

A First Year Checklist For A New Business In Pennsylvania

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Before you start operating your business, and in the first weeks and months after starting your new business, there are a number of things that you should address in order to get your business off on the right foot. The following is an outline of some of the more important steps. Many of these concerns you can address yourself, but several will require the assistance of your accountant, attorney, or financial advisor.

CREATE A BUSINESS PLAN

The single most important tool is the business plan. A business plan defines the objectives and the roles of participants. It answers the question “Why am I in business?” Business plans should be evaluated by a competent third party for clarity of vision and to review legal and financial issues and objectives. Your plan should address questions critical to your business success such as:

- *What are the sources of available financing?
- *What are the products and services you will sell?
- *How will you market your products and services?
- *How will you develop and manage your business on a day-to-day basis?
- *How many employees will you need and how will you recruit them?

CHOOSE THE LEGAL FORM OF YOUR BUSINESS

The most common forms of business are the sole proprietorship, general and limited partnership, limited liability company, and corporation. When beginning a business you must decide which form of business to use. Legal and tax considerations should enter into your decision. Consult our entity formation web-site www.paincorporationsplus.com for assistance in making the proper entity choice.

CHOOSE AN ACCOUNTANT

Once your business has been formed one of the first things that you should do is choose the right accountant. Your accountant, like your attorney, provides an invaluable and ongoing service. Take advantage of legal and financial advice throughout the year. Tax filing and tax planning issues must be addressed. Planning is a proactive process and tax planning will enable you and your business to receive the best possible tax treatment. It is better to factor in tax consequences of business transactions in advance, than it is to react to irrevocable business decisions.

SET UP YOUR RECORD KEEPING

One of the first things to address with your accountant is the manner in which you will maintain the financial records of your business. Information technology has changed considerably over the past 10 years. More electronically than ever before. There are software packages which will help with bookkeeping, taxes etc. Many business activities and records can be stored using one package. The package can also be centralized making records accessible to everyone privy to such information.

ARRANGE FINANCING FOR YOUR BUSINESS

Obtaining adequate financing for your business is important not only in the start up phase, but also after you are established, in order to fund your business growth. Establishing a good banking relationship early in the game will make the process much easier. Ask your attorney and your accountant to recommend a bank. Often they have established banking contacts that can be made available to you. Inquire with friends where they bank and if they are satisfied. Forge a relationship with a bank before you will actually need a loan. You'll find out how they treat you. Get to know some folks at the bank on a first-name basis. Start building a relationship. Believe it or not, banks want to talk to you even if they cannot lend you money. Scan your newspaper for evidence of who is making the kinds of loans you are seeking. Not all banks can be the best at everything. Some are better at business loans; some are better with consumer deals. Visit two to four banks to find your fit. Be upfront; tell them you are considering a loan and that you are talking with other banks. Then listen to their pitch.

Think about working through the SBA or other economic-development groups to secure better terms. They are not only for businesses that cannot get funding any other way.

SIGNS, BUSINESS CARDS AND STATIONERY

It is important to first deal with the basics. The basics are the start of a first impression. At this time it would be good to examine logos and branding of products and services. Customer recognition is important to any business.

If your business is formed as a corporation, limited liability company, or limited partnership it is important that your signs, business cards and stationary clearly indicate the form of your business entity. For example if you have organized your business as a corporation, make sure to use a suffix such as "Inc." as part of your business name. This will help maintain the limited liability protection that these entities provide.

SELECT THE PROPER BUSINESS SPACE

Take the time to choose a space that is conducive to conducting your business. Most new businesses will begin either in your home or in a leased business location – the issue of whether you should buy the building in which to operate your business will normally come later. Whether you choose to operate your business out of your home or at a leased business location there are a number of things you should consider:

HOME-BASED BUSINESS

If your business is home based:

1. Make sure your homeowners or renters insurance covers liability for business-related injuries to other people and damage to their property -- especially if people will be coming to your home on business.

2. Make sure your homeowners or renters insurance covers damage to and theft of your business assets.
3. Check to be sure your business usage complies with:
 - *Local zoning ordinances.
 - *Your lease.
 - *Covenants, conditions and restrictions affecting your property.

Also, it might help to obtain a copy of IRS Publication 587 - *Business Use of Your Home*. This Publication is available on line at www.irs.gov, and will outline the tax rules related to operating a business from your home.

LEASED BUSINESS LOCATION

Look for a flexible lease and one with a term of an appropriate length in case your requirements change. Thoroughly review the lease before signing. Remember this is a legal document and it is normally a good idea to ask your attorney to review it with you so that you understand what it provides. Also, even when you are presented with a preprinted form, remember the lease terms can usually be negotiated with the landlord.

Some of the more important areas that should be thoroughly examined are the following:

The Lease Term - It is important to understand the term of your lease both in terms of when it will begin and when it will end. For example, the lease may commence on the date or on the happening of a specific event, such as completion of construction or receipt of necessary licenses or permits. If the lease term is to begin on completion of construction or another event, determine the latest date by which construction must be completed or the event must occur, and the remedies of the parties if construction is not completed or the event does not occur before that date. If the lease term is to begin on completion of construction or another event, the occurrence of which may be subject to different opinions, determine an objective manner by which the occurrence of the event may be determined.

Also you should know whether you have the option to extend or renew the lease, and, if so, the terms and conditions of exercising such option. Finally it is important to know what is required to terminate the lease in terms of notice and when that notice must be delivered prior to the end of the lease term. Often, a lease will automatically renew itself for an additional term if proper notice is not delivered on a timely basis prior to the end of the lease term.

Rent - Although a commercial lease can provide any number of methods of determining rent (e.g., a percentage of profits or gross receipts), in most cases the rent will be stated in terms of a fixed amount. Even when the rent is stated in terms of a fixed amount, however, the lease may require that the lessees pay some or all of the lessor's costs as additional rent. Such costs can include taxes and assessments or the lessor's operating costs (and in Philadelphia, special district service tax).

In many cases the rent will be adjusted during the lease term. It is of course important to know how often and when and on what basis the rent is to be adjusted. Under some leases, the adjustment is automatically increased based upon a predetermined escalation factor. In other cases, it is based on an external factor

such as the consumer price index. And in some cases, the rent is increased based on increases in the landlord's operating costs or taxes and assessments.

Use of Premises - You should determine the purpose for which the property is to be used, and if the lessor's consent is required for use for any purpose other than the purpose designated in the lease. Also, you should determine the purposes for which, or manner in which, the premises may not be used, such as for illegal purposes, or in a manner constituting waste or nuisance or increasing insurance premiums.

Work to be performed by Lessor or Lessee - If work is to be performed by the landlord to customize the space to your use, determine:

- *The obligation of each party in regard to the work to be performed;
- *The time period for completion;
- *The standards for completion;
- *The financial obligations of each party regarding payment for the work;
- *The date upon which punch list items must be complete; and
- *When the lease term will commence (e.g., upon issuance of the certificate of occupancy or upon the lessee taking possession or upon lessee opening for business).



BUY OR LEASE EQUIPMENT

The decision to lease or buy equipment is very specific to the objectives of the entity acquiring the equipment. To make the best financial decision, consider the nature of the equipment being acquired and the tax implications to the entity that will acquire it. Also there may be tax advantages to one option over the other. While lease payments are generally currently deductible, purchased assets can be depreciated over their useful life or expensed in the tax year of acquisition. Consult with your accountant to determine what is best in your situation.

Here are some general rules-of-thumb that will lead you to one acquisition strategy over the other:

LEASE

If the equipment you need to acquire is technology that is advancing rapidly, consider a lease. Do you want to own equipment that becomes obsolete in two or three years? If you need the flexibility to stay on the leading edge with equipment that is evolving rapidly, a lease is probably your best option.

Type of Leases

1. **Capital Lease** - a lease that transfers ownership of the equipment to you at the end of the lease term. A capital lease is booked as a liability on your balance sheet, and the equipment you are leasing is booked as an asset on the other side of your balance sheet. A capital lease is effectively a purchase transaction with tax implications. If you wish to own the equipment you would lease, you might consider a loan as an alternative to leasing. If the equipment becomes obsolete and you need to replace it, you must remarket it and buy or lease new equipment.

2. Operating Lease - A lease that does not appear on your balance sheet as a liability, nor the equipment as an asset. The leasing company retains ownership of the equipment, and it appears on your books as an expense. If the equipment becomes obsolete, you have the option to trade-in and apply your lease payments to a newer piece of equipment. Operating leases generally are recommended for equipment that becomes obsolete quickly.

PURCHASE

Typically, it doesn't make sense to lease equipment with a low obsolescence factor that will depreciate over five to 10 years. You can finance the purchase of this type of equipment with a loan from your commercial bank.



OBTAIN BUSINESS INSURANCE

The type and extent of insurance will vary from business to business. A general insurance package that focuses on your specific business should be considered. For instance, consultants should consider some form of liability or malpractice insurance. Talk to your insurance agent about developing an insurance strategy. In doing so, you should determine business income loss risks and property loss risks that should be insured. Consider risks common to all businesses, such as fire, theft, liability for accidents on business premises or involving automobiles of business, and injury, disability, or death of owners and employees.

Also consider risks peculiar to your business, such as professional malpractice, and product liability insurance. Also you should determine the availability of insurance coverage for risks, and the kinds of insurance required by law, such as workers' compensation insurance.

In covering these insurance needs there are a number of kinds of insurance available, including:

- *Hazard insurance covering theft and fire losses.
- *General premises liability coverage.
- *Automobile insurance.
- *Life insurance and disability insurance.
- *Professional malpractice insurance.
- *Business interruption insurance.
- *Crime insurance.
- *Rent insurance.
- *Group life insurance.
- *Group health insurance.



OBTAIN PROFESSIONAL AND BUSINESS LICENSES

There are many types of business licenses. One is needed to operate legally almost everywhere. If the business is located within an incorporated city limits, a license must be obtained from the city; if outside the city limits, then from the county. For more information contact the county or city office in your area. You

should determine whether your business, and whether any individual employed by the business, must obtain any license or permit from, or register with, any state agency to carry on the intended trade or to practice the intended profession.

If the business will be serving food or beverages, contact either the local health department or the Pennsylvania Department of Agriculture regarding registration or licensing procedures. Also determine whether the business can be conducted at the desired location, under municipal zoning and planning ordinances.

A certificate is required before taking occupancy of a business structure. The structure and zoning must be suitable for the intended business. For instance, a restaurant must apply to a city's office of licenses and inspections. Also, you must determine whether the building in which the business is to be located has an occupancy permit. To verify an occupancy permit, call the File Research Section of Labor and Industry, 717-783-8521.

REGISTER YOUR FICTITIOUS BUSINESS NAME

When doing business under another name there may be a requirement to file under the Fictitious Name Statute. This allows the public to know with whom they are doing business. This requirement does not apply to corporations doing business under their registered name, but could apply to other forms of operating a business.

PROTECT YOUR INTELLECTUAL PROPERTY

Business assets include ideas, concepts and works put into a tangible form. Trademarks and copyrightable materials as well as patentable ideas should be protected. Proper steps should be taken to ensure control and ongoing ownership.

Consider registering your trademark or service mark at both federal and state levels if you will do business nationally and your business name will identify your product or service.

ADDRESS YOUR TAX CONCERNS

The form of business in which you operate determines what taxes you must pay and how you pay them. The following are some of the general kinds of business taxes:

- *Income taxes
- *Employment taxes
- *Excise taxes
- *Sales taxes
- *Business Privilege taxes

ANNUAL INCOME TAX RETURNS

All businesses except partnerships and limited liability companies taxed as partnerships must file an annual income tax return. Partnerships must file an information return. In addition you must generally make estimated tax payments if you expect to owe tax when you file your tax return.

In order to insure that your tax obligations are satisfied correctly it is important for you to retain a competent accountant at a very early stage in the operation of your business.

IF YOU HIRE EMPLOYEES

If and when you hire your first employee there are additional obligations that you must meet. Again you should consult with your accountant to insure that you comply with your legal requirements as an employer. Also if you have formed your business as either a C Corporation or an S Corporation and you pay yourself compensation, then you are considered an employee of the corporation.

Withholding Requirements

As an employer you must generally withhold federal, state, and local income taxes from your employee's wages and make regular deposits of the taxes withheld. In addition, you are required to withhold and also pay on behalf of your employee's social security and Medicare taxes. It is important that you meet your withholding requirements. There are heavy penalties for the failure to meet your withholding requirements.

Federal Unemployment Taxes

For each calendar year, every employer must pay an unemployment tax, equal to 6.2 percent in the case of calendar years 1988 through the first six months of 2011, and 6.0 percent for the remainder of 2011 and thereafter. This applies to the first \$7,000 of total wages paid by the employer to each employee during the calendar year. For purposes of the unemployment tax, an "employer" is defined in general as any person who either (1) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$ 1,500 or more, or (2) on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day. In the case of agricultural labor, the term "employer" means any person who either (1) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$ 20,000 or more for agricultural labor, or (2) on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least ten individuals in employment in agricultural labor for some portion of the day. In the case of domestic service, the term "employer" means any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of \$ 1,000 or more for domestic service. Certain credits are allowed against the amount of the federal unemployment tax, including a credit for contributions to state unemployment funds.

In addition to the federal unemployment tax, each employer must pay the employer's share of social security and Medicare contributions required under the Federal Insurance Contributions Act (FICA).

Pennsylvania Unemployment Insurance

Pennsylvania unemployment benefits provide temporary compensation to those workers meeting the eligibility requirements of Pennsylvania law. The Pennsylvania Department of Labor and Industry and each other state's unemployment office administers its own unemployment insurance program within Federal guidelines. Employers are required to obtain proper insurance coverage based upon the salary of employees to be insured.

Every employer is required to contribute to the Pennsylvania Unemployment Compensation Fund. "Employer" is defined to include an individual, partnership, association, or corporation that employs any employee for some portion of a day during a calendar year or that elects to be subject to the Unemployment Compensation Law.

Initial contributions are made at a statutory rate that is a percentage of the employer's payroll and may vary in later years based on benefit payment experience data. Employers are required to submit the contributions, together with required reports to the Department of Labor and Industry. Employers who are required to contribute to the state unemployment compensation fund must register with the Department of Revenue.

Workers Compensation

Should there be a work related injury, the Pennsylvania Workers' Compensation Act provides for your medical expenses and, in the event you are unable to work, wage-loss compensation benefits until you're able to go back to work. Additionally, death benefits for work-related deaths are paid to your dependent survivors.

Benefits are paid by private insurance companies (also includes third party administrators) or the State Workers' Insurance Fund (a state-run workers' compensation insurance carrier) or by employers themselves if they are self-insured.

Insurance coverage is mandatory for all employers who have one or more employees, part time or full time, including family members. Executive officers are also considered employees of a corporation, though you may be able to obtain an exemption for some officers. As a business you must comply with filing and funding requirements as well as maintain proper records. You should discuss complying with the Workers' Compensation Act with your attorney.

To obtain workers' compensation insurance, you can contact a private insurance carrier, insure with the State Workers' Insurance Fund (SWIF), 1-717-963-4635, or participate in a group self-insurance fund approved by the Pennsylvania Department of Labor and Industry, 1-717-783-4476.

Americans with Disabilities Act

The Americans with Disabilities Act prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

OSHA (Occupational Safety & Health Administration)

The Occupational Safety and Health Administration (OSHA) is under the authority of the U.S. Department of Labor. OSHA came into existence through the Occupational Safety and Health Act of 1970. The purpose of

OSHA is to “assure safe and healthful working conditions for working men and women” by authorizing enforcement of standards developed under the Act. Environmental and work related issues apply to businesses of any size. Air quality, noise levels and hazardous materials handling are good examples of regulation. In addition to enforcement, OSHA offers many resources designed to assist smaller employers. Contact the Office of Small Business Assistance.