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LLC Minutes

Do LLCs Really Need Minutes? A Short Answer to a Common Question

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This explainer provides general information only and does not constitute legal advice. It should not be relied upon as a substitute for consultation with qualified legal or tax counsel regarding the formation, structure, or compliance obligations of any specific LLC. LLC laws vary by state; clients should confirm requirements applicable to their entity's state of formation with their attorney.

I. The Question We Hear Most Often

Two related questions arise regularly in client conversations: “Do LLCs require minutes?” and “I thought LLCs did not need minutes.” Each reflects something accurate, and something incomplete. It is accurate that, unlike corporation statutes, most state LLC acts do not impose a default statutory requirement to hold annual meetings or maintain formal minutes. It is incomplete because that statutory silence is frequently mistaken for a conclusion that an LLC never requires a documented record — a distinction that does not hold up in practice.

II. Where the Misconception Comes From

This perception is understandable, as it reflects a genuine feature of LLC law:

- **LLC statutes are designed for flexibility.** Most state LLC acts permit members to operate the company by agreement, without the meeting and minute-book formalities that corporation statutes historically impose on shareholders and directors.
- **Formation services often emphasize the absence of required formalities.** Such marketing describes the statutory minimum, not the standard that a well-run LLC — or its lender, bank, or counterparty — is expected to meet.
- **Single-member LLCs appear to be an obvious exception.** With one owner making every decision, a written consent may seem unnecessary — until a bank, buyer, or court requests one.

III. What Actually Governs an LLC's Recordkeeping

The absence of a statutory minute-taking mandate does not mean no requirement exists. Two sources typically call for a documented record, even where the statute itself does not:

- **The operating agreement.** This is the document that governs the LLC's internal affairs, and most operating agreements — including those prepared by BarthCalderon LLP — require member or manager approval, and documentation of that approval, for specific actions such as admitting a new member, approving a distribution, or authorizing a major transaction.
- **Judicial scrutiny of the LLC's liability shield.** Courts applying alter-ego or veil-piercing doctrine to LLCs examine whether the company has been operated as a business separate from its owner(s). Whether governance decisions were documented is among the factors courts and opposing counsel consider.

IV. Why It Matters — Including for Single-Member LLCs

- **Liability protection depends on separateness in practice,** not merely on the filed articles of organization. A documented governance history helps demonstrate that an LLC has been operated as its own entity.
- **Banks, lenders, title companies, and buyers routinely require it.** Financing a purchase, opening an account, or closing a sale typically requires a signed resolution or written consent, regardless of how many members the LLC has.
- **Multi-member LLCs encounter this more frequently.** Without a documented approval, disagreements between members regarding what was agreed upon are more difficult to resolve later.

V. What a Basic LLC Governance Record Includes

- **Annual minutes** — a yearly record confirming the LLC's governance activity, even in years without major changes.
- **Written consents** — documented member or manager approval of an action taken without a formal meeting.
- **Member and manager resolutions** — formal approvals on matters requiring approval under the operating agreement.
- **Updated membership records** — current documentation of who owns the LLC, and in what percentage.

VI. Scope of BAS's Role

BAS does not act as legal counsel and does not provide legal advice. LLC minutes, resolutions, and written consents are prepared by an attorney at BarthCalderon LLP, based on the actions and decisions that an LLC's members and managers report. BAS's role is administrative: BAS organizes that record into the LLC's record book and keeps it current. Clients remain responsible for the accuracy of the information they provide, and for obtaining legal and tax advice regarding their LLC's specific structure and compliance obligations.

VII. Conclusion

Not every state requires it by statute. In practice, however, LLCs require a documented governance record to preserve the liability protection they were formed to provide, satisfy the banks and buyers who request it, and avoid disputes over what members actually agreed upon.

For more information, or to begin an LLC minutes engagement, contact Barth Agency Services, Inc.