

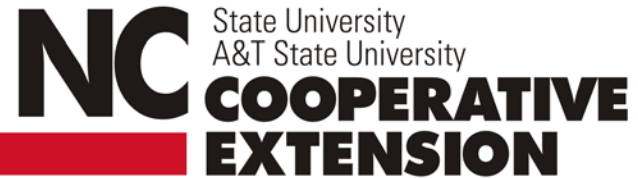


Basic Legal Structures

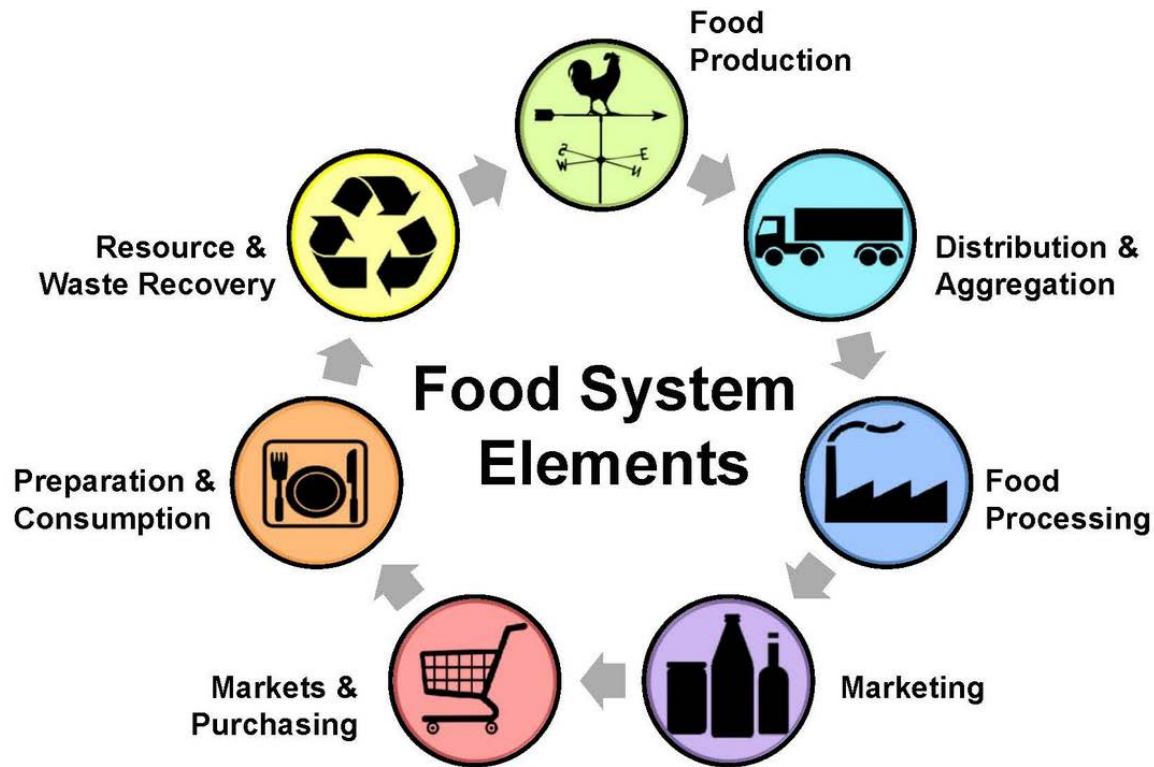
For Local Food Value Chain Businesses

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Empowering People • Providing Solutions



Adapted by Christy Shi, Center for Environmental Farming Systems.

From: Wilkins, J. and Eames-Sheavly, M. Discovering the Food System; An experiential learning program for young and inquiring minds. Cornell University, Departments of Nutritional Science and Horticulture. <http://www.discoverfoodsys.cornell.edu/>



LEGAL DISCLAIMER #1

Images used in this presentation are not the property of the author, North Carolina State University, or the North Carolina Cooperative Extension Service. They were all pulled from the Internet. We thank Charles M. Schulz, in particular, for his contribution to this presentation.



LEGAL DISCLAIMER #2

This presentation does not constitute legal advice.

Whenever forming a new business entity, always consult an attorney and an accountant.





The Super Local Food Entrepreneur



Before you hit the start button, ask yourself . . .



Do I have the money I need?

Am I willing to give up some control of the business to others?

What happens if I want to leave the business?

Does everyone involved have common goals?



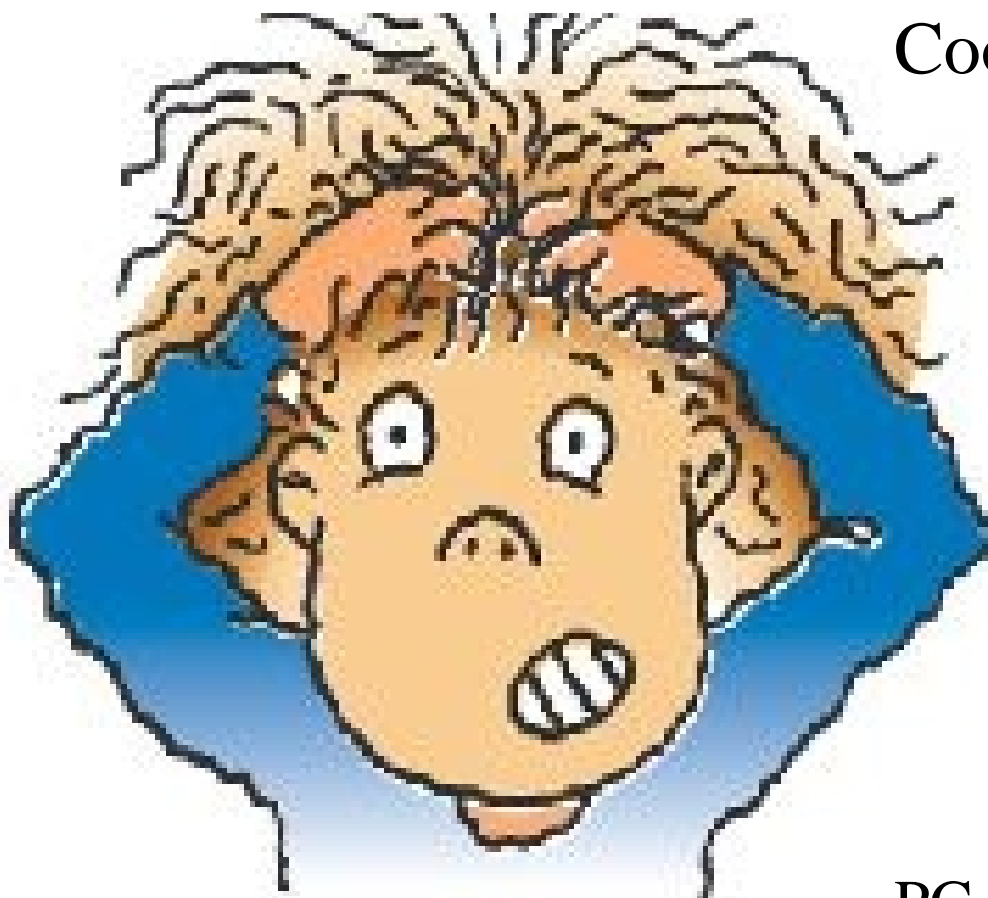
Sole
Proprietor

Partnership

LLLP

LLC

Non-profit



Cooperative

C Corp

S Corp

B Corp

L3C

PC



Things to Consider When Choosing a Legal Structure

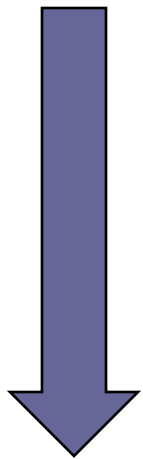


1. Ease of Formation
2. External Liability
3. Taxation
4. Management and Control
5. Transferability
6. Continuity
7. Mission



Ease of Formation

Easiest



Hardest

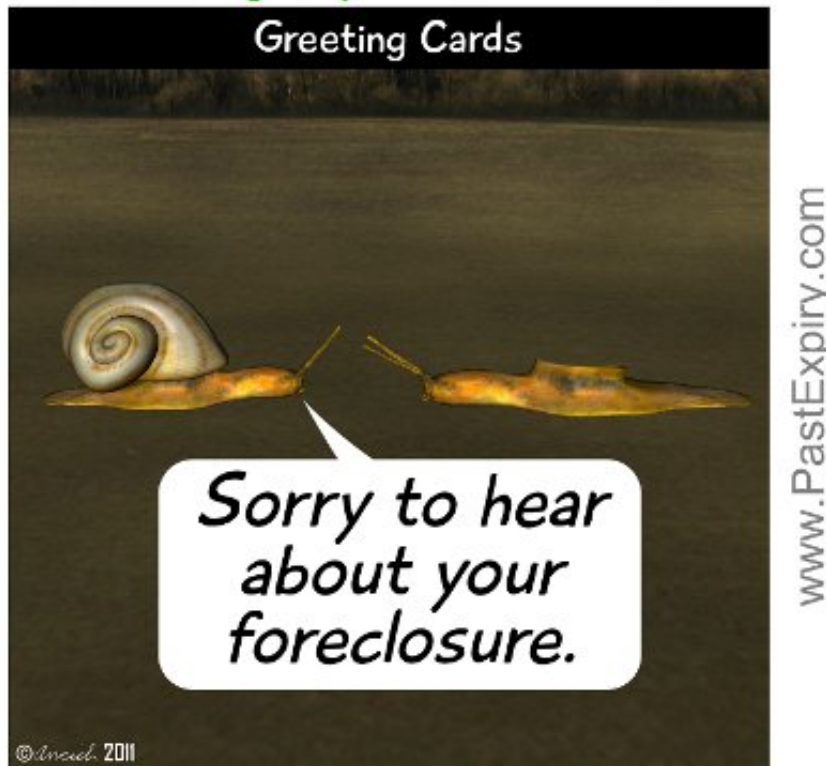
Sole Proprietorship
Partnership
LLC
Corporation
Cooperative



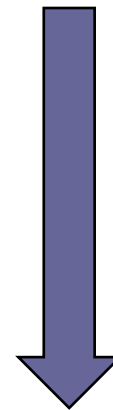
External Liability

Past Expiry

by Johnny Ancich¹¹⁵⁵



Greater Protection



Cooperative
Corporation

LLC

Partnership

Sole Proprietorship

Least Protection



Taxation

Pass-through

Sole Proprietorship
Partnership
S-Corp

Election

LLC
Cooperative

Double

Corporation (C)

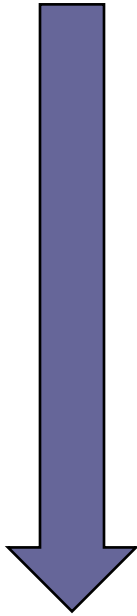
Exemption

Nonprofit



Management and Control

Greatest Owner Control



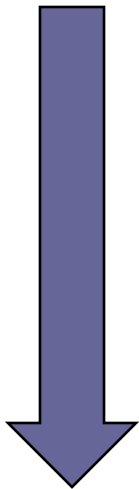
Least Owner Control

Sole Proprietorship
Partnership
LLC
Cooperative
Corporation



Transferability

Most transferable



Corporation

Cooperative

Partnership/LLC

Sole Proprietorship

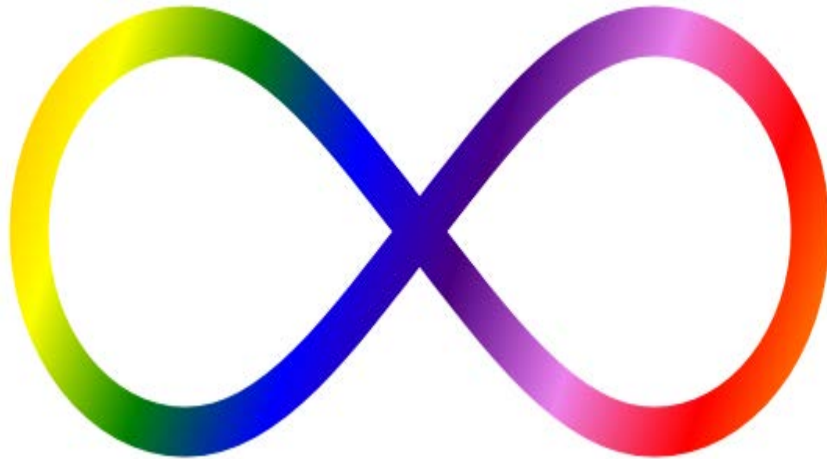
Least transferable



Continuity

Perpetual

Corporations
Cooperatives
LLCs



Limited Duration

Partnerships
Sole Proprietors



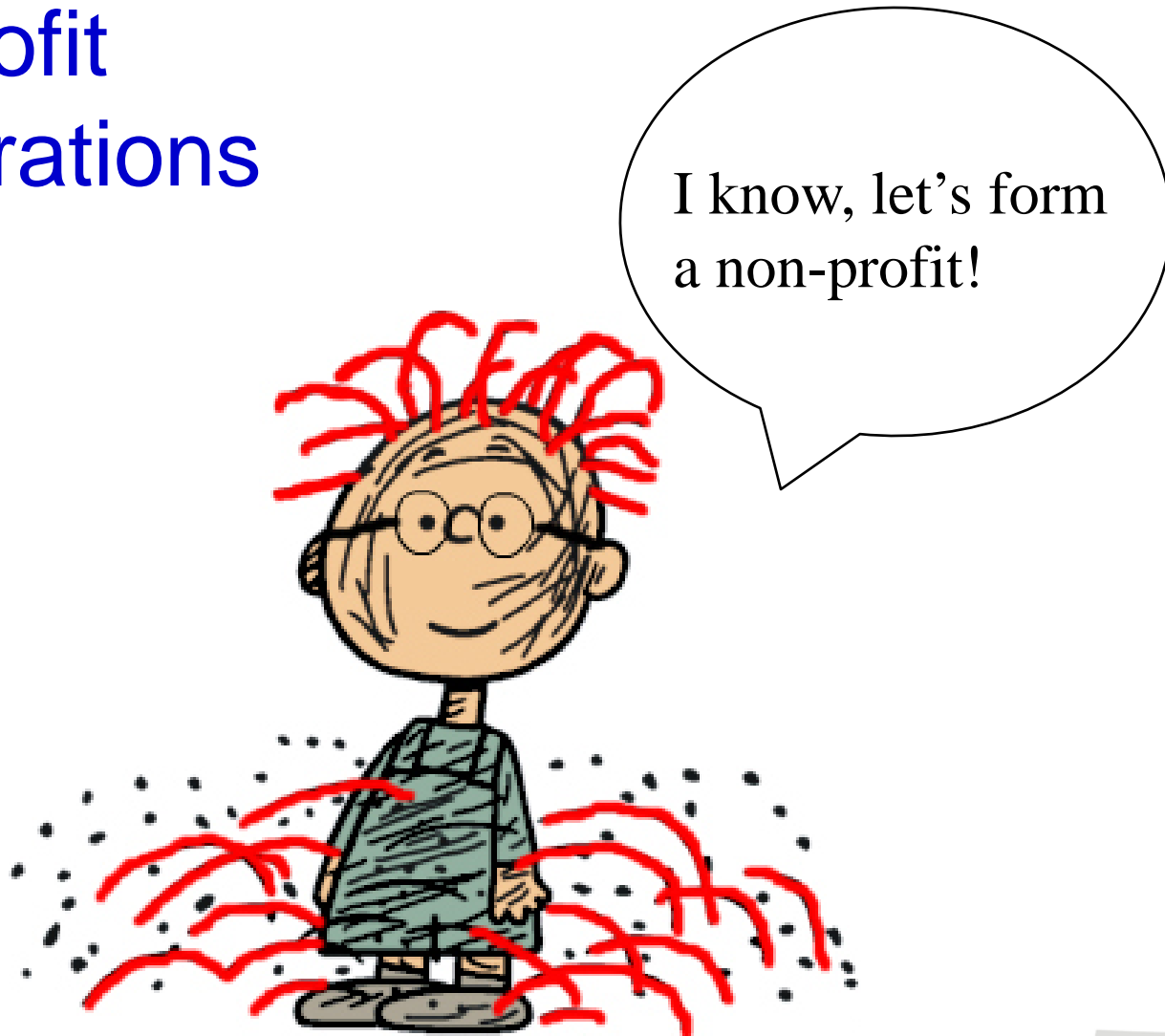
Mission



It Gets Down to the Money



Nonprofit Corporations



Nonprofit Corporations

Advantages:

- Attractive to corporate donors and foundations
- Great for bootstrapping in respect of in-kind contributions
- May be tax-exempt
- May or may not be member-based



Nonprofit Corporations

Disadvantages

- Profits are not distributed but must be reinvested in the social mission
- There is no “owner”
- Upon dissolution, all assets must be transferred to another nonprofit
- Risk loss of exempt status due to excessive unrelated business income



That money tree
may lose its leaves,
come fall!



Sole Proprietorships

Advantages

- Easy and Inexpensive to Form (may need a DBA)
- Direct Taxation
- Full Control
- No major reporting requirements

Disadvantages

- Unlimited Liability/Need for Major Insurance
- Difficulty Raising Debt Capital
- Business Survival all depends on YOU!



Partnerships

Partners Share!

- In profits and losses
- In management
- In raising capital

But they also share:

- Unlimited liability for the partnership debt
- Individual partners have the authority to act for the partnership.
- Succession and transferability issues



General
Partnership

Limited
Partnership

Limited Liability
Limited Partnership



LOL



Corporations (C Corps)

Advantages:

- Limited liability for owners
- Ability to raise major capital through sale of stock
- Transferability



Corporations (C Corps)

Disadvantages

- More complex and expensive to form
- More governmental regulation
- No pass-through of losses to shareholders
- Double-taxation
- Control resides in the board of directors



Corporations (S Corps)

- Pass-through taxation
- Limited liability
- Limited to 100 shareholders who must be US citizens or residents
- Not desirable if wanting to expand
- Limited ability to own subsidiary corporations



B Corporation

Not available in
North Carolina.



The LLC



Limited Liability Companies

Advantages

- Pass-through taxation to members
- Limited Liability
- Perpetual Existence
- Centralized management
- Free transferability
- Unlimited number of members
- May own subsidiary corporations
- May have multiple classes of stock



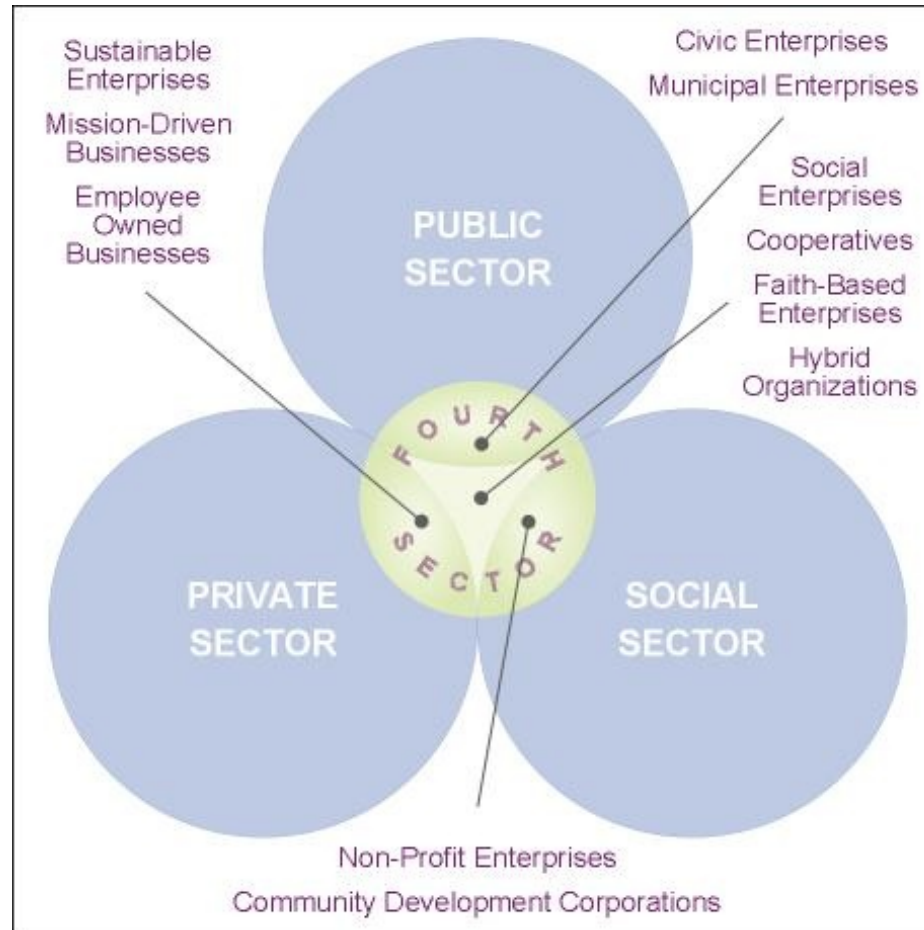
Limited Liability Companies

Disadvantages

- More expensive to form
- Not a separate entity
- Members must file quarterly estimated taxes
- May be required to register with SEC if members don't manage it
- Consensus may be difficult



L3C or “4th Sector” Enterprises



Cooperatives

4 Kinds

- Producer
- Consumer
- Worker
- Multistakeholder/Hybrid



Cooperatives

Advantages

- Pass-through taxation
- Technical assistance providers funded through USDA-RD
- Reduced costs and improved bargaining power due to membership
- Perpetual existence
- Democratic organization



Cooperatives

Disadvantages

- Slow to form and capitalize
- Lack of membership and participation



Role of Cooperatives in Local Food System Development

PLEASE watch this webinar

www.amsta.net/webinars.html



We did it!



References

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Thank you!

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