Hello, and welcome to one in a series of RightRisk videos on organizational structures.

[click] There are a number of legal organizational structures available to entrepreneurs. Today, I will focus on the limited liability company or more commonly the LLC.

[click] I am Jeff Tranel, an agricultural and business management economist with Colorado State University Extension. Joining me are **[click]** John Hewlett, a farm and ranch management specialist at the University of Wyoming and Doctor Jay Parsons, professor and extension specialist with the University of Nebraska – Lincoln. The three of us are also founding members of RightRisk.

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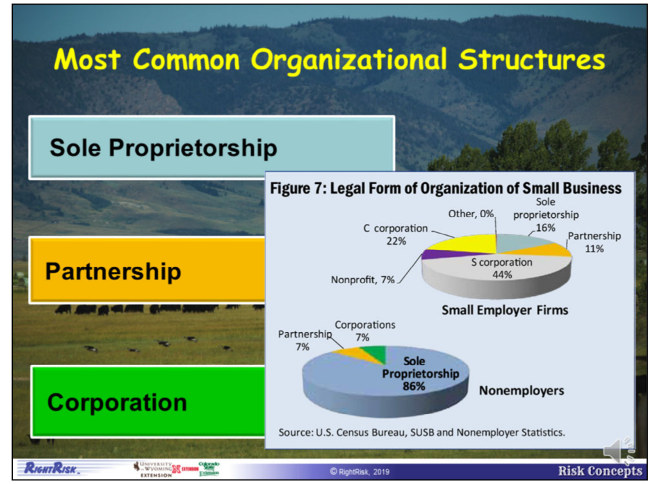

[click] There are three basic types of business structures **[click]** – sole proprietorships, partnerships, and corporations. Each structure has advantages and disadvantages, different tax ramifications, alternative impacts to estate and succession plans, etc.

[click] According to the U.S. Census Bureau, 86 percent of all organizations are sole proprietorships. Partnerships and corporations each account for 7 percent of businesses. These numbers are higher for small businesses that have employees.

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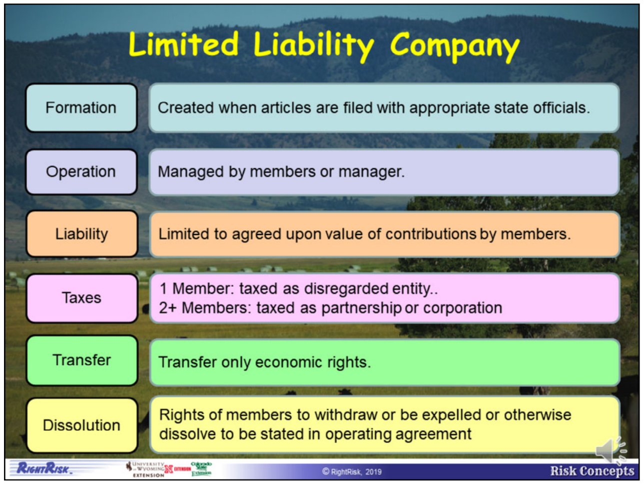

The Limited Liability Company (LLC) is a creature of statute, recognized in each jurisdiction only by virtue of a legislative enactment in each state. It is a voluntary association of one or more persons or other legal entities of a for profit business. Equity owners are called members or member-owners.

[click] An LLC is formed when the articles and other required documents are filed with the appropriate officials in a specific state. Although some states do not require an LLC to have a company charter nor by-laws, it is strongly recommended that an LLC have a set of by-laws which clearly state the agreed upon rules of operation and function.

[click] The LLC may be managed by either the members or by a manager. Member managed means that all members share responsibility for day-to-day operations and have the power to bind the company to ordinary business contracts. While some states presume that all members have an equal vote, most statutes allocate voting power in accordance with the relative value of each member's contribution to the LLC. The members may agree to different voting power, and such voting powers should be stated clearly in the by-laws or operating agreement.

A manager-managed structure means that the managers will have both the actual power to manage and the apparent authority to bind the business by acts which appear to be carrying on the ordinary course of business. The manager may be either a member or a non-member of the LLC.

[click] Members of an LLC have no personal liability solely because of their status as a member. They will, however, be liable for the amount or value of any agreed-upon contributions, for any debt they have guaranteed or for which they have otherwise agreed to act as surety, and for any personal misconduct in which they engage.

[click] LLCs that have two or more members will be presumed to be taxed as partnerships, but any given LLC may elect to be taxed as a corporation. Some state statutes impose a specific tax status on LLCs, regardless of how they might be classified for federal income tax purposes. Under federal law, LLCs having one member are taxed as sole proprietorships, unless an election to be taxed as a corporation is filed.

[click] In most states, the LLC statutory provisions provide that a transfer of an LLC membership interest operates only to transfer the economic rights, unless the remaining members unanimously agree to accept the transferee as a substitute member. Alternatively, the members could condition transferability by imposing transfer restrictions upon membership interests.

[click] When most state LLC statutes were originally drafted, there were tax incentives in place to make the LLC look as much like a general partnership as possible. It is critical that the LLC's by-laws clearly state the right of members to withdraw and the consequences of such withdrawal. Once dissolution is triggered, most LLC statutes appear to follow the corporate model governing the winding up and termination of the business.

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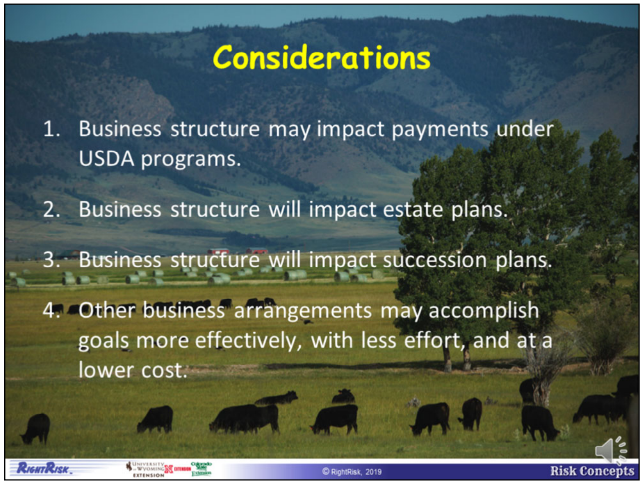

[click] A person forming a business should consider all the factors which will impact the business and help him or her reach the desired goals. Professional counsel from an attorney, certified public accountant, and other knowledgeable professionals is critical before selecting a specific structure for the business.

[click] For example, a selected business structure may impact eligibility for and payments under various USDA programs.

[click] Likewise, a selected business structure will impact the owner's estate and succession plans. Each organizational structure allows one to implement certain strategies, but the impacts of those strategies may differ.

[click] Other business arrangements such as labor sharing agreements, livestock production contracts, and strategic alliances may allow a business owner to accomplish his or her goals more effectively, with less effort, and at a lower costs.

[click] **[click]**

The Limited Liability Company has advantages and disadvantages to other forms of business structure.

[click] One of the greatest advantages of the limited liability company is that it is easy to form and is quite flexible. An LLC may be either managed by the members or by a compensated manager. Depending on the number of members and any I.R.S. approved elections, an LLC is usually taxed as a partnership. These pass through profits or losses are then taxed at the personal level.

[click] As with all partnerships, one disadvantage is that the owners – members in the case of LLCs – must agree with the direction of the business. If the LLC is member-managed, the members have to agree to the daily operations of the business. Another disadvantage of an LLC is that control of the company and profits are shared by the member owners.

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[click] RightRisk has a plethora of resources available on its web site. Specifically, under the resources tab are written and other materials pertaining to organizational structures **[click]** titled Risk Concepts. You will find several 4-page fact sheets describing selected organizational structures **[click]** and a 2-page table comparing the attributes of seven most common organizational structures.

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In summary, there are a number of organizational structures available to business owners. Each structure has advantages and disadvantages, ramifications, and impacts to the business and to the owners.

[click] The Limited Liability Company (LLC) is a creature of statute, recognized in each jurisdiction only by virtue of a legislative enactment in each state. Three aspects of the LLC are often enticing for new businesses: (1) it can be taxed as a partnership, as a corporation, or as a disregarded entity if there is only a single member; (2) it is an extremely flexible form of business both in terms of options when creating the business and options about how it is to operate; and (3) it offers all members limited liability.

[click] Please look for information about organizational structures and additional educational resources at the RightRisk web site – rightrisk.org. Thank you. Have a great day. **[click]**