Transfer taxes Limited Liability Companies, advantages of, 4:100
member LLC, 4:96 Creditor protection, 4:104 Employer identification numbers, 4:93	Two-member LLCs Issues for two+-member LLCs, 4:99
Employer taxes, 4:93 Like-kind exchanges, 4:92	Utah LLC Operating Agreement, App UT
One hundred percent penalty, 4:95 Operating agreement, 4:91 State law considerations, 4:93	Virginia LLC Operating Agreement, App VA
Don't "check-the-box" regulations, 2:10 Series LLCs proposed regulations, 2:16	Washington LLC Operating Agreement, App WA Real Property LLC Operating Agreement, App WA
South Carolina LLC Operating Agreement, App SC	to 1 Small Restaurant/Grocery LLC Operating Agreement, App WA to 2
Special allocations General partnerships, advantages of, 4:5	Software Development LLC Operating Agreement, App WA to 3

INDEX

Wisconsin

LLC Operating Agreement, App WI