

Englische Rechtsterminologie – Skript 8

Vorlesung von Dr. Jens Bormann, LL.M. (Harvard)

von *Marcus Seyfarth*, Universität Freiburg

1. Business Organizations

1.1. Sole Proprietorship

- no filing of any documents (except for local requirements)
- owner has total control, making all decisions concerning the business
- income and deductible expenses are reported to the owner's personal tax return

1.2. General Partnership

- association of two or more co-owners (UPA §6)
- formation, operation and structure governed by UPA for default provisions
- parties can set up their own rules in the partnership agreement
- **formation**: written or oral agreement; no filing of documents with a governmental authority
- equal voice of all partners → decisions made on a majority basis or management powers in proportion to the capital contribution of each partner
- act of any partner binds all partners
- unlimited **liability** for the performance of contracts and damages

- **dissolution**: UPA: upon withdrawal, death or bankruptcy of a partner
- however partnership agreement states typically that the business will continue

1.3. General Partnership - Limited Partnership

- GP: entitled to take part in the management / act on behalf of co-partners / unlimited liability → suitable for small/mid-sized business
- LP: investor: no right to participate in the management; no authority; no unlt. liability; only risks the loss of initial contributions
- shares in the profits of the business
- suitable for large business
- GP/LP itself pays no income tax → LP may work as a “tax shelter”
- income or loss is reported to the individual partners tax returns

1.4. Corporations

- distinct legal entity; limited liability of shareholders; free transferability of shares (→ easier); centralized management
- tax disadvantage: corp pays corporate tax / shareholders pay by way of dividends income tax
- corporate law is state law (Delaware preferred state for HQ)

Vokabelliste

- | | |
|-----------------------|---------------------------|
| • sole proprietorship | e.K. Einzelunternehmen |
| • general partnership | BGB; Personengesellschaft |

| | |
|-------------------------------|---|
| • limited partnership | KG; beschränkt haftender Teilhaber |
| • corporation | GmbH; AG |
| • deductible expenses | abzugsfähige Aufwendungen |
| • agency by estoppel | Duldungsvollmacht |
| • contribution | Einbringung |
| • on behalf of | im Interesse |
| • liability | Haftung |
| • fiduciary | Treuepflicht; Fürsorgepflicht |
| • bankruptcy | Insolvenz |
| • withdrawal | Austritt |
| • winding up | Auflösung eines Geschäfts |
| • assets | Betriebsvermögen |
| • entitled | befugt |
| • tax shelter | Steueroase |
| • perpetual | andauernd |
| • to incorporate | als juristische Person eintragen lassen |
| • corporate tax | Unternehmenssteuer |
| • proxy | Bevollmächtigter |
| • incumbent | amtierend |
| • insurgent | aufrehrerisch |
| • piercing the corporate veil | Durchgriffshaftung; Haftungsbeschränkung |
| • desirable | wünschenswert |
| • commingling | Vermischung |
| • assets | Aktiva |