

# California Worker Cooperative Entity and Tax Choice:

Cooperative Corporation (Subchapter T) or LLC (Subchapter K or Subchapter T)

	CA Cooperative Corporation-cooperative tax (subchapter T)	Member managed <sup>1</sup> LLC-partnership tax (subchapter K)	Member managed LLC-cooperative tax (subchapter T)	Manager managed LLC-partnership tax (subchapter K)	Manager managed LLC-cooperative tax (subchapter T)
<b>Employee status for tax purposes (W-2 or self-employed)</b>	W-2 Employees	Self-employed	W-2 Employees	Self-employed	W-2 Employees
<b>Employee status for employment law purposes</b>	Probably employees	Probably not employees	Probably employees, but less certainly than in a coop corporation	Employees	Employees
<b>Employee status for immigration law purposes</b>	Depends mainly on management/governance structure, but W-2 status is one factor weighing toward employee classification	Probably not, if governed/managed collectively and not a lot of owners	Depends mainly on management/governance structure, but W-2 status is one factor weighing toward employee classification	Employees	Employees
<b>Workers compensation</b>	Members of small coops (10 or fewer) can waive coverage, if all members are on the board	All members can waive coverage	All members can waive coverage	Must be covered	Must be covered
<b>Self-employment tax on patronage distributions</b>	Probably	Yes (as well as profits allocated to members but not paid in cash)	Probably	Yes (as well as profits allocated to members but not paid in cash)	Probably

<sup>1</sup> Assumes all members are actively involved in the management of the company.

	<b>CA Cooperative Corporation-cooperative tax (subchapter T)</b>	<b>Member managed LLC-partnership tax (subchapter K)</b>	<b>Member managed LLC-cooperative tax (subchapter T)</b>	<b>Manager managed LLC-partnership tax (subchapter K)</b>	<b>Manager managed LLC-cooperative tax (subchapter T)</b>
<b>Tax-deductible fringe benefits</b>	More options	Limited	More options	Limited	More options
<b>Governance considerations</b>	More corporate formalities (e.g. election of board and officers, annual meetings, annual reports, etc.)	Very simple and flexible	Very simple and flexible	Very simple and flexible	Very simple and flexible
<b>Member investments<sup>2</sup></b>	Exempt from securities registration up to \$1,000/person	Exempt from securities registration at any amount, if no outside investors	Exempt from securities registration at any amount, if no outside investors	LLC exemption does not apply, must find another exemption or register	LLC exemption does not apply, must find another exemption or register
<b>Outside investments</b>	Investments up to \$1,000/person with very limited voting rights exempt from securities registration	More difficult; must find another securities law exemption or register at state level, makes member investments non-exempt	More difficult; must find another securities law exemption or register at state level, makes member investments non-exempt	More difficult; must find another securities law exemption or register at state level	More difficult; must find another securities law exemption or register at state level
<b>Federal income tax</b>	Corporate tax on collective account	Entity is not taxed, income passed through to members	Corporate tax on collective account	Entity is not taxed, income passed through to members	Corporate tax on collective account
<b>CA state fees, income tax</b>	The greater of the \$800 minimum franchise tax (waived in first year) or the corporate tax on net income	Annual franchise tax plus gross receipts tax (if earning more than \$250,000)	The greater of the \$800 minimum franchise tax (waived in first year) or the corporate tax on net income	Annual franchise tax plus gross receipts tax (if earning more than \$250,000)	The greater of the \$800 minimum franchise tax (waived in first year) or the corporate tax on net income
<b>Cooperative practices required by statute</b>	Yes	No	No	No	No

<sup>2</sup> Assumes all members live in CA.

	CA Cooperative Corporation-cooperative tax (subchapter T)	Member managed LLC-partnership tax (subchapter K)	Member managed LLC-cooperative tax (subchapter T)	Manager managed LLC-partnership tax (subchapter K)	Manager managed LLC-cooperative tax (subchapter T)
Can have a collective account (retained funds not allocated to individual members)	Yes	No	Yes	No	Yes
Can use the word "cooperative" in the business name	Yes	No	No	No	No