

Should I Create A New LLC Or Create A New Name For Another Part Of My Company?

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Dear Ask the Attorney:

I am currently doing business under my LLC name which is registered in New Jersey. However, after 10 years in business, I am restructuring my business offerings and want to offer other services and brand these services under a different business name. Do I have to register another LLC or can I just use the name that I want?

Thank you,

J.F.

Our Guest Blogger today is Jason R. Rittie, Esq. Mr. Rittie is Chair of the Real Estate Department and practices in several areas of law including business law, land use and zoning and closely held business. When he works with closely held businesses, he focuses on the unique needs of privately held business entities of all sizes, and he has acted as general counsel to individuals and their privately held businesses.

Dear J.F.:

Thank you for your question.

You can register the new business name as a new company. If you decide to do so, you will have to obtain another EIN (Employer Identification Number) and file taxes for both companies. This means that you will have to keep separate bank accounts, separate books and individual information for both state and federal tax purposes. When you choose a name for your new entity, you must first check to see if it has been registered by any other company in New Jersey.

The other way to do this is to create and register an alternate name with the State of New Jersey. In some states they call this a DBA (or “Doing Business As”). In New Jersey, these registrations are called Fictitious Names or Alternate Names.

In order to use another name for your business, your business must first be legally recognized by the state and in good standing. The selection of the alternate name is not subject to same availability requirements as those for the business entity name. However, the registration of the alternate name will legally link the name to the company entity and enable the business to use the alternate name for financial, advertising and other business purposes. This means that you can still file your taxes under your current company's name and EIN. The registration of the alternate name will be effective for five years and may be renewed for five-year periods.

The choice of either registering a new company or a fictitious/alternative name for your existing company is really dependent upon the facts and your specific circumstances and should be discussed with an attorney who has knowledge in this area. This attorney should also be able to assist you with the registration of either.