

**KEY CHARACTERISTICS OF LIMITED LIABILITY
COMPANIES (LLC's)**

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KEY CHARACTERISTICS OF LIMITED LIABILITY COMPANIES “LLC”

- **Taxed as a partnership**
 - Single taxation of profits
 - Tax attributes flow to owners

- **“Corporate like” characteristics**
 - Limited financial liability
 - Corporate legal structure
 - Ability to participate in management

- **Well suited to smaller groups**
 - Captures corporate liability benefits without double taxation
 - Captures partnership tax benefits without liability

- **Not currently exempt from Iowa Coop Farming Law**
 - Current legislation might change this
 - Uncertain what will come out

- **Largely untested as a legal entity**
 - Little long term experience
 - Not a well established body of case law
 - Some with tax treatment issues remain

POTENTIAL AREAS OF CONCERN

- Iowa corporate farming law exemption
- Perpetuation of the entity
- Offset for passive losses received
- AMT preferences received
- Transfer of shares to new owners
- Expansion of membership vs. steady state membership
- Suitability for large groups with expansion goals and varied tax situations

SELECTED ORGANIZATION STRUCTURE CHARACTERISTICS COMPARISON OF LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANIES AND CHR 501 COOPERATIVE

	Limited Partnership*	Limited Liability Company*	CHR 501 Cooperative
Nature of Entity	Aggregate of 2 or more persons	Aggregate of 2 or more persons	Aggregate of 3 or more persons
Life of Business	Agreed term; may terminate on death of partner	Terminated @ death of partner unless otherwise provided	Perpetual life until liquidated by members
Management Decision Making	Usually general partner	Usually manager is selected by a board (or the members)	Elected board and hired management
Expansion of shareholder Numbers	Usually requires new partnership to be formed	Expansion possible if permitted by the agreement but may require reorganization	Expansion subject to limits in by-laws/or articles

SELECTED ORGANIZATION STRUCTURE CHARACTERISTICS COMPARISON OF LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANIES AND CHR 501 COOPERATIVE

	Limited Partnership*	Limited Liability Company*	CHR 501 Cooperative
Limited liability	No for G.P./Yes for L.P.	Yes	Yes
Flexibility in selecting tax year	No	No	No
Allocation of income, losses, deductions, and credits	Limited flexibility subject to partnership rules and economic reality	Limited flexibility subject to partnership rules and economic reality	Normal flexibilities for a cooperative
Tax effects upon liquidation	No double taxation Subject to partnership liquidation rules	No double taxation Subject to partnership liquidation rules	Single tax treatment Consistent with cooperative law
Self-employment income from entity	Yes – GP, No – LP Except where LP is active (500 hrs?)*	No if stockholder is inactive participant (up to 500 hrs?) Not well established and may change. Congress has a hold on this provision.	Yes, if income distributed as patronage refund based on business done.

SELECTED ORGANIZATION STRUCTURE CHARACTERISTICS COMPARISON OF LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANIES AND CHR 501 COOPERATIVE

	Limited Partnership*	Limited Liability Company*	CHR 501 Cooperative
Effect of passive loss limitation rules	Ltd. partners generally deemed not to materially participate in losses Subject to passive loss limit	Members may or may not materially participate in losses. Depending on participation in business.	May use patronage based losses to offset farm income
Availability of entity losses to owners	Flow through of losses to owners	Flow through of losses to owner members	Flow through of losses if board acts to pass them to members
Employee fringe benefits	Limited compared to C corporation	Limited compared to C corporation	May be available to board and would be available to those who can be deemed employees
Flow of Alternative Minimum Tax preferences to members	AMT preference items flow to each member and affect member's tax position	AMT preference items flow to each member and affect member's tax position	Will not affect the total AMT preferences in members' tax position

SELECTED ORGANIZATION STRUCTURE CHARACTERISTICS COMPARISON OF LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANIES AND CHR 501 COOPERATIVE

	Limited Partnership*	Limited Liability Company*	CHR 501 Cooperative
Exemption from Iowa corporate farming law <ul style="list-style-type: none"> • number of shareholders • number of entities 	No No Could change	No No Could change	Yes Yes
Salability of interest	Subject to articles and bylaws	Subject to articles and bylaws	Subject to articles and bylaws
Appreciation/Depreciation of shares	May be limits on transferring interests to new owner	May be limits on transferring interest to new owner	Transfer possible value depends on performance of coop and demand for shares

*Limited partnership and LLC data sourced from *The Farm Corporation* by Neil E. Harl.