

WAYS TO BEGIN A BUSINESS

By Attorney Michael H. Wald

The society we live in, and particularly the city and state we live in, are marked by a strong entrepreneurial spirit. The American dream of breaking out on one's own is being lived out by more and more former employees every year.

There are three distinct types of basic business set-ups, each with its various legal pros and cons. Depending on the individual, the kind of venture he or she is planning to run, and how much money the individual has to begin operations, any of the three types of business set-ups may be the best choice at the time.

Sole Proprietorship

For the beginning entrepreneur, the sole proprietorship offers two major attractions.

Because there would only be one owner of the business, there are no agreements with others to have to work out before starting up -- it is probably the quickest business to set up.

The sole proprietorship also features a minimal amount of paperwork. No tax identification number is required for this type of operation (sole proprietors are taxed under Schedule C of the 1040 form).

The main disadvantage of the sole proprietorship is the fact that the owner of the business is personally liable for all debts of the company -- his assets can be seized by his creditors, including his house, car, and bank accounts.

Another disadvantage of this type of business set up is that the sole proprietor cannot sell any share of or interest in his company to others.

Partnership

A partnership agreement occurs when two or more individuals agree to share the profits and losses of a business, without incorporating.

Partnerships, then, are fairly easy to set up, due to the lack of required documentation. They are so easy, in fact, that many people become involved in partnerships without even realizing it.

Only if the partnership's business is in real estate or if the partnership cannot possibly achieve its goals within one year do the partners have to put the partnership agreement in writing.

Partners file separate federal tax forms and are allowed to split the company's taxable gains or losses any way they want to between the partners -- granting them leeway in planning their respective tax pictures.

The catch to partnerships -- all members in partnerships are personally liable for all debts of the company. And any partner can obligate all the others, which is a very good reason to choose your business partners very, very carefully.

Limited partnerships have a party who joins the partnership and has his financial liability spelled out in advance. This condition allows for funding of a small business by a wealthy party who wants a "piece of the action" but doesn't want to risk his personal wealth along with the deal.

Incorporation

Incorporation creates a tax entity separate from the individual and allows for the sale of shares of stock in the company to others.

Not only is the individual spared of personal financial liability for the company's debts, but he can raise capital for the company by selling shares in it.

The company's stockholders are each liable for the corporate debts, only up to the value of the

shares they hold in it.

Corporations can be formed by an individual in Texas. The Secretary of State must approve all applications for a charter, which must be granted before the corporation can do business in the state.

There is a price to pay, though, for the shielding of the owner's debts from the corporate debts. Because of the forms required by the government from every corporation, legal and accounting fees will probably be a part of the plan to set up the company.

There is a \$325.00 filing fee in the State of Texas when applying for the charter; and the company must have at least \$1,000 of money in its holdings.

There is a great deal more to know about the three basic types of businesses and how they are defined and taxed in Texas.

Other more complicated business structures exist, but that are not basic and probably will require a lawyer. These include limited liability companies, limited liability partnerships, limited liability limited partnerships, and other forms with similar difficult sounding names.

The Internal Revenue Service offers informative classes for those considering the switch to self-employment. Call the local IRS office and ask the Taxpayer Education Coordinator when and where you can attend these sessions. This will help you decide which business form would be best for your plans.

Good luck.

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