

Limited Liability Company, Articles of Organization Sample Language

Rule 136, *Limited Liability Companies as Qualifying Organizations for the Welfare Exemption*, requires that the articles of organization must meet certain requirements as specified in subdivision (c)(1) through (9). Below provides each requirement as written in the rule and sample language the meets each requirement.

(1) A specific statement shall be included which limits the activities of the limited liability company to one or more exempt purposes, as specified in section 214. This requirement may be satisfied by a clause stating that the limited liability company is organized and operated exclusively for one or more exempt purpose(s) as specified in section 214 (religious, hospital, scientific or charitable).

The exempt purposes of section 214 are religious, hospital, scientific, or charitable, the statement must state the specific purpose not just reference section 214.

Examples of acceptable language:

The limited liability company is organized and operated exclusively for charitable purposes.

The limited liability company is organized and operated exclusively for charitable and religious purposes.

(2) The organizational language shall specify that the limited liability company is operated exclusively to further the exempt purpose(s) as specified in section 214, of its member(s).

Examples of acceptable language:

The limited liability company is operated exclusively to further the exempt purpose(s) as specified in section 214, of its member(s).

The limited liability company is operated exclusively to further the charitable purpose of its member.

(3) The organizational language shall require that each member of the limited liability company be a qualifying organization, as specified in subsections (b)(1) or (b)(2) of this rule.

Examples of acceptable language:

Each member of the limited liability company shall be a qualifying organization. A qualifying organization is an organization that is exempt under section 501(c)(3) of the Internal Revenue Code or under section 23701d of the Revenue and Taxation Code and that qualifies for exemption under section 214 of the Revenue and Taxation Code.

Each member of the limited liability company shall be a qualifying organization. A qualifying organization is a government entity that is exempt from property taxation under section 3 of Article XIII of the California Constitution, as to property owned by the state under subdivision (a), or as to property owned by a local government under subdivision (b), or as to property used exclusively for public schools, community colleges, state colleges and state universities under subdivision (d). If one or more of the members is a government entity, all other members are exempt under section 501(c)(3) of the Internal Revenue Code or under section 23701d of the Revenue and Taxation Code and that qualifies for exemption under section 214 of the Revenue and Taxation Code.

(4) The organizational language shall prohibit any direct or indirect transfer of any membership interest in the limited liability company to any nonqualified person or entity.

Examples of acceptable language:

Direct or indirect transfer of any membership interest in the limited liability company to any nonqualified person or entity is prohibited.

The limited liability company shall not transfer, directly or indirectly, any membership interest in the limited liability company to any nonqualified person or entity.

(5) The organizational language shall provide an acceptable dedication clause. This requirement may be satisfied by a clause that irrevocably dedicates the property to one or more of the exempt purposes, as specified in sections 214 and 214.01

The exempt purposes of section 214 are religious, hospital, scientific, or charitable, the irrevocable dedication clause must state the specific purpose not just reference section 214.

Examples of acceptable language (irrevocable dedication clause)

The property owned by the limited liability company is irrevocably dedicated to charitable purposes.

The property owned by the limited liability company is irrevocably dedicated to charitable and religious purposes.

(6) The organizational language shall provide an acceptable dissolution clause. This requirement may be satisfied by a clause, which specifies that upon dissolution, all assets shall be distributed to an organization(s) organized and operated exclusively for exempt purposes, as specified in section 214, and which has established its tax exempt status under section 501(c)(3) of the Internal Revenue Code, or under section 23701d of the Revenue and Taxation Code.

The exempt purposes of section 214 are religious, hospital, scientific, or charitable, the dissolution clause must state the specific purpose not just reference section 214.

Examples of acceptable language (dissolution clause)

Upon dissolution, all assets shall be distributed to an organization(s) organized and operated exclusively for charitable purposes, as specified in section 214, and which has established its tax exempt status under section 501(c)(3) of the Internal Revenue Code, or under section 23701d of the Revenue and Taxation Code.

Upon dissolution, all assets shall be distributed to an organization(s) organized and operated exclusively for charitable or religious purposes, as specified in section 214, and which has established its tax exempt status under section 501(c)(3) of the Internal Revenue Code, or under section 23701d of the Revenue and Taxation Code.

(7) The organizational language shall require that any amendments to the limited liability company's articles of organization or the equivalent legally recognized formative document under the laws of the jurisdiction where the entity is formed and to the operating agreement, be consistent with section 214.

Examples of acceptable language:

Any amendments to the articles of organization and the operating agreement must be consistent with section 214.

Any amendments to the limited liability company's articles of organization or the equivalent legally recognized formative document under the laws of the jurisdiction where the entity is formed and to the operating agreement, must be consistent with section 214.

(8) The organizational language shall prohibit the limited liability company from merging with, or converting into, a for-profit entity.

Example of acceptable language:

The limited liability company is prohibited from merging with, or converting into, a for-profit entity.

(9) The organizational language shall require that the limited liability company not distribute any assets to members who cease to be organizations described in section 214.

Example of acceptable language

The limited liability company shall not distribute any assets to members who cease to be organizations described in section 214.

(Please Note: In reference to provisions 5 and 6, irrevocable dedication and dissolution clauses, see Property Tax Rule 143 for additional information and examples.)