

BRADIE, BRADIE & BRADIE

ATTORNEYS AT LAW

Wills * Probate * Business Law

Happy New Year!

December 2009

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Have a Happy, Healthy, and Safe New Year!

All of us at the Law firm of Bradie, Bradie & Bradie wish you and your family a happy, healthy and safe New Year. We hope that this Newsletter finds you well, and that you have had a Merry Christmas or Happy Hanukkah. The holidays are a time for all of us to express our thanks to each other and think about our blessings.

We are thankful for our clients, who have placed their trust in us. We are blessed with many friends who have made our lives so rich. We are doubly blessed that many of our clients have become such good friends. Thank you to all of you who have made our firm a success.

Page on Facebook at: [Bradie Law Fans](#). You have shared some great jokes and comments. If there are topics that you would like us to post on, please let know. We would appreciate it if you would write a review if you were pleased with the services of our firm.

Please accept our thanks for your friendship and confidence in our firm throughout the years.

Have a very Safe, Happy, Healthy and Prosperous New Year!

Cordially,

Michell S. Bradie
Bradie, Bradie & Bradie

DO YOU REALLY BELIEVE THAT DEATH TAXES ARE GOING AWAY?

Do You Need To Review Your Estate Plan?

The exemption amount for Federal Estate Tax is presently \$3,500,000, with the highest estate tax rate of 45%. Unless Congress does something to continue that exemption amount, on January 1, 2010 it is repealed, and in 2011 the Estate Exemption goes back to \$1,000,000, with the highest estate tax rate of 55%.

Uncle Sam will look at the whole estate, including any insurance proceeds, whether payable to the estate or not, in determining the size of a person's taxable estate. So even if you may not have much more than a home, vehicles, a few stocks and bonds, and a retirement account, if you have life insurance, you may very easily exceed the exemption amount.

If you may have a taxable estate and would like a no-cost review to see if tax planning would be beneficial, please give us a call or email to set up an appointment.



Considerations In Setting Up A Business Organization?



Tax costs, liability exposure, and the practical convenience of various forms of business are the points that most clients raise when they consider setting up a business organization. Different types of ventures require different organizational means: the sole proprietorship, the general partnership, the limited partnership, limited liability partnership, the limited liability company (LLC), and the corporate form are all possibilities. Even within the corporate structure, many different kinds of operating procedures are possible.

A new and risky business, or one in which losses are sustained to build capital value, frequently are operated in an unincorporated form, or partnership form, so that any losses may be applied against income and offset with tax savings. A form of incorporated "partnership", known as an "S Corporation," may also be utilized. Subchapter S status avoids income tax at the corporate level, and corporate operating losses can be claimed by the shareholders. An LLC may be taxed like a partnership or a corporation, and provide liability protection to its members and the structure may protect the LLC from the personal liability of its members. Where the venture is speculative, and you do not want the risks associated with an unincorporated form, IRC Section 1244 stock may be issued. These tax questions should be discussed with you CPA or tax advisor.

The actual mechanics of forming the entity selected are quite straightforward. Many require a Certificate of Formation be drawn up, and filed with the Secretary of State along with a filing fee. Unfortunately, that is where a lot of people stop.

Corporations require that Articles be filed with the Certificate of Formation. Once the Articles are properly filed, the Secretary of State will issue the Corporate Charter and the corporation will have come into being. The corporate seal, share certificates, stock ledger, and minute book are purchased items.

A CPA will frequently offer to "incorporate you" for a nominal charge or no charge, plus filing fees, and may even order the corporate seal and minute book for you. That is, they will take care of the mechanics of forming a corporation. But that's usually where it ends. In most instances there are many other steps required, which the CPA may not be aware of or be prohibited from doing, in order to build the corporate shield and give the corporation substance.

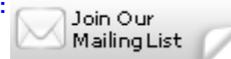
LLCs are controlled by their Operating Agreement or Company Agreement. The

before filing the Certificate of Formation. What is in that Operating Agreement will depend on many different factors. Will the LLC be member managed, or manager managed? Will there be multiple members, or a single member? If you have multiple members, what happens in the event of death, divorce, disability or disgust (someone just wants out)? Will members be able to call additional capital, etc?

A business lawyer, on the other hand, will help you select the right type of entity for your needs, and make sure that you have done all of the steps necessary to properly set up your entity. They will prepare and file your Certificates of Formation, file Articles if needed, prepare your Operating Agreement or bylaws, order the seal and book, prepare the publication of notice to creditors if required, prepare the organizational minutes, and original issue of shares or unit interests. They can assist you with the with purchase and sale documents between the proprietor and the new entity, prepare buy-sell agreements if needed, and instruct you on what needs to be done to properly maintain the entity and limit liability exposure.

If you are considering forming an entity to start your own business or perhaps for asset protection, and have some questions, please give us a call or email us at bradiex3@bradie-law.com.

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About Our Law Firm

Our family owned firm was formed in 1991. Our attorneys practice primarily in the areas of business creation and support, business litigation, and commercial collections. We also handle Will preparation, probate and estate planning. Please let us know if we may be of assistance.



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