

Anchin Alert

Anchin, Block & Anchin LLP
Accountants and Advisors

December 14, 2017

Taxes for LLC vs. C-Corp: Which is more beneficial for a Technology Company?

When making the decision about the type of entity you will choose for your business, there are many factors that need to be considered. Whether it is legal structure and liability, current and future tax implications, set up and compliance costs, or flexibility and exit strategy, there are a variety of elements which will help guide the decision. If a technology company is seeking to raise capital, an LLC structure will provide different avenues for a potential investor, such as different classes of partnership units; which differs from a C-Corp, where different classes of stock will have significantly tax implications compared to partnership units.

Furthermore, if an acquisition is considered, the approach and implementation will also be dictated by the structures chosen. For instance, there are various methods to employ a tax-free acquisition amongst two C-Corp's, whereas if an LLC is involved, additional planning and sophisticated structuring may be required to achieve a similar result.

For companies that operate at a loss, the ability to utilize those losses is dictated based on entity structure. For instance, an individual partner may be able to utilize losses from an LLC at the personal level, subject to basis limitations. Losses are generally trapped within a C-Corp, and in certain cases could be subject to limitations based on the future based on changes in ownership. State and Local Taxes must also be considered, as the tax rates may differ by entity type. As an example, LLC's that have income allocable to New York City are subject to a 4% tax, where-as C-Corps are subject to a tax rate of nearly 9%.

For technology companies that plan to operate in the foreseeable future, setting up equity compensation plans to retain key employees is common in the industry. There are different options for a company can consider, including restricted stock or stock option plans for a C-Corp, or implementing different classes of units based on pre-defined hurdles or goals within an LLC structure. It is important to note that each option has certain variables that result in different tax consequences for both the employer, as well as the employee.

Anchin's Technology Group helps you navigate the complicated world of entity structuring, as it has a major impact on the company and its investors. Please contact your Anchin Relationship Partner, Chris Noble or Michael Brennan of Anchin's Technology Group with any questions you may have on the best tax structuring plan for you.

We will be closely following the reconciliation of the tax reform legislation process and will keep you informed of the plan as it progresses. If you have any questions regarding the proposed tax legislation, please contact your Anchin relationship partner.



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