business structures

This checklist outlines the different legal structures for setting up your business.

Sole trader

You are a sole trader if your own and run your business as an individual. You keep all your business' profits after you have paid tax on them.

Sole traders can take on staff. Sole trader simply means you are responsible for the business, not that you have to work alone.

As sole trader, there is no separate legal personality for your business, you are personally responsible for:

- any losses your business makes
- bills for things you buy for your business, like stock or equipment
- keeping records of your business' sales and spending
- any legal claims made against the business

There are no specific legal requirements to set up as a sole trader but you must register with HM Revenue & Customs (HMRC) as soon as you can after starting your business.

Limited company

A limited company is an organisation you can set up to run your business. It has its own separate legal personality and is responsible in its own right for everything it does. Its finances are separate to your personal finances.

The limited company owns any profits it makes which it may share with its members (typically by the payment of a dividend) or re-invest in the business.

Every limited company has members, i.e. people or organisations who own a stake in the company. Most companies are private companies limited by shares and the members are known as shareholders.

The shareholders appoint directors who are responsible for the daily running the company. Shareholders are often directors and vice versa, especially in family run businesses, but this is not a legal requirement.

The shareholder's responsibilities for the financial liabilities of a company are limited to the value of the company shares they own, e.g.:

- a company limited by shares issued 1,000 shares valued

- at £1 each when it was set up to 2 shareholders who own 500 shares each
- if the company goes into liquidation and the shareholders each paid £500 at the time they were issued the shares (fully paid up shares) then they have no further liability as shareholders. If payment was deferred when the shares were issued (partly paid up shares) the maximum each shareholder must pay is £500.

The directors of a limited company are not generally responsible for debts the business. However there are situations where the directors may be personally liable for breaches of certain laws, particularly regarding health and safety and bribery/fraud.

A limited company must be registered with Companies House and HMRC and it must:

- put together annual statutory accounts
- send Companies House an annual return
- send HMRC a Company Tax Return
- run a PAYE system for its employees and pay Employer's National Insurance.

The company will pay Corporation Tax on its profits. As a director of a limited company, you must fill in a Self Assessment tax return every year and pay Income Tax and National Insurance through the PAYE system if the company pays you a salary. As a shareholder you will also need to fill in a Self Assessment tax return each years and will pay Dividend Tax on any dividends received from the company.

Partnership

A business partnership does not have its own separate legal personality, you and your business partner (or partners) personally share responsibility for your business. You can share all your business' profits between the partners with each partner paying tax on their share of the profits.

As a partner you are personally responsible for your share of:

- any losses your business makes
- bills for things you buy for your business, like stock or equipment
- any legal claims made against the business.

The law covering partnerships is set out in the Partnership Act 1890 and although there is no requirement for a partnership to be set out in writing the act is out-dated and it is advisable for partners to agree and sign a Partnership Agreement.

One partner should become the 'nominated partner' who will be responsible for registering the partnership with HMRC and for keeping business records and managing tax returns.

All partners must be registered with HMRC for Self Assessment and will need to send a personal Self Assessment tax return every year. As a partner you will pay National Insurance and Income Tax on your share of the partnership's profits.

If you do not want to be personally responsible for a business' losses, you can set up a limited partnership or limited liability partnership.

In a limited liability partnership, the partners are not personally liable for debts the business. Limited liability partnerships are most often set up by professional services firms, like solicitors or accountants.

In limited partnerships, the liability for the debts of the business is unequally shared by its partners. 'General' partners are personally liable for all the partnerships' debts whilst 'Limited' partners are only liable up to the amount they initially invested in the business.

There are formal registration and reporting requirements for Limited Liability Partnerships and Limited Partnerships similar to those of limited companies. The Companies House website has information about how to set one up.

VAT

Irrespective of the business structure you choose you will also have to register the business for VAT if you expect your business' takings to be more than £77,000 a year (as at the date below).

More information

If you have any queries about the content of this checklist, please contact Amanda Doyle on **amanda@doylelaw.co.uk**.