

Universal Risk & Compliance Analysis

Category	Action Item
<p>Governance</p>	<ul style="list-style-type: none"> • Articles of Organization for LLCs • Have you elected member managed or manager managed and do you understand the ramifications to either election? • Operating Agreement for LLC • Does your operating agreement match your articles of organization as to your election of manager managed or member managed? • Have you reviewed your operating agreement to determine the ramifications if a member withdraws, dies or becomes disabled? • Do you have a provision in the operating agreement as to transfer on death if the membership interest is not in a trust? • Articles of Incorporation <ul style="list-style-type: none"> ○ Number of Directors = Annual Report ○ Indemnification Clause for D/O Updated ○ Purpose Update So as To Not Exceed Authority • Bylaws <ul style="list-style-type: none"> ○ Governance In Conformance, i.e. Annual Meeting, Elections ○ Officer Positions Reconcile to Actual-who does the hiring and firing? • Compliance with Notice Dates and Meetings • Annual Reports Filed • Good Standing • Succession Planning- Right People/Right Order. • Likewise, with an LLC, do I understand the ramifications of the death or disability of a shareholder? • Am I in a situation where ownership is 50/50 and court-ordered dissolution is automatic? • Have all the shareholders waived the statutory 50/50 dissolution? • Do you have a TOD on the stock if not in Trust? • Do you have a record of authority to apply for PPP? • Have you distributed your PPP application to all shareholders or members? • Do you have a Contribution Agreement for a claw back of compensation or

	<p>distributions made which contained PPP proceeds?</p> <ul style="list-style-type: none"> • Do you have a specific indemnification agreement from the shareholders and members related to the representations and warranties made under the PPP. • Organization Chart with Delegated Financial Authority • Registered Agent <ul style="list-style-type: none"> ○ Do We Have Responsible Person? ○ Venue or Registered Agent
<p>Fictitious Name Registration</p>	<ul style="list-style-type: none"> • A fictitious name is a name under which any person or business shall do or transact business which is other than the true name of such person or business. • Section RSMo. 417.200 requires anyone doing business under a name other than their true name to file a fictitious name registration. The cost is \$7.00 but many people are unaware that the fictitious name registration is now only good for 5 years. Originally, they were perpetual. • A fictitious name gives no protection to the use of that name as there could be multiple entities registering under the same fictitious name. • The failure to register a fictitious name is a misdemeanor under Missouri law.
<p>Real Estate</p>	<ul style="list-style-type: none"> • Do I have a copy of the original granting deed? • Have I transferred the real estate from the original granting deed to another entity? • Have I used a general warranty deed when I have transferred the real estate amongst related parties? • Anything less than a general warranty deed will vitiate the title insurance. • Title Insurance <ul style="list-style-type: none"> ○ Am I aware of the exceptions to title that may impair the marketability of my property? ○ Schedule B Exceptions, Examine Underlying Exceptions ○ Do We Have Policy or Signed Mark Up and Are They The Same? • Survey <ul style="list-style-type: none"> ○ Am I aware of any aspect of my property encroaching on another or any aspect of another encroaching on my property? ○ Am I aware how the Schedule B exceptions affect the use of the property? ○ ALTA (Ex A) • Zoning <ul style="list-style-type: none"> ○ Am I aware of the current zoning and whether or not there has been a change in zoning and how it affects the use of this property?

	<ul style="list-style-type: none"> • Legal Nonconforming <ul style="list-style-type: none"> ○ If Nonconforming, No Expansion Or Rebuild ○ Continuous Occupation (1 Year) • Green Space Requirements • Life Safety Inspections HVAC, CO2, Sprinklers, etc. • Sewer/Septic • Asbestos/Lead-was the property built prior to 1978? • Depreciation Schedules • Expiration of Leases <ul style="list-style-type: none"> ○ Do I have a schedule of renewal dates for property that I am leasing to or leasing from? ○ Have I filed a tax appeal on the real estate, and have I considered the ramifications of filing a tax appeal (condemnation, corporate dissolution, divorce)?
<p>Personal Property</p>	<ul style="list-style-type: none"> • Depreciation Schedules • Appropriate Insurance • Identification Tags/Inventory • Do I have a personal use or take-home policy regarding personal property?
<p>Insurance</p>	<ul style="list-style-type: none"> • Read Policies, Exclusions, Identification of Assets Insured • Choice of Counsel • G/L • Directors and Officers • EPLI • Key Employee • Disability • Auto • W/C • Special Events • Flood • Backup (Sewer) • Garage Keepers • Addition Insured's, Named Insured's • Insurable Interest

	<ul style="list-style-type: none"> • Occurrence vs. Claims Made Policy • Cyber Insurance
Benefit Plans	<ul style="list-style-type: none"> • Control Group Ramifications • Trustee • Administrator • Am I administrating the 401k plan according to the terms of the plan? <ul style="list-style-type: none"> a. Loans b. Eligibility • SPD Summary Plan Description • Annual Filing Compliance • Annual Governmental Update Compliance • Flex Plans • Cobra Notice Federal/State
Debt Financing	<ul style="list-style-type: none"> • Terms/Renewal Date • Negative Covenants • Annual Reporting • Borrowing Base Compliance
Employment	<ul style="list-style-type: none"> • Examine Laws # Of Employees (EEOC, W/C, FMLA, COBRA, ADA) • Key Employee – Non-Compete, Non Solicitation – Confidentiality Agreement • Examine Exemption Compliance • Policy Handbooks in Contrast To Employment Agreement • EEOC And Harassment Reporting Policies • Supervisory Training Practices ***** • EMLA Or Employee Leave Policies and Procedures • FFCRA THROUGH 4/1/2020-12/31/2020 • Computer Use and Monitoring Policies • Organizational Chart • Conflict of Interest Agreement/Outside Employment • Whistleblower Agreement • Policy for Use of School Assets Outside Scope of Employment • Contract vs. Employee (20 Elements >3) behavior, financial and relationship • Background checks Fair Credit Reporting Act

	<ul style="list-style-type: none"> • Vacation Pay – Policy • Sick Pay – Policy • Severance Agreement/Release from All Claims • Annual Performance Reviews • Pay Practices and Timely Payment Last Check • FLSA Exempt vs. Non-Exempt Classifications • OSHA • OSHA UNDER COVID-19 • I-9 Compliance and Retention • Payroll Practices and Compensation Policy (see attached handout) • Union avoidance • State Guidelines
Environmental	<ul style="list-style-type: none"> • Clean Water Act compliance on site • Phase II storm water management
Banking	<ul style="list-style-type: none"> • Signature Authority • Bank Statement Reconciliation (Daily) • Credit Card Statement Reconciliation
Taxes/Audit	<ul style="list-style-type: none"> • Annual Filing Requirement • Sales Tax • Repeal Franchise Tax • Nexus Issues • Depreciation • General Ledger • Cash or Accrual • Personal Property (State/City/Federal)
Intangible Assets	<ul style="list-style-type: none"> • Trademark/Copyrights/Patents • Missouri Secretary of State Trademark and Service Mark Application separate and apart from the PTO • Software License Agreements • Ownership Agreement By Employees For Creation
Unclaimed Assets	<ul style="list-style-type: none"> • Search/Compliance • For retirement funds, there is no specific presumption date for abandonment.

	In other words, if you hold 401(K) assets, it is your determination when to turn it over to the state.
Corporate Compliance Program	<ul style="list-style-type: none"> • A corporate compliance program is a system which is designed to detect and protect violations of law by agents, employees, officers and directors of a business. • In 1991 the federal government enacted the Organizational Sentencing Guidelines in an effort to make the penalties for corporate crime both uniform and predictable to encourage “good corporate citizenship”. If you do not have a corporate compliance program and you are charged under the OSG, then probation involves intrusive federal monitoring.serv
Collections	<ul style="list-style-type: none"> • FDCPA Fair Debt Collection Practices Act
Liens	<ul style="list-style-type: none"> • Notice and Practices
Document Retention	<ul style="list-style-type: none"> • Permanently • Audits and Annual Reports • Benefit Plans and SPDs • Chart of Accounts • Checks Paying for Significant Assets • Contracts (Leases and Vendors) • Correspondence (Legal) • Deeds • Depreciation Schedules • Insurance Policies • Journals • Property Appraisals and Records • Software License Agreements • Tax Returns • Trademark/Patent and Copyright Registrations • All Others 7 Years