Business Entity Mistakes to Avoid (and What to Do Instead)

Forming the company takes an afternoon. Keeping its protection intact takes habits most owners never set up.

Most business owners treat formation as the finish line. The state approves the filing, the certificate arrives, and the company starts doing business while the owner keeps running things the way they always have.

The mistakes below are the ones I see most often in limited liability companies and corporations. None of them is exotic. Each one weakens your liability protection, costs you money at tax time, or leaves a mess for whoever has to sort out an exit, a sale, or a death. Each one is also cheaper to fix now than later.

Money and Records

Running business money through your personal account. A company that shares a bank account with its owner gives a court an easy reason to treat the two as one, which is what "piercing the veil" means. Single-owner companies are the most exposed. What to do instead: open a business account in the company's exact legal name, using its EIN, and run every dollar of business income and expense through it. Pay business bills from it and nothing else.

Moving money in and out with no label. Money you put in is either a capital contribution or a loan. Money you take out is salary, a distribution, or a loan repayment. If nobody wrote down which, the IRS and any future buyer or co-owner will decide for you. What to do instead: record every owner transfer when it happens. If it is a loan, sign a promissory note with interest at or above the applicable federal rate, and have the company actually make the payments.

Keeping no books until tax season. Records reconstructed in March are expensive, incomplete, and unconvincing if anyone later questions them. What to do instead: use accounting software from day one, reconcile monthly, keep receipts, and track each property or business line separately.

Keeping no company records book. When a bank, buyer, lender, or court asks who owns the company and who approved what, the answer should come from a file, not from memory. What to do instead: keep the formation documents, operating agreement or bylaws, amendments, ownership ledger, EIN letter, tax returns, key contracts, and every written consent in one place.

Ownership Documents

Having no signed operating agreement. Without one, your state's default rules decide who owns what, who manages, how profits split, and what happens when someone leaves. Those defaults rarely match what the owners assumed. Banks and title companies also ask for the

agreement before they will deal with the company. What to do instead: have a written operating agreement signed by every member, with a current schedule of members and percentages, and keep the signed original with the company records. This applies to single-member companies too.

Running a corporation without board consents or a stock ledger. A corporation acts through its board and its officers. Owners of small corporations often skip both: no directors elected, no officers appointed, no stock certificates or ledger entries, and no written approval of anything. That is how a corporation ends up unable to prove who owns it. What to do instead: adopt bylaws, issue shares on a stock ledger, elect directors and appoint officers, and approve major decisions by written consent. Most states let a board act by unanimous written consent without a meeting.

Leaving contributions and sweat equity unwritten. "I'll put in the money and you'll do the work" is the start of a dispute unless someone writes down how much, when, and what happens if one side does not follow through. What to do instead: list each owner's contribution of cash, property, or services in the governing documents, along with the consequence of not delivering it.

Planning no exit. Every owner leaves eventually, through choice, death, disability, divorce, or a falling-out. Without terms agreed in advance, the remaining owners negotiate with a departing owner, a surviving spouse, or an estate at the worst possible time. What to do instead: put buyout triggers, a valuation method, funding, and payment terms in the operating agreement, bylaws, or a shareholder agreement while everyone still gets along.

Naming a minor as an owner. Minors generally cannot sign binding agreements, so a child named directly as a member or shareholder cannot sign the operating agreement, consent to decisions, or sell the interest. If something has to happen with that interest, a court-appointed conservator may be needed, at real cost. What to do instead: hold a child's share through a trust or a custodial arrangement under your state's transfers-to-minors act.

Ignoring your estate plan. If you die owning a company interest outright, it may go through probate, and the company may sit without anyone authorized to act. What to do instead: coordinate the ownership documents with your estate plan. Consider holding the interest in a revocable trust, and confirm the governing documents allow the transfer and name who steps in to manage.

Overlooking a spouse. In community property states, and in divorce anywhere, a spouse can have a claim to an interest titled in one name. What to do instead: address spousal rights in the governing documents, get a written spousal consent where it applies, and make sure any marital agreement and the company documents say the same thing.

Contracts, Titles, and Insurance

Signing contracts in your own name. If you sign a lease or contract as yourself, you are the party, and you are personally on the hook. What to do instead: contract in the company's exact legal name and sign in a stated capacity: "ABC LLC, by Jane Doe, Manager" or "ABC Inc., by

Jane Doe, President."

Leaving assets titled to you. Forming a company to hold a rental property does nothing if the deed still names you. The same goes for vehicles, intellectual property, and domain names. What to do instead: retitle the asset. For real estate, retitle with a quitclaim deed. I recommend a $10 quitclaim deed from deedsonly.com. The $10 is the nominal consideration recited on the deed, not what the service costs. Give them the company's name exactly as it appears on the state record. A quitclaim deed carries no warranty of title, and your title insurance may not follow the property into the company, so check with your title insurer before you record. Check your mortgage as well. A transfer to your company can technically trigger the loan's due-on-sale clause, so read the loan documents before you record.

Leaving intellectual property unassigned. Code, content, a brand, or a customer list that an owner or contractor created belongs to that person until it is assigned in writing. What to do instead: have every owner, employee, and contractor sign an agreement assigning work product to the company, and register trademarks and copyrights in the company's name.

Insuring the wrong party. If the company owns the property but the policy names you, an insurer can deny the claim. What to do instead: name the company as the insured, add owners or managers as additional insureds where it makes sense, and review the policy whenever the ownership or the asset changes.

Putting risky operations and valuable assets in one company. A lawsuit against the operating business can reach everything that business owns, including the building. What to do instead: consider holding real estate or other valuable assets in a separate company that leases them to the operating company, each with its own bank account, books, and insurance. Separate companies only help if you actually keep them separate.

Tax Elections and Payroll

Making the wrong tax election, or a late one. A limited liability company is taxed by default as a sole proprietorship or a partnership. It can elect S corporation or C corporation treatment, and each election has deadlines and eligibility rules. Electing because "everyone says S corps save tax" without running the numbers is a common way to pay more, not less. What to do instead: decide the classification on the numbers, file on time, and make sure the operating agreement and your pay practices match the election.

Taking no reasonable salary from an S corporation. An S corporation owner who works in the business must take reasonable compensation through payroll before taking distributions. Paying yourself nothing and taking everything as distributions is a well-known IRS audit target. What to do instead: run payroll for every working owner at a salary you can defend for the work performed, withhold and remit payroll taxes, and take distributions only on top of that.

Breaking S corporation eligibility. An S corporation can have only eligible shareholders and one class of stock. Distributions that are not proportional to ownership, or a transfer of shares to an ineligible owner, can end the election. What to do instead: distribute in proportion to

ownership, and check eligibility before anyone new receives shares.

Misclassifying workers. Calling an employee a contractor does not make them one. Misclassification brings back payroll taxes, penalties, and sometimes back wages. What to do instead: apply the federal and state tests honestly, collect a W-9 from every contractor, issue 1099s, and run payroll and carry workers' compensation for employees.

State Filings and Multiple States

Missing annual reports and fees. A company that misses its annual report or franchise tax can lose good standing and, eventually, be administratively dissolved, which can put its liability protection in question. What to do instead: calendar every report and fee in every state where the company is registered, keep a registered agent in each, and confirm good standing at least once a year.

Forming in one state and operating in another without registering. Forming a company in a state with low fees does not exempt it from the state where it actually operates. If the company does business in your home state, that state generally requires it to register there as a foreign company and charges its own fees and taxes, often in addition to the formation state's. Skipping registration does not avoid the charge. It adds penalties and can bar the company from suing in that state's courts until it registers. What to do instead: register in every state where the company does business, and budget for both states' fees.

Assuming beneficial ownership reporting still applies to you, or never applies. FinCEN first exempted U.S. companies from federal beneficial ownership reporting by an interim rule in March 2025, and made the exemption permanent in a final rule effective August 14, 2026. Companies formed in the United States no longer report. Companies formed outside the United States and registered to do business here may still have to report, generally only as to their non-U.S. beneficial owners. What to do instead: if your company was formed abroad and registered in a U.S. state, confirm whether it has to file. If it was formed here, do not pay anyone to file a report you no longer owe.

Skipping licenses, permits, and tax registrations. Forming the company does not license it. What to do instead: confirm local business licenses, sales tax registration, payroll accounts, and industry permits in every place you operate, and renew them on time. If you sell remotely, monitor each state's sales tax thresholds.

Using a trade name without registering it. Doing business under a name other than the company's legal name usually requires a trade name or assumed name filing. What to do instead: file the registration where required, and use the legal name plus the trade name on contracts and accounts.

Losing track of what you have formed. Owners forget companies. A company formed years ago, in a different state, with a different provider, keeps accruing fees and filing obligations whether you remember it or not. What to do instead: list every company you have ever formed, in any state, and check each one against that state's Secretary of State records directly. Any one

provider's records show only what was formed through that provider.

Changes and Exits

Changing owners or managers without updating anything. A member leaves, a shareholder sells, or a new manager takes over, and the documents, bank signature cards, and state filings still show the old arrangement. What to do instead: after any change, sign the transfer or redemption documents, approve it by written consent, update the ownership ledger or stock ledger, and update the bank, the state record, and the tax filings.

Making major decisions without written approval. Admitting a new owner, borrowing significant money, selling major assets, or merging usually requires owner or board approval under the governing documents. What to do instead: read your operating agreement or bylaws, and document the required consent before you act.

Walking away instead of winding down. A company you stop using keeps generating state fees, tax filings, and penalties until it is formally dissolved. What to do instead: dissolve it properly. That means approving the dissolution, paying or providing for debts, filing final tax returns, filing the articles of dissolution, and closing the accounts.

Quick-Action Checklist

- Confirm a signed operating agreement, or bylaws and a stock ledger, with a current list of owners.
- Run every business dollar through a business account in the company's legal name, and document every owner transfer.
- Title real estate, vehicles, and intellectual property in the company's name, and name the company as the insured.
- Sign every contract in the company's name, in your stated capacity.
- Confirm your tax classification, and if you have an S corporation, run payroll for every working owner.
- Calendar annual reports and fees in every state where you are registered, and register in every state where you do business.
- List every company you have formed, in any state, and check each against the Secretary of State records.
- After any ownership or management change, update the documents, the ledger, the bank, and the state record.

Related reading at bjoffrionconsult.com/blog: "What commingling actually looks like, and why it matters" and "The annual costs of an entity nobody mentions up front."

If You Want Your Company Checked

Structure Review — from $750. A written review of how your company is set up, what its documents actually say, and where your day-to-day practice has drifted from them.

Entity Structure Audit — from $850. For owners with more than one company: what each

entity does, where its filings are inconsistent with reality, and what to fix in what order.

Entity Tax Classification Analysis — from $850. Whether your company should be taxed as a partnership, an S corporation, or a C corporation, what the change involves, and what reasonable compensation means for you.

The fee for a consultation is credited in full toward any written work you commission within 30 days.

Full service list and current pricing: www.bjoffrionconsult.com/services

1500 N Grant St Ste N, Denver, CO 80203 · brandi@bjoffrionconsult.com · www.bjoffrionconsult.com
General information only, not legal or tax advice for your situation. Brandi L. Joffrion is licensed to practice law in Colorado. Receiving this guide does not create an attorney-client relationship.
© 2026 B. Joffrion Consulting, LLC