

Introduction

This pamphlet contains general information for starting a business. Use this brochure as a reference guide for general business requirements but not as legal or financial advice. Please verify filing fees and tax information prior to finalizing your business plans. We suggest you discuss your business plans with an attorney and/or accountant.

Local License Requirements

A person contemplating starting a business should be aware of local laws. It is important to contact the Village, Town, or City and County Clerk where the Business plans to Locate. Examples of local considerations are zoning, parking, sign regulations, and certain occupational licenses such as auctioneers, electricians, and plumbers. It is advisable to contact your local government first.

Business Structure Requirements

The most common forms of business structures are: Sole Proprietor, Partnership, Limited Liability Company, and Corporation. If you plan to conduct business under a name other than your own, you must register the name. Keep in mind that registration is NOT permission to conduct business. The Following contains a brief outline of the most common business structures.

Sole Proprietorship

The simplest form of a business structure owned by one individual is a Sole proprietorship. All business responsibilities and decisions are those of the single owner. The owner of a sole proprietorship has unlimited liability for the business.

Form: Certificate of Conducting Business as a Sole Proprietor or also known as a DBA.

Fee: \$25 (certified copies are \$5)

Partnership

A partnership is the relationship between two or more persons or companies that carry on a trade or business together. In the absence of partnership agreement, the NYS Partnership Law sets forth the rights and duties of the partners.

Form: Certificate of Conducting Business as Partners or also known as DBA.

Fee: \$25 (certified copies are \$5)

Limited Liability Company

A Limited Liability Company is an unincorporated business organization of one or more persons having limited liability for the contractual obligations and other liabilities of the business, other than a partnership or trust.

Form: Articles of Organization filed with the NYS Department of State, Division of Corporation. (See Corporation for form information). NOTE: An LLC must publish a notice in two newspapers in the county where the business is located for six consecutive weeks specifying the details of the limited liability company within 120 days after filing.

Fees: \$5 for each name search, \$20 for reservation of name, \$200 for Articles of Organization, \$25 each for affidavits of publication.

Tax Information: The NYS Department of Taxation and Finance's Publication 16, "New York Tax Status of Limited Liability Companies and Limited Liability Partnerships," explains personal income tax and corporate franchise tax requirements and annual filing fees administered by the Department of Taxation and Finance. This publication is available online. Refer to the "Tax Information" section for additional requirements and contact information.

Corporations

A corporation is an entity separate and distinct from the individual(s) who own and manage the business. A corporation can sell, buy, and inherit property in its own name and is legally endowed with rights, powers, and duties in the conduct of lawful activities. Business corporations operate for profit and can raise capital by selling shares of interest in the corporation. A corporation's debts and obligations are distinctly its own.

Form: Certificate of Incorporation. Obtain this form from the NYS Department of State, purchase it from a legal stationery store in New York, have it prepared by and attorney, or apply online at www.dos.ny.gov.

Fee: \$5 for each name search, \$20 for reservation of name, \$125 for Certificate of Incorporation, and a minimum tax of \$10 to cover stock issuance.

Tax Information: Corporations must file a franchise tax report and pay a franchise tax for all or part of each calendar/fiscal year the corporation exists. They must file federal tax returns. Refer to the "Tax Information" section for contact information.

S Corporation: Under Section 1362 of the Internal Revenue Code, certain small business corporations may report income on personal tax returns. Individual

shareholders who wish to obtain this option must file federal Form 2553. Once the Internal Revenue Service grants approval, you must file Election Form CT-6 with NYS Department of Taxation and Finance.

Not-for-Profit Corporation: Not-for-Profit corporations cannot distribute assets, income, and profits to the benefit of the members, directors, or officers except to the extent permitted by statute. The filing fee is \$75 with the NYS Department of Taxation and Finance.

Foreign Corporation: The NYS Department of State authorizes and out-of-state corporation to conduct business in New York. The basic filing fee is \$225 and a certificate of existence or good standing is always required from the jurisdiction that originally organized the corporation.

Contact Information:

NYS Department of State
Division of Corporations
518-473-2492
www.dos.ny.gov

To Apply online: www.dos.ny.gov

Tax Information

New York: The NYS Department of Taxation and Finance's Publication 20, "New York State Tax Guide for New Businesses," provides basic information about New York's tax laws and regulation. This publication outlines the procedures to follow and forms to file with the NYS Department of Taxation and Finance to fulfill tax obligations.

Sales and Use Taxes: If your business will sell tangible personal property or provide specific services in New York, the business is required to collect and remit NYS sales and local tax to the NYS Department of Taxation and Finance, usually on a quarterly basis. Publication 750, "A Guide to Sales Tax in New York State," has information on your tax obligations and how to obtain a "Certificate of Authority". The NYS Department of Taxation and Finance recommends filing for authority at least 20 days before providing taxable sales or services.

Contact Information:

NYS Department of Taxation & Finance
Sales Tax Registration
W. Averill Harriman Campus, Albany NY 12227
Information/Forms: 518-485-2889
www.tax.ny.gov

Federal: For federal tax requirements, contact the Internal Revenue Service for a copy of "The Small Business Federal Tax Responsibilities." This publication contains general information of federal tax obligations such as

estimated taxes and self-employment tax, as well as various publications for starting a business.

Federal (Employer) Identification Number

An Employer Identification Number (EIN), also known as a federal tax identification number, identifies a business entity. Generally, all businesses need a federal tax identification number. An EIN is a nine-digit number that the Internal Revenue Service assigns to a business. The IRS uses the number to identify taxpayers that are those for alcohol, tobacco, or firearms. Employers, sole proprietorships, partnerships, limited liability companies, and corporations (including "S" corporations and not-for-profit organizations" as well as other business entities use EINs.

Form: SS-4 Application for Employer Identification Number

Contact Information:
Internal Revenue Service
800-829-4933
www.irs.gov
To apply online: www.irs.gov

Employer Responsibilities

The Federal government requires all employers to have their employees fill out Form 1-9 and Form W-4. Federal employment taxes required are: Federal Income Tax Withholding, Social Security and Medicare Taxes (FICA), and Federal Unemployment Tax (FUTA). The IRS' Publication 15, "Circular E, Employer's Tax Guide," explains Federal tax responsibilities as an employer.

Form I-9, Employment Eligibility Verification, obtain this form from the U.S. Citizenship and Immigration Services at 800-870-3676 or www.uscis.gov.

Form W-4, Employee's Withholding Allowance Certificate, obtain this form from the Internal Revenue Service, Call FORMS/PUBLICATIONS: 800-829-3676 or INFORMATION: 800-829-1040 or visit: www.irs.gov.

New York State requires all employers to provide: Unemployment, Workers' Compensation, and Disability Benefits insurance as well as comply with wage reporting and withholding tax requirements. The NYS Department of Taxation and Finance's Publication NYS-50, "Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax," explains NYS tax responsibilities as an employer.

Unemployment Insurance: An employer who begins hiring employees to work in New York is required to pay contributions on the wages paid to Department of Labor promptly to determine if they are liable. The conditions for liability differ among business, non-profits, government, domestic, agricultural, and all other employees.

Contact Information:
NYS Department of Labor
Unemployment Insurance Division
518-457-4179 or 1-888-899-8810
www.labor.ny.gov
To apply online: www.labor.ny.gov

Workers' Compensation Insurance: Provides protection to the employer from liability in the event of an on-the-job injury resulting in employee disability or death and to provide monetary relief and medical benefits to the injured worker. This insurance is available through the NYS Insurance Fund at 888-875-5790, through their website at www.nysif.com, or through a private insurance carrier. **NOTE:** Workers' Compensation is also available to sole proprietors or partners who have no employees.

Disability Benefits Insurance: Provides for the payment of cash benefits to employees who become disabled because of injuries or sickness that have no connection to their employment, and for disabilities arising from pregnancies. Employers and employees may pay for this insurance jointly or solely by the employer. This insurance is available through the NYS Insurance Fund at 888-875-5790, through their website at www.nysif.com, or through a private insurance carrier.

STARTING A BUSINESS



New York State