

Starting a Small Business

Oklahoma Department of Commerce

www.okcommerce.gov

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Introduction

Starting a business can be exciting. However, it also involves many factors and details. Thus, our agency hopes that this document will be helpful.

However, please note that the only intent or **purpose** of this document is to provide more information and direction for starting a small business. Thus, absolutely, **none of its contents should be considered “legal” or “mandatory” advice**. Instead, it is also recommended to always seek the advice of expert professionals such as licensed accountants or certified public accountants, attorneys, certified financial business planners and others that are qualified to work with small business owners.

All parts of this document, below, are important and involved in starting a small business. Actions to obtain more information, make key decisions, do initial agency filings, while still working on parts of other areas, may be required to be ongoing, simultaneously.

Initial Organizing

Business Name and Legal Structure

Usually, the first thought in starting a small business is to decide the **name**. However, it is equally (or more) important to understand and decide the **entity structure** (or **legal structure**) under which the business will operate. First, the entity or legal structure will determine the format and forms that the business will use to file annual income taxes (regarding its net profit or loss). It will also determine how documents are signed or executed.

The types of legal structures or entities used most by small businesses are a **Sole Proprietorship**, a **General Partnership**, a **Limited Liability Company** (LLC) or a **Corporation**. A corporation can also be referred to as a “common corporation” or a “C Corp”).

“Sole proprietorships” or “general partnerships” are referred to as “informal” or “simple” entity structure types, and they may be created either deliberately or unknowingly. For example, when a person, as a singular, individual owner of a business, without any official filing actions, sells an item or service to a customer and receives payment, he or she has automatically established a “sole proprietorship” structure. Likewise, when two or more persons, as joint business owners, do the same, they have automatically established a “general partnership” structure. Thus, based on their ease in starting, sole proprietorships and general partnerships, at any time, will outnumber the other structure types.

“LLCs” and “corporations” are among the “formal” legal or entity structures types, and their formations require more specific details and procedures. However, if the situations are conducive, both structure types can offer more beneficial income tax filing options. For example, both an LLC or a corporation can request permission from the Internal Revenue Service may be taxed under what is called a **Sub Chapter S Corporation (or S-Corp)**, which can be

advantageous to the owners. Both structure types can also, technically, provide liability limitations from lawsuits. However, for assistance in adequately assessing and realizing advantageous tax or limited liability situations, small business are advised to consult with qualified professionals and experts such as small business attorneys, general licensed and tax accountants or CPAs, certified financial business planners and others that work in these areas.

Registering the Name and Legal Structure Information

In Oklahoma, the term, “registering”, is used by more than one agency. However, the registration (or filing) action to denote the start or the existence of a business is done with the **Oklahoma Secretary of State (SOS)**, www.sos.ok.gov, **405-522-2520**. The registration with SOS will include the name of the business, plus other information, as required in accordance with the specific type of entity structure involved.

If a business is operating under the structure of a “sole proprietorship” or a “general partnership”, only a **trade name** can be registered with the SOS. Thus, the desired name of the business will be officially registered with SOS under its “trade name” category. A trade name is also referred to as a name “**doing business as**” or a **d/b/a**.

However, the registration of a business at SOS to operate under a formal structure, such as an **LLC** or a **corporation**, will be more involved. Although the name of the business will be included, the registration, itself, will also be done under the specific format for the formal structure type.

Completing a registration electronically from the SOS website should usually be faster and more convenient. At the agency’s homepage, about an inch from the top of the page, on the far left, there is a horizontal menu starting with the category, “Business Services”. When clicked, it will show items on the website under vertical columns. The first column will allow a search regarding the availability of a desired business name. The next column is titled “File Online” which, by clicking the “Business Entity” selection, allows the start of registering online, immediately. In the fourth column, called “Forms and Fees”, the “Business Entity” selection will result in a page called “**Downloadable Forms**” that shows all of the types of business entities and other items that can be registered with the SOS. When a specific entity type on the page is expanded open, it will show the basic fee amount, a link to immediately register electronically, plus a link to a PDF attachment regarding the item. The PDF attachment will include general information, instructions, plus a related application form. The blank PDF application form can be printed off and then hand completed. Or it can be typed for completion while displayed on the SOS website, and then printed. However, a completed PDF application cannot be filed electronically, nor can it be saved and retrieved from the website, later. The completed application must either be mailed or taken into SOS’s office in person to be filed. However, a printed and completed application form from the PDF attachment can be used as a reference while completing a registration, electronically. There is also a quick menu on the homepage of the SOS website called “Most Requested Info”, which also has a “**Downloadable Forms**” link.

Currently, the basic SOS registration fees are as following: Trade Name-\$25.00, Limited Liability Company (LLC)-\$100.00 and Corporation-\$50.00 minimum fee, but it can vary based on the “Total Authorized Capital” (TAC). An added online credit card payment fee for each registration, respectively, are Trade Name-\$1.00, LLC-\$4.00 and Corporation-\$4.00.

An LLC must also pay an **annual fee** of \$25.00 to the SOS to keep its registration active and in “good standing”. Similarly, a corporation must file an **annual franchise tax return** (with the Oklahoma Tax Commission) and, if owed, pay a **franchise tax** amount. Computation of the tax will require the two basic financial statements of a business: a “Balance Sheet” and an “Income Statement”. However, no annual fee or tax is required for a “Trade Name” registration.

A name is always included when registering a business with the SOS. Additionally, at the specific time of the registration, the desired name must also be available (not being used by another business). However, if the name is available, but the registration must be delayed, the name can be **reserved** (or **held**) for 60 days, for a \$10.00 fee, and used later. On the Downloadable Forms page, the “name reservation” [link](#) is under the “Other Business Forms” selection. The business name can also be registered indefinitely as a “trade name”, plus released later (for a \$25.00 fee) and used, then, in registering an LLC, corporation or other formal entity type.

Selecting the legal structure or entity type under which to operate a business is the decision of the business owner(s). The staff of SOS will not discuss what the selection should be. However, the structure selected and started with, initially, can be changed, later, to another type. Thus, if a future owner cannot consult or confer with a qualified professional (i.e., tax accountant or CPA, attorney or other source) before starting the business, then he or she should do so, as soon as possible, afterwards.

Persons involved as owners in a general partnership or an LLC (including family members should develop and maintain a written “partnership agreement” or “operating agreement” as applicable. Information concerning comparisons regarding starting or owning a small business can also be searched on the Internet.

The entity registrations with the SOS are also, often, mistakenly confused as the same actions to obtain various licenses or permits required to operate a business in Oklahoma. Licenses and permits are completely different requirements that are covered in the next section of this document.

Obtaining an Employer Identification Number (EIN)

All businesses with employees (including those under the structure of a sole proprietorship) must obtain an **Employers Identification Number (EIN)**. An EIN (also, informally, called a “federal ID number”) is obtained, free of charge, from the website of the federal **Internal Revenue Service (IRS)** agency (of the U.S. Treasury Department), www.irs.gov. However, even without having any employees, businesses operating as general partnerships or registered under a formal entity structure (i.e., LLCs, corporations and others) are required to obtain an EIN, as well. An EIN is also normally required to open a business banking account.

Licenses, Permits and Other Operating Requirements

Different “licenses” and “permits” may be required for various businesses to officially (or legally) operate in Oklahoma.

A “license” is, normally, a document required by a business that provides a service. In addition to paying a fee, obtaining a license, in a classic sense, will also normally require completing a “course of study”, plus passing a qualifying “test or exam”. A “permit”, on the other hand, usually

only requires providing some specific information regarding the ownership and activities of the business. The fees for permits typically cost less than license fees.

Other terms regarding requirements to operate a business in Oklahoma can include being “certified”, “registered” or “bonded”. However, terms are often used interchangeably by agency staff persons (particularly regarding licenses or permits).

License Requirements and Service Businesses in Oklahoma

In Oklahoma, as mentioned, a "**License**" is normally a requirement pertaining to a business that provides a **service**. However, a license is not required for all service businesses. Furthermore, when a license is required, the license is typically issued to the owner(s) or operator(s) of the service business and is not issued to the business as an entity. For example, in a typical doctor's office, the doctor and certain medical staff (such as a nurse) must be licensed, but not the actual office, itself. However, if the doctor wants the office or practice to be under a formal entity structure (i.e., an LLC or corporation), then it must be registered, as such, with the SOS (which will include the desired business name).

The above licensing factors are similar for other businesses or practices such as attorneys; accountants/CPAs; guidance and behavior counselors; insurance and real estate agents, plus engineers and architects. Examples of service businesses that commonly require providers to obtain a license include food establishments (e.g., restaurants, cafes, food counters, plus catering and food truck operators); cosmetologists, barbers and massage therapists (plus their shops), plus home and building construction contractors providing plumbing, electrical and HVAC services. Lesser known service businesses requiring providers to obtain licenses include: mortgage and consumer credit providers; alarm controls and surveillance equipment installers; security guard services; locksmiths; amusement equipment operators; elevator and boiler pressure repair and installers; pressure line welders, plus transport, delivery and trucking services and chemical applicators for lawns and trees.

Examples of some service businesses that do not require the owner or providers to obtain licenses include: janitorial and residential cleaning; general lawn services (mowing and edging grass, plus trimming and cutting scrubs, hedges and trees); general power washing services (with exceptions regarding livestock transport trailers and washing to remove contaminated materials); auto, truck and equipment repair services; windows, garage door, guttering installation and repair; IT and general business consulting; general business brokers; auctioneers (with exceptions regarding real estate and livestock); general welding and construction services (with the exceptions, above) including carpentry, dry wall, concrete, fencing, painting, carpeting & flooring and other areas cited as repair, remodeling & renovation services.

Also, in several states of the U.S., just starting a business will require paying a fee that is called a "**general business license**". However, in Oklahoma a general business license or fee is not required. The regulating of businesses in the state (issuing of licenses, permits, etc.) is done directly by the specific state agencies or sources designated to do so.

More specific information regarding licensing requirements can be found at the following link of our agency's website, <https://www.okcommerce.gov/doing-business/startups-entrepreneurs/business-licensing-operating-requirements/>.

Sales Tax Permits Required of Wholesale and Retail Businesses

The sale of tangible products or material items to customers in Oklahoma involves the collection of **sales taxes**. Thus, **wholesale** and **retail** businesses that sell such items to customers in the state, are required to obtain one or more applicable **sales tax permits** from the **Oklahoma Tax Commission (OTC)**, www.tax.ok.gov, **405-521-3160**. There is a "general sales tax permit" (STP) for general products, plus "special permits" required for the sale of products such as gasoline, cigarettes, beer and wine, liquor, vehicle tires and other items. The act of applying for or obtaining one or more STPs from the OTC is also called "**registering**". A STP is also one of the items that must be obtained online from the OTC website. In other states, a STP may also be called a "**reseller's permit**".

The sale tax rates for cities, towns and communities across the state are available from OTC. Under their related STP number, wholesaling and retailing businesses must charge and collect sales taxes (based on multiplying the applicable percentage rates against the prices of the items sold to customers). Then later (usually in the following month, unless extended), the taxes must be remitted to OTC, along with a report.

A **wholesaler** is not required to charge and collect sales taxes if it is selling its items to a "retail" (or "resale") business customer that has a required STP. However, since a retailer sells to the final customer in the general public, it must charge, collect and remit sales taxes to OTC. However, an exception can pertain to a customer with an exemption certificate such as those issued to disabled veterans.

Retail businesses vary in size. They include large chain outlets, local neighborhood stores, as well as the growing number of small, "home-based" businesses which sell items from websites or other online platforms (e.g., clothing, jewelry, cosmetics, soaps, health supplements, plus other tangible products or items). However, regardless of size, retail businesses located in Oklahoma who sell products to customers in Oklahoma, must obtain STPs, as applicable, and charge, collect and remit such taxes to OTC. Thus, STPs from OTC are the most issued regulatory permit in the state.

Sales tax collections are also required of special service businesses such as hotels, motels, recreational cabins and bed & breakfast operations, as well as car rental service owners and warehouse operators. Vending business owners and trailer dealers are also required to be permitted or licensed by OTC and to purchase decals and stickers to be placed on their machines and trailers.

Additional Requirements and Filings for Businesses with Employees

If a business in Oklahoma have actual employees, it will also have additional state requirements and filings as following:

- **Oklahoma Tax Commission (OTC)**, www.tax.ok.gov, 405-521-3160; to apply for and obtain an Oklahoma "income tax withholding account".
- **Oklahoma Employment Security Commission (OESC)**, www.oesc.ok.gov; to apply, as an employer, for computation and payment of an "unemployment taxes" amount.
- **Oklahoma Workers Compensation Commission (WCC)**, www.wcc.ok.gov, 405-522-3222; in accordance to WCC regulations, businesses must cover its employees in

Oklahoma under “workers compensation insurance”. If needed, the insurance is available from Oklahoma’s state owned insurance company, **CompSource Mutual Insurance Company**, www.compsourcemutual.com, 405-232-7663, 800-347-3863.

Financial Estimates and Projections

This area pertains to the “numerical” and “financial” aspects regarding a small business that should be addressed by persons wishing to start a successful small business.

Numeric and Financial Estimates

In planning, aspiring owner(s) must decide the products or services that their business will sell or provide. Similarly, they must be able to identify the potential customers (including by various segments or types) for marketing and solicitation efforts. For example, a retail clothing business might offer items only for women or only for men, or items could be only for teens and children. Construction companies may offer services to only single residential property owners or just to multi-family property owners, or to both. It could also be vice-versa to owners of small or large commercial buildings. Detailed notes may be needed regarding the various customer categories for a business.

Information should also be developed regarding the prices to be used in selling or providing the products or services. Likewise estimates or actual amounts should be developed regarding the direct costs involved. Normally for retail businesses, the major direct cost is the cost of the merchandise inventory purchased for resale. The direct costs for a repair and installation service business include parts and materials, direct labor and shop supplies and expenses. Similar costs are involved with various products or items that are handmade or processed for sale by owners of home-based small businesses.

Annual Financial Operating Projections

Some of the key objectives in starting and operating a business are for it to be profitable and to grow financially. Thus, it is recommended that “**Annual Projected Financial Operating Statements**” be developed for the business. The projected statements are developed in the same format of a regular “Income (or Profit & Loss) Statement”. The main purposes of the statements are to try to realistically project and analyze the financial dynamics and profitability of the business.

The projected **annual sales (or revenue)** for a business are reached from computing the money to be received from the annual sales of an estimated number of the various products and services, at their assigned prices, to an estimated number of customers. The related annual total amount of anticipated direct costs are subtracted from the projected annual sales to derive an annual **gross profit** amount. Next, annual estimates of a categorized listing of expected **operating expenses** are developed, and their total is subtracted from the annual gross profit to reflect a projected annual **net income (or net profit)** amount for the business.

Efforts to project the possible financial results of the business are of crucial importance. Certainly, the first year of operation is important. However, projected annual operating statements for a business should be developed for up to three years. Purposely (and necessarily) at this point, the computations regarding the projected statements are being briefly described. Realistically, however, they will involve lengths of time. The numbers for items may

be substituted at times to develop statements with different ranges of acceptable net income (or net profit) goals.

Initial Capital or Financing

Estimating the total initial capital or financing required to start the business is also important. Information from the annual projected operating statements can also be utilized to develop this item. Included will be an estimated amount to purchase an initial amount of merchandise inventory (if applicable). A similar estimated direct cost amount regarding repair and installation service businesses would include parts and materials, direct labor and other overhead. Common examples of costs to consider are costs involved in the purchase or lease of machinery and equipment; computer purchase or rental costs (including hardware, software and peripherals); costs for leasing building space (if applicable), construction costs (for renovation, remodeling and decorating a physical location); costs for shelving & fixtures (if applicable), plus other anticipated costs for office supplies, utilities, telephone, advertising & promotion, insurance, accounting & legal (and for other needs, as determined).

Once an initial amount of “startup capital or financing” is determined, the next decision is how or from where to obtain it. In reality, most new businesses must be **self-financed** by their aspiring owner(s). There are no general, small business startup grants. Plus, it is usually challenging for such owners to meet the initial lending criteria required by banks and other lenders (e.g., personal cash injection, available collateral assets, credit rating and more).

Other Assistance

Financial factors and projections in starting a small business are very important. Assistance from other private business professionals may be required. Plus, if available, assistance may be sought from the state programs in Oklahoma supported by the U.S. Small Business Administration (SBA). They include the “Oklahoma Small Business Development Center” (OKSBDC), www.oksbdc.org ; the “Women’s Business Center” (WBC), www.reiwbc.org and the “Service Corp of Retired Executives” (SCORE) chapters in Oklahoma City, www.oklahomacity.score.org and Tulsa, www.tulsa.score.org. These sources emphasize the development of a written business plan. Plus, they regularly offer counseling and various workshops regarding starting, owning and operating a small business at a low or no cost amount. Additional assistance may also be sought from small business advisors at the state’s various “technology centers”.

At this point of planning, the aspiring owner(s) may find that more time will be needed before the business can be started. With a delay in registering the business with the SOS, if the proposed name is available, action will be needed to keep it. As indicated previously, if the start-up and registration delay will be less than two months, for \$10.00 the name can be reserved (held) for 60 days and used for registering within that time period. However, if the delay will be several more months to over a year, the owners may want to just register the name, indefinitely, as a “trade name”, and for \$25.00, release it later to be used (in a registration for an LLC or other formal entity type).

Summary

All parts of the information in this document are important. As such, they emphasize that starting a small business involves many factors and details.

In the initial organizing phase, it is critical to decide the “legal” or “entity” structure under which the business will be operated. The types of entity (or legal) structures used most by small businesses are a sole proprietorship, a general partnership, a limited liability company (LLC) and a corporation (also called a common corporation or C-Corp).

A “sole proprietorship” and a “general partnership” are the simple entity structure types, and they can be formed automatically by the owner(s). “LLCs” and “C-Corps” are formal structure types that can, possibly, offer more beneficial options regarding annual income tax filing and limited liability from lawsuits.

A business can also start under one type of entity structure and, later, change to another. However, regarding entity structuring, it is certainly recommended to consult with professional experts (such as public accountants, CPAs, attorneys, certified business financial planners, plus others qualified to work with small businesses).

After deciding the name and entity structure to start the business, the next step is to register the related information (in accordance to the specific entity type) with the Oklahoma Secretary of State (SOS). For businesses operating under the entity structures of a “sole proprietorship” or a “general partnership”, only a “trade name” is registered with SOS. Registrations for businesses regarding formal entity types (i.e., LLCs and corporations) are done under the specific format and procedures for each of those structures.

After registering with the SOS, the business, will likely need to obtain an “Employers Identification Number” (EIN) from the federal agency, the Internal Revenue Service (which is free of charge).

Under Oklahoma laws, businesses that provide services may require the owner or its key operators to have a specific license. However, a license is not required for every type of service business. Business who sell tangible products and material items in Oklahoma are required to collect sales taxes on these sales. These businesses, whether wholesale or retail, that sell such items to customers in Oklahoma, are required to obtain one or more applicable sales tax permits from the Oklahoma Tax Commission (OTC), and to charge and collect the applicable rate of sales tax on the purchase prices of the items sold. Then, under their permit number(s), they must remit the taxes to OTC in the following month (unless extended longer) with a report. Wholesale businesses do not have to charge and collect sales taxes, if selling to a retail or resale business that has a sales permit. Since retail businesses sell to the final using or consuming customers, they must charge, collect and remit sales taxes to OTC unless the customer has an exemption. The requirement of businesses to obtain a sales tax permit (or permits) and to collect and remit sales taxes to SOS applies to retail businesses regardless of size. This includes even the smallest businesses that may be homebased who sell products online.

Realistic estimates regarding the customers, the products and services to be provided, the prices to be charged, estimates of direct costs (e.g., merchandise inventory or direct parts, materials, labor and other overhead), plus the categories of operating expenses of a business

should be developed. The information should be used to develop annual projected financial operating statements for the business that reflect acceptable net income (or net profit) amounts. Projections of such statements for up to three years are recommended. It is also necessary to develop an estimate of capital or financing needed to start the business in its first year. Many small businesses must also be self or internally financed by their aspiring owner(s).

Developing the financial data and other information may reveal that it will take longer, than expected, to start the business. If there is a delay in registering the business with the SOS, action can be taken to keep the proposed name, if available. For \$10.00, the name can be reserved for 60-day intervals. Or, if the delay will be considerably longer, the name can just be registered, indefinitely, as a "trade name", then released later, for \$25.00, and used as intended (to register an LLC or other formal entity).

It is hoped that this document will be helpful to aspiring and new small business owners. Again, however, none of the contents of this document should be considered legal advice. It is recommended that, before starting a business, an aspiring business owner consult with a lawyer, an accountant and or other small business professionals as the business owner deems prudent.