



“Getting Started” Legal Considerations

Presented to 86400 Ventures

by

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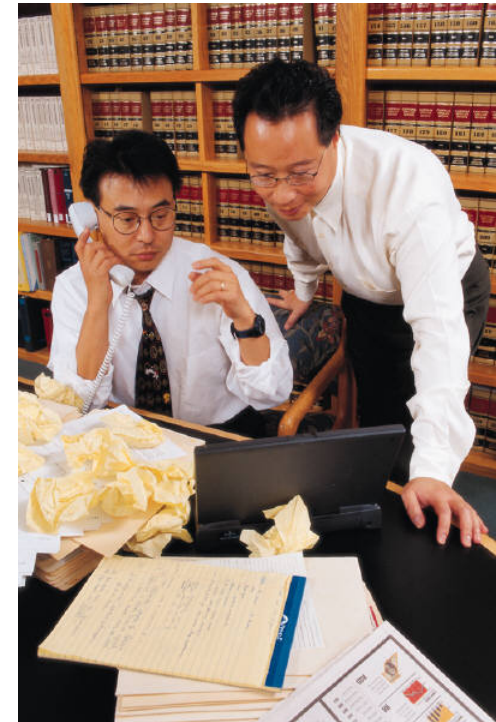
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When Do I Need a Lawyer?

Right from the get-go

- Help select a form of entity
- Help understand the legal implications of contracts
- Help identify and protect intellectual assets
- Advice on real estate transactions





Legal Considerations in Starting a Business

- Choosing the form of entity
- Capital considerations
- Licenses, permits and legal documentation
- Asset protection



Choice of Entity Considerations

- State of formation
- Limited liability
- Taxation
- Raising capital
- Governance

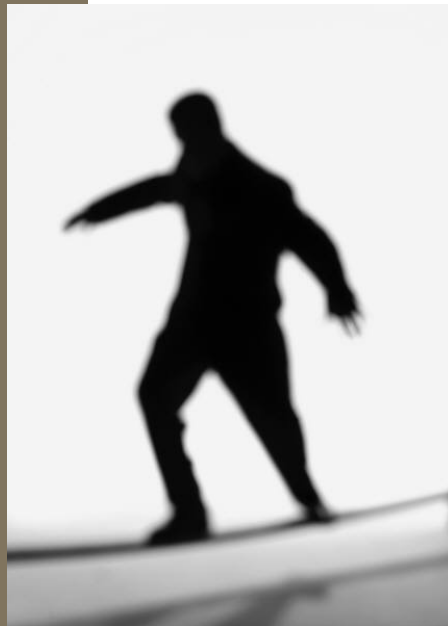


Choice of Entity Considerations: State of Formation

- State of primary operations
- Entity formed in a non-operating state
- Costs of forming an entity in a non-operating state
 - Fees to register as a foreign entity in the operating state
 - Agent for service of process
 - Annual franchise taxes



Choice of Entity Considerations: Limited Liability

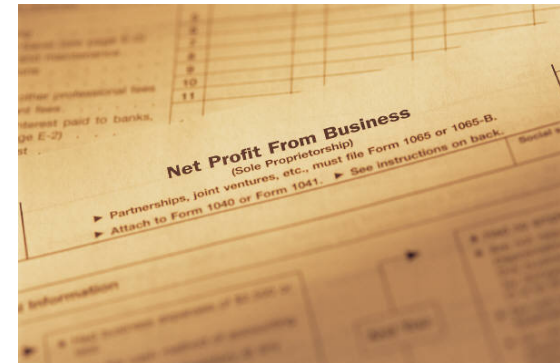


- Personal liability – sole proprietorships and general partnerships
- Limited liability – corporations, LLCs, and LPs



Choice of Entity Considerations: Taxation

- “Pass-through” entities:
 - Sole proprietorship
 - General partnership
 - LP
 - LLC
 - S Corp
- C Corp is subject to two levels of taxation





Choice of Entity Considerations: Raising Capital

- C Corp – traditional vehicle for venture capital financing
- LLC – allows some flexibility in financing structures
- S Corp – the least flexible (one class of stock and 100 shareholders limit)
- Preferences and expectations of investors
 - Individual investors vs. institutional investors
 - Advantages of pass-through tax treatment vs. costs of conversion
 - Specific rights and privileges



Choice of Entity Considerations: Governance

- Corporation – board of directors and shareholders
- Partnerships – GPs and LPs
- LLC – members or managers





Choice of Entity Considerations: Exit Strategy



- Continual income deriving source
- Sale of the business
- Initial Public Offering



Form of Entity

Choosing a form of entity:

- Sole proprietorship
- General partnership
- Limited partnership (LP)
- Limited liability company (LLC)
- S corporation
- C corporation





Capital Considerations

Capitalization

- How much is sufficient?
 - Self funded
 - The need to raise capital from outside investors
- Founders' stock – price, common vs. preferred
- Securities law compliance
- Periodic Valuation of Stock



Capital Considerations

Types of Securities

- Promissory notes
- Convertible notes
- Debentures
- Common stock
- Preferred stock
- Options
- Warrants





Licenses, Permits and Legal Documentation

- Federal, State, City and/or County licenses and permits
- Employer ID numbers
- Export/import licenses
- Right to use the chosen entity name



Licenses, Permits and Legal Documentation

Contracts

- Purchase/Sale Agreements
- Services Agreements
- Terms and Conditions (internet companies)
- Intellectual Property agreements
- Employment/independent contractor agreements
- Employment manual





Asset Protection Intellectual Property

Identification of IP Assets

- Patents
- Trade secrets
- Copyright
- Trademarks





Other Legal Considerations

- Officers and directors, D & O insurance
- Employment law issues
 - Compliance with wage and hour laws, OSHA and other applicable state and federal employment laws
 - Employees vs. consultants and independent contractors
- Bank account, business license, sales tax resale number/account, general liability insurance



Conclusion - The Five “Do’s”

1. Take time to educate yourself on various aspects of starting a business
2. Seek relevant professional advice *before* starting a business
3. Always factor in the proposed exit strategy in making significant business decisions
4. Identify and appropriately protect assets of the business
5. Do your due diligence before you employ personnel or acquire any assets for the business





Conclusion - The Five “Don’ts”



1. Don't use a name or logo in your business without having your attorney conduct a trademark search
2. Don't violate any agreements that you may have with your former employer(s)
3. Don't ignore your long term goals when choosing a form of entity
4. Don't sign up for anything that you have not researched
5. Don't sign a contract unless you have sought the advice of your legal counsel to understand the legal implications of the contract



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