

Starting Your Business By The Book

By Tim Knox

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I've gotten several questions recently about the legalities of starting a business. So, this week I thought I would address a few of the more common legal issues most new businesses face. But first, let's get the mandatory legal disclaimer out of the way: the advice dispensed by this columnist is probably no better or worse than the advice dispensed by other columnists. Do not take the following advice as gospel or bet the future of your business on any advice given herein by said columnist.

Agreed? Good, let's proceed.

To begin, here's the best legal advice I can give you as a new business person: find yourself a good lawyer and make him or her your very best friend. Granted, your new best friend will charge you an hourly fee for chatting on the phone or talking business over lunch, but you'll find it to be money well spent. A good attorney can save you far more than the cost of his services. I rarely make any decision that has the potential to impact my business without first consulting my attorney.

You can locate an attorney through legal referral services or just by opening the phone book, but the best way to find a really good attorney is to ask other business owners for references.

You want an attorney who specializes in business matters. A few of the things you may need legal help with are: legal business formation, articles of incorporation, trademarks and copyrights, investment documents, employee policies, etc. You may find that a single attorney can't meet all your needs, but if you use a larger firm they will have attorneys on staff that can provide the specialized services you require.

Now, let's take a brief look at a few questions I've received regarding the legalities of starting a new business.

What's a DBA?

"DBA" stands for "doing business as." A DBA is another name that you use in the operation of your business other than the legal name. For example, "Jones, Inc." might be the legal corporate name of your business, but you might use "Bob Jones Landscaping" as the everyday business name. In this case, you would see the business described in legal context as "Jones, Inc. Doing Business As Bob Jones Landscaping."

Here's an example of using a DBA to launch a new venture within an existing business. A reader asked: "My wife incorporated a multimedia business three years ago, and I am starting a voice-over business. Is it more beneficial for me to open as a sole proprietorship or to operate within her multimedia business?"

My answer was that he should open his company as a division of his wife's business, operating as a DBA. Even though he is using his own business name (the DBA), technically his wife's corporation is launching the service and therefore will give him some liability protection. Doing so would also help him save on start-up costs (such as having to pay for a separate incorporation). It's relatively simple to keep a separate set of books, and when the new business takes off, he can spin it off into a separate entity.

Will a corporation protect me from liability?

It can, if handled correctly. You may have heard about the "corporate veil," which means that you can't be sued personally for anything that happens in the corporation and your personal assets can't be attacked by creditors or a lawsuit on the corporation. But in order to have this protection, you must act like a corporation. This means conducting board meetings, taking notes and publishing minutes in your corporate book.

In addition, be sure to have a separate corporate checking account and, if you need them, corporate credit cards. Don't use corporate money for personal purchases, and vice versa (unless you file an expense report). Many people think they don't need to go to all this trouble if there is just one or two people in the company, but in order to be treated like a corporation, you must act like one. Your attorney can give you more details.

How do I register my company name?

To register your company name simply contact the office of the Secretary of State. This is easily done by phone. The registrar will tell you if the name you have in

mind is available as a corporate name and will reserve the name for you if it is available. You will be sent a form to complete and submit with a nominal fee. For more information you can also visit the Secretary of State's website.

Do I need a business license?

Nearly every business will require a county or city license. Luckily, such licenses are relatively easy to obtain and are not expensive. For local licensing requirements, contact your city or county government offices.

Some businesses might also require a state license. For example, hairstylists, contractors and most businesses serving food fall under the purview of the state licensing board. Each state has an agency that deals with these types of businesses. Contact your local government offices to see if your particular business requires a state license.

Some businesses will even require federal licensing. Examples of such businesses would be those that provide investment advice or that deal with firearms. Federal licensing is typically required for businesses that are highly regulated by the government.

I operate my business out of my home. Do I still need a license?

Operating a business out of your home does not get you off the hook when it comes to licensing. You should check local zoning requirements and property covenants. You can find this information at the court house or by calling your local license department. Home businesses are also subject to zoning laws that regulate how property can be used and may restrict various activities.

This is just a sampling of the legal issues that must be addressed by every new business owner. To learn more, take your favorite lawyer to lunch.

Just be prepared to pick up the tab.

Here's to your success.

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Small Business Q&A is written by veteran entrepreneur and syndicated columnist, Tim Knox. Tim serves as the president and CEO of three successful technology companies: B2Secure Inc., a Web-based hiring management software company; Digital Graphiti Inc., a software development company; and Sidebar Systems, a company that creates-cutting edge convergence software for broadcast media outlets. Tim is also the founder of OnlineProfits4U.com, an ebusiness dedicated to the success of online entrepreneurs.

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