

PLLC – Yes or No?

Hello,

My accountant advised me to set up as a PLLC. I wanted to check on the group's thoughts on this. Suggested? Anything to look out for?

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Won't protect you from malpractice (at least in CA, probably the same rule in your state). Might be beneficial if you have an office space where you have clients visit you and you need liability protection.

If coming from your accountant, there might be some tax benefits if you elect a S or C-corp taxation. All depends on your numbers.

Dan X. Nguyen, California

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You can be a PLLC with S Corp designation. It protects against company liability, not malpractice which is personal.

Mitchell Goldstein, Virginia

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Will you be a single member S Corp?

You will save you on self-employment taxes. Your actual take home pay may rise.

For example, about 1/3 of what I do is representing children. I have to drive to meet them. As an S Corp I am reimbursed monthly at the IRS rate.

If I was not incorporated, I would have to wait until tax time to take it as a deduction. There are limits to where this makes sense income wise.

I can email you a thorough info packet done by a CPA.

P. Jayson Thibodaux

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- Tax wise,

Basically one member PLLC is the same as being a sole proprietor (unincorporated) hence no advantage.

As noted, there may be an advantage to being a 'professional corporation'

(PC with subchapter 'S' election) in the form of deductions, self-employment taxes and profit taking where the corporation would issue you a reasonable salary, taxed as such, and the remainder taken as a profit taxed as capital gains. There is cost associated with going this route in the form payroll services, quarterly deductions, workers comp insurance etc.

- Limited Liability,

Liability wise, both a PLLC and a PC will provide limited liability in connection with business liabilities such as office lease, slip and fall in the office, bills assumed by the firm. An incorporation will NOT relieve an attorney from malpractice.

If an accountant is advising to setup a one member PLLC because of taxes, I would consider getting a second opinion or replacing that accountant. If the accountant is giving you legal advice as far as liabilities and other legal "benefits" of incorporation, I'd be weary of an accountant who's giving legal advice.

Roman R. Fichman

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I agree with Roman. Get a new accountant.

The whole point of a PLLC is to protect you from your partners' malpractice. No entity can limit your own malpractice liability.

If you don't have/don't plan on getting partners the PLLC is useless compared to an LLC.

Also, accountants drafting operating agreements or bylaws are guilty of UPL.

D. Mathew Blackburn, Colorado

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I should note that the UPL part is mostly opinion. I don't actually know the UPL laws of all 50 states.

D. Mathew Blackburn

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Thank you, everyone. There was never a suggestion that malpractice wouldn't apply and no offer to create documents for me.

Original Poster

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So what is the difference between a PLLC and an LLC? Either way, a professional cannot limit liability for malpractice.

Mitchell P. Goldstein

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A PLLC is just the approved version of the LLC for professionals, such as attorneys. Your statement about professionals not being able to limit liability for malpractice is true as far as the individual attorney committing malpractice, but if that attorney is in a firm with a couple of other lawyers, the PLLC entity will allow the other attorneys (the ones who didn't commit malpractice) to protect their personal assets from a malpractice claim, which is not the case in a general partnership.

Kevin W. Grierson, Virginia

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I have to admit that I did not think about the malpractice of partners in a practice (mostly because I was a solo when I was in private practice). The tax implications are still no different for an attorney than any other company. Sometimes, being an entity helps with taxes. I went with PC and sub-S for tax reasons. Since it was just me, I saved some on my taxes. A PLLC with sub-S can achieve the same outcome (or so I am told).

Mitchell P. Goldstein