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LAW FIRM

## Five Legal Tips for Business Owners

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published on October 11, 2024*

There are many legal considerations when starting or running a business. The following are the preliminary considerations that business owners should look into and revisit through the development and evolution of their business.

**1) Consider your Business Structure.** Businesses are typically owned as sole proprietorships, partnerships, or corporations. Which option works best for you and your business will depend on two primary factors: (1) *Tax Planning* - There are specific considerations for tax implications based on the type of business, expected income, and long-term plans for the business. It is important that you speak with an accountant early in your business development to ensure that proper tax strategies are implemented and that your goals and expectations are reviewed regularly so that strategy can grow and evolve with your business. (2) *Liability* - Operating through a corporation can help protect your personal assets from creditors: clients, customers, employees, or other parties.

It is important to talk through the types of operations that your business is conducting and discussing possible liability that could arise. While business structures tend to be driven by tax planning strategies, there are circumstances where the existence of liability can tip the scales to take advantage of the legal protections of a corporation.

**2. Register your Business Name.** The very first thing that you should do is to register your Business Name through the Company's Office. This can be done on your own or with the assistance of a lawyer. Significant losses can occur if you have been operating and building reputation using your business name to find out that you can no longer use it and any input into marketing will be lost and the reputation of the name you were using cannot move forward. When considering your name be sure to contemplate a few options because any name that is "confusingly similar" to another name already registered is expected to be denied by the Companies Office.

**3. Obtain the necessary Licenses and Permits.** It is important that you ensure that you have the required permits and licenses to commence operations and that you review from time to time to ensure that you remain in good standing. It is particularly important to be diligent to investigate this to ensure that any insurance coverage you have is not void if there was a claim against you, and it was discovered

that there was an exclusion in your insurance policy if you do not have the proper permits to be operating.

**4. Contracts with Co-Owners.** One of the best things that you can do in your business is ensure that you have a well thought out agreement with your business co-owners. This can be in the form of a Partnership Agreement (for Partnerships) or as a Unanimous Shareholders' Agreement (for Corporations). These agreements clearly set out for all owners how they will operate, how they will deal with key issues between them should they arise, how to determine if or when to sell the business, and how to deal with the departure, death, or otherwise of one or more owners. The best time to negotiate the terms of such an agreement is when things are good, because everyone comes into the process with a clear mindset. Typically, the process of negotiating these agreements makes the owners a stronger, more cohesive group because everyone is aware of where each stand and how to move forward.

**5. Dealing with Employees.** It is very important for all employees, but especially for supervisors and management to have clear employment contracts. This ensures that terms and conditions of employment are set out and so you encounter less issues later in the employment term. It is also very important to be clear with individuals if they are not an employee and if they are instead a sub-contractor.

For employees, the Employment Standards Act sets out minimum rights and responsibilities but those are in fact, minimums. Any termination of an employee should be done cautiously, and we encourage consulting a Human Resources Specialist or a lawyer to ensure that you are not opening yourself up to possible liability from a disgruntled employee. On termination, a Release signed by an employee is immensely valuable to ensure that there will be no further claims by the employee and may include provisions for non-disclosure.

This list is meant to be a starting point of considerations and certainly is not an exhaustive list. Reach out to the lawyers at Meighen Haddad LLP for complete guidance on matters including but not limited to Business Law, Corporate Structures, and Employment Matters.

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