

EXHIBIT 1-1

LLC FORMATION CHECKLIST

Preliminary Notes

1. The table below identifies the 34 principal tax and non-tax legal tasks that should normally be performed for clients who want comprehensive LLC formation services, and it identifies the chapters in this book that discuss these tasks.
2. The order of the tasks identified below is the order in which they should normally be performed in an LLC formation.
3. In the table below, tax tasks are **shaded**.

CHECK BOX	TASK NUMBER	DESCRIPTION OF TASK	CHAPTER IN WHICH TASK IS DISCUSSED
<input type="checkbox"/>	Task 1.	<u>Handle Initial Contact with Your Client.</u> Handle with your client on at least a preliminary basis all of the 16 basic issues you should normally address in your initial contact with LLC formation clients.	Chapter 8 (“How to Handle Initial Contacts with LLC Formation Clients”)
<input type="checkbox"/>	Task 2.	<u>Handle Engagement Letter with Your Client.</u> If necessary, draft an engagement letter for your client and obtain her written consent to its terms.	Chapter 8 (“How to Handle Initial Contacts with LLC Formation Clients”)
<input type="checkbox"/>	Task 3.	<u>Handle Legal Ethics Issues.</u> Identify and resolve with your client all issues of legal ethics relevant to your services in forming her LLC.	Chapter 9 (“How to Handle Ethical Issues in LLC Formations”)
<input type="checkbox"/>	Task 4.	<u>Determine Number of Entities Needed by Your Client.</u> Determine with your client the number of entities she will need in her business, including any necessary sister companies, holding companies and subsidiaries.	Chapter 10 (“How to Structure Business Start-ups to Maximize Business Asset Protection—Single-Entity Structures vs. Holding Company Structures”)
<input type="checkbox"/>	Task 5.	<u>Determine Relationship Among Entities Needed by Your Client.</u> Determine with your client the optimal relationship among the entities she will need in her business.	Chapter 10 (“How to Structure Business Start-ups to Maximize Business Asset Protection—Single-Entity Structures vs. Holding Company Structures”)
<input type="checkbox"/>	Task 6.	<u>Determine Number and Identity of Owners of Each Entity Needed by Client.</u> Determine with your client the optimal number and the identity of the owners of the entities she will need in her business.	Chapter 10 (“How to Structure Business Start-ups to Maximize Business Asset Protection—Single-Entity Structures vs. Holding Company Structures”)
<input type="checkbox"/>	Task 7.	<u>Make Non-tax Choice of Entity for Each Entity Needed by Your Client.</u> Make a non-tax choice-of-entity analysis to determine the best type of business organization for each entity needed by your client on non-tax grounds, and advise her of the results of this analysis. ¹	Chapter 11 (“How to Handle Non-Tax Choice Of Entity”)

CHECK BOX	TASK NUMBER	DESCRIPTION OF TASK	CHAPTER IN WHICH TASK IS DISCUSSED
<input type="checkbox"/>	Task 8.	<u>Choose Governing LLC Act.</u> Identify for your client the LLC acts potentially useful in forming her LLC, and choose with her the act that will be in her best interest.	Chapter 12 (“How to Choose the Right Governing Act in An LLC Formation—the Delaware Act vs. Other LLC Acts”)
<input type="checkbox"/>	Task 9.	<u>Choose Best Federal Income Tax Regimen for Client’s LLC for Federal Income Tax Purposes.</u> Choose the best federal income tax regimen for your client’s LLC for federal income tax purposes.	Chapter 27 (“How to Choose the Right Federal Income Tax Regimen for An LLC”)
<input type="checkbox"/>	Task 10.	<u>Choose Best Federal Income Tax Regimen for Your Client’s LLC for Social Security Tax Purposes.</u> Choose the best federal income tax regimen for your client’s LLC for social security tax purposes.	Chapter 27 (“How to Choose the Right Federal Income Tax Regimen for An LLC”)
<input type="checkbox"/>	Task 11.	<u>Reconcile Tasks 9 and 10.</u> If the outcome of tasks 9 and 10 conflict, reconcile them.	Chapter 27 (“How to Choose the Right Federal Income Tax Regimen for An LLC”)
<input type="checkbox"/>	Task 12.	<u>Make Check-the-Box Regulations Analysis.</u> Make a Check-the-Box analysis and resolve any resulting conflicts among Task 7 and Tasks 9-12.	Chapter 28 (“How to Use the Check-the-Box Regulations in LLC Formations”)
<input type="checkbox"/>	Task 13.	<u>Handle Multi-State Tax Planning for Your Client’s LLC.</u> Develop an optimal state and multi-state tax plan for your client’s LLC.	Chapter 29 (“How to Handle State and Multi-State Tax Issues in LLC Formations”)
<input type="checkbox"/>	Task 14.	<u>Identify the Best Form on Which to Base Your Client’s Operating Agreement.</u> Identify the model operating agreement or other form that you believe will best serve as a starting point for planning, negotiating and drafting the operating agreement of your client’s LLC.	Chapter 14 (“How to Choose the Right Form for An Operating Agreement”)
<input type="checkbox"/>	Task 15.	<u>Handle the Business Organization Law Issues Addressed in the Above Form.</u> Determine with your client how to handle in her best interest each business organization law issue addressed in the above form. ²	Chapter 19 (“How to Handle Fiduciary Issues in Operating Agreements”); Chapter 20 (“How to Handle Non-Fiduciary Issues in Operating Agreements”)
<input type="checkbox"/>	Task 16.	<u>Choose “Plug-in Provisions” for Inclusion in Your Client’s Operating Agreement.</u> Determine with your client whether any provisions in your list of alternative provisions should be added to her operating agreement as additional or substitute provisions.	Chapter 17 (“How to Use “Plug-in Provisions” to Amend and Supplement Operating Agreements”)

¹ In the rest of this table, it will be assumed that your client needs only a single entity for the conduct of her business and that this entity should be an LLC.

² In this outline, the term “business organization law” means the subset of state business law consisting of the statutory and common law governing the formation, operation, management and other non-tax features and procedures of business entities (including, for example, procedures for statutory mergers, conversions and dissolutions). Examples of state business organization law statutes include corporate statutes, LLC statutes, and general and limited partnership statutes.

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<input type="checkbox"/>	Task 17.	<u>Handle Definitional Provisions in the Governing LLC Act Relevant to Your Client’s Operating Agreement.</u> Determine with your client how to handle in her best interest in her operating agreement each relevant definitional provision in the governing LLC act.	Chapter 18 (“How to Leverage LLC Flexibility and Avoid Pitfalls in Drafting Operating Agreements”)
<input type="checkbox"/>	Task 18.	<u>Handle Mandatory Provisions in Governing LLC Act Relevant to Your Client’s Operating Agreement.</u> Determine with your client how to handle in her best interest in her operating agreement each relevant mandatory provision in the governing LLC act.	Chapter 18 (“How to Leverage LLC Flexibility and Avoid Pitfalls in Drafting Operating Agreements”)
<input type="checkbox"/>	Task 19.	<u>Handle Default Provisions in the Governing LLC Act Relevant to Your Client’s Operating Agreement.</u> Determine with your client how to handle in her best interest in her operating agreement each relevant default provision in the governing LLC act.	Chapter 18 (“How to Leverage LLC Flexibility and Avoid Pitfalls in Drafting Operating Agreements”)
<input type="checkbox"/>	Task 20.	<u>Handle Non-Self-Enabling Permissive Provisions in the Governing LLC Act Relevant to Your Client’s Operating Agreement.</u> Determine with your client how to handle in her best interest in her operating agreement each relevant non-self-enabling permissive provision in the governing LLC act.	Chapter 18 (“How to Leverage LLC Flexibility and Avoid Pitfalls in Drafting Operating Agreements”)
<input type="checkbox"/>	Task 21.	<u>Handle Self-Enabling Provisions in the Governing LLC Act Relevant to Your Client’s Operating Agreement.</u> Determine with your client how to handle in her best interest in her operating agreement each relevant self-enabling permissive provision in the governing LLC act.	Chapter 18 (“How to Leverage LLC Flexibility and Avoid Pitfalls in Drafting Operating Agreements”)
<input type="checkbox"/>	Task 22.	<u>Handle Statutory Gap Issues in the Governing LLC Act Relevant to Your Client’s Operating Agreement.</u> Determine with your client how to handle in her best interest in her operating agreement all relevant statutory gap issues in the governing LLC act.	Chapter 18 (“How to Leverage LLC Flexibility and Avoid Pitfalls in Drafting Operating Agreements”)
<input type="checkbox"/>	Task 23.	<u>Handling Case Law Issues Relevant to Your Client’s Operating Agreement.</u> Identify all published cases relevant in drafting your client’s operating agreement, and determine with her how to address each of these cases in her best interest.	Chapter 6 (“Non-Delaware LLC Case Law”); Chapter 7 (“Delaware LLC Case Law”)
<input type="checkbox"/>	Task 24.	<u>Identify and Handle (or Work with Other Professionals to Handle) Estate Planning Issues and other Legal and Tax Issues That Need to be Addressed in Your Client’s Operating Agreement.</u> Identify and handle, to the extent of your competence, estate planning issues and other legal and tax issues that need to be addressed in your client’s operating agreement; and, to the extent that you lack the necessary expertise, help your client to identify other professionals who can handle them .	Chapter 21 (“How to Identify and Handle LLC Formation Issues not Addressed in LLC Forms”)
<input type="checkbox"/>	Task 25.	<u>Veil-Piercing.</u> Address with your client all veil-piercing issues relevant to her LLC.	Chapter 22 (“How to Advise LLC Formation Clients about Veil-Piercing”)

CHECK BOX	TASK NUMBER	DESCRIPTION OF TASK	CHAPTER IN WHICH TASK IS DISCUSSED
<input type="checkbox"/>	Task 26.	<u>Handle Federal Income Tax Drafting Issues Relevant to Your Client’s Operating Agreement.</u> In planning the operating agreement for your client’s LLC, identify and plan how to handle in her best interest all relevant federal income tax issues under the relevant federal income tax regimen.	Chapter 29 (“How to Draft Federal Income Tax Provisions for LLCs Taxable as Partnerships”); Chapter 30 (“How to Draft Federal Income Tax Provisions for LLCs Taxable as S Corporations”)
<input type="checkbox"/>	Task 27.	<u>Handle Social Security Tax Drafting Issues Relevant to Your Client’s Operating Agreement.</u> In planning the operating agreement for your client’s LLC, identify and plan how to handle in her best interest all social security tax issues under the relevant federal income tax regimen.	Chapter 30 (“How to Draft Federal Income Tax Provisions for LLCs Taxable as S Corporations”); Chapter 31 (“How to Protect LLC Members from the Self-Employment Tax”)
<input type="checkbox"/>	Task 28.	<u>Handle Multi-State Tax Issues Relevant to Your Client’s Operating Agreement.</u> In planning the operating agreement for your client’s LLC, identify and plan how to handle in her best interest all relevant state and multi-state tax issues under the relevant federal income tax regimen.	Chapter 32 (“How to Handle State and Multistate Tax Issues in LLC Formations”)
<input type="checkbox"/>	Task 29.	<u>Write Planning Memo Concerning Client’s Operating Agreement.</u> Write a planning memo for your client about the formation of her LLC and about her operating agreement and obtain her comments on it.	Chapter 23 (“How to Use Planning Memos in LLC Formations”)
<input type="checkbox"/>	Task 30.	<u>Handle Negotiation of Your Client’s Operating Agreement.</u> To the extent your client wishes, assist her in negotiating the terms of her operating agreement with the other parties to the deal.	Chapter 7 (“Using Best Practices in LLC Formations—Overview; Best Practices in Handling Miscellaneous LLC Formation Tasks”)
<input type="checkbox"/>	Task 31.	<u>Prepare Initial Drafts of Your Client’s Operating Agreement and of Other Relevant Legal Documents.</u> Prepare initial drafts of the articles of organization, operating agreement and other legal documents your client will need in connection with the formation of her LLC and obtain her comments on these drafts.	Miscellaneous chapters, including Chapters 12 through 21
<input type="checkbox"/>	Task 32.	<u>Prepare Final Drafts of Above Documents.</u> Draft final versions of the above documents, obtain all necessary signatures on them, file the signed final version of the articles of organization with the secretary of state, and handle any other procedures necessary in connection with forming your client’s LLC.	Chapter 24 (“How to Complete the LLC Formation Process—Negotiating Deals; Finalizing Documents; Preparing Minute Books”)
<input type="checkbox"/>	Task 33.	<u>File Formation Documents and Do All Other Things Necessary to Complete the Formation of the LLC.</u> File the document—called “articles of organization” in many states—and make the payment to the relevant state agency—called the office of the Secretary of State in many states—to form the LLC; and follow up on these procedures as necessary.	Chapter 24 (“How to Complete the LLC Formation Process—Negotiating Deals; Finalizing Documents; Preparing Minute Books”)

CHECK BOX	TASK NUMBER	DESCRIPTION OF TASK	CHAPTER IN WHICH TASK IS DISCUSSED
<input type="checkbox"/>	Task 34.	<u>Prepare LLC Minute Book.</u> Prepare and provide to your client a “minute book” of basic legal documents relating to her LLC.	Chapter 24 (“How to Complete the LLC Formation Process—Negotiating Deals; Finalizing Documents; Preparing Minute Books”)

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