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Business Entities in Texas: What form of business is right for you?
General Partnership

One of the most important decisions you can make as a business owner is deciding what form your business should take. There are several forms of business entities; each has advantages and disadvantages that should be considered as regards your specific situation. Below you will find the benefits and disadvantages of a general partnership.

What is a general partnership?

A partnership is two or more persons operating a business for profit as co-owners. Partners contribute money, labor, property or skills to the partnership and participate in the management of the partnership. The partnership is an entity distinct from the partners. It can own property and engage in transactions independently from the partners.

How do I form a general partnership?

No document is required to form a partnership. All the partners have to do is begin to operate and conduct business. You must, of course, obtain the necessary business licenses, certificates and permits that are required of your business, trade or profession.

If your business name does not contain the last name of all the partners, or suggests that there may be other owners (ex. Mario & Sons Pizza) you must file an assumed name certificate, or DBA, with the County Clerk's Office in the county in which your business has its principal office. Each county has a different form, and a different filing fee, so you need to check with your local County Clerk's Office for the details.

You should do a name search to make sure that the name you would like to use for your business is not already in use. This can be done at the County Clerk's Office.

How are general partnerships operated?

General Partnerships allow for flexible operation. Usually, all general partners have equal rights to control and manage the partnership. However, general partners can, and should, create a Partnership Agreement to provide an agreed upon system for managing the partnership. This agreement can be structured to meet the specific needs of the partners. It sets out the rules for how the partnership is run, how profits and losses are allocated between partners, how partners can enter or exit the partnership, etc.

What licenses and certificates must I obtain?

Texas requires many types of business to obtain licenses and permits at the state and local levels. The licenses and certificates you must obtain will differ depending on the business location, business activities and industry that you will be in. For example, the owner of a moving company must register with the Texas Department of Transportation and obtain

the legally required insurance. General partnerships conducting business activities are subject to these requirements as are any business. You may also be required to have a Certificate of Occupancy from your local authority if you are going to be running your business out of a commercial space

A list of license and permit requirements can be found at:
<http://www.state.tx.us/category.jsp?language=eng&categoryId=9>

What tax-related requirements should I know about?

Most partnerships must obtain a federal Employer Identification Number (EIN) for tax filing and reporting purposes.

General partnerships need to report their income and expenses on IRS Form 1065. This is generally an informational return. Each partner will receive a IRS Form K-1 which informs the member of his or her share of the LLCs income and expenses. The member then reports this information on his or her individual 1040. Partners may also be required to pay Self-Employment Tax and Income Tax on a quarterly basis, using IRS Form 1040-SE. You should consult with an accountant regarding any income tax filing requirement.

If the partnership hires independent contractors, the business may be required to issue IRS Form 1099-MISC to the contractor. If the partnership has employees, the business is required to withhold its employees' income taxes and FICA taxes and pay federal withholding tax and needs to submit W-2 and W-3 forms to the IRS, as well as IRS Forms 940 and 941. The partnership may also be subject to state and federal unemployment tax as well.

Depending on the type of business being conducted, the business may have to collect Texas Sales Taxes and remit these to the Texas Comptroller. There are other industry-specific Texas taxes administered by the Texas Comptroller Office that may apply to your business' activities.

Under certain circumstances general partnerships may be subject to the Texas Margin Tax. This is a state tax that applies to business with gross revenues over \$300,000. If the partnership is subject to the Margin Tax, it must file the Margin Tax return annually, even if it will not end up owing tax. The return is due each May 15.

Partnerships must also report the value of their business' income-producing personal property and inventory to the Appraisal District in which the business is located. Each Appraisal District has its own form and sets the date by which the form must be filed.

What are the advantages of a general partnership?

General partnerships are easily formed, require few formalities and allow for flexible management. No written documents are required, though it is highly recommended that a Partnership Agreement be created for the partnership.

What are the disadvantages of a general partnership?

General partners do not have limited liability for the wrongs and debts of the general partnership. When a partner acts on behalf of the general partnership, his or her actions can create liability for the other partners, for example by entering into a contract or having an accident on company business. Also, each partner is individually responsible for the entire debt of the business. This is called joint and several liability.

Where can I find more information?

Internal Revenue Service: <http://www.irs.gov/businesses/small/index.html>

Texas Secretary of State: <http://www.sos.state.tx.us/corp/index.shtml>

United States Small Business Administration: <http://www.sba.gov>

Texas Comptroller of Public Accounts: <http://www.window.state.tx.us/m23taxes.html>