

# business

## 1. Business

### 1.1 Reducing Legal Risks Through Online Education



### 1.2 Provided by



## 1.3 Good News

### Good News

Regardless of the business structure you choose for your farm, you have resources to effectively manage risk. **No single business structure is the right choice for all farms.** By considering your business structure options, you are optimizing your farm's strength and resilience.



## 1.4 Introduction to Business Structures

### Introduction to Business Structures

## 1.5 Tradeoffs

### Introduction to Business Structures

- This section will discuss the tradeoffs of different business structure options and help you create the one that is right for you.
- Thereafter, we'll work through the importance of drafting strong supporting documents for whichever option you choose. These organizing documents (which include LLC operating agreements, corporation bylaws, and partnership agreements) help solve issues before they occur.
- Before we get into it, let's talk a bit about what we aren't addressing: non-profits or cooperatives. If you have one of those, or the flowchart (later in the module) suggests they may be best for your situation, please consult the [Farmers' Guide to Business Structures](#) for thorough information on those options

## 1.6 Personal Assessment Quiz

### Personal Assessment Quiz

Answer the following four questions relative to your situation in your farm enterprise. If you can answer 'Yes' to each of these questions, you already know the most important elements of this subject! Where your answer to a question is 'No', pay special attention to those sections of this tutorial.



### 1.7 Question 1

**Do you have an insurance policy that protects the farm's assets from potential farm liabilities (often called farm liability insurance)?**

*(Pick One, 0 points, 1 attempt permitted)*

**Question 1**

Do you have an insurance policy that protects the farm's assets from potential farm liabilities (often called farm liability insurance)?

Yes

No

Not Sure

Choice
Yes
No
Not Sure

### 1.8 Question 2

*(Pick One, 0 points, 1 attempt permitted)*

### Question 2

Have you considered whether forming an LLC or corporation is the right choice for your farm operation (Or, have you already formed an LLC or corporation)?

- Yes
- No
- Not Sure

Choice
Yes
No
Not Sure

### 1.9 Question 3

*(Pick One, 0 points, 1 attempt permitted)*

### Question 3

If you have already formed an LLC or corporation, do you keep separate business and personal bank accounts and file your annual paperwork as required?

- Yes
- No
- Not Sure
- Not Applicable

Choice
Yes
No
Not Sure
Not Applicable

### **1.10 Question 4**

*(Pick One, 0 points, 1 attempt permitted)*

**Question 4**

If your farm has more than one owner, have you written down a thorough partnership agreement, LLC operating agreement, or corporate bylaws?

- Yes
- No
- Not Sure
- Not Applicable

Choice
Yes
No
Not Sure
Not Applicable

**1.11 SURVEY RESULTS**

*(Results Slide, 0 points, 1 attempt permitted)*

## SURVEY RESULTS

Here you can display a parting statement regarding the survey the learner just completed. You could also use this text to explain the next steps you want learners to complete.

Complete

Thank you for completing our short survey. Print a copy for your records. Also, submit a copy to the course instructors.

Review

Print

E-mail

Results for

1.7 Question 1

Do you have an insurance policy that protects the farm's assets from potential farm liabilities (often called farm liability insurance)?

1.8 Question 2

1.9 Question 3

1.10 Question 4



## 1.12 Chart your path

### Chart your path

Do any of the following statements apply to you?

- I already formed an LLC.
- I already formed a corporation.
- Unsure.

If so, you can skip past the introduction and go right to the section on limited liability to make sure you understand how your entity protects your farm. If you aren't sure about the right entity for your needs, complete the next and final introductory section.



## 1.13 Identify the best business structure

Activity:  
Identifying the  
best business  
structure for your  
needs

Work through the  
flowchart by clicking on  
and downloading the  
document to the right  
to identify the business  
structure that is most  
likely to address your  
specific needs.



## 1.14 Your Choice

(Pick One, 0 points, 1 attempt permitted)

## Your Choice

Which entity choice looks like the best option for you to explore further?

- Sole Proprietorship or Partnership
- LLC
- Corporation
- Other

Submit

Choice
Sole Proprietorship or Partnership
LLC
Corporation
Other

## ***1.15 Sole Proprietorships and***

### Sole Proprietorships and Partnerships: The Basics

## ***1.16 Sole Proprietorships and***

### Sole Proprietorships and Partnerships: The Basics

- Sole proprietorships and general partnerships are the easiest business entities to set up and maintain. In fact, nothing is actually required to create them. You may already be operating one without even knowing it!
- For example, if you own your farm operation and you're not on someone else's payroll for the work you do, you are a sole proprietor. If you and another person are doing it together, you are a general partnership.



## 1.17 Sole Proprietorships and Partnerships: The Basics

### Sole Proprietorships and Partnerships: The Basics

- The sole proprietorship and the general partnership are the default entities assigned to you if you sell goods or services and don't choose to officially form another entity. For the most part, there are no filings and no paperwork necessary to "create" a sole proprietorship or partnership.
- Now, that doesn't mean there are no filings required at all when running a sole proprietorship or partnership. Fees and licenses can pop up around other corners. For example, if a farmer is doing business under a name other than his or her own name, the person must file a trade name registration form. This lets the public know who owns "Green Hills Farm," for example, so the public can identify whom to sue. Other fees may be associated with sales tax registrations, zoning obligations and other matters. Also, don't forget that a partnership is required to file partnership income tax returns with the IRS.

## 1.18 Sole Proprietorships and

### Sole Proprietorships and Partnerships: The Basics

- There is a downside to the ease of creation offered by sole proprietorships and partnerships. Unlike with a corporation or an LLC, the personal assets of the owner(s) of a sole proprietorship or general partnership are available to cover the debts and liabilities of the company.
- This means that if the farm business is not able to make payments on debt, doesn't pay a supplier when the money is owed, or becomes legally liable for an injury, the creditor can come after the owners' personal assets. While bankruptcy laws protect a primary home, vehicle and level of income, creditors can often access personal investments, vacation homes, boats, and other such things of value. A court judgment can also extend to future owned assets, including wages. Basically, if the creditor has received a judgment from a court that you owe money, the creditor can file papers to have a portion of your paycheck garnished (taken or withheld) to pay off your debt. However, the creditor cannot take the part of your paycheck that you need to support yourself and your dependents.



## 1.19 Sole Proprietorships and Partnerships: Story Illustration of Personal Liability

### Sole Proprietorships and Partnerships: Story Illustration of Personal Liability

- Let's say that Judy runs a small dairy farm over the summer. The seasonal dairy farm has been mostly a hobby for her, as she loves taking care of the cows and loves making cheese. She's a school teacher, so the schedule is perfect for her. The farm itself is about two acres that she leases from her neighbor. It's located just down the road from her house that she bought just a year ago. She has another house in the city that she hasn't been able to sell yet. Judy mostly sells her cheese at the local farmers' market and to two local restaurants. She's been in business for about two years and has two Brown Swiss cows and two Jerseys. This summer Judy decided to hire a part-time volunteer (can't do this in NH?) to help her with the milking, as she wanted to focus her efforts on refining her cheese recipes. This summer Judy's friend's daughter, Katie, was in town from college, and was eager to help. Katie had some experience with milking cows, but it was years ago when she was a kid visiting her grandparents' farm. Judy encouraged Katie to stick with the Brown Swiss until she got used to it, as the Jerseys were notorious kickers. One day, just two weeks into her volunteer gig, Katie got the guts to milk one of the Jerseys. Just as she finished and she walked around back, it kicked her right in the chin. Ouch! Turns out she lost about five teeth, and had to get reconstructive surgery of her jaw.
- While Katie was at the hospital filling out the paperwork, she reported that the incident occurred on Judy's farm while she was at work. Katie's health insurance company did some investigation and filed a claim against Judy to recover the cost of the medical bills, which were \$25,000! Judy didn't have that kind of cash, and she didn't have insurance to cover such a claim. Katie's insurance company was relentless and took her to court.
- After a long and drawn-out trial, the judge entered a judgment against Judy for the full amount of the medical bills (which can happen either on the basis that Judy should have had workers' compensation or that Judy negligently caused Katie's injury). Where does the money come from to satisfy the judgment?



## 1.20 Sole Proprietorships and Partnerships: Story Illustration of Personal Liability

### Sole Proprietorships and Partnerships: Story Illustration of Personal Liability

- The first place Katie's side would go is to the business assets, such as cheese making equipment, tractors, or other business resources of value. Because Judy is a sole proprietor, the court could put a lien on Judy's house in the city since it's no longer her primary residence. Also, the court could garnish a percentage of Judy's wages from her school teaching job. If Judy had formed an LLC or a C corporation, these personal assets would have been protected from the business' liabilities. (also the NH State Department of labor might have something to say)The reason this happened to Judy is because there's no distinction between the person and the business with the sole proprietorship form. They are one and the same. On the plus side, the individual farmer is the business. Some farmers prefer the authenticity and integrity that comes with such a personal identity with the farm operation. However, this means that everything you have is vulnerable.
- Not everyone finds the risk of a sole proprietorship to be significant. To some farmers, the protections of bankruptcy are enough and the risk of harm is low. To other farmers, this situation isn't acceptable if there are alternatives.





## 1.21 Activity:

**Activity:**  
Into which camp do you fall?

- Are the risks of a sole proprietorship or partnership meaningful to you?
- Why or why not?
- If the risks are meaningful, let's explore limited liability and how it helps.



## 1.22 Limited Liability: The Basics

Limited Liability: The Basics

## 1.23 Limited Liability: The Basics

### Limited Liability: The Basics

- Many farmers want to protect their personal assets from business liabilities. For these farmers, the LLC and the corporation are strong options. LLCs and corporations offer limited liability.
- What would happen to Judy if she had formed an LLC or corporation?



## 1.24 Limited Liability: The Basics

### Limited Liability: The Basics

- The injury and the trial would have still occurred; the judgement against her would likely still have been filed. She would still be responsible to pay the judgement. However, the court could only go after the business assets for satisfaction of the judgment. Judy could likely lose all her business assets, but her personal assets would be protected, assuming no extenuating circumstances. She would also lose all the capital she'd invested in the business because that money became a business asset.
- Farmers seeking to protect their business assets from liability need to focus on business insurance. Business insurance is designed to protect the farm's assets from the farm's liabilities. Entities that offer limited liability also protect personal assets from business liabilities.



## 1.25 Activity:

*(Drag and Drop, 0 points, 1 attempt permitted)*

**Activity:**  
**Limited Liability**

Match Judy's assets with the means to protect them from loss to a business liability like the cow kick? Drag the icons and drop them in the correct box.

The activity interface features two green rectangular drop targets on the right side. The top target is labeled "LLC or Corporation" and the bottom target is labeled "Business Insurance". On the left side, there are seven circular icons representing assets: a truck (Cheese Delivery Truck), a house (City Home), a car (Personal Car), a person with a dollar sign (Wages as Teachers), a field with a barn (Privately Owned Farmland), a field with a barn (Business Owned Farmland), and a piece of machinery (Cheese Making Equipment).

Drag Item	Drop Target
Cheese Delivery Truck	LLC-Corp Drop
Personal Car	LLC-Corp Drop
City Home	LLC-Corp Drop
Wages as Teachers	LLC-Corp Drop
Cheese Making Equipment	LLC-Corp Drop
Business Owned Farmland	Business Insurance Drop
Privately Owned Farmland	LLC-Corp Drop



Drag and drop properties
Return item to start point if dropped outside any drop target
Snap dropped items to drop target (Tile)
Delay item drop states until interaction is submitted

**1.26 Activity:**

*(Drag and Drop, 0 points, 1 attempt permitted)*

**Activity:**  
**Limited Liability**

Now match the entities that offer limited liability with those that do not.  
Drag and drop the entities on either the yes or no box.

Drag Item	Drop Target
Partnership	No Drop
Sole Owner	No Drop
Corporation	Yes Drop
LLC	Yes Drop

Drag and drop properties

Return item to start point if dropped outside any drop target

Snap dropped items to drop target (Tile)

Delay item drop states until interaction is submitted

## 1.27 Limited Liability: The Trade Off

### Limited Liability: The Trade Off

- Limited Liability is not an absolute protection. If the farm business does not follow certain standards, then the courts can reach around the personal liability shield and allow creditors to access the individual members' personal assets.
  1. Capitalize the farm operation
- Members may lose their personal liability protection if the company is undercapitalized. As a basic rule of thumb, a company is adequately capitalized if it can make due on its debts, or pay its monthly bills, so to speak. Anything less would be undercapitalized. In other words, if you start incurring more debt than you can reasonably pay off based on estimated revenue, your entity will be considered undercapitalized. As a result, the members may be personally liable to cover the business' debt. The takeaway message is to be smart about how much debt you allow the LLC to take on.
- Astute farmers might realize they could avoid losing any investment in the farm by not investing anything in it. You can't lose capital if you don't contribute it, right? The reasoning is sound, but a farmer following that logic may expose his or her personal assets to the business' liabilities. If the farm needs capital to reasonably function, the members need to provide it to protect themselves.
  2. Keep the businesses' financial affairs separate from personal financial affairs
- Courts are also able to access personal assets if the members fail to keep the business separate from their personal affairs. This includes commingling funds such as drawing on business assets to pay for personal expenses or not keeping separate business and individual bank accounts. Farmers accustomed to paying for household groceries and their feed bill with the same checkbook might find it awkward to keep two different payment methods at hand, but, separating personal and business accounts is essential.



## 1.28 Limited Liability: The Trade Off

### Limited Liability: The Trade Off

- On the other hand, many farmers benefit from two different bank accounts. The practice can make it easier to assess the finances of the household separately from that of the business and creates a streamlined process at tax time.
- Of course, personal assets are available for personal liabilities. In other words, you cannot draw on business assets to pay your personal credit card debt, home mortgage, or car payments. At the same time, business assets are available for business liabilities. The takeaway is to be sure to develop policies and systems for keeping your business and individual affairs separate, which includes at a minimum having separate bank accounts, credit cards, and accounting systems. Most importantly, be sure you follow the policies and systems you set in place.
  3. Business owners might be required to personally guarantee farm debt
- Let's not forget a few other factors that play out in the real world. First, creditors often require that individual owners of a business entity, in this case LLC members, personally guarantee obligations. Creditors know that if there's nothing left in the business there will be nothing left for them. This means that creditors may require the members to commit to loan payments as individuals, not just as LLC members. As a result, personal assets will be on the line even though the members took on the obligation to benefit the business. Members have to negotiate whether and to what extent a personal guarantee is required with creditors on a case-by-case basis.
- Now that we've learned what limited liability is and how to preserve it, let's turn to the business entities that offer it. In most circumstances, farmers are choosing from the LLC and the corporation (including the S Corporation, as we will explain soon). The rest of this section outlines the distinctions between the two.



## 1.29 LLCs and S Corporations

### LLCs and S Corporations

## 1.30 LLCs and S Corporations: Let's cut to the chase- the fees






### LLCs and S Corporations: Let's cut to the chase- the fees

- The bottom line is that choosing between an LLC and an S Corporation to gain limited liability is not a make or break decision. Both entities offer similar protection from personal liability. Both entities are widely accepted and stable choices. Both are easy to form and operate from a legal perspective. Both are created and operated according to State law, make sure you review your state laws.
- Many people choose an LLC because they are more flexible. This can be true, but work through the remaining sections to get a full picture of the flexibility they provide.
- For most farmers, the choice between an LLC and an S Corporation comes down to state income tax and/or practical matters. State income laws may differ for S Corporations, check with you tax professional. The fees associated with each may be an important difference. Lawyers may charge different fees for formation or maintenance of these entities. Accountants and tax preparers may charge different fees for annual tax filing obligations. Research fees to see if, for your tax preparers and accountants, there is a difference.

## 1.31 LLCs and S Corporations: Let's cut to the chase- the fees

### LLCs and S Corporations: Let's cut to the chase- the fees

States charge different formation and annual fees for each, as of 2018, explained in the following table:

State	Fee to form an LLC	Fee to form a corporation	Annual fee for LLC	Annual fee for corporation
 New Hampshire	\$100	\$100	\$100	\$100
 Vermont	\$125	\$125	\$35	\$45
 Maine	\$175	\$145	\$85	\$85
 Delaware	\$90	\$89	Annual tax: \$300	\$50 plus annual tax beginning at \$175-\$400
 Maryland	\$100	\$120	\$300	\$300

## 1.32 LLCs and S Corporations: Let's cut to the chase- the fees

**LLCs and S Corporations: Let's cut to the chase- the fees**

These fees may change. Click on the appropriate link below to find your state's up-to-date fee structure.




New Hampshire      Vermont      Maine      Delaware      Maryland

## 1.33 Activity for LLC's and S Corporations:

**Activity for LLC's and S Corporations:**  
Your Next Steps

- What are your next steps in researching the practical differences between LLCs and S corporations?
  - Call my accountant/tax preparer for information on how much they charge for tax preparation relative to an LLC versus a corporation.
  - Call my attorney for information on how much they charge to form and maintain an LLC versus a corporation.
  - Ask my tax professional for an estimate of state taxes earned under an LLC versus an S corporation (where relevant in Delaware).



## 1.34 Caution

### Caution

- While researching the process of forming an LLC or a corporation, farmers may come across businesses that provide services for filing the paperwork, acting as the entity's agent, and maintaining annual reporting.
- The advertising language these businesses use can make it appear their services are required to form a business entity. This is not true. Any individual can form and maintain a business entity, without the assistance of any 3rd party provider.



## 1.35 LLCs: Flexibility

### LLCs: Flexibility

- To many farmers, the main advantage of an LLC is a perception of flexibility.
- It's true in that LLC's offer the following points of flexibility over the corporation:
  1. May have more than 100 owners
  2. May divide profits and losses between owners on a basis other than their percentage ownership.
  3. An annual meeting is not required
  4. Officer positions (President, Treasurer, etc.) are not required
  5. Can differentiate between managing versus non-managing members





## 1.36 LLCs: Flexibility

### LLCs: Flexibility

- These points of flexibility may not be persuasive to farm businesses. Rare is the operation that intends on having more than 100 owners.
- Dividing profits and losses along lines other than percentage ownership comes with tax implications, and many farm businesses may change their minds about the utility of creative profit and loss allocations. However, this is often a very important feature for farms transitioning ownership to younger generation.
- To many, the ability to go without annual meetings or officer positions sounds terrific. Busy farmers have dozens of things to do, and ceremonial titles and meetings don't make the priority list. Yet, it's worth considering why the law originally required such things (before LLC's were created).
- A single annual meeting demonstrates that the business is operating intentionally. Appointing officers assists the company in holding individuals accountable for business responsibilities. If a business does not appoint individuals to fulfill core responsibilities, it is at risk. A court could find this disregard for basic practices has eroded the limited liability of the enterprise. Whether the farm forms an LLC or a corporation, an annual meeting and accountability is important.



## 1.37 Corporations: We really mean S Corporations

### Corporations: We really mean S Corporations

- Now, let's talk about corporations. A corporation is the main alternative to the LLC for farmers seeking limited liability protection.
- The corporation is the original business entity. Until Limited Partnerships were created in 1917, a corporation was the only option if a business owner wanted limited liability. (Limited Partnerships have largely been discarded for new business formations in favor of LLC's, which were first created in 1977.)
- However, you will rarely hear a farmer say they are going to form a "corporation." Rather, they say they are going to create an "S Corporation." The S stands for the "Small Business" subchapter of the IRS code governing corporations, under which corporations can choose to be taxed. By and large, every farm business choosing a corporation will also choose to be taxed as an S corporation. This means all farms organized as an "S Corporation" are two things: 1) corporations for the purposes of the state, and 2) corporations for filing under the S subchapter for the purposes of the IRS.



## 1.38 Corporations: We really mean S Corporations

### Corporations: We really mean S Corporations

- Any farm can create a corporation at the state level. The farm simply files a document called the Articles of Incorporation with the state. State laws require that a corporation adopt bylaws with procedures for officers and an annual meeting. A corporation is required to keep a list of all current officers and their addresses on file and minutes of meetings.
- View an annotated corporation bylaws and sample meeting minutes in [The Farmers' Guide to Business Structures](#).
- Before we close the books on choosing between an LLC and a corporation, let's talk about the impact of choosing taxation under the Small Business section of the corporate tax code. This valuable option is available to corporations and to LLC's that meet the requirements.

## 1.39 S Corporations and LLCs filing under the S subchapter:

### S Corporations and LLCs filing under the S subchapter: Potential Tax Savings

- What's so good about the S subchapter?
- The IRS handles self-employment taxes slightly differently for entities with the S corporation tax status. Basically, a farm is allowed to classify some of the operation's profit as income and some as dividends. This is helpful because distributions are taxed at the lower dividend tax rate. In addition, distributions are free from self-employment taxes including Social Security and Medicare taxation, which can equate to about 15 percent savings in federal taxes.
- The takeaway here is that if a farm is expected to earn revenues that are above and beyond a "reasonable salary" for the owner(s), the S corporation tax status may be a good option.
- You may be thinking, well, this is great, I can just keep my salary as low as possible so that the remainder is taxed at the lower dividend tax rate. Be careful! If you elect S corporation tax status for your business entity, keep in mind that the IRS does not look fondly on artificially low salaries and can reclassify dividends as salary. If this happens, the individual owner will end up having to pay back taxes and may risk an audit. So, it's best to declare a "reasonable salary."
- So, what's a "reasonable" salary? The IRS will look at many different factors in making this determination. Anything above a reasonable salary could be reclassified and taxed at the higher employment income rate. The IRS will consider many factors including the following:
  1. Training and experience of the individual
  2. Duties and responsibilities of the individual
  3. Time and effort devoted to the business by the individual
  4. Dividend history of the business
  5. Payments to non-shareholder employees



## 1.40 S Corporations and LLCs filing under the S subchapter:

### S Corporations and LLCs filing under the S subchapter: Potential Tax Savings

- There is no single dollar value for what is a "reasonable" salary for a farmer. However, some attorneys and accountants start with a baseline of \$50,000 as a reasonable salary. If the producer is taking home more than that, classification as dividends may be possible, assuming further analysis under the IRS' 5 points, above.
- An LLC can use S corporation tax status, too!
- Even though it's called S corporation tax status, a business does not have to be a corporation to take advantage of it. LLCs may also utilize S corporation tax status, so long as they are eligible.
- When is a farm business eligible for S corporation tax status?
- If you answer yes to all of the four following questions, your farm entity is eligible for S corporation tax status:
  1. Was your farm operation entity created in one of the 50 U.S. states?
  2. Are all the owners U.S. citizens?
  3. Are all of the owners human beings, estates, tax-exempt entities, or certain qualified trusts?
  4. Do you have 100 or fewer owners (family members count as just one shareholder for this purpose)?
- The farm business, whether the business is structured as an LLC or as a corporation, will need to hold an annual meeting and take minutes of the meeting to protect its ability to file as an S corporation. To put it another way: Although an LLC isn't normally required to hold an annual meeting or keep minutes, it is required to do so if the LLC intends to file taxes as an S corporation.
- When planning and filing the businesses' taxes, consult a qualified professional for assistance as this resource does not offer a thorough explanation of the timeline and procedures necessary. Consult Chapter 6, S Corporation Tax Status Fundamentals (pages 226-244) of the Farmers' Guide to Business Structures for more detailed information.

## 1.41 Forming Your Entity

### Forming Your Entity

## 1.42 Forming Your Entity

### Forming Your Entity

Forming an LLC or a corporation is quite easy! You simply file a document with your state's relevant office. The name of the office and form is outlined below.

State	Office	Form to Create an LLC	Form to Create a Corporation
 New Hampshire	Secretary of State	Certificate of Formation	Articles of Incorporation
 Vermont	Secretary of State	Articles of Organization	Articles of Incorporation
 Maine	Secretary of State, Bureau of Corporations, Elections Commissions	Certificate of Formation	Articles of Incorporation
 Delaware	Division of Corporations	Certificate of Formation	Articles of Incorporation
 Maryland	Department of Assessments and Taxation	Articles of Organization	Articles of Incorporation

## 1.43 Forming Your Entity

### Forming Your Entity

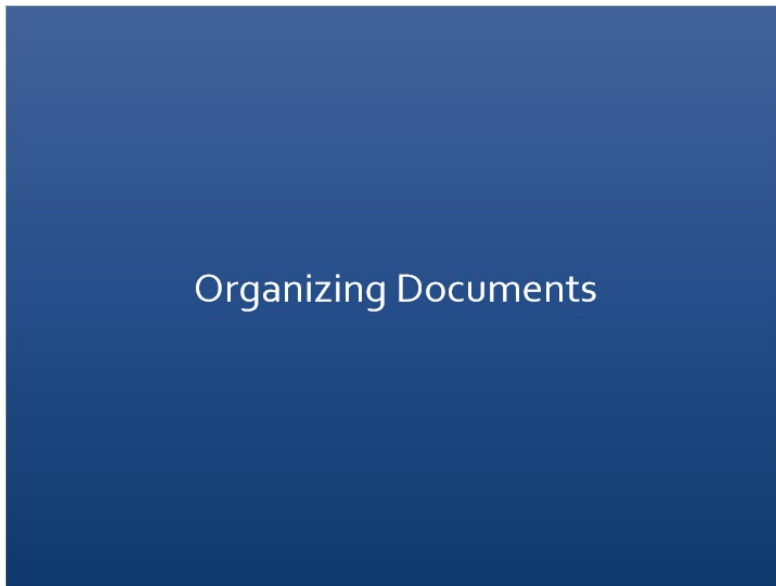
- For details understanding the fields common to each state's forms (including whether an LLC is member or manager-managed) please see consult the form's instructions (where provided) as well as the :

[Farmers Guide to Business Structures](#)

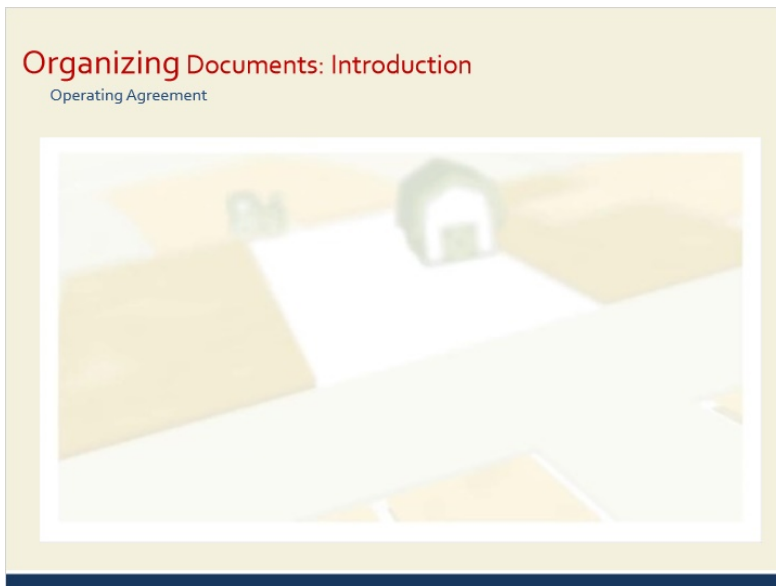
- Of course, that's not the end of the line when it comes to best business practices. As we learned in the previous section, it's important to follow best business practices to preserve the entity's protections. It's equally important to establish a strong system of decision-making and responsibility, which gives the farm legal strength and a proactive avenue around problems that may arise.



## **1.44 Organizing Documents**



## **1.45 Organizing Documents: Introduction**



## 1.46 Organizing Documents:

### Organizing Documents: A wise choice for all entities

- To build a strong, resilient farm business, you need to have strong organizing documents. Organizing documents go by a variety of names but all serve the same purpose: to outline the basic ways the business functions as a whole. Read through this list of questions while reflecting on your own business.
- Financial Matters
  - What is everyone contributing to the business, financially?
  - How are profits and losses handled?
  - When is the decision made and who decides whether to hand out or “distribute” profits to the members?



## 1.47 Organizing Documents:

### Organizing Documents: A wise choice for all entities

- Management Matters
  - Who makes the day-to-day decisions (i.e., will the LLC be manager-managed or member-managed)?
  - What is the protocol for making day-to-day decisions?
  - Are there any particular roles, responsibilities, or benefits of any members or managers you want to specify?
- Meetings and Voting Matters
  - Will you have an annual meeting and, if so, when?
  - How are members informed about the time and place of meetings and how meetings can be conducted?
  - Who has voting rights and upon what are they based?



## 1.48 Organizing Documents:

### Organizing Documents: A wise choice for all entities

- "Big" Decisions
  - Will you allow additional members and, if so, who decides?
  - What happens if a member wants to leave or if a member's interest in the company is somehow passed on to someone else?
  - Who decides whether the company takes on debt?
  - Who decides whether to close the company?
  - Who decides whether existing members can make additional capital contributions?
  - Who decides on amendments to the operating agreement?
  - Who decides whether the company can change hands (i.e., be acquired or merged with another company)?
  - How are all other "big" decisions (i.e., not day-to-day decisions) made?
  - What happens if a member dies? (or becomes disabled)?



## 1.49 Putting It All Together

Putting It All Together



## 1.50

### Activity: Putting It All Together

- Did you find yourself thinking, "Oh, good question!" to any of these questions? Did you find yourself saying, "Wow, I have no idea!" while reading the questions?
  - Go back and mark the questions that are most significant to your farm operation.
- Next, reflect on a plan to get answers. Who do you need to talk with to create an answer? Can you begin to draft a process right away? Sketch some action points to help you move forward. (Should this question be asked globally or according to each priority question that they indicated above? We could ask them to choose just 3 priority questions and corresponding action points.)
- Please link your answers to the blog.



## 1.51 Activity:

### Activity: Putting It All Together

- Want to do more? When you are ready, read through the detailed operating agreement (for an LLC), and/or bylaws (for a corporation) in the Farmers' Guide to Business Structures. (need a link)
- (Our sample Extensive Operating Agreement is 150 pages so pour a cup of coffee and get ready to create some serious resiliency for your farm!) Farms organized as a partnership can take the basic content and structure of an operating agreement or bylaws to create a partnership agreement.



## 1.52 Conclusion: Putting it all Together

**Conclusion: Putting it all Together**

Let's review the key points of this Business Structures module. Indicate whether you achieved these objectives or whether you may need to review those sections again before indicating accomplishment by clicking the box under the description to signify achievement.

- Forming a corporation or LLC is as easy as filing paperwork. But, legally resilient farm businesses proactively develop clear procedures that prevent problems while ensuring limited liability is preserved.
- LLC's and corporations do offer limited liability. However, the protection comes with obligations to manage the business appropriately.
- Sole proprietorship and partnerships do not offer limited liability. Instead, the farmers choosing these entities rely on insurance and the protections of bankruptcy to preserve business and personal assets.
- I understand that insurance is what protects business assets from business liabilities; I also know that business entities that offer limited liability are designed to protect personal assets from business liabilities. Underst
- Corporations and LLC's can choose taxation under the S subchapter of the IRS tax code for corporations, which comes with some additional restrictions in return for savings on personal income and self-employment taxes.

## 1.53 Complete

**Complete**

Congratulations! You've completed the Business Structures module!

Please proceed to the next module:

**Land Financing And Leasing**