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GOING INTO BUSINESS FOR YOURSELF? LEGAL IS THE EASY PART!

Many people thinking about starting their own business get intimidated by the legal work that needs to be done to start a business. But if you are the sole owner of your company, doing the legal work necessary to start your business is the easy part. You shouldn't need a lawyer to do it.

Assuming you already have your business idea and a business plan, you will need to come up with a name for your company. The only trick here is that you'll need to come up with a name that isn't already being used. If you have a name in mind, you can search a database of business names on the Minnesota Secretary of State's (SOS) web site. Here is the link: <https://mbportal.sos.state.mn.us/Business/Search> Type the name of your business into the search engine and see if there are any matches. If not, you're good to go to the next step. If you do find a match, you will need to change your name to something else, or modify your business name idea slightly in order to incorporate under that name. If you have a business name that you want to brand and protect on a state or national basis, you should consult with an attorney about applying for trademark protection before you file under that name.

Once you have a unique business name, you will need to register your business with the Minnesota SOS. As a single owner business, you have two good options. You will be able to file either as a corporation or as a limited liability organization. Minnesota law allows single owner businesses to file as either. And both forms of business entity provide what lawyers and accountants like to call "pass through" tax treatment. In the U.S., there are two levels of taxation of business – one tax on the corporation, and another at the individual level. However, laws for small business have developed to allow small businesses to avoid the corporate level of taxation.

To register as a corporation in Minnesota, you will need to complete and file Articles of Incorporation, the form and instructions for which can be found here: <http://www.sos.state.mn.us/media/1388/domesticbusinesscorparticlesofinc.pdf>. If you will be providing professional services (e.g. lawyers, accountants, etc.), you will need special language in your articles of incorporation, which is explained on the Minnesota SOS form.

To obtain pass through status as a corporation, you will need to file for a Subchapter S election by completing and filing IRS Form 2553 (a copy of which can be found here: <https://www.irs.gov/pub/irs-pdf/f2553.pdf>). There are easy to follow instructions for filing Form 2553 here: <https://www.irs.gov/pub/irs-pdf/i2553.pdf>. Before filing Form 2553, you will also need to obtain a tax identification number (TIN), sometimes referred to as an Employer Identification Number (EIN) (they're the same thing), from the IRS, which you can apply for and receive on-line immediately: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>. Once you have filed your Articles of Incorporation with the Minnesota SOS and your S Corp election (with the IRS), you are ready to do business. However, you will need to file an annually file an S Corporation tax return (Form 1120S) with the IRS and you will need to issue yourself a Schedule K-1.

Becoming a single member limited liability company is even easier than forming an S Corp and requires no up-front election with the IRS. All you need to do is file Articles of Organization, the form and instructions for which can be found here: <http://www.sos.state.mn.us/media/1824/llcarticlesoforganization.pdf>. As a single member LLC, you will not need to obtain an EIN (unless you plan to hire an employee). As a single member LLC you also do not need to make any annual corporate tax filing, nor issue a K-1 to yourself. The IRS ignores your LLC entity for tax purposes, and treats you like an individual. You will report your business income on Schedule C of your Form 1040 individual tax return.

There is a \$135 filing fee for both types of filing (corporation or LLC). Once you file, you will get a Certificate of Incorporation if you are a corporation or a Certificate of Organization (if you file as an LLC). And boom! You're in business. It's really that simple. And yes, you can do it yourself. Really, you've got this!

If you decide to hire an employee, or bring on a partner, things get a bit more complicated, and you should obtain the advice of counsel. But if you are going it alone, you should not need to hire an attorney. And if you are solo, and have questions about completing any of these forms, feel free to call our office and ask. We will provide you this advice free of charge. And now comes the hard (and fun) part . . . starting up your business. Go get em'!

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