



Lecture 11

Law 115
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Agenda

- Quiz #3
- Business Entities
- Basic Employment Issues

Business Entities & Employment Issues

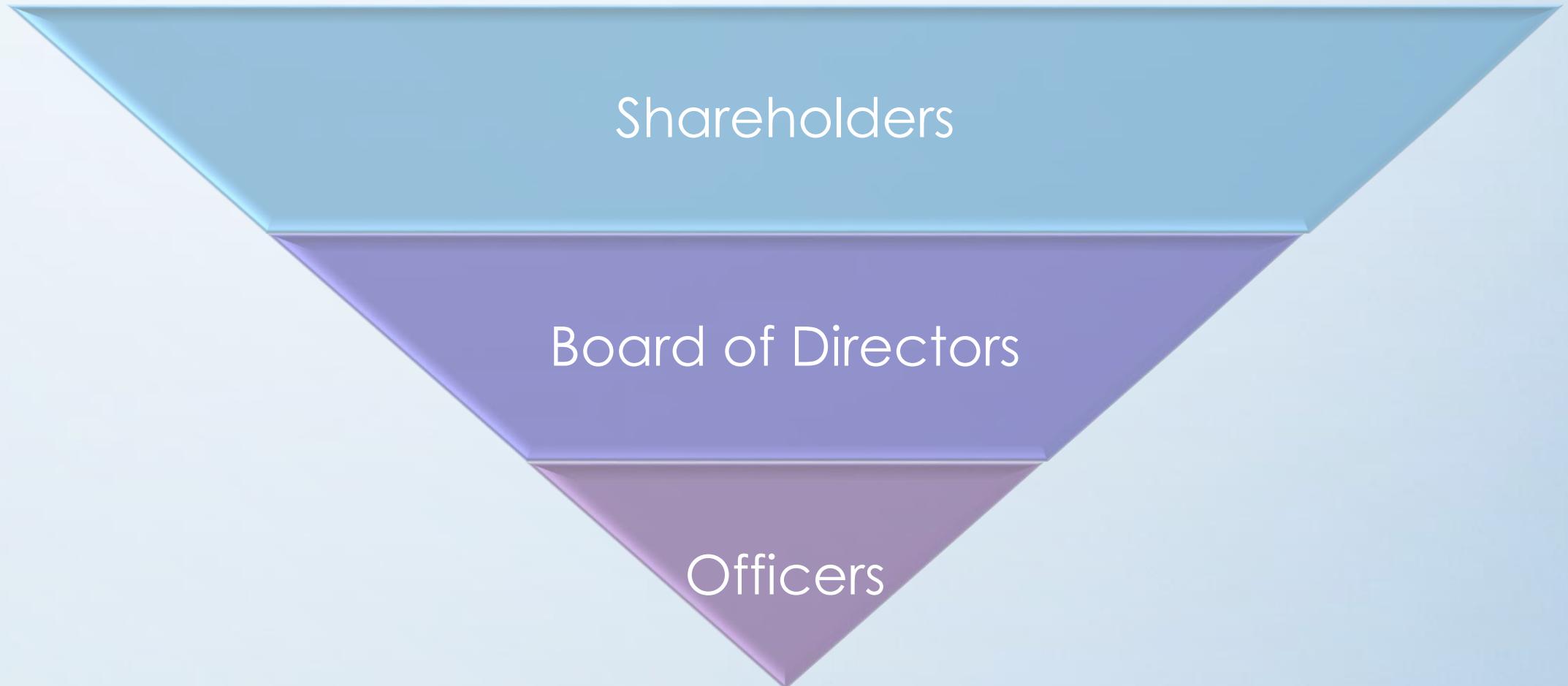


Why Incorporate?

- Create a plan for how your company will work together
- Organize under a single entity for managing assets (intellectual property, talent, physical assets)
- Have a graceful exit strategy if things don't work out



The Corporate Form



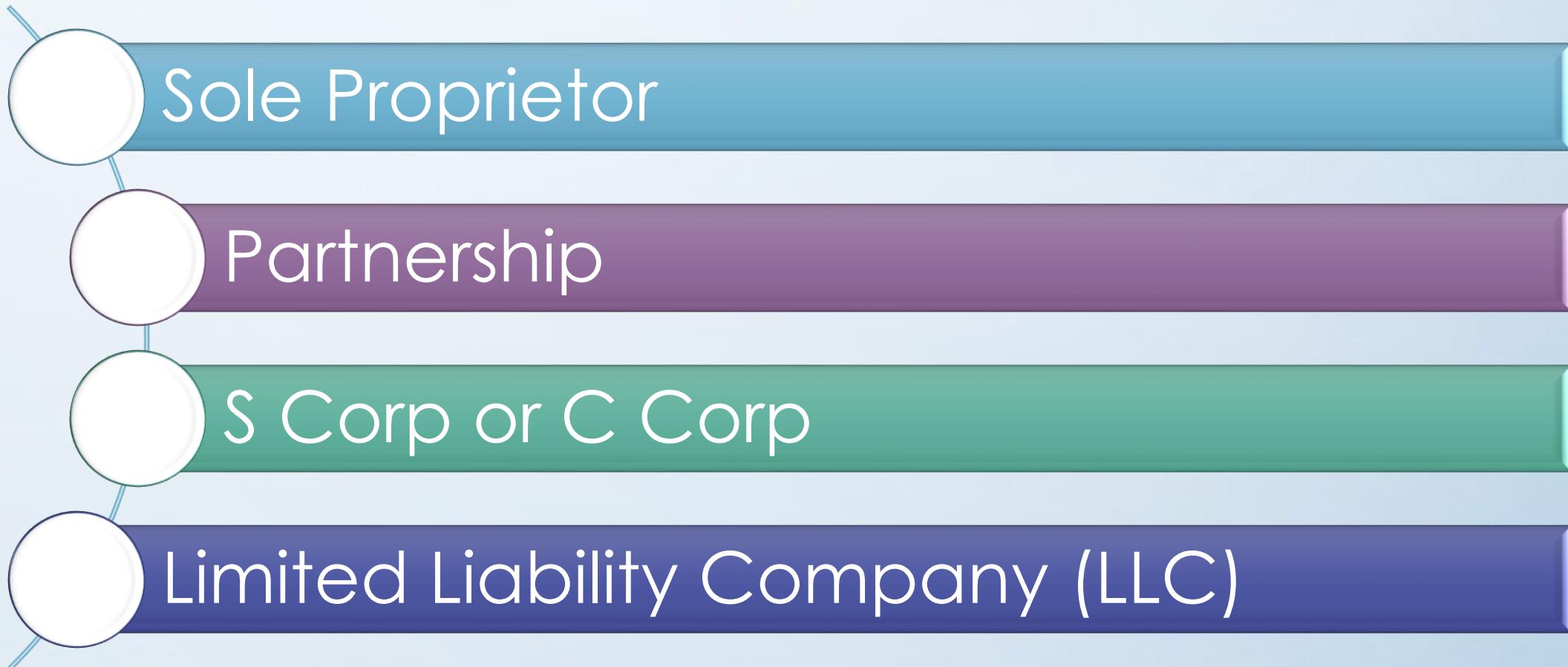
The Corporate Form

6 Traditional Aspects of a Corporation

1. Entity status (can sue, sign contracts, own property)
2. Free transferability of ownership assets
3. Limited liability (in some cases)
4. Continuity of existence
5. Centralized management
6. Taxation (can be double)



Types of Business Entities



Types of Business Entities

Sole Proprietor

Structure:

Single owner only
(default if you run your own business)

Liability/Tax:

- Unlimited personal liability
- Entity not taxed, P&L passed on to sole proprietor

Advantages:

- Easy and cheap
- One decision maker

Disadvantages:

- Liability
- Growth can be a challenge

Types of Business Entities

Partnership

Structure:

Two or more partners

Liability/Tax:

- All partners are jointly and severally liable
- Entity not taxed, P&L passed on to partners

Advantages:

- Easy and cheap
- Split decision making, equal management

Disadvantages:

- Liability
- Need to find good partner(s)

Types of Business Entities

C Corporation

Structure:

Two or more shareholders

Liability/Tax:

- No personal liability
- Double taxation

Advantages:

- Raising funds

Disadvantages:

- Administration
- Organization up front
- Taxes

Types of Business Entities

S Corporation

Structure:

Up to 75 shareholders

Liability/Tax:

- No personal liability
- Entity not taxed, P&L passed on to members

Advantages:

- Raising funds
- Taxes

Disadvantages:

- Administration
- Organization up front
- Regulation

Types of Business Entities

LLC = Limited Liability Company

Structure:

One or more operators (or "members")

Liability/Tax:

- No personal liability
- Entity not taxed, P&L passed on to members

Advantages:

- Raising funds
- Taxation

Disadvantages:

- Administration
- Organization up front
- Newer form

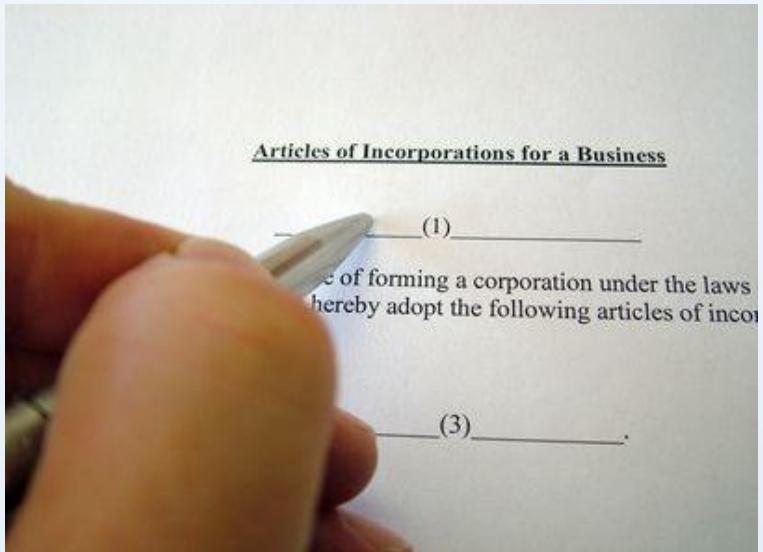
Corporate Formation

Choose a name that is:

- Memorable
- Easy to spell
- Domain name available or available for purchase at a price you're willing to pay
- Not owned by someone else (unless they are willing to sell for reasonable price)
- A strong mark (trademark spectrum)
- Not likely to confuse consumers (trademark law)



Corporate Formation



1. Pick your state
2. File your certificate/articles/charter with the Secretary of State
3. Draft your bylaws (the internal rules for how the corporation works)

Then start ***acting like a business entity*** by...

- Following corporate formalities
- Keeping corporate assets separate from personal assets
- Paying corporate taxes

Non-compete Agreements



Definition: Agreement by an employee not to engage in certain competing activities during employment and for a period of time after employment (not enforceable in all states)

Tip: When setting up a new business entity, it is a good idea to make sure that none of the participants have non-compete agreements that would stop them from being able to do their jobs.

Independent Contractors

Business entities may utilize both employees and independent contractors. Independent contractors generally...

- Work only as needed, when required
- May set their own schedule
- Can control workflow, set rates, work for multiple employers
- Do not benefit from company paying for benefits, taxes, and insurance
- May not qualify for unemployment if work dries up

Independent Contractors

The Washington Test: To be an independent contractor the worker must...

1. Be free from the direction and control of the company/employer
2. Perform a service that is outside the regular course of business for the company or perform a service that is away from the business location
3. Maintain her own set of books/record for business income and expenses
4. Meet the IRS 20-point test

Checklist for Starting a Game Company

- Formation—create legal entity, determine core owners, create legal documents, rules and bylaws (or operating agreement)
- Operations—office space (not necessary at first), equipment, accounting, project management, staffing
- Marketing/Branding—vendor relationships, market analysis/planning, capital

