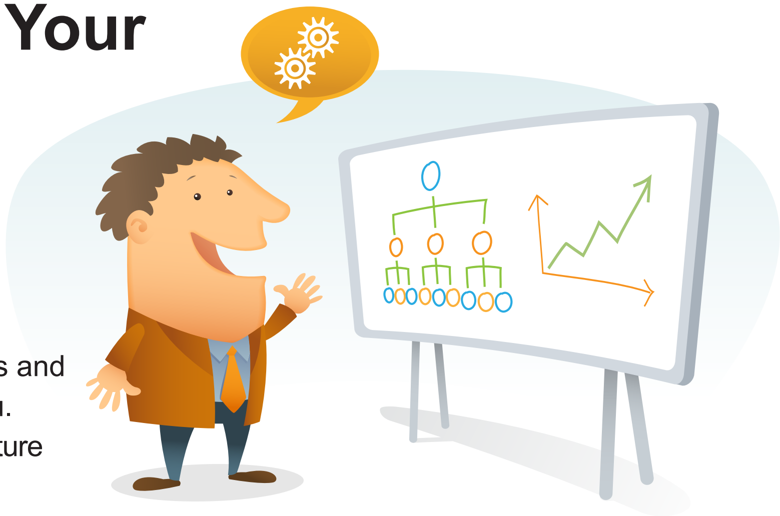
How to Set Up Your Independent Business:
Part I



First Two Steps:

1. Choosing Local CPAs, Attorneys and Other Professionals to Help You.
2. Selecting a Legal Business Structure

By Sydney LeBlanc

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Planning Ahead

It's important to create a checklist of your first steps to keep yourself on track as you prepare to make your move. These critical steps should be completed before the proposed launch date of your new business (obviously). Make your own list and create a timeline for your process, noting the approximate time you believe it will take to complete each step. We'll discuss the first two steps in this article and the rest in articles that will follow.

1. **Choose local CPAs and attorneys**
2. **Select the right legal business structure**
3. Determine your plan for, and selection of, office space/building
4. Create banking relationships
5. Structure your business relationships
6. Filing and registration considerations
7. Examine Federal, State and Local compliance issues
8. Study tax issues
9. Research insurance options

10. Select a business bookkeeping and accounting system

Step One: Choosing Local Experts to Help You

According to William G. (Bill) Beattie, managing director with Richmond, Virginia-based Keiter Stephens, a CPA and consultant firm for emerging businesses, one of the first things you need to do when starting your own business is to carefully select your local experts. Bill explained that these choices are crucial to your future success because they will be in your primary circle of consultants helping you during the various stages of launching your new business. These specialists, of whom there are four, include a real estate agent, a Certified Public Accountant (CPA), an attorney, and an insurance agent.

Since these individuals represent a critical component of your future plans, you don't want to feel rushed when deciding who to choose. Haste really does make waste at this stage of the game, so feel free to interview as many candidates as necessary until you discover the individuals who are best suited for the job, and who you feel comfortable with.

Your real estate agent can provide an inside scoop on zoning credits or perks available within the county or city where you are thinking of setting up shop. Be sure to have your real estate agent sign a non-disclosure agreement.

Your CPA provides a valuable link to all things financial relating to your journey to independence. In addition to advice on managing your business finances, your trusted CPA will offer tax tips, tax return preparation, cash flow requirements and forecasting. Your accountant will also assist you in securing a Federal Employer ID number (FEIN) that will identify your firm on all federal and state tax documents

Your attorney is responsible for drawing up the entity registration documents such as any operating agreements and buy/sell agreements you may require. Your attorney also acts as your knowledge base in establishing a legal structure compatible with the guidelines of your particular state.

Your insurance agent can provide guidance in creating an insurance strategy that meets your company's specific needs. The agent can assist you in designing a Business Owner's Policy (BOP) which, traditionally, combines essential insurance coverage in one package. Your agent can also advise you on additional plans that would be prudent for your business.

As you will no doubt turn to your lawyer on numerous occasions at the beginning and throughout the course of your transition to business owner, a "transactional" attorney is recommended for this most important role in your future. This way you will have access to ongoing legal counsel regarding all manner of current and future concerns, including the formation of

Your consultants don't like unexpected surprises and neither should you, which is why you must communicate with each other on a regular basis. Insist that they provide you with a detailed account of expenses incurred along the way to ensure they remain in line with your budget. Let them know in advance that you expect to be notified whenever potential budget variances appear. Finally, make sure they provide detailed billing statements for any and all transactions.

your business, real estate, lease contracts, employment issues, as well as securities and regulatory matters.

Your insurance agent will steer you in the right direction in formulating an insurance strategy that goes hand-in-hand with your new company's specific requirements. As mentioned above, your insurance agent will also help in creating your Business Owner's Policy (BOP), which typically bundles essential insurance coverage under one umbrella. As with your real estate agent, your insurance agent will also need to sign a non-disclosure statement.

Regarding fees you can expect to pay, CPAs and attorneys typically bill by the hour or via a monthly retainer. Knowing this, it is prudent to obtain a quote that includes a detailed list of services before your initial meeting.

Step Two: Which Legal Structure Should You Choose?

Before diving into the deep end of the pool it is necessary for you to decide under which type of legal entity you will be doing business. Factors to consider here include future plans for your business, as well as tax issues, and whether or not you ever intend to add partners somewhere down the line and how that might affect your decision.

You have four options to choose from when setting up a small business venture:

- Sole Proprietorship
- General Partnership
- S Corporation
- Limited Liability Company (LLCs)

Worth noting is that we believe neither sole proprietorships nor partnerships offer the kind of liability protection suitable for your company, but we'll cover them nonetheless so that all options are on the table for you to review.

Sole Proprietorships

The vast majority of small businesses start out as sole proprietorships. These firms are owned by one person, usually the individual who has day-to-day responsibility for running the business. Sole proprietors own all the assets of the business and the profits generated by it. They also assume complete responsibility for any of its liabilities or debts. In the eyes of the law and the public, you are " one and the same" with the business.

Advantages of a Sole Proprietorship:

- Easy to organize
- You have complete control
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- Business is easy to dissolve, when appropriate

Disadvantages of a Sole Proprietorship:

- Unlimited liability and legally responsible for all debts against the business.
- Business and personal assets are at risk.
- May be at a disadvantage in raising funds, and are often limited to using funds from personal savings or consumer loans.
- May have a hard time attracting high-caliber employees, or those that are motivated by the opportunity to own a part of the business.
- Some employee benefits, such as owner's medical insurance premiums, are not directly deductible from business income (only partially deductible as an adjustment to income).

Partnerships

In a Partnership, two or more people share ownership of a single business. Like proprietorships, the law does not distinguish between the business and its owners. The Partners should have a legal agreement that outlines how decisions will be made, profits will be shared, disputes will be resolved, how future partners will be admitted to the partnership, how partners can be bought out, or what steps will be taken to dissolve the partnership when needed. Yes, its hard to think about a "break-up" when the business is just getting started, but many partnerships split up at crisis times and unless there is a defined process, there will be even greater problems. Here are the three types of partnerships you might consider:

1. *General Partnership* — Partners divide responsibility for management and liability, as well as the shares of profit or loss according to their internal agreement. Equal shares are assumed unless there is a written agreement that states differently.

2. *Limited Partnership and Partnership with limited liability* — "Limited" means that most of the partners have limited liability (to the extent of their investment) as well as limited input regarding management decisions, which generally encourages investors for short-term projects, or for investing in capital assets. This form of ownership is not often used for operating a service businesses. Forming a limited partnership is more complex and formal than that of a general partnership.

3. *Joint Venture* — Acts like a general partnership, but is clearly for a limited period of time or a single project. If the partners in a joint venture repeat the activity, they will be recognized as an ongoing partnership and will have to file as such, and distribute accumulated partnership assets upon dissolution of the entity.

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Corporations

A corporation, chartered by the state in which it is headquartered, is considered by law to be a unique entity, separate and apart from those who own it. A corporation can be taxed; it can be sued; it can enter into contractual agreements. The owners of a corporation are its shareholders. The shareholders elect a board of directors to oversee the major policies and decisions. The corporation has a life of its own and does not dissolve when ownership changes. The following are the most desirable for a small business:

1. *S Corporation* — A more beneficial way to go for your company's legal structure is the S Corporation, which operates like a C Corporation, but places better tax advantages in your corner. It enjoys the same rights and limited liability protection of a C Corporation without suffering the C Corporation's plight of double taxation.

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Next issue: Office Space and Banking Relationships

Resources:Keiter, Stephens, Hurst, Gary & Shreaves; www.kshgs.com; Small Business Administration (SBA) www.sba.gov

How to Set Up Your Independent Business:
Part 2
Choosing Local Professionals to Help You

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How to Set Up Your Independent Business:
Part 3
Which Legal Structure Should You Use?

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This article provides a good overview and a basic understanding of your options. You should seek the advice and counsel of an attorney who is experienced in compliance and regulatory matters for the financial services industry or consultants who specialize in helping set up B/Ds or RIAs. Better safe than sorry. Good luck.

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Resources: Keiter, Stephens, Hurst, Gary & Shreaves; www.kshgs.com; Small Business Administration (SBA) www.sba.gov

Differences Between S Corporations and LLCs

Charles Young, CPA

(Excerpt from *Financial Savvy for the Small Business Owner*, Financial Forum Publishing, 2009)

An S Corporation can have no more than 100 shareholders, and only certain types of shareholders can own an S Corporation, including: individuals, estates, and qualifying trusts. Non-resident aliens cannot be S Corporation holders.

S Corporations can only have one class of stock. Income and expenses from an S Corporation, as well as any distributions paid to shareholders are allocated based on the shareholder's ownership percentage. The S Corporation net income reported on the shareholder's personal tax return is not subject to self-employment taxes. And S Corporation shareholders who are active in the business must be paid a reasonable salary.

The amount of your investment in the S Corporation, referred to as your cost basis, is calculated as follows:

- Increased by your contributions of cash and property

(continued next page)

- Increased (decreased) by your share of S Corporation profits (losses)
- Decreased by your share of distributions
- Increased by loans made directly to the Corporation by you

This cost basis calculation is your tax cost. The higher your basis the more losses you can claim on your personal tax return.

LLCs, taxed as partnerships, are more flexible than S Corporations. There is no limit on the number of owners and any person, business, or trust can be an owner. With an LLC you can make special allocations with particular types of income and expenses among owners. The status of the business's net income reported on the owner's personal tax return that is subject to self-employment tax is unsettled tax law. Current thinking is that some of the taxable income, representing reasonable compensation paid in the form of guaranteed payments to owners active in the business, is subject to self-employment tax.

- Your cost basis in an LLC is calculated as follows:
- Increased by your contributions of cash and property
- Increased (decreased by your share of LLC profits (losses)
- Decreased by your share of distributions
- Increased by your share of the LLCs debts (if you are personally liable for the debts

The advantage of LLCs over S Corporations is the ability to increase the owner's cost basis in the LLC for LLC debts the LLC owner is personally liable for. ◆

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How to Set Up Your Independent Business:

Part 4 Your Startup Costs

By Sydney LeBlanc

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Startup Costs

Your new business is unique, just like you are. All new businesses have their own particular cash needs at the various stages of growth, so there really is no template or exact guideline for you to use. While it is possible to start your business on a shoestring (many have done so successfully), you certainly would feel more comfortable having a nice budget to purchase everything you need, and to pay for all the startup costs. If you require a lot of technology or other equipment, your investment may be pretty hefty on the front end. We can't overstress the importance of either having enough money on hand to launch your firm, or of having a source that will lend you the capital you need.

To determine your startup costs, the first thing you need to do is identify all the expenses that your business will incur during its startup phase. Some of these expenses will be one-time costs such as the fee for incorporating your business or price of a sign for your building or office; and others will be ongoing, such as the cost of utilities, inventory, insurance, and so on.

As you begin your list of expenses, decide whether they are essential or optional. A realistic startup budget should only include those things that are absolutely necessary to start the business. These essential expenses can then be divided into two separate categories: fixed expenses (or overhead) and variable expenses (those related to maintaining and growing business). Fixed expenses will include things like the monthly rent or mortgage, utilities, salaries and administrative expense, and insurance costs. Variable expenses include such things as direct marketing, advertising, seminars, brochures and newsletters to name a few.

The most effective way to calculate your startup costs is to use a worksheet that lists all the various categories of costs (both one-time and ongoing) prior to starting your business. Here are a few examples of initial costs you will incur:

- Travel and other expenses incurred in transferring clients
- Fees paid or incurred for consultants and professional services
- Employee training
- Rent and utilities for space maintained prior to moving in
- Technology/Hardware and software
- Office equipment
- Telephone systems
- Signage

Ordinary Business Expenses

Ordinary business expenses are ongoing, and are directly related to the business. Some common business expenses include:

- Auto expense, parking, mileage, etc
- Banking fees
- Office supplies
- Postage and overnight shipping
- Local business taxes
- Repairs and maintenance
- Trade publications
- Trade association dues
- Insurance premiums
- Charitable contributions

Finding the Money You Need

There are several sources to consider when looking for financing. It is important to explore all of your options and to consult your legal and tax advisors before making a decision. Here are just a few options:

- Personal savings: The primary source of capital for most new businesses comes from savings and other personal resources.
- Banks and finance companies: The most common sources of funding, banks and finance companies will provide a loan if you can show that your business proposal is sound. Finance company interest rates are traditionally higher, though.
- Angel investors and venture capital firms: Capital in exchange for equity or partial ownership.
- Credit cards: Should be used as a last resort as there are better options, or just for the very small or short-term loan.
- Home equity loans
- Strategic partnering

A Few Tips About Bank Loans

It is often said that small businesses face difficulty borrowing money, but this is not necessarily true. But, the inexperience of many independent business owners of the loan process often prompts banks to deny loan requests. Requesting a loan when you are not properly prepared raises a red flag to your lender that you may be a high risk.

First, get prepared. You must know exactly how much money you need, why you need it, and how you will pay it back. This helps convince your lender that you are a good credit risk.

Terms of loans vary from lender to lender, but there are two basic types: short-term and long-term. Generally, a short-term loan has a maturity of up to one year. These include working capital loans, accounts receivable loans and lines of credit.

Long-term loans have maturities greater than one year but usually less than seven years. Real estate and equipment loans may have maturities of up to 25 years. Long-term loans are used for major business expenses such as purchasing real estate and facilities, equipment, furniture and fixtures, vehicles, etc.

SBA-type loan programs are intended to encourage long-term small business financing, but actual loan maturities are based on the ability to repay, the purpose of the loan proceeds, and the useful life of the assets financed. However, maximum loan maturities have been established: 25 years for real estate; up to 10 years for equipment (depending on the useful life of the equipment); and generally up to seven years for working capital. Short-term loans are also available through the SBA to help small businesses meet their short-term and cyclical working capital needs.

The Business Startup Checklist

Just as you did with your startup cost list, a business startup list is imperative to help remind you of the tasks you may have to perform when starting your business. A sample list is below. You probably won't have to complete each task on the sample provided, but it is a good template to get you started. The tasks are not in any particular order, but you will want to organize yours with date and follow-up categories:

- ❑ Write a business plan and a marketing plan
- ❑ Decide upon renting, leasing, or buying office space
- ❑ Choose a business name
- ❑ Verify your right to use the name through the legal fictitious name process
- ❑ File partnership or corporate papers, if appropriate
- ❑ Obtain business license
- ❑ Reserve your corporate name, if appropriate
- ❑ Register or reserve state or federal trademark, if appropriate
- ❑ Have business phone lines installed
- ❑ Check into business insurance, errors and omissions
- ❑ Research health insurance
- ❑ Apply for sales tax number, if needed
- ❑ Get tax information such as recordkeeping requirements, information on withholding taxes if you will have employees, information on hiring independent contractors, facts about estimating taxes, forms of organization, etc. Or hire your accounting and legal consultants to do it for you.
- ❑ Apply for employee identification number or Federal Tax ID
- ❑ Find out about workers' compensation, if appropriate
- ❑ Open a bank account
- ❑ Purchase office equipment, supplies
- ❑ Order signage
- ❑ Create and print business cards and stationary
- ❑ Create and print brochures with new address
- ❑ Write and send out press releases
- ❑ Decide on Yellow Pages advertising
- ❑ Research advertising rates in publications

Now that you have a better idea of the capital you need, and know what your options are for raising the money, we'll show you next month how to control your ongoing expenses as well as the tax benefits you will enjoy as an independent owner.

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Resources: Small Business Association www.sba.org ; www.businessknow-how.com;
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How to Set Up Your Independent Business:

Part 5
Profit, Loss and Uncle Sam

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In order for you or your CPA to put all of the tax benefits offered to small business owners to work for you, it is crucial that your recordkeeping reflecting all business-related expenses (particularly your initial costs) get underway long before you actually make your transition to independent status.

It is never too early to begin keeping thorough records to substantiate your tax deductions down the road. Typically, your business expenses will focus on three primary areas—capital costs, initial startup expenses and the expenses associated with creating the legal entity of your business. Let's begin by discussing those three areas now.

Capital Costs

For capital costs, those expenses representing assets purchased for the business, you will enjoy the benefit of taking a deduction for all assets up to $105,000. This includes assets you buy to furnish your office. For example, under this umbrella, your office furniture, telephones, computers and printers, as well as copiers and fax machines, will be covered. If you own a vehicle that is specifically used 50% or more by the business, then that vehicle will also be subject to consideration for deduction.

Startup Expenses

Startup expenses are your costs prior to the first official day you open your firm. A heavy proportion of such expenses represent costs related to research and development. For example, your research may involve investigation of the target market demographic you are seeking. The preparation of your business plan would also count here as would the cost of any consultants you may need to hire.

When it comes to startup costs, don't neglect expenses for travel related to setting up your business, due diligence travel (if at your expense), training any employees you might hire, advertising and promotional expenditures, as well as rent, utilities, and build-outs for your office space prior to opening your doors.

Unlike the aforementioned capital costs, startup expenses cannot be deducted outright. The exception to this rule comes into play if you choose to amortize these costs over a 60-month period beginning from the month your business opens its door.

Any costs associated with creating the legal entity of your new business can also be deducted over a five-year period starting with the first month your business begins operation. These costs can include legal fees for drawing up documents as well as the cost of registering your business with your particular state.

Organizational Expenses

Organizational costs incurred while forming a legal entity must be capitalized as an asset. You can elect to deduct these expenses for tax purposes over a 60-month period beginning with the month your company is actively in business. Organizational expenses include:

- Legal services incurred in drafting entity documents
- Fees paid to the Secretary of State to register your business
- Accounting services rendered when organizing the company

Ordinary Business Expenses

These are ongoing expenses that are directly related to your business. Some common business expenses include:

- Educational expenses
- Entertainment expenses for clients
- Business travel
- Subscriptions to trade or professional publications
- Office supplies and materials
- Fees for legal, accounting, and other services
- Charitable contributions
- Postage and shipping
- Repairs and maintenance of your place of business
- Mileage and parking fees
- Internet service
- Health care benefits
- Trade association fees
- Banking fees
- Local business taxes and fees
- Marketing and advertising expenses
- Licenses and registration
- Office equipment rental
- Taxes

Because tax laws can be extremely complex, we encourage you to work with your CPA or accountant. He or she will help navigate you through local, state, and federal laws and also explain how to minimize future tax obligations.

Even if you work with professionals, your tax responsibilities are still solely your obligation, and you should understand how the various tax systems impact your business. One good reason is that you'll have a much better understanding of the various tax choices that your tax consultant may lay out for you. Also, with a little knowledge on selected topics, you'll be able to identify potential tax advantages - and tax traps - in time to do something about them. Wouldn't it be nice not to hear your CPA say, "I could have saved you a lot of money if you had told me sooner that you were thinking about …"

Federal Income Tax

Federal income tax is a pay-as-you-go tax. Business owners generally pay income taxes in quarterly estimated income tax payments. Different business structures (sole proprietorship, partnership, corporation, or limited liability company) have different income tax requirements regarding filing dates, forms required, and tax rates and calculations. For more information go to www.irs.gov/business/small that lists the various business taxes and forms required for each legal structure for more help with details and forms. www.irs.gov/businesses/small

State Taxes

Every state levies some form of tax on small businesses, but in some states some business structures (especially sole proprietorships) have little to no tax imposed. To learn more about tax structures in any given state, you can visit the Business Owner's Toolkit site www.toolkit.cch.com which is endorsed by the Small Business Administration, or a list of taxing authorities in each state.

Local Taxes

Local authorities may tax personal property like machinery, equipment, furniture, supplies, and leased equipment used in a business. Some cities and municipalities also levy income taxes on any business operating within their borders. Your CPA, county government, or local municipality can provide information about the specific taxes that apply in your area and instructions for registering your business.

Payroll Tax Obligations

As soon as you hire your first employee, you are an employer. That means withholding taxes from your employees' pay and to deposit the withheld amounts with the appropriate tax agencies. Plus, as an employer, you yourself will also have to pay certain taxes based on the amounts you pay your employee(s). They may include federal, state, and perhaps local income taxes, Social Security and Medicare taxes, federal and state unemployment taxes, and, in some states, disability insurance taxes. And, regardless of whether you employ others, you can also expect to owe some payroll-type taxes on income that you receive from your business (see Self-Employment Tax - below).

Together with your CPA, you should also examine the differences between employees and independent contractors, and who are considered "taxable." You might also want to consider the potential tax benefits in hiring your children, spouse, or other members of the family.

Remember, if you don't hire a sales assistant or operational support administrator, you're always going to have at least one "employee," and that would be yourself. So, what kind of payroll tax obligations will you have? If you are a corporation, you're likely to have all the same obligations you would have if you actually hired another employee. Your corporation can be your employer for payroll tax purposes. Whether your corporation is a C corporation or an S corporation, you'll pay payroll taxes on (at least a portion of) your salary.

The key to controlling your payroll tax obligations is making all your payments when they're due, so you avoid getting hit with costly penalties.

Self-Employment Tax

And if you don't incorporate, you may have to make quarterly estimated tax payments. You will have to pay self-employment (SECA) taxes. In essence, self-employment taxes are like FICA taxes, and like FICA taxes, the self-employment taxes consist of a Social Security tax and a Medicare tax. The total rate is 15.3 percent, with a Social Security rate of 12.4 percent and a Medicare rate of 2.9 percent. In other words, you have the same rates you would get by adding the employer and employee portions of the FICA taxes together.

For sole proprietorships, partnerships, and limited liability companies, the self-employment taxes are imposed on your net self-employment income, which basically is just your business income reduced by your business deductions. The amount of income subject to the Social Security rate is adjusted each year for inflation.

Federal Unemployment Tax (FUTA)

The Federal Unemployment Tax Act (FUTA), together with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. You pay both a federal and a state unemployment tax. The FUTA tax is not deducted from your employee's wages. The IRS has tests to determine whether a particular business must pay FUTA tax.

State Unemployment Tax

State unemployment taxes are also paid by you and are not deducted from your employee's wages. Each state has a different rate and different wage limits from which the taxes are calculated. For information on state-specific unemployment taxes and contact information for the agency that administers your state's unemployment tax, talk to your CPA or use the Business Owner's Toolkit on www.toolkit.cch.com

You are required to make unemployment insurance tax filings quarterly.

Other Tax Considerations

Other special taxes that are assessed at the state and local levels include, but are not limited to:

Real estate taxes — assessed at the local level on all owned property based on 100% of the fair market value of the real estate. Your business may be responsible for a portion of the real estate taxes assessed on your leased office space as well, depending on the provisions of the lease.

Tangible personal property tax — this includes business machinery and equipment, office equipment, furniture and fixtures, and trucks and autos.

Choosing an Integrated Accounting System

Good record keeping is essential for your business and is necessary to comply with the federal and state reporting requirements. Whether or not you decide to work with a CPA, you can purchase an integrated accounting software package to manage any aspect of your record-keeping. In other words, you can set up a hybrid system in which you maintain the day-to-day reports, while your CPA does the period end record preparation, summaries and reconciliations and the returns for sales tax, excise tax and payroll taxes.

If you decide to set up a hybrid system, here are several products on the market that may suit your needs, and are recommended by the American Institute of Certified Public Accountants (AICPA):

- QuickBooks www.intuit.com
- Microsoft Money Small Business www.microsoft.com/money
- MYOB AccountEdge or MYOB Plus for Windows www.myob.com/us
- Oracle Financials www.oracle.com
- Financial Management Solutions www.peoplesoft.com

Your integrated accounting package should provide you with a basic accounting structure including:

- Chart of Accounts
- General Ledger
- Balance Sheet
- Income Statement
- Purchasing/Accounts Payable
- Bill payment/Check Writing
- Cash Management

Next month, we'll move on to more exciting issues such as naming your new firm, leasing or building an office, and other big steps in this process.

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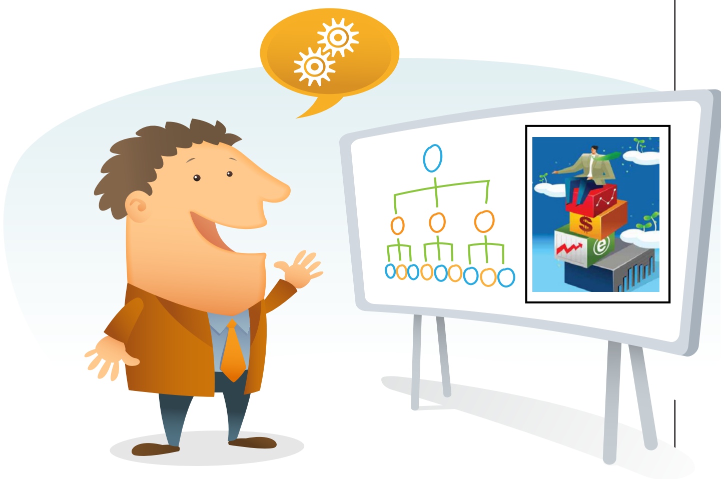
Sources: Small Business Administration www.sba.gov

How to Set Up Your Independent Business:

Part 6 What's In a Name?

By Sydney LeBlanc



Editor's note: *This is a great article that originally was published in a book Lyn Fisher and I wrote for John Peluso, President, Wachovia's FiNET division (now WellsFargo Advisors Financial Network). The book is called "Independent Business Ownership: Navigating to Your New Destination." We think you will find it very helpful when starting up your new business.*

Before you can forge ahead with the technicalities of either obtaining a business license, filing a fictitious name statement, signing any lease agreements on an office space, opening a bank account, or taking care of the many responsibilities on your list, you must have a company name.

So, you're probably excited about creating a name for your new firm. Unless you decide to use your name as identification for the firm (which is perfectly reasonable, because it immediately identifies who you are: i.e., John Smith Financial Advisors, LLC, for example). However, if you want to add some creativity and branding, and make a memorable impression on prospects and clients, you might want to try something a little outside of the box.

Branding consultant, Phil Davis, of Tungsten Marketing, says that naming a business is a lot like laying the cornerstone of a building. Once it's in place, the entire foundation and structure is aligned to that original stone. If it's off, even just a bit, the rest of the building is off, and the misalignment becomes amplified. So if you have that gnawing sense that choosing a name for your new business is vitally important, you're right.

Okay, let's get started brainstorming.

So, What to Name the Baby?

"The Ancient Mariner would not have taken so well if it had been called The Old Sailor."

---Samuel Butler, British author, poet 1835-1902

Successful — but purposely over the edge — firm-naming consultants, "A Hundred Monkeys," agrees with Phil Davis and emphasis this point about naming your firm: "Naming is a competitive sport. It's your first shot at being different. Don't pick a name that makes you one of the trees in the forest and then spend the rest of your marketing budget trying to stand out from the other trees. The right name can give you a strong, clear voice in the world. It can support and leverage your brand, and provide you with a deep well for marketing. Fight the competition; not yourself."

For example: Notice the major difference in the names Wealth Management Consultants, LLC, versus The Millionaire Within Wealth Management, LLC? Or Estate Planning Group versus Legacy Planning Specialists, Inc.

Naming and branding your firm isn't exactly a walk in the park. Choosing a name should not be gimmicky or cutesy, or hard to pronounce or remember. Every name should tell a story. Think about how you are different, and what that means for your positioning and branding and, ultimately, for your clients. If you spend time being introspective, you will soon find a way to live in the hearts and minds of your customers through the name you have chosen for your firm.

Here are the top seven mistakes[1] experts tell us that some financial advisors make when it comes to choosing a name for their business:

Mistake #1: Getting a "committee" involved in your decision. Friends, family, colleagues, your assistant, partner, all want to be part of the decision. It seems like a democratic thing to do — the more ideas, the better. But before you decide to use this process, here are a few problems with this approach. The most obvious is that you will choose only one name from the many that are suggested, so you risk alienating the very people you're trying to involve. Second, you often end up with a consensus decision, which results in a very safe, homogenous name. A better method is to involve only the key decision-makers — the fewer the better — and select only the people you feel have the company's best interests at heart.

Mistake #2: Employing the "what-does-it-mean?" method of creating a name. If you put off naming your firm until the last minute, you may be tempted to simply take part of an adjective and weld it onto a noun, essentially colliding the two words head-on to create a new word. The results are names that have a certain twisted rationale to them, but look and sound awful. A high-level financial firm becomes Hi-Val Investments … you get the picture.

Mistake #3: Using words so plain they'll never stand out in a crowd. Let's take for examples, a few general, well-known firms that have been able to get by with this: General Motors, General Electric, Bell Telephone, and so on. But once you have competition, it requires differentiation. Imagine if Google was introduced to the public as GeneralInternetDirectory.com? The name would be much more descriptive but hardly memorable.

Mistake #4 Using geography to name your company.

1 Phil Davis, Tungsten Marketing, www.entrepreneur.com April, 2005

In the eagerness to start a new company, many financial advisors choose to use their city, state or region as part of their company name. While this may actually help in the beginning, it often becomes a hindrance as a company grows. For example, if you named your firm Chicago Investments, your clients will believe you only serve the Chicago area when, in fact, you serve clients in other cities and states.

Mistake #5: Turning your name into a cliché. Once past the literal, descriptive word choices, your thought process will most likely turn to metaphors. These can be great if they're not overly used to the point of being trite. For example, since many financial firms think of themselves as being the top in their industry, you see names like Summit Financial, Pinnacle Investment Partners, and so on. While there's nothing inherently wrong with these names, they're overused. Instead, look for combinations of positive words and metaphors, and you'll be much better served. Words that convey strength, trust, integrity, knowledge etc.

Mistake #6: Making your business name so obscure your prospects can't understand it or spell it. If the reference to your firm is too obscure or too hard to spell and pronounce, you may never have the opportunity to get "past" this obstacle with prospective clients. So resist the urge to name your company with a little-known investment term like Wealth Optimizers, or the Italian translation for Value-Added Advisors, "Consiglieri a Valore Aggiunto" unless you're in Italy, of course. If it's too puzzling, it will remain a mystery to your clients, and this is not good for your branding.

Also, don't fiddle with the spelling of your name. Like AAA Advisors just so you can be listed first in the phone book. Or use slang spellings like Quik Consultants.

Mistake #7: Choosing the wrong name and then refusing to change it. If the name you initially choose becomes a problem, don't just ignore it. Take some time to re-think your value proposition, your mission statement, or your areas of differentiation and "sit with them" for a while. Then make your decision.

By tapping into your creativity and avoiding these and other potential pitfalls, you should be able to create a name for your firm that works for both the short and long term. Like the original cornerstone of a building, it will support upward expansion as your company reaches new heights. Good luck.

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LEGAL REQUIREMENTS FOR NAMING YOUR BUSINESS

Provided by Business Owner's TOOLKIT

Depending on the business form you choose, you may have to register and/or receive approval from the local or state government where your business is formed.

The name of your business must not be misleading or in any way imply something that the business is not. For example, you can't imply that your business is a licensed plumbing contractor if you haven't received a plumbing license. Likewise, you cannot imply that you are a professional and are providing professional services if you don't have professional credentials.

Below are specific rules and requirements for each of the various business types: sole proprietorships, partnerships, limited liability companies, and corporations.

Sole proprietorships. Sole proprietorships are presumed to operate under their owner's name. If the business will operate under a different name, most jurisdictions require that a fictitious owner affidavit be filed. A fictitious owner affidavit, or a "doing business as" (DBA) filing, informs the local government and the public that the business is operating under an assumed name and indicates who the owner is. The fictitious owner affidavit usually has to be filed with the county recorder of deeds' office rather than the secretary of state's office.

If you are going to use a name other than your own for your business, contact the county recorder of deeds' office (or government equivalent) that your business will be operating in to get specific information and any necessary forms.

Partnerships. Similar to a sole proprietorship, a partnership is presumed to be operating under the name of its partners. If the partnership is going to operate under a different name, a fictitious owner affidavit is required. A fictitious owner affidavit is usually filed at the county recorder of deeds' office but may have to be filed with the secretary of state's office. A fictitious owner affidavit informs the government and the public that the business is operating under an assumed name and indicates who the owner is.

Limited partnership. Choosing a limited partnership name involves more formalities than choosing a sole proprietorship or partnership name. A limited partnership name has to be reserved with the secretary of state's office. The name is usually reserved when the limited partnership files a certificate of limited partnership with the secretary of state's office to register its existence. The name of the limited partnership must include the words "limited partnership," the letters "L.P." or some other phrase indicating that the entity is a limited partnership. Most state statutes specifically identify which descriptions can be used.

A limited partnership's name must be unique. If the name is already in use by another limited partnership, the certificate of limited partnership will be rejected. Save time and effort by determining whether the proposed limited partnership name is available before filing the certificate of limited partnership.

You can find out if the name of your partnership is available by calling your state secretary of state's office and telling them that you want to register that name. If the name has been reserved by someone else, they'll tell you.

Limited liability companies. Like choosing a limited partnership or a corporation name, choosing a limited liability company name is a formal process. A limited liability company name has to be reserved with the secretary of state's office. The name is usually reserved when the articles of organization are filed with the secretary of state's office to register the limited liability company's existence.

The name of the limited liability company must include the words "limited liability company," the letters "L.L.C." or some other phrase indicating that the entity is a limited liability company. Most state statutes specifically identify which descriptions can be used.

Limited liability partnerships. Limited liability partnerships are similar to limited liability companies in terms of the tax advantages, but they differ in that limited liability partnerships are normally available only to select professions, such as doctors or lawyers. They're also recognized in fewer states than are limited liability companies, with only about 40 states now recognizing them. For more information on LLPs, see limited liability companies/partnerships.

Corporations. Choosing a name for a corporation is a formal process, just as it is for a limited partnership or a limited liability company. A corporate name has to be registered with the secretary of state's office. The corporate name must be unique and not be in use or reserved for another corporation. If the corporate name you choose is already in use when you file your articles of incorporation, the secretary of state's office will reject your articles of incorporation. You can call the secretary of state's office to find out in advance whether a particular name is available. Or if you have access to certain online services like Lexis/Nexis, a legal research database, you can electronically search your state's database of names to see which names are available.

If the name you have chosen is available, see if the state will let you reserve it. Most states will allow you to reserve a corporate name for a period of time, provided that the name isn't already in use or already reserved.

The name of a corporation must include the words "corporation," "incorporated," "limited" or "company," the letters "Inc.", or "Corp." or some other phrase indicating that the entity is a corporation. Most state statutes specifically identify which descriptions can be used.

S corporations. S corporations are subject to the same name rules that a regular corporation is subject to. An S corporation does not have to indicate its status as an S corporation in its name. An S corporation's status as an S corporation only has to be identified when the corporation is filing its federal income tax return, and, in some instances, when the corporation is filing its state income tax return.