

Unincorporated Businesses that are Jointly Owned May File as Sole Proprietorships

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Under the provisions of the 2007 Small Business Act, an unincorporated business that is jointly owned by a married couple in a common law state such as Ohio is now permitted to file as a sole proprietorship. Under prior law, unless the married couple was located in a community property state, both the married couple and the business were subject to penalties for failing to file as a partnership. The new law ensures that both spouses receive credit for paying Social Security and Medicare taxes.

Unincorporated businesses owned jointly by a married couple may choose to gain liability protection by operating the business within a limited liability company. The LLC would be a "disregarded entity" and the business would be taxed as a sole proprietorship unless the couple elected to be taxed as a corporation or partnership.

Call someone in our business department to help you limit your liability exposure by setting up an LLC to run your sole proprietorship business.