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Chapter 1 : News, Tips, and Advice for Technology Professionals - TechRepublic

Disgruntled Employees As a business owner, this will be one of the most common legal headaches. In America, employees have far more rights than other countries, in the form of unions and reasons for "wrongful termination".

From house call businesses to family practices, nurse practitioners are establishing themselves as business owners in the healthcare industry. Working with nurse practitioners to form their own practices is an exciting experience, but also one that many nurse practitioners find intimidating. The many rules and regulations in healthcare, even beyond the issues of owning your own business, can make for a daunting process. In addition, being a nurse practitioner creates some specific legal and regulatory issues that other providers might not have to deal with. Nevertheless, by planning ahead, you can ensure success for your organization. If you have ever thought about forming your own practice as a nurse practitioner , checkout the 5 issues you should keep in mind when developing your business plan. Collaboration and Supervision Requirements Nurse practitioners in many states, but not all states, may have certain laws that restrict their practice related to collaboration or supervision. From the onset, you need to analyze whether such collaboration or supervision requirements will impede your ability to run a successful practice. In Indiana for example, the collaboration requirements are less stringent and nurse practitioners are able to own and operate their practices with minimal physician involvement. However, even if your laws are less stringent , you may be put in a position in which you have to pay a physician to collaborate with you. This alone can cause headaches for practices, whether it relates to excessive fees or the availability of collaborating physicians. If addressed appropriately, these concerns can be minimized. Nevertheless, you need to have an understanding of these collaboration or supervision requirements, on both a Federal and state level, to ensure you can operate your practice efficiently and provide care to your patients. Practice Type If you have an adequate understanding of the collaboration or supervision requirements in your state, or if your state offers full practice authority for nurse practitioners , then the next issue you need to address is what your practice might look like. This has two prongs. First, you need to analyze the types of services you will offer. This could include opening up a practice focused on dermatology, house calls, urgent care, or family practice. A common trend is opening up a practice focused on holistic care. Whatever your focus area will be, you need to ensure that there is a market for the services you hope to offer. In the vast majority of cases, this is not an issue but something you should be considering. Second will your practice consist of various providers or will you be a solo practice? The benefits of a solo practice include the ability to ensure control and autonomy. In addition, many solo practitioners experience high levels of personal satisfaction. However, a group practice offers sharing of financial risk and collaboration among other professionals. Either practice type can be extremely successful, but it is important to understand the best practice type to ensure success in your organization. Often, nurse practitioners may be starting out on their own as a solo practice. In those cases, I often advise clients to think about operating as a limited liability company or a professional organization. However, if you are forming a practice with other providers such as another nurse practitioner or physician, a partnership or various forms of professional corporations may be a good option. Above all, forming a legal entity becomes necessary to protect your company and personal assets, while also offering various tax advantages and legitimacy to your organization. For example, most limited liability company organizations and corporations offer various tax benefits that would otherwise not be available to an individual acting as a sole proprietor without forming a legal entity. There are numerous options for legal entity formation; however it is an issue that should be addressed at the onset of your venture. Insurance and Managed Care When running a practice, the key to ensuring your organization receives income comes down to the insurance companies. Managed care contracts specifically. Nurse practitioners thinking about forming their own practices need to ensure that the managed care organizations credential nurse practitioners. In my experience, the vast majority do and this is only increasing. In short, this means nurse practitioners can participate with insurers through a contract that defines the fees you will receive for certain services. Managed care organizations include health maintenance organizations, preferred provider organizations, Medicare, and Medicaid. Choosing which networks to participate in can be a process, but ultimately this process dictates how you will get paid for services. A growing trend for many nurse practitioners is opting out of Medicare. This is not a decision to take lightly, but on that should be analyzed on a case by case basis. Above all, you should ensure that organizations will reimburse you for services and you should actively negotiate these contracts to ensure you receive the most favorable rates. Location The location of your practice is also a central issue that you should think about. When I was working with a nurse practitioner to form her own practice, we discussed various areas in which she would create a practice location. The factors in the location come down to competition, demographics, availability of space, and economic factors such as payer mix. For example, by placing your practice location in a high income area or suburb, you will have the advantage of many privately insured patients but also more competition. Location is also dependent on the type of practice you intend to operate. Many nurse practitioners specializing in dermatology tend to focus on high income areas in which the majority of your potential patients have ready access to insurance. On the other hand, nurse practitioners specializing in family medicine have more flexibility in that the mix of insured patients private vs. Regardless, nurse practitioners looking to form their own practices should focus on these various factors when analyzing their location. Forming your own practice , or a practice with other nurse practitioners or physicians can be a rewarding process. Although it might seem daunting, by analyzing these issues from the beginning, you can ensure you make the right decision for you and your patients. He regularly works with nurse practitioners across the country on healthcare law issues, in addition to counseling health systems, hospitals, and other medical providers. Please feel free to contact him by email, or connect with him on LinkedIn. This article is for informational purposes only and should not be considered legal advice. If you have specific legal questions, please contact your attorney. In some jurisdictions, this article is considered attorney advertising.

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A limited liability company (LLC) offers protection from personal liability for business debts, just like a corporation. While setting up an LLC is more difficult than creating a partnership or sole proprietorship, running one is significantly easier than running a corporation. A limited liability.

Forms of Ownership Likely at the same time you are exploring names for your business , you may be thinking about the structure your business will take. Here is a summary of the options you have as presented by the U. Small Business Administration , visit the site for a breakdown of advantages and disadvantages of each option. Most small businesses start out as sole proprietorships. Sole proprietors own all the assets of the business and the profits generated by it. They also assume complete responsibility for any of its liabilities or debts. In a sole proprietorship, you are one in the same with the business. A partnership requires two or more people who share ownership of a business. Like proprietorships, the law does not distinguish between the business and owners. The partners should have a legal agreement that outlines how decisions will be made, profits will be shared, disputes will be resolved, how future partners will be admitted to the partnership, how partners can be bought out, and what steps will be taken to dissolve the partnership when needed. A corporation chartered by the state in which it is headquartered is considered by law to be a unique entity, separate and apart from those who own it. A corporation can be taxed, it can be sued, and it can enter into contractual agreements. The owners of a corporation are its shareholders who elect a board of directors to oversee the major policies and decisions. An LLC is a mix of structures, combining the limited liability features of a corporation and the tax efficiencies and operational flexibility of a partnership. LLCs must not have more than two of the four characteristics that define corporations: Your business structure will determine how your business is organized, how you are taxed and how the business is managed. Some towns also require a special zoning permit if you will be conducting business out of your home. A call your town clerk can help you determine what the requirements are and what the fee for registering will be. As with determining your business structure, you may benefit from consulting an attorney as you navigate the list of required licenses and registrations. Taxes Your form of business will determine how you file your income tax returns, and you may be required to file estimated tax returns and pay estimated taxes quarterly. This is where the assistance of an accountant is invaluable. Here are the four general types of business taxes: All businesses except partnerships must file an annual income tax return partnerships file an information return. The form you use depends on how your business is organized. The federal income tax is a pay-as-you-go tax. You must pay the tax as you earn or receive income during the year. Self-employment tax is a social security and Medicare tax primarily for individuals who work for themselves. Your payments tax contribute to your coverage under the social security system. If you have employees, you as the employer have certain employment tax responsibilities that you must pay and forms you must file, including: Specific excise taxes include environmental taxes, communications and air transportation taxes, and fuel taxes. Since my experience in business is U. If you have resources for the legalities of starting a business in another country, please add them to the comments. This post is a guide of some legal considerations related to starting a business and should not replace advice from an attorney, accountant or other professional.

Chapter 3 : What Are the Major Ethical Issues Business People Face? | racedaydvl.com

A limited liability company (LLC) is a popular business structure combining aspects of both corporations and partnerships. Here you will learn when forming an LLC makes sense, how to form an LLC in your state, what to put in an LLC operating agreement, and how LLCs are taxed.

By Nellie Akalp With each new year, budding entrepreneurs look to turn their vision into a business. Yes, company filings and regulations are not the most exciting parts of your startup. Did You Pick a Name? Then, take your search to the next level and conduct a no-conflict, free trademark search to see if your name is available for use in all 50 states. Patent and Trademark Office , you should also do a comprehensive search into all state and local databases look for an affordable online service to help you with this. You may need one, too. For example, my company is officially incorporated as CorpNet, Inc. Each business structure has its own advantages and disadvantages, depending on your specific circumstances. Three popular options are: And one other word of advice, Delaware and Nevada are two popular states for business incorporation. Learn About Employee Laws Your legal obligations as an employer begin as soon as you hire your first employee. You should spend time with an employment law professional to fully understand your obligations for these and other procedures: Obtain the Necessary Business Permits and Licenses Depending on your business type and physical location, you may be required to have one or more business licenses or permits from the state, local or even federal level. Using a name instantly gives you common law rights as an owner, even without formal registration. Registering a trademark makes it exponentially easier to recover your properties, like if someone happens to use your company name as their Twitter handle. Having the right documentation means you have the legal right to that handle, and Twitter will take steps to give it to you. Open a Bank Account to Start Building Business Credit When you rely on your personal credit to fund your business, your personal mortgage, auto loan and personal credit cards all affect your ability to qualify for a business loan and for how much. Using business credit separates your personal activities from that of the business. To begin building your business credit, you should open a bank account in the name of your company, and the account should show a cash flow capable of taking on a business loan. Get Your Legal Ducks in a Row No matter how busy things with your startup get, set aside some time to address these matters and take your legal obligations seriously. Getting your legal ducks in a row right from the start will help you avoid any pitfalls down the road, and will help you scale your business successfully as you grow.

Chapter 4 : What is an LLC? | racedaydvl.com

Startup Legal Issues. While a lot of entrepreneurs at least have a basic understanding of the law, most of them fail to think about the legal implications of starting a company.

History[edit] The first state to enact a law authorizing limited liability companies was Wyoming in The form did not become immediately popular, in part because of uncertainties in tax treatment by the Internal Revenue Service. By , all 50 states had LLC statutes. As long as it remains within the confines of state law, the operating agreement is responsible for the flexibility the members of the LLC have in deciding how their LLC will be governed. The limited liability company "LLC" has grown to become one of the most prevalent business forms in the United States. Even the use of a single member LLC affords greater protection for the assets of the member, as compared to operating as an unincorporated entity. Auriga Capital Corp , [18] parties to an LLC remain free to expand, restrict, or eliminate fiduciary duties in their LLC agreements subject to the implied covenant of good faith and fair dealing. Section 7 , a Delaware LLC operating agreement can be written, oral or implied. It sets forth member capital contributions, ownership percentages, and management structure. Like a prenuptial agreement, an operating agreement can avoid future disputes between members by addressing buy-out rights, valuation formulas, and transfer restrictions. The written LLC operating agreement should be signed by all of its members. Thus, income from the LLC is taxed at the individual tax rates. The default tax status for LLCs with multiple members is as a partnership, which is required to report income and loss on IRS Form Thus, more tax savings often result if a business formed as an LLC rather than a corporation. Some commentators have recommended an LLC taxed as a S-corporation as the best possible small business structure. It combines the simplicity and flexibility of an LLC with the tax benefits of an S-corporation self-employment tax savings. An LLC can elect to be taxed as a sole proprietor , partnership, S corporation or C corporation as long as they would otherwise qualify for such tax treatment , providing for a great deal of flexibility. S corporations may not specially allocate profits, losses and other tax items under US tax law. The owners of the LLC, called members, are protected from some or all liability for acts and debts of the LLC, depending on state shield laws. In the United States, an S corporation has a limited number of stockholders, and all of them must be U. Much less administrative paperwork and record-keeping than a corporation. Using default tax classification, profits are taxed personally at the member level, not at the LLC level. LLCs in most states are treated as entities separate from their members. However, in some jurisdictions such as Connecticut, case law has determined that owners were not required to plead facts sufficient to pierce the corporate veil and LLC members can be personally liable for operation of the LLC see, for example, the case of Sturm v. Harb Development [26] LLCs in some states can be set up with just one natural person involved. Less risk of being "stolen" by fire-sale acquisitions more protection against "hungry" investors. For real estate companies, each separate property can be owned by its own individual LLC, thereby shielding not only the owners but their other properties from cross-liability. Unlike state laws regarding stock corporations, which are very well developed and provide for a variety of governance and protective provisions for the corporation and its shareholders, most states do not dictate detailed governance and protective provisions for the members of a limited liability company. Thus, in the absence of such statutory provisions, the members of an LLC must establish governance and protective provisions pursuant to an operating agreement or similar governing document. It may be more difficult to raise financial capital for an LLC as investors may be more comfortable investing funds in the better-understood corporate form with a view toward an eventual IPO. One possible solution may be to form a new corporation and merge into it, dissolving the LLC and converting into a corporation. In essence, this franchise or business privilege tax is the fee the LLC pays the state for the benefit of limited liability. The franchise tax can be an amount based on revenue, an amount based on profits, or an amount based on the number of owners or the amount of capital employed in the state, or some combination of those factors, or simply a flat fee, as in Delaware. This is paid as: In most states, however, the fee is nominal and only a handful charge a tax comparable to the tax imposed on corporations. Renewal fees may also be higher. The fee is zero for non-stock corporations. In addition, certain states, such as New York, impose a publication requirement upon formation of the LLC which requires that the members of the LLC publish a notice in newspapers in the geographic region that the LLC will be located that it is being formed. For LLCs located in major metropolitan areas e. The management structure of an LLC may not be clearly stated. Unlike corporations, they are not required to have a board of directors or officers. This could also be seen as an advantage to some. The principals of LLCs use many different titlesâ€”e. Usually, professions where the state requires a license to provide services, such as a doctor , chiropractor , lawyer , accountant , architect , landscape architect , or engineer , require the formation of a PLLC. Exact requirements of PLLCs vary from state to state. In addition, the limitation of personal liability of members does not extend to professional malpractice claims. For example, a series LLC that purchases separate pieces of real estate may put each in a separate series so if the lender forecloses on one piece of property, the others are not affected. An L3C is a for-profit, social enterprise venture that has a stated goal of performing a socially beneficial purpose, not maximizing income. It is a hybrid structure that combines the legal and tax flexibility of a traditional LLC, the social benefits of a nonprofit organization, and the branding and market positioning advantages of a social enterprise. This is typically accomplished by using a third-party to act as the organizer and registered agent of the LLC.

Chapter 5 : 5 Issues to Consider When Starting Your Own Nurse Practitioner Practice | MidlevelU

Advance Notice. The Federal Worker Adjustment and Retraining Act requires businesses with more than employees to give workers 60 days' notice before laying off 50 or more workers.

Leo Sun As an owner of a small business, the danger of crippling litigation should also be at the top of your priorities. Here are some of the most common legal issues facing small businesses in America. Disgruntled Employees As a business owner, this will be one of the most common legal headaches. In America, employees have far more rights than other countries, in the form of unions and reasons for "wrongful termination". If you terminate a non-performing employee, make sure he or she signs documents carefully drafted by an attorney upon termination to make the terms of dismissal crystal clear. Letting an employee go without any final termination forms leaves the door wide open for legal actions. Make sure your human resources and legal departments are well equipped to handle these issues should they arise. Hold regular meetings to oversee co-worker relations and insure that discrimination on a smaller scale is not occurring between office cliques, or influencing the decisions of middle and lower managers. Harassment - sexual, racist or otherwise - can be a serious problem in an integrated workplace with workers from various ethnic and religious backgrounds and social classes. Regular meetings and interviews with staff will allow your managers to police these transgressions, which should be eliminated quickly through the swift termination of offenders. Be proactive and stomp out these problems before they start. Copyright and Patent Issues Cutting edge companies in the tech industry often face aggressive patent litigation. Companies often sit on patents for years, hoping that another company inadvertently violates them, to get easy money through patent and copyright lawsuits. Dissatisfied Customers Customers who are dissatisfied can file class action lawsuits against your company, in which they gather in large consumer groups and attack your company over faulty products, services or promises. Again, be proactive and keep a finger to the pulse of your customers through tech support, online message boards and e-mails. Promptly issue recalls for flawed products and be prompt to address customer issues. Other Legal Issues These are only some of the most common legal issues facing small businesses today. Other ones include tax litigation a whole other topic and legal disputes with competitors and contractors. Make sure you are proactive in solving these problems before they start, and make sure you have a solid legal team to back you up should you get sued. Good communication in the workplace and a hands-on approach to management is the best deterrent to legal issues. You Also Might Like

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LCA FILM AND LAW SEMINAR 3 each type of entity. Setting up an Illinois corporation or LLC is a relatively simple process that involves filing certain forms with the Illinois Secretary of State which.

An individual who operates a business as a sole proprietorship without forming an entity will be directly taxable on the business income and gain, and may, subject to certain limitations, be able to offset other income and gain with the loss and deduction from the business. Two or more individuals who operate a business without forming an entity will nevertheless be taxed as a partnership. Partnerships themselves are not subject to income tax though they are required to file an income tax return. Rather, income, gain, deductions and loss generated by the partnership are reported by each partner on his or her federal and state tax returns as allocated by the partners. Operating through an entity can also facilitate changes in ownership and investments by others. While there are numerous non-tax factors to consider when choosing which form of entity to use, there are also many tax considerations. For example, for tax purposes, corporations may be classified as C corporations or S corporations. C corporations are separate taxable entities for federal and state income tax purposes. A C corporation pays an entity-level tax on its income and gain and only the C corporation may take advantage of any loss and deduction it generates. Unlike a C corporation, an S corporation is not a separate taxable entity for most federal and state income tax purposes. There is no tax upon the distribution. Not every corporation, however, is eligible to be an S corporation. An LLC is like an S corporation in that it is not a separately taxable entity for most federal and state income tax purposes. If an LLC has only one member it is generally taxed like a sole proprietorship. If it has more than one member it is generally taxed under the rules applicable to partnerships. As with S corporations, the owners are not taxed when the previously taxed income and gain is later distributed. While overall income tax burden on a business is an important factor, there are other important non-tax differences between C corporations, S corporations and LLCs. While some of the tax considerations described in this article may tip the balance when choosing an entity under particular facts and circumstances, it is difficult to know exactly which form will result in the lowest overall tax burden. It is possible, however, to be aware of the major tax differences to avoid surprises and prepare accordingly. This article summarizes some of these differences in three broad categories: These are not addressed in this article. Income and gains earned by flow-through entities, like S corporations and LLCs, are generally taxed only once - to the owners when earned. Certain high income shareholders may be subject to NIIT on dividends. Some states do not recognize the federal S election or may impose a special entity-level tax on S corporations. For example, Massachusetts imposes an entity-level tax on large S corporations. Default tax status for a single member LLC is a disregarded entity; default tax status for a multi-member LLC is a partnership. State tax treatment varies. Massachusetts follows the federal classification. Qualification Requirements As a general rule, any person or entity can be a shareholder of a C corporation. S corporation status is available only for certain types of businesses and owners. Certain types of investors including most VCs , while permitted to be LLC owners, may be reluctant to invest directly in an LLC taxed as a partnership without additional tax planning. C corporation - No restrictions as to owners or type of businesses. In addition, certain corporations, such as certain financial institutions, insurance companies, and domestic international sales corporations, are ineligible to be S corporations. Must make an election on Form with the consent of all the shareholders before the 16th day of the third month of the taxable year. Can have up to shareholders. Spouses and their estates and all members of a family and their estates may be treated as one shareholder. Shareholders may not be C corporations, nonresident aliens, or partnerships. US citizens resident aliens and estates may be owners. Certain trusts and exempt organizations may be owners. Only one class of stock is allowed, but differences in voting rights are permitted. However, foreign and tax-exempt investors may be reluctant to be members of an LLC due to concerns about U. Taxable Year Tax advantages may be available by using a fiscal year, i. Use of a fiscal year by S corporations and most LLCs taxed as partnerships is limited. The choice of a fiscal year may provide the benefit of deferral of income. Method of Accounting As with the ability to choose a fiscal year, the ability to choose a method of accounting may be tax advantageous. The ability to utilize the cash method of accounting may provide the benefit of deferral of income. Other restrictions, such as those pertaining to inventories, may apply. Accrual method required if S corporation is a tax shelter. An S election by a cash method corporation will trigger built-in gains tax on the realization of cash basis accounts receivable. Unlike a shareholder in a C corporation, an LLC owner and an S corporation owner though to a more limited extent may include certain business debt in his or her basis. Basis is increased by cash and basis of additional property contributed and by income allocations and decreased by allocations of losses and by distributions. A member receives no basis for the contribution of a promissory note until payments on the note are made. Basis is increased by cash and the basis of additional property contributed and by income allocations; and decreased by allocations of losses and by distributions. Contribution of Property The formation of a corporation or LLC by the contribution of property is typically a tax-deferred transaction. However, the rules applicable to an LLC are more favorable, particularly as related to subsequent contributions of property. Gain may also be triggered to the extent that property is contributed subject to liabilities in excess of the basis of the contributed property. However, liability shifts can give rise to taxable gain. Careful attention must be given to the contribution of encumbered property to an LLC. In addition, payment made to a contributing partner in connection with a contribution of property can cause the contribution to be treated as a partial taxable sale. Limitations on the eligibility of S corporation shareholders must be considered. In addition, the tax treatment of issuing NQOs by LLCs taxed as a partnership is uncertain, and are generally not recommended. All entities may also grant awards under equity-like arrangements, such as phantom stock and equity appreciation plans. Rules under Section A should also be considered. C corporation - ISOs, NQOs, restricted stock, phantom stock and stock appreciation rights and equity-flavored bonus plans available. Capital interests and profits interests also available. Equity-flavored bonus appreciation plans available. Losses The ability of owners to use tax losses generated in a business entity against unrelated income and gain can be desirable. While there are significant restrictions on their use, tax losses generated in an S corporation or LLC may be available for use by its owners. Losses in a C corporation are not available for use by its owners. Net operating losses, in general, may be carried back 2 years and carried forward 20 years. Capital losses may be carried back 3 years and carried forward 5 years by the corporation to offset income earned in those years. Under the passive activity rules, an activity is a passive activity if the shareholder does not materially participate in management. Shareholders who are individuals may carry capital losses forward indefinitely but not back. Shareholders who are individuals may carry ordinary losses back 2 years and forward 20 years. Under the passive activity rules, an activity is a passive activity if the member does not materially participate in management. Members who are individuals may carry capital losses forward indefinitely but not back. Members who are individuals may carry ordinary losses back 2 years and forward 20 years. Distributions of Cash Distributions of earnings by a C corporation to its shareholders are generally taxable. Distributions of earnings by a flow-through to its owners are typically not taxable. Distributions beyond current or accumulated earnings and profits are a non-taxable return of capital to the extent of basis and gain from the sale or exchange of property thereafter. Distributions in excess of basis are treated as taxable gain from the sale or exchange of property and may be subject to NIIT to the extent not attributable to an active trade or business. Any distribution in excess of the accumulated adjustment account is taxed as a dividend to the extent of the C corporation earnings and profits. Distribution of Appreciated Property The distribution of appreciated property by a corporation can trigger a tax to both the distributing corporation and the recipient shareholder. Most distributions of appreciated property by an LLC taxed as a partnership are not taxable. Thus, if distributions of appreciated property are anticipated, an LLC may be preferable. Social Security Taxes Social Security taxes on compensation for services include a One half of both the Social Security component and Medicare component is paid by the C corporation from its own funds. The C corporation gets a deduction for the portion of Social Security taxes it pays from its own funds. The other half is paid by withholdings from employee wages. S corporation - Same as C corporation. Distributions other than the wages to owners of S corporations who are employees are not subject to employment tax. Careful planning can help to minimize employment tax due on amounts earned by a participating owner in an S corporation. A taxpayer may deduct half of the self-employment taxes paid in figuring individual adjusted gross income. Fringe Benefits for Owner-Employees Owner-employees of C corporations may receive a wide array of fringe benefits tax-free from the corporation. For example, in certain jurisdictions, corporations may be eligible for exemptions for which LLCs are not eligible. C corporation - Generally, not subject to local property taxes. S corporation - May be eligible for local property tax exemptions that are not available to LLCs. These exemptions may be particularly important if the business will have significant amounts of inventory, machinery or other personal property. Thus, if a liquidation is anticipated, an LLC may be preferable.

Chapter 7 : The Legalities of Starting a Business â€" SitePoint

Limited Liability Company: An LLC is a mix of structures, combining the limited liability features of a corporation and the tax efficiencies and operational flexibility of a partnership. LLCs must.

Chapter 8 : Five Common Legal Issues Faced by Businesses - racedaydvl.com

Here you will find tips on legal and tax issues related to corporation -- including creation of articles of incorporation and corporate bylaws -- and tools that walk you through each phase of the incorporation process.

Chapter 9 : 8 Legal Steps for Starting Your Business

Limited liability companies (LLCs) have been around since , but their popularity among small-business owners is a relatively recent phenomenon. The LLC offers the liability protection benefits.