General Partnership (GP)

> **Important**
>
> **Definition 3.1**: General Partnership
>
> A general partnership is formed between **two or more persons** that agree to carry on as **co-owners** of a business **for profits**.

The key characteristics are

1. Two or more persons
2. Co-owners
3. For profits

In important decision-makings of a general partnership, the law requires an unanimous decision of **ALL parties**. This includes

- Changing the entity of the partnership (to LLC, LP, Corp, etc.)
- Adding and removing partners

All partners are **agents** of the partnership, which means they have **apparent authority** in daily operation.

Joint and Several Liability

> **Important**
>
> **Definition 3.2**: Joint and Several Liability
>
> All parties are **ALL responsible** for the debt. The total debt is shared between partners, meaning that any one partner can be made to pay 100% of liability or debt of the partnership.
>
> A wronged party may sue any or all of them, as well as collect the total damages awarded by a court from any or all of them.

There is also **NO separation** between personal assets and business assets. The distribution of profits and losses are also **EQUAL** among partners, regardless of capital contribution.

GP follows the pass-through taxation model.

Tax Structure

There are two main structures by which business are taxed: **pass-through** and **corporation** (double taxation).

Pass-Through Taxation

> **Important**
>
> **Definition 3.3**: Pass-Through Taxation
>
> **Businesses do not pay taxes on the entity level**. Instead, the income passes to the owners of the business who pays personal income taxes for their share of the business.

This is often times more preferred by small businesses.

> **Important**
>
> **Definition 3.4**: Corporate Taxation
>
> The company pays the taxes on its **annual profits** first. Then, after the company pays its **dividends** to shareholders, shareholders pay a second tax.

This is, however, more predictable for businesses as they have 100% control over when to distribute income and thus when to get taxed. In general, this is more **expensive**.

Limited Liability Company (LLC)

> **Important**

Definition 3.5: Limited Liability Company

A Limited liability company (LLC) is **a business structure that offers limited liability protection and pass-through taxation**. As with corporations, the LLC legally exists as a separate entity from its owners.

To become an LLC, members need to file an **operating agreement** to the state, which isn't needed by GPs.

It is a **members-owned** business that is managed by **managers**, whom are elected by **members**. Members play a **minimum role** in the operation.

- **Managers** are in charge of management-level affairs
- **Officers** are elected by managers, who take care of day-to-day operations

Limited Liability

Important

Definition 3.6: Limited Liability

Limited liability is a business law principle that shields individual shareholders from liability for debts owed by a business entity to the extent of **the shareholder's investment in the entity**.

An LLC is really a partnership with the extra perk of **limited liability**.

- Hybrid corporation + partnership

Limited Partnership (LP)

Important

Definition 3.7: Limited Partnership

Limited partnership (LP) is a type of partnership organization that limits the personal liability of **limited partners**.

There are two types of partners in an LP: general partners and limited partners. General partners are exactly like a partner in a GP, whereas a limited partner has limited liability, but has **NO control** to the business as a trade-off.

Laws require that there should be **AT LEAST** one general partner and one limited partner.

Benefit Corporations

Important

Definition 3.8: Benefit Corporations

A **benefit corporation** is a type of **for-profit** entity that includes **positive impact on society**, workers, the community and the environment in addition to profit as its legally defined goals, in that the definition of "best interest of the corporation" is specified to include those impacts.

The key characteristics are

1. For-profit
2. Specific public benefit goals

Note that there is inherent trade-off between (1) and (2). Benefit corporations have dual purposes.

Being a benefit corporation allows company to promote their public image and also attracts more interests in their actions.

Warning

Benefit corporations are **NOT** equivalent to B Corp.

B Corps are companies who meet verified standards of social and environmental impact through the B Impact Assessment, commit to transparency requirements related to their business' impact and operations, and commit to being legally accountable to all of their stakeholders.

- One way for B Corps to fulfill the legal accountability requirement of the certification is to become a benefit corporation.

Non-Profit Corporation (501c3)

Important

Definition 3.9: Non-Profit Corporation

Nonprofit groups with a dedicated mission. It serves a single purpose that is to serve socially. There are **NO** shareholders or owners.

501c3 organizations "own itself" and raise money primarily through **donations**.

- These organizations are **tax-exempt**
- Donors also get a tax deduction

Limited Liability Partner (LLP)

Important

Definition 3.10: Limited Liability Partner

Limited liability partnership (LLP) is a type of **general partnership** where every partner has a **limited personal liability** for the debts of the partnership. Partners will **NOT be liable** for the tortious damages of **other partners** but potentially for the contractual debts depending on the state.

This structure only applies to certain jobs and professions, however.

- Law firms, accounting firms, etc.

Summary: Personal Liability

Refer to the chart below for claims related to **personal liability**.

Type	Corporations (S, C, Benefit)	General Partnership	Limited Partnership	LLP	LLC
Most liability (unlimited personal liability for owners)		All owners (all partners)	Owners who are general partners		
Medium liability (no personal liability for owners for company's debts or malpractice of another owner)				All owners (partners)	
Least liability (no personal liability for being an owner)	All owners (shareholders)		Owners who are limited partners		All owners (members)

Corporation

We will now discuss the elephant in the room - the most common and easiest way to finance an organization - incorporation.

Incorporation

Again, note that corporate laws are **state laws**. Thus, choosing the **state** in which to incorporate becomes a significant decision.

- An organization can incorporate virtually anywhere in the U.S.
- Delaware (for tax benefits, privacy, expediency, and simple structure of corp court)
- California (friendly for shareholders)
- Home state

As previously mentioned here, companies incorporated in a different state than home may be subject to personal jurisdiction in that state as part of its citizenship.

- Hence, only larger companies are incentivized to do so

To incorporate, an organization would simply need three things.

1. Articles of incorporation
2. Bylaws

3. Submit (1) online, pay a fee of roughly $140

Roles in Corporation

- Shareholders
  - Elect directors
  - Approve M&A deals, sale of assets
- Board of Directors (Board)
  - Manage **overall business** and its affairs
  - This includes CEOs
  - Key responsibilities:
    - Select and compensate officers.
    - Make major decisions (e.g. mergers)
    - Maintain risk management systems
- Officers
  - Manage day-to-day operations
  - This could also include CEOs, in which case there are referred as an **inside officer**

Note that the vocabulary we're using here is very similar to that of LLC.

Piercing the Corporate Veil (Invalidate)

We may sometimes find organizations taking advantage of the limited liability of being an corporation for personal benefits. To pierce through such corporate veil, we would need ALL of the three items.

1. Evidence of co-mingling (financial wrongdoings)
2. Failure to follow corporate formalities (basic laws)
3. Controlling or dominating shareholders

Owners can't have **POWER** and **LIMITED LIABILITY** at the same time. This applies to all entities with a limited liability structure: LLC, LP, etc.

- Inherent trade-off

When this happens, the owners' **personal assets** can be used to satisfy business debts and liabilities.

Voting

In general, there are three types of shares that have implications over their voting rights.

- Common share (1 share = 1 vote)
- Super-voting share (1 share = 10 votes, e.g.)
- No-voting share ($\emptyset$)

These groundworks need to be established in a corporation's bylaws, however. Each company can take on a different voting system.

Cumulative Voting, Straight Voting

> **Important**
>
> **Definition 3.11**: Cumulative and Straight Voting
>
> Under the straight voting scheme shareholders elect directors by a **majority vote**. Each share of stock has one vote. Each share is entitled to vote for each member of the board being elected.
>
> Cumulative voting combats the **dominance of a majority** shareholder in straight voting. In cumulative voting a shareholder has a total number of votes equal to the number of shares $\times$ the number of seats. The shareholder can cast these votes all for one director position or spread them out.

Board Structure

- Classified board
  - Typically consists of **three classes of directors** who serve **staggered three-year terms**
  - Start-ups (More director power)
- Declassified board
  - Directors of a declassified board are elected **annually**.
  - Mature incorporations (More shareholder power)

Proxy Access, Proxy Contest

A proxy vote is a ballot cast by one person or firm on behalf of another. Proxy votes are used by shareholders when they want someone else to vote on their board.

> **Important**
>
> **Definition 3.12**: Proxy Access

Proxy access gives **eligible shareholders** the power to **nominate** a number of director candidates for inclusion in the company's proxy materials.

The eligibility is that the shareholder must have owned the company's shares for more than three (3) years and more than 3% of the shares.

Important

Definition 3.13: Proxy Contest

A proxy contest is when a shareholder or group of shareholders undertake an effort to convince other shareholders to develop opposition to some aspect of the corporate governance.

This is done in form of a **writing campaign** through sending out unofficial **proxy cards** to shareholders in an attempt to replace the company's official proxy.

Proxy contest can be initiated by anyone as long as they have **ONE** (1) share in the company.