

Business Entities in Texas: What form of business is right for you?
Sole Proprietorship

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 sole proprietorship.

What is a sole proprietorship?

A basic form of business in which the owner is fully and personally responsible for all the obligations of the business, is entitled to all of the profits of the business, and has control over how to manage the business. The business and the owner are one legal entity.

How do I form a sole proprietorship?

All you have to do 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 your last name, 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 details.

You should do a name search to make sure that the name you would like to use for your business is available, and has not already been used. This can be done at the County Clerk's Office, and there may be a small fee for conducting the search.

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. Sole proprietorships 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 businesses with employees must obtain a federal Employer Identification Number (EIN) for tax filing and reporting purposes.

Sole proprietors report business income and losses on their individual tax return, IRS Form 1040, using Schedule C. Sole proprietors are also generally 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 personal income tax filing requirement.

If the sole proprietor hires independent contractors, the business may be required to issue IRS Form 1099-MISC to the contractor. If the sole proprietor 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 sole proprietor 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.

Sole proprietors 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 sole proprietorship?

Sole proprietorships are simple to operate and do not require any formal action to establish. Also, sole proprietors are taxed only once, at the personal level. There is no taxation of a sole proprietorship's income at the entity level. Sole proprietorships are also not subject to the Texas Margin Tax.

What are the disadvantages of a sole proprietorship?

Sole proprietors have unlimited liability for the debts of the business. Business debts are considered to be the owner's personal debts. It can also be difficult to sell or transfer a sole proprietorship business to another person, and difficult to put a value on the business.

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>