

# REGULATIONS KNOWING THE RULES

Paying Attention to Detail Can Save Time and Money



**E**ven if your consulting service or hand-knit sweater business is based from your home, it will have to comply with many of the numerous local, state, and federal regulations. Avoid the temptation to ignore regulatory details. Doing so may avert some red tape in the short term, but could be an obstacle as your business grows. Taking the time to research the applicable regulations is as important as knowing your market. Bear in mind that regulations vary by industry. If you're in the food-service business, for example, you will have to deal with the health department. If you use chemical solvents, you will have environmental compliances to meet. Carefully investigate the regulations that affect your industry. Being out of compliance could leave you unprotected legally, lead to expensive penalties and jeopardize your business.

## BUSINESS.GOV

Business.gov is the official business link to the U.S. government providing a one-stop shop for federal resources from the federal government agencies that regulate or serve businesses.

Business.gov's new "Permit Me" feature provides a single source for obtaining federal and state permits and professional licenses for businesses. While most businesses in the United States are required to obtain a permit, professional license, or

identification number to operate, finding the right license can be a major challenge for potential business owners.

"Feature Topics" focuses on common business concerns. It provides context to the compliance information provided on the site and helps business owners understand in plain language the regulatory requirements their businesses face. Additional topics are added on a regular basis in response to the most frequent searches on the site.

The Content Partners Program encourages government agencies, trade associations and professional organizations to develop compliance assistance tools and resources for small- and medium-sized businesses that can then be featured on the site's Feature Topics and Compliance Guides pages.

Business.gov partners with the SBA and 21 other federal agencies. You're just a computer click away from help 24-hours a day at: [www.business.gov](http://www.business.gov).

## BUSINESS ORGANIZATION

There are many forms of legal structure you may choose for your business. Each legal structure offers organizational options which are appropriate for different personal situations and which affect tax and liability issues. We suggest you research each legal structure thoroughly and consult a tax accountant and/or attorney prior to making your decision.

## CHOOSING YOUR BUSINESS STRUCTURE

You may operate your business under one of many organizational structures. The most common organizational structures are sole proprietorships, general and limited partnerships, "C" and "S" corporations and limited liability companies.

Each structure offers unique tax and liability benefits. If you're uncertain which format of business is right for you, you may want to discuss options with a business counselor or attorney.

### Sole Proprietorship

One person operating a business as an individual is a sole proprietorship. It's the most common form of business organization. Profits are taxed as income to the owner personally. The personal tax rate is usually lower than the corporate tax rate. The owner has complete control of the business, but faces unlimited liability for its debts. There is very little government regulation or reporting required with this business structure.

### General Partnership

A partnership exists when two or more persons join together in the operation and management of a business. Partnerships are subject to relatively little regulation and are fairly easy to establish. A formal partnership agreement is recommended to address potential conflicts such as: who will be responsible for performing each task; what, if any, consultation is needed between partners before major decisions, and what happens when a partner dies, and so on. Under a general partnership each partner is liable for all debts of the business. Profits are taxed as income to the partners based on their ownership percentage.

### Limited Partnership

Like a general partnership, a limited partnership is established by an agreement between two or more persons. However, there are two types of partners.

- A general partner has greater control in some aspects of the partnership. For example, only a general partner can

decide to dissolve the partnership. General partners have no limits on the dividends they can receive from profit so they incur unlimited liability.

- Limited partners can only receive a share of profits based on the proportional amount on their investment, and the liability is similarly limited in proportion to their investment.

## “C” Corporation

A “C” corporation is a legal entity created under state law by the filing of articles of incorporation. A corporation is a separate entity having its own rights, privileges and liabilities, apart from those of the individual(s) forming the corporation. It’s the most complex form of business organization and is comprised of shareholders, directors and officers. Since the corporation is an entity in its own right it can own assets, borrow money and perform business functions without directly involving the owners. Corporations are subject to more government regulation and it offers the owners the advantage of limited liability, but not total protection from lawsuits.

## Subchapter “S” Corporation

Subchapter “S” references a special part of the Internal Revenue Code that permits a corporation to be taxed as a partnership or sole proprietorship, with profits taxed at the individual, rather than the corporate rate. A business must meet certain requirements for Subchapter “S” status. Contact the IRS for more information.

## LLCs and LLPs

The limited liability company is a relatively new business form. It combines selected corporate and partnership characteristics while still maintaining status as a legal entity distinct from its owners. As a separate entity it can acquire assets, incur liabilities and conduct business. It limits liability for the owners. LLC owners risk only their investment, not personal assets. The limited liability partnership is similar to the LLC, but it is for professional organizations.

## LOGISTICS OF STARTING YOUR BUSINESS

### BUSINESS LICENSES

There are many types of licenses, both state and local as well as professional. Depending on what you do and where you plan to operate, your business may be required to have various state and/or municipal licenses, certificates or permits.

Licenses are typically administered by a variety of state and local departments. Consult your state or local government for assistance.

### Commonwealth of Massachusetts Division of Registration

239 Causeway St.  
Boston, MA 02114  
617-727-3074  
[www.mass.gov/dpl](http://www.mass.gov/dpl)

## FICTITIOUS BUSINESS NAME

Registering your business name, after doing a search to make sure that it is not already in use, protects you from others who might be using the same name. For more information, contact the county clerk’s office in the county where your business is based. But if you are a corporation, you’ll need to check with the state.

## BUSINESS INSURANCE

Like home insurance, business insurance protects the contents of your business against fire, theft and other losses. Contact your insurance agent or broker. It is prudent for any business to purchase a number of basic types of insurance. Some types of coverage are required by law, other simply make good business sense. The types of insurance listed below are among the most commonly used and are merely a starting point for evaluating the needs of your business.

**Liability Insurance** – Businesses may incur various forms of liability in conducting their normal activities. One of the most common types is product liability, which may be incurred when a customer suffers harm from using the business product. There are many other types of liability, which are frequently related to specific industries. Liability law is constantly changing. An analysis of your liability insurance needs by a competent professional is vital in determining an adequate and appropriate level of protection for your business.

**Property** – There are many different types of property insurance and levels of coverage available. It is important to determine the property you need to insure for the continuation of your business and the level of insurance you need to replace or rebuild. You must also understand the terms of the insurance, including any limitations or waivers of coverage.

**Business Interruption** – While property insurance may pay enough to replace damaged or destroyed equipment or

buildings, how will you pay costs such as taxes, utilities and other continuing expenses during the period between when the damage occurs and when the property is replaced? Business Interruption (or “business income”) insurance can provide sufficient funds to pay your fixed expenses during a period of time when your business is not operational.

**“Key Man”** – If you (and/or any other individual) are so critical to the operation of your business that it cannot continue in the event of your illness or death, you should consider “key man” insurance. This type of policy is frequently required by banks or government loan programs. It also can be used to provide continuity in operations during a period of ownership transition caused by the death, incapacitation or absence due to a Title 10 military activation of an owner or other “key” employee.

**Automobile** – It is obvious that a vehicle owned by your business should be insured for both liability and replacement purposes. What is less obvious is that you may need special insurance (called “non-owned automobile coverage”) if you use your personal vehicle on company business. This policy covers the business’ liability for any damage which may result for such usage.

**Officer and Director** – Under most state laws, officers and directors of a corporation may become personally liable for their actions on behalf of the company. This type of policy covers this liability.

**Home Office** – If you are establishing an office in your home, it is a good idea to contact your homeowners’ insurance company to update your policy to include coverage for office equipment. This coverage is not automatically included in a standard homeowner’s policy.

## EMPLOYER IDENTIFICATION NUMBER

An EIN, Form SS-4, also known as a federal tax identification number, is used to identify a business entity. Generally all businesses need an EIN. You may apply for an EIN in a variety of ways, including online, phone, fax. Taxpayers can obtain an EIN immediately by calling 800-829-4933, Monday through Friday, from 7:30 a.m. to 5:30 p.m. customer’s local time.

Taxpayers can fax EIN requests seven days a week/24 hours a day by dialing the fax number to one of three IRS campuses that accept applications. The instructions

on the newly revised Form SS-4, Application for Employer ID Number, indicate which IRS Campus is assigned to their specific state. Detailed information and an electronic SS-4 can be found at the IRS Small Business/Self Employed Community Web site at: <http://www.irs.gov/businesses/small/index.html>, click on New Businesses. Faxed applications are processed in four days. The IRS Campus' accepting faxed applications are:

**Holtsville, NY 631-447-8960**  
**Cincinnati, OH 859-669-5760**  
**Philadelphia, PA 215-516-3990**

EINs are also issued automatically online. Visit the IRS Web site, <http://www.irs.gov/businesses/small/article/0,id=102767,00.html> for more information.

## FEDERAL SELF-EMPLOYMENT TAX

Everyone must pay Social Security and Medicare coverage. If you are self-employed, your contributions are made through the self-employment tax.

The IRS has publications, counselors and workshops available to help you sort it out. For more information, contact the IRS at 800-829-1040.

### Business Tax Information

If you plan to hire employees you are also required to obtain a Federal Employee Identification Number from the Internal Revenue Service (IRS). To obtain the registration form and reference documents, contact the IRS at (800) 829-1040 or visit their website: <http://www.irs.gov/businesses/small/index.html> for complete information.

### State Taxes

You must file your state business taxes separately if you are a partnership or corporation. If you are a sole proprietorship, you file through your personal income taxes. You can obtain the necessary business tax forms and general information from:

#### Massachusetts State Taxes

Department of Revenue  
Customer Service Bureau  
200 Arlington St.  
Chelsea, MA 02150  
617-887-6367 or 800-392-6089  
[www.mass.gov/dor](http://www.mass.gov/dor)

### Resale Certificate

You will need a resale certificate if you plan to sell products. The permit allows you to purchase inventory from suppliers without paying taxes. To obtain a

certificate, contact the MA Department of Revenue, Sales and Use Tax Division for a Form SF-4, Resale Certificate Application. You must obtain a State EIN (Employee Identification Number) – (Form TA-1) prior to obtaining a resale certificate. For an application or for general information call 617-887-6367.

## SALES TAX EXEMPTION CERTIFICATE

If you plan to sell products, you will need a Sales Tax Exemption Certificate. It allows you to purchase inventory, or materials, which will become part of the product you sell, from suppliers without paying taxes. It requires you to charge sales tax to your customers, which you are responsible for remitting to the state. You will have to pay penalties if it is found that you should have been taxing your products and now owe back taxes to the state. For information on sales tax issues, contact your state's government.

## FEDERAL INCOME TAX

Like the state income tax, the method of paying federal income taxes depends upon your legal form of business. The following procedures must be considered:

**Sole Proprietorship:** You must file IRS Federal Form Schedule C along with your personal Federal Income Tax return (Form 1040) and any other applicable forms pertaining to gains or losses in your business activity.

**Partnership:** You must file a Federal Partnership return (Form 1065). This is merely informational to show gross and net earnings of profit and loss. Also, each partner must report his share of partnership earnings on his individual Form 1040 based on the information from the K-1 filed with the Form 1065.

**Corporation:** You must file a Federal Corporation Income Tax return (Form 1120). You will also be required to report your earnings from the corporation including salary and other income such as dividends on your personal federal income tax return (Form 1040).

## FEDERAL PAYROLL TAX

**Federal Withholding Tax:** Any business employing a person must register with the IRS and acquire an EIN and pay federal withholding tax at least quarterly. File Form SS-4 with IRS to obtain number and required tax forms. Call 800-829-3676 or 800-829-1040 if you have questions.

## IRS WEB PRODUCTS FOR SMALL BUSINESSES

To provide the most timely and up-to-date tax information, the Small Business Resource Guide (SBRG), formerly a CD-ROM, is available exclusively online at <http://www.irs.gov/businesses/small/article/0,id=155439,00.html>.

Designed to equip small business owners with the skills and knowledge needed to successfully start and manage a business, IRS has ensured the SBRG 2009 Web site offers the same quality of information the SBRG CD was known for, covering a wide range of tax topics, Web links to business forms, publications, other useful governmental Web sites, and much more.

## SMALL BUSINESS VIDEO AND AUDIO PRESENTATIONS

A new page at <http://www.irs.gov/businesses/small/article/0,id=97726,00.html> on IRS.gov features video and audio presentations on a variety of topics for small businesses and self-employed taxpayers, highlighted by an audio podcast reenactment of the May 2008 IRS National Phone Forum for first-time Schedule C filers. Also included are:

- Adjusting Employment Taxes: New for 2009
- Backup Withholding for Form 1099-MISC
- Bartering Income
- Choosing a Tax Preparer
- Employer Identification Numbers
- Small Business Tax Workshops
- Schedule C: Who needs to file and how to do it

In addition to these video and audio presentations, please visit the Small Business/Self-Employed Virtual Small Business Tax Workshop at <http://www.irs.gov/businesses/small/article/0,id=200274,00.html> for instructional lessons.

### Self-Employed Individuals Tax Center

Small businesses and the self-employed will also find information and resources in the Self-Employed Individuals Tax Center at <http://www.irs.gov/businesses/small/selfemployed/>.

### e-News for Small Businesses

To learn about other IRS products and services, and to keep up with the latest IRS announcements for small businesses, start a free subscription to e-News for Small Businesses; just go to IRS.gov at <http://www.irs.gov/businesses/small/content/0,id=154826,00.html>, type in your e-mail address and submit.



## SOCIAL SECURITY CARDS

All employees must have a social security card. It must be signed by its owner, and you should always ask to see and personally record the social security number. Failure to do so may cause your employee to lose benefits and considerable trouble for yourself in back tracking to uncover the error.

Each pay day, your employees must receive a statement from you telling them what deductions were made and how many dollars were taken out for each legal purpose. This can be on the check as a detachable portion or in the form of an envelope with the items printed and spaces for dollar deductions to be filled in.

## EMPLOYEE CONSIDERATIONS

### Taxes

If you have any employees, including officers of a corporation but not the sole proprietor or partners, you must make periodic payments of, and/or file quarterly reports about payroll taxes and other mandatory deductions. You may contact these government agencies for information, assistance and forms.

#### Social Security Administration

800-772-1213

<http://www.ssa.gov>

### Social Security's Business Services Online

The Social Security Administration now provides free electronic services online at [www.socialsecurity.gov/employer/](http://www.socialsecurity.gov/employer/). Once registered for Business Services Online, business owners or their authorized representative can:

- file W-2s online; and
- verify Social Security Numbers through the Social Security Number Verification Service, used for all employees prior to preparing and submitting Forms W-2.

#### Federal Withholding

U.S. Internal Revenue Service

800-829-1040

<http://www.irs.gov>

### Employee Insurance

If you hire employees you may be required to provide unemployment or workers' compensation insurance.

## WORKPLACE PROGRAM

Americans with Disabilities (ADA): For assistance with the ADA, call 800-669-3362 or visit: <http://www.ada.gov>.

## U.S. CITIZENSHIP AND IMMIGRATION SERVICES

The Federal Immigration Reform and Control Act of 1986 requires employers to verify employment eligibility of new employees. The law obligates an employer to process Employment Eligibility Verification Form I-9. The U.S. Citizenship and Immigration Services Office of Business Liaison offers a selection of information bulletins and live assistance through the Employer Hotline. For forms call 800-870-3676, for the Employer Hotline call 800-357-2099.

## SAFETY & HEALTH REGULATIONS

All businesses with employees are required to comply with state and federal regulations regarding the protection of employees. The Occupational Safety and Health Administration outlines specific health and safety standards adopted by the U.S. Department of Labor.

Use of hazardous substances in businesses is highly regulated and there are heavy fines for non-compliance.

#### Federal Occupational Safety & Health Administration

Department of Labor

820 First St. N.E.

Washington, DC 20020

202-693-5000

## BUILDING CODES, PERMITS AND ZONING

It is important to consider zoning regulations when choosing a site for your business. You may not be permitted to conduct business out of your home or engage in industrial activity in a retail district. Contact the business license office in the city or town where the business is located.

## BAR CODING

GS1 US™ (not a government agency) provides a unique company number to create bar codes (including UPCs) for your products. Many stores require bar coding on packaged products. Many industrial and manufacturing companies use bar coding to identify items they receive and ship. GS1 US, formerly the Uniform Code Council, Inc., provides tools and assistance to help you meet these requirements. For information, visit [www.gs1us.org/pc](http://www.gs1us.org/pc). For additional questions, contact:

### GS1 US

7887 Washington Village Dr., Ste. 300

Dayton, OH 45459-8605

937-435-3870

## Federal Registration of Trademarks and Copyrights

Trademarks or service marks are words, phrases, symbols, designs or combinations that identify and distinguish the source of goods. Trademarks may be registered at both the state and federal level. To register a federal trademark, contact:

#### Patent and Trademark Office:

P.O. Box 1450

Alexandria, VA 22313-1450

800-786-9199

<http://www.uspto.gov/>

#### Trademark Information Hotline

703-308-9000

## State Registration of a Trademark

Trademarks and service marks may be registered in a state.

**Caution:** Federally registered trademarks may conflict with and supersede state registered business and product names.

## Patents

A patent is the grant of a property right to the inventor by the U.S. Patent and Trademark Office. It provides the owner with the right to exclude others from making, using, offering for sale or selling the patented item in the United States.

Additional information is provided in the publications, General Information Concerning Patents and other publications distributed through the U.S. Patent and Trademark Office. For more information, contact the:

#### U.S. Patent and Trademark Office

800-786-9199 • <http://www.uspto.gov>

## Copyrights

Copyrights protect original works of authorship including literary, dramatic, musical and artistic, and certain other intellectual works. Copyright does not protect facts, ideas and systems, although it may protect the way these things are expressed. For general information contact:

#### U.S. Copyright Office

U.S. Library of Congress

James Madison Memorial Building

Washington, DC 20559

202-707-9100 - Order Line

202-707-3000 - Information Line

[www.copyright.gov](http://www.copyright.gov)