

## **Starting a Business in Florida**

I often meet with clients who are excited about a business idea or venture and they are looking for advice on just the right way to legally start a business. There are three basic forms of business enterprises they are the (1) sole proprietorship, (2) the partnership and (3) the corporation.

Most serious business owners elect to go for a corporation. A corporation is a legal entity, which is separate from the people who own it - the shareholders. The government, sometimes the federal, but usually the state, create, regulate, and dissolve corporations. For example, filing articles of incorporation with the Florida Secretary of State forms a Florida Corporation. Shares of stock, which represent the shareholder's financial interest in the corporation, may be issued. The life of a corporation is perpetual, unless otherwise provided by law or in the articles of incorporation.

The company bylaws are the specific rules adopted by a corporation and are normally prepared by an attorney. They contain such information as the nature and timing of director and shareholder meetings as well as the election of corporate officers. Unlike the other business enterprises, a corporation is managed by a board of directors which is elected by the shareholders at an annual meeting. You can also create a shareholder agreement which can govern a buy out, death or disability etc.

There are so many reasons to select to form a corporation. The prime advantages of a corporation are its long life, greater access of capital, limited liability of shareholders and easy transfer of ownership. On the other hand, corporations are more a little more expensive to establish and operate, shareholders do not participate in the management of their property unless they are also the officers and directors, which they often are.

Florida has recently adopted a Limited Liability Company Act wherein under certain circumstances you may form a company which has many of the attributes of a corporation including limited liability but has more advantageous liability protection for business assets.

Don't let the complex explanation of a corporation concern you. They are easy to form, operate and maintain.

There are other ways to conduct business which do not afford you as much protection as the corporation they are: sole proprietorship, partnership, general partnership and limited partnership.

A sole proprietorship is an unincorporated business with a single owner, regardless of the number of people he/she has employed to assist him/her. A sole proprietor has the advantage of dealing with fewer government regulations, and accordingly, the business is less expensive to maintain. Unfortunately, it is sometimes difficult for a sole proprietor to secure financing for the business, since only his or her personal resources are the only collateral available.

What is the “partnership” way of doing business. It is an association of two or more people who conduct business for profit and share the ownership. General Partnerships are most common and can be formed with or without a written agreement. All general partners share in operating the firm, and each partner has unlimited liability for the debts or other obligations incurred by the partnership.

Unlike the General Partnership, a Limited Partnership cannot exist without a formal Certificate of Limited Partnership. A Limited Partnership may have one or more limited partners and must have one or more general partners. Limited partners are free of general liability for the debts and obligations of the firm. They risk only their investment if the firm fails to pay its bills or obligations. A general partner's liability, whether he is a partner of a general or limited partnership, is not limited only to his capital investment, but also includes his other assets as well.

A limited partner may, but usually does not take part in the management of the partnership. With certain exceptions, if he does choose to take an active part in managing the business, he may be treated as a general partner and be subjected to unlimited liability for the obligations of the partnership.

Choosing the right entity for your business is an admission that you are serious about your business, and are looking at it long term. I invite you to read up on these topics and see which is best for you and then meet with an attorney to quiz him or her on each. Only then will it be time to move forward and create just the right entity for you!