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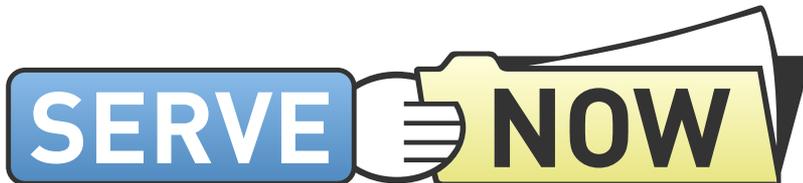
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## How Restructuring Your Process Serving Agency Can Save You Money

- May 06, 2012

- by ServeNow Staff
- [Business Tips](#)



*Editor's Note: This article was written after consulting with a local Certified Public Accountant. Though the following denotes his professional advice, it is best to have your specific company and situation examined before restructuring your business.*

[Process serving](#) firms range in size and business structure, but many individuals and agency owners may not know the best way to format their businesses from a tax standpoint. At the March 2012 meeting for the Process Servers Association of Colorado (PSACO), President Steve Glenn invited a local accountant to speak to process servers about structuring their businesses.

Most process servers are great at serving papers, yet they learn how to run their businesses on the fly. We need to learn to run our businesses efficiently from an administrative and financial standpoint.

Steve Glenn, PSACO President

"Let's face it," Glenn notes, "we make good money serving papers and none of us want to over pay our taxes or have the IRS on our back. Our leadership invited Victor [Amaya] to speak to our associate membership regarding selecting the correct business entity to reduce your tax liability to the IRS." Glenn explained that the accountant would also speak on proper documentation of business expenses and highlight some [process server tax deductions](#).

During the presentation, Victor Amaya, a Certified Public Accountant (CPA) with Clear Path Accountants, offered his opinion on various tax-related issues, including business structure, operating expenses, 1099 employees and process server tax deductions. Using Steve's business as a model, Amaya explained how switching from a Schedule C Sole Proprietor to an S-Corp would save Steve \$10,500 in taxes at the lowest level.

## **Business structure for a process serving firm:**

Amaya explained that although most process servers will structure their businesses as an LLC, a Limited Liability Company, most choose to initially file as a Sole Proprietor. “[Sole proprietorship] is what everybody does when they start out,” Amaya explained, but noted that due to the commingling of funds, sole proprietors do not have liability protection. If there is a liability issue, he furthered, possessions like cars, boats and homes would be at risk of being taken away during that lawsuit. Additionally, Sole Proprietorships that file as a 1040 Schedule C are at a higher risk of being audited and are obligated to pay self-employment tax. “Usually we steer people away from a sole proprietorship,” Amaya concluded, “and that’s why nowadays people set up an LLC.”

An LLC is a legal entity that generally blends a partnership with corporate structure. “The beautiful thing about an LLC is that I call it a chameleon--you can choose what you want it to be,” Amaya noted.

An LLC can be a:

- Partnership
- C-Corporation
- S-Corporation

### **Partnership**

“Partnerships have their place,” Amaya notes. “We like partnerships, but it again runs into the same problem that any income that comes out of it gets self-employment tax.” The CPA continued, explaining that an LLC of two or more people automatically becomes a partnership, unless it is a C-Corp or an S-Corp.

### **C-Corporation**

“One of the first ones that I always see is that people say ‘I’m going to become a C-Corporation because I want to have all of the benefits that the major corporations in the world have,’” Amaya noted of the many misconceptions about C-Corporations. “The problem with this is the double taxation piece. In a C-Corporation, the corporation literally becomes its own entity, its own person if you really think about it.” Just as any person pays taxes the C-Corporation itself must also pay taxes, so any earnings or net gain left over at the end of the year must be paid in taxes by the corporation. “Then, if you distribute yourself money, you’re going to pay taxes on that too,” Amaya explained, “So there’s a double taxation piece there. That’s why [accountants] steer people away from having a C-Corp.” He continued, explaining that in the common misconceptions of a C-Corp people think that they will get it all, but it isn’t true. “The one thing that it does have is really good fringe benefits--health insurance, 401k, things like that, but it’s really for bigger companies,” he noted.

## **S-Corporation**

“[An S-Corp] has flavors of a partnership and it has flavors of a C-corp,” Amaya said, marking the S-Corp as the business structure he prefers for process servers. To better display the benefits of designating a process serving firm an S-Corp, Amaya walked members through how PSACO President Steve Glenn can save 40-50% by adopting that corporate structure.

### **An example of an improperly structured business**



In an introduction to Amaya’s presentation, PSACO President Steve Glenn explained his motivations for having the CPA speak. Glenn used his own business as an example of an imperfectly structured business, and wanted to help members gain awareness of how a process serving agency’s structure can drastically affect the amount of and type of taxes they are required to pay.

"They saved me a lot, personally," Glenn explained, "and I thought the information they taught me would benefit others." His business had initially been set up as a Sole Proprietorship.

“As a Schedule C [Sole Proprietor], net earnings are subject to self-employment tax,” Amaya explained. “I did the math on Steve, and at the lowest level of the \$70,000 dollar gain that Steve would have, he would be paying about \$21,000 dollars in employment taxes at the lowest level. If Steve had been smarter,” he said, sharing a laugh with Glenn, “and he had been an S Corp, he would have saved about \$10,500 dollars easy in taxes.”

“That’s my wife’s Hawaii vacation,” Steve interjected.

“I’d say that we usually do 40% savings on taxes [when switching to an S-Corp],” Amaya estimated, accounting for the added cost of doing business as an S-Corp and filing a separate tax return. “I’ll explain to you where the

savings are. [With] an S-Corp, since it's its own little entity, you personally become an employee of your company, so we would have to run some kind of payroll for you." Though setting up a payroll for a small or one-man process serving firm can be intimidating, Amaya proved it to be worthwhile as he walked through an example of where the savings come from.

"Let's say in Steve's example he made \$70,000 in that year. What we would do is we would split that difference," Amaya began. "We're going to run \$30,000 into payroll, and then we're going to do \$30,000 in a distribution dividend to him." According to the Internal Revenue Service (IRS), a distribution dividend is property or funds that a corporation pays to stock owners. "The distribution dividend does not pay any self-employment tax," Amaya continued, "so automatically we've created 50% savings for him." As non-taxed income usually paid in cash, Steve will net that \$30,000 dividend without paying any employment taxes. The remaining 50% will be run through payroll and therefore is subjected to self-employment tax or payroll taxes. "That's where the 50% savings comes from," Amaya noted, referencing the portion of revenue distributed as a dividend.

Amaya noted that things like health insurance can be run through an S-corp as well, and therefore can be deducted. "That's what's beautiful about the S-Corp--it creates a whole little entity," he explained. "There are a lot of pluses for small business owners that they can use in order to create less taxable income on their personal returns." With those savings and the S-Corp business structure come an array of benefits for small business owners.

"There are some expenses related to it, because yes, you have to file an extra return," Amaya said, but he concluded of structuring a process serving firm as an S-Corp rather than a Sole Proprietorship, "there's extra cost added, but the benefits outweigh the cost that exists."

## **Conclusion**

"Most process servers are great at serving papers, yet they learn how to run their businesses on the fly," Glenn noted. "We need to learn to run our businesses efficiently from an administrative and financial standpoint." Glenn shared that he ended up saving \$15,000 personally on his taxes, and noted that this is a great example of how association membership has an array of benefits and privileges. "The value in a PSACO membership is in sharing information with your peers," the association president concluded, "especially when your income is on the line."

Immediately following Amaya's presentation was a mad dash by attending members to ask questions specific to their agencies. With an array of options for structuring a process serving firm, it's important to weigh the costs and benefits of each business model. Be sure to consult an accountant about your specific situation as there are a variety of factors that will determine which corporate structure is best for your process serving agency.

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