



FARM COMMONS

Organizing the Farm Business Module:

Legal Curricula for Beginning
Sustainable Farmer Education

www.farmcommons.org

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Objectives for the Organizing the Farm Business Module

Beginning farmers should know the following:

1. An LLC or corporation protects the farmer's personal assets from business liabilities, where a sole proprietorship or partnership does not.
2. The liability protections of an LLC or corporation are not absolute—they must be maintained by good business practices.
3. Where more than one person forms a partnership, LLC or corporation, organizing documents are important to create stability and resiliency.
4. Essential elements of a business organization document include the following:
 - Who is an owner, how owners are added, and how owners are removed
 - How ownership is transferred
 - How distributions are made
 - Allocation of responsibility for major decisions

Beginning farmers should be able to do the following:

1. Create an appropriate entity
2. Draft effective, thorough documentation to support smooth operation of a business entity from legal perspective

Choosing a Business Entity

Typical farm business entities include the sole proprietorship, partnership, corporation, limited liability company (LLC), and cooperative. This module and outline briefly discuss the relevant elements of each business entity. However, a straightforward answer as to which to choose cannot be provided in a single resource. Consulting with a professional about a farm's individual financial, tax, and succession goals is an important part of the process of choosing the most appropriate entity.

From a realistic perspective, choosing a business entity may not be the most pressing decision for a beginning farmer. Although some business entities can help manage risk, choosing appropriate insurance policies, careful regulatory compliance, and good safety practices are far more important to the long-term viability of the farm.

With the exception of the cooperative or C corporation, the tax effect of the various business entities is not a major consideration. For most farms, the net effect from farm operations will be largely equivalent whether the farm is a sole proprietorship, partnership, LLC, or S corporation. Instead, a farmer's non-farm tax situation plays a greater role in determining the appropriate tax strategy as compared to the farm's business entity. This is why farmers need to consult a tax or accounting professional to understand how to position the farm within the individual's broader financial situation.

The above caveats aside, making a deliberate choice of business entity is an important step for a beginning farmer. Analyzing options can serve as an entry point into a deeper discussion of the farm's objectives. Going forward with an entity choice brings a level of legal existence that feels momentous. When farms follow the decision through by writing the organizational documents that support their chosen entity, the resulting clarity of procedure is very valuable for preventing problems in the future.

Sole Proprietorships

A sole proprietorship is the easiest business to start because it is essentially the same entity as the owner. The majority of farms are owned as sole proprietorships. The

reason most farms are organized this way may be because the entity is easy to create and because newer options such as the LLC are not yet well known in rural areas.

Under a sole proprietorship, the law treats the owner and the business as one and the same. All the resources the business uses, such as tractors, supplies, and equipment, are fundamentally the owner's personal assets, as well. This is why a sole proprietorship is so easy to form- nothing needs to be set up. Only one person can own a sole proprietorship. If multiple owners are involved, the sole proprietorship is classified as a partnership, which has many of the same characteristics and is explained below.

However, the convenience and status quo comes with drawbacks. Because there is no distinction between the business and the individual, the owner is personally responsible for the liabilities of the business. If a creditor has a successful judgment against the farm business, the creditor can reach the farmer's personal assets to pay off the debt. On the other hand, assets from the business may be used to satisfy the farmer's personal debts (an action restricted in other business entities). Bankruptcy and liability law somewhat limit the extent to which the farmer's personal assets can be taken, even though sole proprietorship law makes the farmer's personal assets available. Some farmers are comfortable relying on the bankruptcy and liability protections and feel the risk of loss is minimal. Other farmers prefer to minimize their risk as much as feasible and choose to avoid the sole proprietorship.

At tax time, the owner of a sole proprietorship reports the tax obligations of the farm business on his or her personal tax filings, by way of Schedule F. The total income or loss from the farm is combined with the owner's broader financial situation to determine the individual's final tax obligation. The business itself does not file taxes on business income separately.

In Illinois, an individual wishing to start a sole proprietorship using their own name as the business name (for example, Sally John's Farm) does not need to file anything to start the business. If a sole proprietorship operates under name that does not include the owner's personal name (for example, Sally John uses the

name “Happy Fields” instead of “Sally John’s Farm”), the business must register the trade name with the county in which business operates. Farmers should contact the recorder in their county office for more information regarding the form and filing fee to register a trade name. Illinois also requires sole proprietors and general partnerships to publish notice in a newspaper of general circulation in the county of registration once a week for three consecutive weeks.

Partnerships

A general partnership is two or more persons who combine their resources to conduct business for a mutual profit. Basically, a general partnership is a sole proprietorship with more than one owner. There are no formal requirements for formation of a partnership. A partnership is formed by default if two people simply carry on a business together. Also, as with a sole proprietorship, the individuals in a partnership are personally responsible for the liabilities of the business. In addition, each partner is personally liable for the obligations of the other partner. This means that if the partnership lacks the resources to pay its debts, creditors may force the partners to pay the partnership’s debts out of their personal assets. If one partner has no personal property, creditors can force the other partners to personally pay the full debts of the partnership.

Another disadvantage is that if one partner leaves the partnership, the partnership might automatically dissolve, depending on the circumstances of the partner’s departure. In addition, ownership of the partnership is not freely transferable and creates special concerns for both business succession and estate planning.

In terms of taxation, tax liability for the business’ profits and losses is handled on the partners’ individual tax returns and the entity itself does not file taxes, as with the sole proprietorship. Despite the liability concerns, general partnerships are a common form of business organization especially among family members. The high formation and maintenance fees associated with LLCs and corporations tip the risk analysis in favor of sole proprietorships and general partnerships for many business owners.

If a partnership does business under any name other than one including the partner(s) name, the business must register the assumed name. Farmers should contact the

recorder in their county office for more information regarding the form and filing fee to register a trade name. The Illinois Assumed Business Name Act also requires sole proprietors and general partnerships to publish notice in a newspaper of general circulation in the county of registration once a week for three consecutive weeks.

Limited Liability Companies (LLC)

A Limited Liability Company (LLC) is a business entity that can be created either by a single individual or by two or more individuals wishing to start a business together. The LLC is quite easy to start, which gives it similar benefits to a sole proprietorship or partnership. However, the LLC offers a distinct advantage over a sole proprietorship or partnership. An LLC, when properly established and operated, protects the owner's personal assets from the business's liabilities. That means that if the business is unable to meet its debts, creditors cannot (absent special circumstances) go after the owner's personal assets to pay off business debts. To ensure this liability protection for personal assets, individuals with an LLC must be sure to conduct business transactions with the business account and personal transactions with personal funds and follow other best business practices as discussed below.

LLCs are an especially popular business entity because they are very flexible. Where corporations have statutory obligations such as holding meetings and electing officers, LLCs have fewer mandatory practices. As discussed below, it is still highly recommended that LLCs hold meetings and allocate responsibilities, even if not absolutely required by statute. The owners of an LLC are called "members" and there are a variety of ways to structure membership within an LLC. A farm business considering working with investors may also have more flexibility in terms of how to structure that relationship by using an LLC. Illinois allows one person to form an LLC, which makes this entity a strong alternative to the sole proprietorship. As with sole proprietorships and partnerships, an LLC is a pass-through entity, which means that the members account for business profits and losses on their personal tax returns.

Instructions on creating and maintaining an LLC are in the next section.

Corporations: C and S elections

Farm businesses are often organized as a corporation, especially when more than one generation is involved. This entity is also well suited for situations where the farm has investors or off-farm shareholders such as family members who are not active in the farm operation. Corporations use special terms for various capacities of those involved with the business. A corporation's owners are called shareholders. Shareholders finance the corporation's existence by purchasing stock in it; each stock share represents an ownership stake in the corporation. Individual shareholders typically have no say in the day-to-day operations of the corporation. Rather, shareholders elect a board of directors, which is responsible for making all decisions related to the corporation's affairs. The board of directors can then designate officers such as a chief executive officer. On a small farm, shareholders may also be directors and officers. In fact, a single person can create a corporation and serve as its shareholder while holding all the offices of the directors and serving as the day-to-day manager.

The corporation is a separate legal entity from its owners (shareholders) and so shareholders may avoid personal liability for the corporation's liabilities. But, to preserve this protection statutory formalities such as the election of a board and officers must be followed. Illinois corporations must also hold an annual meeting and keep records of the minutes of the meetings on file.

On one hand, because these obligations are inflexible, many new business owners are attracted to the LLC. Yet, the filing fee to create a corporation is \$150, whereas filing an LLC costs \$500. Regardless, moving from a corporation to an LLC structure can have serious tax implications. Thus, many existing corporations continue to carry on as corporations. For farmers without an existing business, it comes down to personal preference for the statutory obligations and affordability.

Regarding taxes, the Internal Revenue Service Code classifies corporations as either "Subchapter C corporations" or "Subchapter S corporations." The IRS considers all corporations C corporations unless shareholders elect S corporation status. C corporations are subject to "double taxation" - a phrase indicating that the government taxes the corporation for its profits and taxes the profits again

when the corporation passes them back to shareholders in the form of a dividend—the shareholders report the income on their personal taxes. A farm business can avoid this by making an S election. Under an S election, the corporation does not pay taxes on its profits as an entity; instead, just as with a sole proprietorship or LLC, the individual pays personal income taxes on his or her share of the profit.

A corporation elects S corporation status with the IRS by filing Form 2553. Only after the IRS accepts the registration may the corporation file its taxes as an S corporation. S corporations can have no more than 100 shareholders and all must agree to the S corporation status. All shareholders must be U.S. citizens or resident aliens and only individuals, estates, certain exempt organizations, and certain trusts can be shareholders. Finally, an S corporation may have only one class of stock. Despite these limitations, the expense of an LLC may make S corporations an attractive option.

Instructions on forming a corporation are in the next section.

Cooperatives

A cooperative is a user-owned and controlled business that generates benefits for its users. The cooperative entity is similar to a corporation in terms of limited personal liability for business liabilities. The characteristic of a cooperative is that a single user has a single vote in the cooperative's activities rather than voting privileges in proportion to their ownership. Members receive equity in the retained earnings of the business own a cooperative. Members may also receive a distribution of the cooperative's profits in proportion to their usage of the cooperative. Common reasons for forming agricultural cooperatives include improved marketing or access to markets and increased efficiency in delivering to markets. As cooperatives are organized to provide a service to members, the entity is considered a nonprofit business and unlike a corporation, the entity is not taxed on its profits. Individual members may owe tax on received distributions under specific circumstances.

Farmers may choose to form an incorporated or unincorporated cooperative association, with the former either as a for-profit or nonprofit structure. Cooperatives can be complex to establish and operate because they require

coordinating numerous individuals. Moreover, there are several legal documents necessary to running an effective cooperative, including an organization agreement securing financial commitments and patronage, bylaws governing the management of the cooperative, marketing agreements between the cooperative and its members, and membership applications.

Forming and Organizing a Business Entity

For farmers starting a new business, an LLC or corporation may be the right business entity. For existing sole proprietors or general partnerships, it may be a good idea to convert to a new entity for liability protection. In addition, the LLC and corporation can help farmers create clear decision-making procedures, outline responsibilities, plan an exit strategy, and manage potential liability.

This guide is intended to orient farmers with the basic outlines of the process. It is not an exhaustive list of specific procedures.

Prepare

 Settle on a name for your business

Choosing a name is a very important step for the farm business. A farm name helps create an identity, differentiate product, and even defines the community. It's also a legal consideration. The Secretary of State's office will reject an application if the business has chosen a name that is not recognizably different from a business already registered as an LLC or corporation. In addition, if a farmer chooses the same name as another business already in operation, that business may demand that the farmer stop using their name. If this problem comes up after a farm has been around a few years, changing the name can confuse customers.

Choosing a farm name that isn't already in use prevents these problems. First, check state and federal databases of trademarks and trade names. Search for the "Certificate of Good Standing" data base, hosted by the Illinois Secretary of State, which searches LLCs and Corporations at the same time or both separately. Farms

may also check the federal trademark database. A basic online search will reveal the url of these databases. Finally, farms may want to check if their preferred website address is available and do a basic search for existing businesses with the same name.

When completing the relevant paperwork, the official name of the business must indicate the type of business entity. An LLC must have LLC after the business name. A corporation must have Inc., or Incorporated after the name or include the word “corporation” in the name.

🗨️ Prepare to allocate assets between business and personal

The essence of an LLC or a corporation is that the business is distinct from its owner or owners. Accordingly, owners have to follow through with that distinction in practice. This means that the owners need to decide which assets are personal and which are business. For farms, the ownership of land can be a delicate decision. Many farmers prefer to keep the land under personal ownership, and then lease their personal land to the farm business for farm usage. This allocation can affect the farm business’s balance sheet. Farmers who use an accountant should ask them for advice. If a farm is financed through a bank or the Farm Service Agency, farmers should talk with the agent about any effect on your qualifications or personal loan guarantees. Although this allocation may seem overwhelming considering the large number of assets many farms have, it shouldn’t be too complicated. A common sense approach is likely the best. If assets are used for the farm, they should likely be farm assets. A farm can be held liable for failing to adequately capitalize the farm business, so the creation of an LLC can’t be used to shield farm assets. At this point, the farm should bear in mind that this division will occur and gather any necessary information to make the transfer.

Establish the entity

🗨️ For LLCs: Draft and file articles of organization

🗨️ For corporations: Draft and file articles of incorporation

The Illinois Secretary of State provides form LLC-5.5: Articles of Organization, which create an LLC. Form BCA-2.10: Articles of Incorporation creates a corporation. Both are available at the Secretary of State's website. The filing fee for Form LLC-5.5 is \$600. The filing fee for Form BCA-2.10 is \$150.

The articles will require a person to list the business' "agent." An agent is a person who will accept service of process in the event that the farm is sued. For most farmers, the individual at his or her home address will be sufficient as an agent and agent address. The forms also require a listing of members (LLC) and officers or directors (corporation). Legally speaking, a member is the owner of an LLC. The LLC form asks whether the entity is "member managed" or "manager managed." The appropriate answer depends on who has the authority to make decisions for the business. If all owners/members may make decisions (such as mortgaging the property, selling the business, etc.) the farm may be member managed. If only specific people may make those decisions, the farm may be manager managed. The information on the articles of organization can be changed by filing amended articles. Corporate officers and directors must be listed on the Articles of Incorporation.

Detailed instructions for completing the articles are included in two documents distributed by the Illinois Secretary of State: A Guide For Organizing Domestic Limited Liability Companies and A Guide For Organizing Domestic Corporations.

Implement Best Practices

 Document ownership of assets

If a farm chooses to hold ownership of the land personally, the individual should document the new relationship with the business. If the farm business uses personal property, the farm business should have a lease with the individual. It can be a very simple one-page outline of basic terms such as rental rate, lease term, and renewal procedures. Many individuals choose to lease the farmland for a rate equal to the value of the annual property taxes, but each farm has unique needs.

The objective of allocating assets and writing leases is that at any point in time, a court should be able to determine which assets are the farm's and which are personal. This is because the farm's creditors can go after business assets. Thus, we need to know what they are. The court should also be able to determine exactly how and why assets are used for both personal and business. Your documentation can go a long way towards creating an efficient process. If records are a mess and there is no documentation, a court may decide for itself which assets are personal or business, and the farm loses an opportunity to influence the process.

As discussed above, a farm business needs to follow through on creating a separate entity by making the division between business and personal. If the farm doesn't already have a separate bank account, set one up. Farm expenses and payments should move through the farm account, only. (If a person forgets the farm checkbook and uses a personal bank card instead, the person may pay themselves back, of course.) Next, determine which assets are farm and which are personal. A common sense allocation is probably the best route. This process can be quite simple- there's no need to detail every feed scoop, hand weeder, or trash bin. Making a best guess as to the value of the farm's property and placing it on the farm's balance sheet is a simple way to document the transfer.

There is no need to get creative. If a farm tried to keep all assets personal and leave the farm with nothing, a court would likely not respect the business entity at all. The allocation must be based in reality and the farm must have enough assets to capitalize the operation.

 Update websites, brochures, invoices, order forms, etc with the entity designation

Illinois LLCs are required use the LLC designation in the name of the business. Corporations are required to use the word in their name or to follow their name with the Inc. or Incorporated designation. This signals to potential creditors that only business assets are available to satisfy potential judgments against the business. If a farmer doesn't like the look of the words or has already invested in marketing materials, the farmer can register an assumed name without the designation. This is done by filing form LLC-1.20 Application to Adopt an

Assumed Name or form BCA-4.15. The forms have a filing fee which ranges from \$150 for the full five years of the application period, which is prorated down to \$30, depending on the year in which the application is filed.

 Draft an operating agreement or bylaws

Although not required by Illinois law, an operating agreement is highly recommended for LLCs and bylaws are recommended for corporations. These organizational documents outline exactly who makes decisions for the farm, how members can enter the business, leave the business, receive distributions, and other essential issues. The agreement also allocates business profits and losses. If a farm does not have its own organizational documents, state law provides default rules. However, those rules may not be best for the farm business. The operating agreement is the farm business's chance to establish rules and procedures that work best for the farm's individual situation. Writing organizational documents can be a very valuable process for farm owners, even if the state's default rules will work perfectly well. It is a chance to think through some very important contingencies.

The following is a very brief checklist of issues that may be included in an organizational document. The list is not exhaustive by any means.

- What happens if a farm partner dies?
- What if one partner wants to leave the business?
- How much notice do we need?
- Can they just leave the work without pulling their investment?
- If they want their interest redeemed, how long does the business have to pay it?
- How is their interest valued?
- Can they go start a competing farm?
- Can they take your customer list and start pitching to it?
- What happens if someone dies? Can their heir take over membership? If not, does company have to carry life insurance so that there's a source of funds to pay heirs for membership?

- Are we paying ourselves a wage? Or, are we just splitting the profits? What if we don't make a profit?
- What if we make a profit and one member wants to continually reinvest. Can the other person demand a distribution of that?
- Can partners be expelled from the business? If so, under what conditions and how?
- What if one person has income from trust fund and they want to offset income with losses? Can you distribute them unequally?

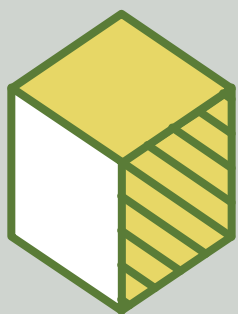
Although Farm Commons is developing model operating agreements and bylaws geared specifically for farms, they are not available yet. Instead, please see the Further Resources section for additional models.

Follow the organizational documents

If farmers have outlined how the business should handle important things like decisions, taxes, and departure of a member, it's very important to follow the document. This gives the business legitimacy in court. And, if a person went to all that effort, they should make it work for the business.

Fulfill annual obligations

The Illinois Secretary of State requires an annual report and an annual fee to maintain an entity. If these duties are neglected, the state may dissolve the entity. The annual fee for an LLC is \$250 and the annual fee for a corporation is \$75.



Organizing the Farm Module Powerpoint Slides

These slides may be used as a template for a presentation
on organizing the farm for beginning farmers

Sole Proprietorship

- Easy to form
- Affordable- no filing fee or annual report fee
- Leaves personal assets exposed to business liabilities

General Partnership

- Same characteristics as the sole proprietorship.
- Whenever two people go into business to make a profit together, they form a general partnership (absent any agreement to the contrary.)

LLC

- When managed correctly, protects personal assets from business liabilities
 - “Managed correctly” includes keeping separate bank accounts for personal and business money, adequately capitalizing the business, holding meetings, and other best business practices
- Very flexible in terms of members, investment, and financial return details
- Few statutory requirements regarding meetings, officers, etc.

Corporations

- Protects personal assets from business liabilities (when managed correctly.)
- An S corporation offers tax advantages over a C corporation, but has limits on number and type of shareholders
- Has statutory obligations including electing directors and holding annual meetings.

Other considerations

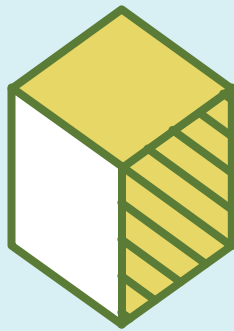
- As to the farm business only, same general tax affect across entity types (excluding C corp).
- Insurance is a far more important risk management strategy than the business entity.
- Plaintiffs will generally try to get at personal assets by arguing an entity is not properly managed.

Organizing Documents

- Partnerships should have a partnership agreement
- LLCs should have an operating agreement
- Corporations should have bylaws

Organizing Documents

- The organizing document should address details of how the farm business is owned and its finances controlled including:
 - Transfer of ownership
 - Adding or subtracting owners
 - Authorizations and responsibilities of owners
 - Valuation of the business or shares
 - Distributions of profit



Organizing the Farm Module Videos

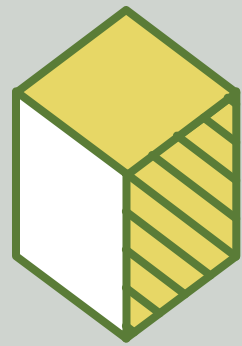
These videos discuss important principles of organizing a farm business: choosing an entity and insuring the farm

Farm Business Entities Video:

[Follow this link](#) to a 21-minute video explaining the various business entity options and how to understand the factors relevant for a farm business.

Farm Insurance Video:

[Follow this link](#) to a 26 minute video discussing the various insurance policies available to farmers. Although insurance is discussed in much greater detail in each of the individual modules, this video is a nice overview.



Organizing the Farm Module Activity

This homework activity is designed to deepen farmers' understanding of the way a business entity is created by simulating the process.

Activity: Facilitator's Guide

Objective

This module on organizing a business explains how an LLC or corporation is created. Yet, explaining the process can only do so much. Searching for the documents and filing out the forms is much better understood when it's actually performed. The objective for this activity is to deepen farmers' understanding of the way a business entity is created by simulating the process.

This activity is ideal where students are actually planning to start a farm business in the future. It may be a bit contrived where the learning is just theoretical. In that case, the exercise could be done in-class as part of a presentation. Seeing the actual Illinois Secretary of State database and forms creates more interest than informational slides alone.

Ways to use this activity

- **As Homework:** The activity flows most naturally as a homework activity. If many of the students are starting their own farm, they may wish to actually search for their actual business name. In that case, the homework assignment would be especially valuable to students.
- **As a presentation:** The websites and forms could be integrated into a presentation. Rather than just mentioning a form's title and source, the presenter could show the Illinois form itself and demonstrate where and how to search the databases.
- **In-class:** If all students have their own laptops, this activity could be done in-class. It might make a nice break as students work quietly on their own to investigate.

Facilitator's Discussion Points

No discussion points provided for the first three questions involving database searching.

Last Question: Let's say you want to form a business entity with the business name chosen. Look up the filing fees and annual report fees for an LLC as compared to a corporation. If you ran your farm business for 15 years, what is the total amount you would spend for an LLC? For a corporation?

- LLC filing fee is \$600 and annual fee is \$250. Over 15 years that's $(600+(14*250)) = \$4100$
- The corporation filing fee is \$150 and the annual fee is \$75. Over 15 years that's $(150+(14*75)) = \$1200$

Activity Handout: Establishing a Farm Business Entity

When folks first begin to imagine owning their own farm, one of the first things they ponder is the farm name. The farm name is quite relevant from a legal perspective. A farmer doesn't want to choose a name that they later have to change. This can happen if another business was using the same name, first. Problems can also develop if the farm tries to form a business entity with a business name that is already registered by someone else. This can happen even if the other person isn't actively using the business name. Thorough research beforehand can prevent the anguish of having to choose a new farm name after a farm had already developed brand recognition. By following the steps below, you'll get practice with the process of researching a farm name and registering a business entity with the Illinois Secretary of State.

The first step is to arrive at a farm name. If you've already chosen a name, you can use that. If you haven't, brainstorm a name that you will use for this project.

1. The farm name I'm searching is:

Now, let's look to see if that name is available:

Use your search engine to locate the "Certificate of Good Standing" data base, hosted by the Illinois Secretary of State.

Once you've found the database, search for your farm name. Use the exact name.

2. Are there any LLCs or corporations with the name, presently?

Now, try variations on or shortened versions of the name. For example, if your farm name is "John's Green Acres," try searching for "Green Acres." This will help you find any names that are similar. The Illinois Secretary of State will deny registrations from businesses filing forms with a name that is confusingly similar to an existing business.

3. Are there any LLCs or corporations with names that a court might find to be confusingly similar?

Use your search engine to locate the federal trademark database, hosted by the US Patent and Trademark office.

Once you've found the database, search for your farm name. Use the exact name.

4. Are there any businesses with the name, presently?

Now, try variations or shortened versions of the name. For example, if your farm name is "John's Green Acres," try searching for "Green Acres." Are there any similar names for companies that produce similar products? Your name may infringe on another business's trademark if consumers are likely to be confused about which business is which.

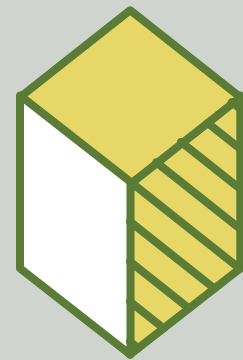
5. Are there any businesses with similar names and products to yours?

Next, perform a general search for any business currently using the name.

6. For example, is anyone using the url you might choose for your website?
7. Based on your search results, do you think you have a good name or should you change it?

Last, let's say you want to form a business entity with the business name chosen. Look up the filing fees and annual report fees for an LLC and for a corporation.

1. If you ran your farm business for 15 years, what is the total amount you would spend for an LLC? For a corporation?



Organizing the Farm Module Discussion

The objective of this discussion is to encourage beginning farmers to ponder their relationships with business partners.

Discussion: Facilitator's Guide

Objective

The objective of this discussion is to encourage beginning farmers to ponder their relationships with business partners. Whether with a relative, a spouse, or a friend, many farmers have a business partner. But, these relationships can break down over time, which often leads to both farmers quitting. Good communication, allocation of responsibilities, and predictable procedure can help avoid this.

As a secondary point, the conversation is designed to help beginning farmers see the importance (and difficulty) of precisely articulating their relationship to one another. By setting up one difficult, but common, situation we can illustrate the level of detail necessary for a partnership agreement, bylaws, or operating agreement that smooths operation. By asking farmers to move to the next step of writing out their thoughts, the abstract becomes much more tangible. This is a significant threshold to cross, as the inertia of not writing things down can persist for some time.

The issue of partner relations is not unique to farms. Small businesses of all types run into management issues when partners don't see eye-to-eye on issues. However, with a farm, the intense workload and sense of personal connection to the work can make compromise especially difficult. If farmers can get ahead of these issues and work out solutions before problems develop, it makes inevitable difficulties easier to navigate.

Ways to use this activity

- Role Playing: The experts say that everyone learns differently and that role-playing compliments the active learner. That works especially well for this discussion. The reading can be given to one individual beforehand with a request to prepare a dramatic reading for the rest of the class. This works well if the facilitator knows the class and can pick a good person for it.
- Silent reading: If role playing simply isn't the class's style, this is just as easy to conduct by asking students to spend a few minutes reading the story beforehand.
- Group discussion or class discussion: Students are often more eager to share

with just 2-3 other people so small group discussions can be ideal. However, the discussion would work well in a large group. Especially when time is short, whole group discussions are easier. The facilitator can move the group along and there's no need to take time with each group reporting back after the discussion.

- Homework activity or in-class discussion: Because of the writing element, this discussion would translate well to a homework activity

Facilitator's Discussion Points

The following are suggested responses to the discussion questions.

1. What factors are potentially causing this problem?
 - June and Bridget assumed that they would split the profits and work equally in the business. In reality, it's hard to measure equal work and we often do not work exactly the same amount of time as our partners.
 - June and Bridget don't have the same priorities in terms of balancing work or in their understanding of what makes for a successful CSA.
 - They don't have an effective budgeting system. Even if they have a budget, they didn't have procedures for dealing with overage.
2. What procedures could June and Bridget adopt to prevent these problems?
 - For budgeting, they could agree that all expenditures over \$100 in a single transaction or \$500 total for a supplier over the season need approval of both partners. The numbers could be changed based on the last year's averages.
 - They need a way to measure equal effort. June and Bridget could measure their input into the business by dividing responsibilities and setting metrics for success. Each partner would be responsible for achieving the metrics, regardless of how they chose to do it.
 - June and Bridget could set out priorities at the beginning of the season. They could set thresholds for the kinds of problems that require extra work and those problems that can be let go.
3. Pick one problem/procedure and draft some language you might put in June and Bridget's operating agreement or bylaws to address the problem.
 - No recommendations here. Simply making an attempt is all that matters!

Discussion Handout: Building a strong CSA through sales agreements

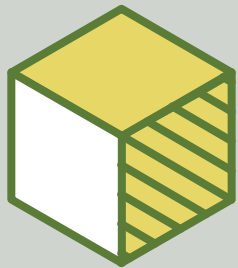
One day, you sit down for coffee with your friend June. You innocently ask June how her farming season went. This is her response:

“How was the 2013 farming season, you ask? Things started out promising when Bridget and I started the operation. I love working in the fields with her, and she’s great at marketing, But in June she went and bought new tools and equipment on credit. Not only did we agree not to use credit cards, it cost us \$2000! We had never budgeted for that! Then, around August, Bridget felt it was important for us to have more personal time, even if the farm suffered. That all sounds good in principle, but we are running a business and it was suffering. We had CSA members depending on us, so I put in 20 more hours per week for almost one month. Bridget never said anything- she didn’t even thank me! I busted my butt and rescued us when we were about to lose members... especially because we needed that income to pay for the tools. I managed to turn a profit, but in January, she expects we are supposed to split profits?? I’m not sure I can do this anymore.”

Now as it happens, you are an elf with the power to step back in time and change the past. June is your best friend and you decide to get into your time machine, go back 10 months to the beginning of the 2013 farming season, and change things. You are going to create a pathway for June and Bridget to solve this problem.

Discuss:

1. What factors are potentially causing this problem?
2. What procedures could June and Bridget adopt to prevent these problems?
3. Pick one problem or procedure and draft some language you might put in June and Bridget’s operating agreement or bylaws to address the problem.



Organizing the Farm Module Further Resources

Organizing the Farm Module Further Resources

Illinois Direct Farm Business Guide: Chapter 1

The Illinois Direct Farm Business Guide is a comprehensive resource discussing the laws that affect farms who sell directly to consumers. Chapter 1 addresses factors in setting up the farm business. The chapter goes through additional entity options such as the less frequently used limited partnership.

www.directfarmbusiness.org

Illinois Secretary of State, Business Services Department

www.cyberdriveillinois.com

Form Your Own Limited Liability Company

This book from Nolo Publishing offers a wide breadth of information on starting and running an LLC. It also has form operating agreements and form meeting minutes. The book is available in many libraries. Used copies are available for affordable prices through many resellers.

www.nolo.com

**End of Organizing the
Farm Business Module**
