

CHECKLIST OF GENERAL LEGAL REQUIREMENTS FOR SMALL BUSINESS DEVELOPMENT CENTER CLIENTS

1. Business Organization

What form should your business take? Most common options:

Sole proprietorship - You own the business by yourself. Register your business name with the Corporation Bureau (**Fictitious Name Application \$70 fee PENNFile**) and after registration, advertise the registration in your local newspaper and/or county legal journal if any.

Fictitious Names The use of fictitious names is governed by the Fictitious Names Act of 1982, 54Pa.C.S. Section 301 et seq. which repealed prior laws on the subject. Any entity or entities (including individuals, corporations, partnership or other groups) which conduct any business in Pennsylvania under an assumed or fictitious name shall register such name by filing an application for registration of fictitious name. SEARCH: <https://www.corporations.pa.gov/search/corpsearch>

A fictitious name is any assumed name, style or designation other than the proper name of the entity using such name. Fictitious names must be distinguishable upon the records of the Bureau of Corporations and Charitable Organizations from the name of any association registered with the bureau. The removal of a designator (Incorporated, Inc., Limited, LLC, etc.) does not make a name distinguishable. The bureau will not accept fictitious name registrations from registered business entities that wish to register the exact same name, but without the designator.

Partnership - Business is owned by two or more people. Partnership agreement is advised.

Corporation - This form of business organization is often used as a protection against personal liability for business related claims and a possible tax savings device.

Limited Liability Company (LLC) - This hybrid business form provides some of the advantages of a corporation and the partnership forms. The LLC offers **some** protection for personal assets and profits are passed through the company to the members for tax purposes (partnership). In Pennsylvania, you must file a Certificate of Organization to start an LLC.

2. Business Location

Where will your business be located? Check with the **Zoning Officer** for the municipality in which your business will be located. Even if your type of business is permitted, there may be other zoning regulations you will need to know about relating, for example, to signs, parking, etc. Will you need a lease? It is best not to sign an agreement to lease or buy property unless the landlord or owner assures you that the premise is property zoned for your business. Also, it may be advisable to have the agreement contingent upon your obtaining all necessary governmental approvals to operate your business. Depending on your location and business activity, governmental agencies such as DEP, Dept. of Labor and Industry, and OSHA may need to inspect and license your business.

3. Insurance

You may need to have insurance protection against liability (including customers being injured on the premises), or property damage to your business assets or business location. We suggest that you discuss the situation with an insurance agent. You should be aware that your regular homeowner's or automobile insurance policy might not provide coverage for business activities.

Get it in writing for future reference.

4. Special Licenses

If you sell goods and certain kinds of services, you will need a sales and use tax license. Contact your nearest PA Department of Revenue Office or visit their website,

www.revenue.state.pa.us.

PA-100. The On-line PA-100 may be used to register a new enterprise, add additional taxes or services, or to register a new enterprise that is acquiring all or part of an existing enterprise. <http://www.pa100.state.pa.us/>

Certain types of businesses are required to have special licenses (i.e., restaurants, bars, etc.). Check with the local municipality in which your business will be located for the requirement of special licenses. Taxes included on-line: Employer Withholding Tax, Local Sales, Use, & Hotel Occupancy Tax, Promoter License, Transient Vendor Certificate, Unemployment Compensation, Use Tax, Wholesaler Certificate, Workers' Compensation Coverage

5. Employees

If you have employees, you will have additional legal requirements imposed on you. For example, you will need to obtain a **federal employer identification number (EIN form SS-4)** at www.irs.gov. You will be required to obtain an **I-9 Form**, employment eligibility verification on each new employee. Contact Citizenship and Immigration Service (USCIS) at www.uscis.gov. You will need to withhold state, federal, and local taxes; you will have to pay federal and state unemployment compensation taxes; and you will need to obtain workers compensation insurance (contact your insurance agent). You may need to comply with the Americans with Disabilities Act and also comply with various governmental regulations concerning worker health and safety. **Do not confuse independent contractors with employees. If unsure, use form SS-8 for determination.**

Report new hires to Commonwealth Workforce Development System at:

<https://www.pacareerlink.pa.gov/jponline/Common/LandingPage/ReportNewHires>

6. Taxes

You may consider establishing a professional relationship with an accountant to help you maintain proper records for tax purposes, and file all required tax returns. The maintenance of good business records will enable you to obtain every possible tax benefit to which you are entitled. Keep a separate business checking account and do not mix personal transactions with this account. You should also be aware that your county occupation tax assessment could increase since you may be classified as a “small business owner.” In addition to paying employee taxes you must also pay **SE-Taxes (self-employment taxes on the profit of the business)**.

7. Special Needs for Forms

Does your business require the development of special contract forms to help provide a clear understanding with customers or clients as to the service or goods you are providing, the terms of payment, limitations of liability, etc.? Consider a simple receipt book.

Resources:

<http://business.pa.gov>

<https://www.sba.gov>

<https://www.irs.gov>