



Entrepreneurship & Small Business: Legal Structures

This page is not intended to provide legal advice. To make an informed decision regarding an appropriate legal or organizational structure for your business, please seek assistance from a qualified, independent third-party.

Per the State of Wisconsin, the following organizational structures are recognized:

Sole Proprietor

A sole proprietor is a single individual who owns and operates the business. A business conducted by a sole proprietor has no legal separation between the individual and the business. No legal formalities are required to bring this form of business structure into being, and there are no particular formalities necessary for operation. As sole owner of the assets, the sole proprietor is entitled to all of the profits of the business but is personally responsible for all of its liabilities and obligations as well. There is no shield from liability other than insurance coverage.

A sole proprietor that wishes to conduct business under a name other than the real name of the person may elect to file a [Registration of Firm Name](#) with the county [Register of Deeds](#) according to the [instructions](#). A sole proprietor can also elect to file a [trade name](#) with the Secretary of State.

General Partnership

A general partnership is an association of two or more persons to carry on a business as co-owners for profit. This form of business organization is ordinarily created by formal agreement, but a partnership may simply be created by oral agreements or may even be implied by the conduct and acts of the parties. A general partnership, like the sole proprietorship, is a business form with unlimited liability for the partners. This means that each partner's assets can be reached without limitation to satisfy partnership obligations incurred by the other partners. Unlike a sole proprietorship, a partnership must file an information return annually with the IRS.

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Corporation

Ch. 180, Wis. Stats. A business corporation is a general-purpose entity in which management is exercised by a board of directors elected by shareholders. A service corporation is a special-purpose type of business corporation for shareholders who are all licensed, registered, or certified to engage in the same professional occupation.

A statutory close corporation is a general-purpose business corporation or service corporation, but one in which the shareholders agree to limitations on transferability of shares, may elect to operate without a board of directors, and may impose greater voting or quorum requirements. The number of shareholders is limited to 50 or less at the time it elects statutory close status.

An "S" corporation is a corporation (of one of the types above) that has established eligibility with IRS for "flow-through" treatment of gain/loss directly to the shareholders.

Investment companies are those that specify that they be organized as a "management investment company" under 15 USC 80a to 80a-64. These "mutual fund" companies pay a substantial one-time filing fee (\$12,500) for authority to issue an indefinite number of shares.

Limited Liability Company (LLC)

Ch. 183, Wis. Stats. A limited liability company has members (similar to a partnership) who may directly manage the company or who may vest management in one or more managers. It combines features of both a partnership and a corporation.

Limited Partnership (LLP)

Ch. 179, Wis. Stats. A limited partnership has one or more general partners and one or more limited partners. The general partners, with the limited partners acting as passive investors, exercise management. Additionally, a limited liability partnership is a general partnership that has filed a registration statement declaring itself a "limited liability" partnership.

Cooperative Association (Co-Op)

Ch. 185, Wis. Stats. A cooperative association is formed on a membership basis with no capital stock, or on a membership basis with capital stock. Five or more adults, one of whom must be a resident of Wisconsin, may organize a cooperative.

Common Law Trust

A common law trust is organized by creating a Declaration of Trust. The trust may sell beneficial or participation certificates to investors. In order to have authority to conduct business in Wisconsin, it must file an application with the Department of Financial Institutions (DFI), accompanied by an original or certified copy of its Declaration of Trust.

Foreign Entities

Department of Financial Institutions (DFI) website has extensive [information on foreign entities](#), including how to apply, continuing requirements, and much more.