

# Choosing a Business Structure

Determining how to legally structure your new business is one of the most important decisions you'll need to make when starting a business in the state of Illinois. Your decision will heavily affect your business on a host of matters, including how much control you have over the business, the level of personal liability you will carry, and the taxes you have to pay. The information below will provide you with a summary of the differences between the most common forms of business entities.

## CONSIDERATIONS

### Control

Do you feel the need to have total control of your business? Sole proprietorship provides you with complete authority over the management and operations of your business, whereas a corporation is controlled by directors who are elected by shareholders. Partnerships provide each partner with power, and LLCs have operating agreements that outline management policies.

### Liability

Generally, if your business will be participating in risky or threatening activities, then you want to minimize any potential personal liability you will have if problems arise. A sole proprietorship offers the least personal protection because the owner has unlimited liability. Corporations and LLCs provide owners with limited liability that helps to protect your personal assets from individuals seeking claims against your business.

### Taxes

All business types must file an annual return. Sole proprietors, partnerships, and LLCs are pass-through tax entities, which means they must pay taxes on all net profits for the year. In contrast, owners of a corporation only pay taxes on the income they earn from the corporation such as salaries, dividends, or bonuses. Keep in mind that the corporation is a separate tax entity, and it must pay additional taxes on any profits remaining at the end of the year.

## Complexity

The sole proprietorship is by far, the easiest type of business to establish. You don't have to file any paperwork with the state or pay large fees to start your business. Choosing to structure your business as an LLC or corporation can be complex and expensive. You will need to file documents with the state and pay fees ranging from \$50 to \$800 depending on where you organize your business. Additionally, you will need to elect officers, hold meetings, and maintain records. **Questions to ask yourself when selecting a business structure:**

- How much control do you wish to have?
- How will you protect your personal assets?
- How much risk is your business willing to absorb?
- How do you want to be taxed?
- Will you need to access business earnings for personal reasons?
- Which legal structure will provide you with the most flexibility?
- What will happen to the business if you experience an unexpected hardship and are unable to run the company?

## TYPES OF BUSINESS STRUCTURES

Each business structure has certain advantages and disadvantages that you should consider. The information below will provide you with a summary of each type of structure.

### Sole Proprietor

Most small businesses are owned by a single individual and referred to as a sole proprietorship. Usually, the owner is responsible for the day-to-day management of the business. Sole proprietors own all the assets and profits earned by the business, but they also assume complete liability.

#### Advantages of a Sole Proprietorship

- Simple and least expensive business structure to organize.
- Complete control over all decisions regarding the business.
- Receives all profits generated from the business.
- Reports profit or loss on personal income tax returns.

## Disadvantages of a Sole Proprietorship

- If operating a business under a name other than the owner's own personal name, the business name will need to be registered. Business names are registered by filing an Assumed Business Name Notice (sometimes referred to as a DBA, Doing Business As Name, or Fictitious Business Name) with the local county clerk's office, in the county where the business is located. Registering requires running a legal notice in a local newspaper for three consecutive weeks.
- The law does not distinguish between the business and its owner.
- Sole proprietors have unlimited liability and their business and personal assets are at risk.
- Businesses may dissolve upon the withdrawal or death of an owner.

A Sole Proprietorship will likely need registering with the County.

## Partnership

Partnerships are similar to starting a sole proprietorship, except that two or more people share ownership of the business. The partners will need to establish a legal agreement that states how the business will be run to avoid future disputes between partners.

## Advantages of a Partnership

- Simple and inexpensive business structure to organize.
- Raising capital may prove to be easier with a partnership.
- Partners may have complementary skills to contribute to the business.
- Reports profit or loss on personal income tax returns.

## *Disadvantages of a Partnership*

- Each partner is individually liable for the actions of the other partners.
- Less control, as decisions, must be shared among partners.
- Business names are registered by filing an Assumed Business Name Notice with the county clerk, in the county where the business is located.
- Profits must be shared.

- The business may dissolve upon the withdrawal or death of a partner.

A Partnership will likely need registering with the County.

## **Corporation**

Similar to an individual, a corporation is a legal entity that can be taxed and held legally liable for its actions. Corporations are created by filing the Articles of Incorporation with the Illinois Secretary of State's Office. Maintaining a corporation requires compliance with a multitude of regulations and tax requirements. The owners of a corporation are simply shareholders that help to elect a board of directors that manage the business. The corporation does not dissolve when ownership changes.

### *Advantages of a Corporation*

- Shareholders enjoy limited liability.
- Raising additional funds is possible through the sale of stock.
- Can deduct the cost of benefits it provides to officers and employees.

### *Disadvantages of a Corporation*

- Organizing a corporation is the most expensive and time-consuming business structure to form.
- A high level of paperwork is needed as corporations must comply with regulations from federal, state, and local agencies.
- Filing of an annual report.
- May result in higher overall taxes. Dividends paid to shareholders may be taxed twice.

[Read the guide for organizing an Illinois Corporation](#)

## **Limited Liability Company (LLC)**

The LLC is a hybrid legal structure, created with the Secretary of State, that provides the tax flexibility of a sole proprietorship (depending on how many owners there are), and the limited liability protection of a corporation. Organizing an LLC is more difficult and formal than that of a general partnership.

### *Advantages of an LLC*

- Offers business owner(s) limited liability protection.
- Can report profit or loss on personal income returns.
- Typically less paperwork than a corporation.

### *Disadvantages of an LLC*

- Cost of the state filing fee.
- Businesses may dissolve upon the withdrawal or death of the owner or a member.
- Filing of an annual report.
- More paperwork than a sole proprietorship.

[Read the guide for organizing an Illinois LLC](#)

## Side-by-side Comparison of Legal Structures

<b>Sole Proprietorship vs. C Corporation vs. S Corporation</b>				
	<b>Sole Proprietorship</b>	<b>C Corp</b>	<b>S Corp</b>	<b>Limited Liability (LLC)</b>
<b>Formation Requirements, Costs</b>	Country Registration Assumed Name Notice	File articles of incorporation, state specific, filing fee required	Same as C-Corp, plus S-corp Status request to IRS	File articles of organization, state specific, filing fee required
<b>Personal Liability</b>	Unlimited liability	Shareholders are not	Shareholders are not	Members are not typically held liable
<b>Administrative Requirements</b>	Relatively few requirements	Election of board of directors/officers, annual meetings, and annual report filing	Election of board of directors/officers, annual meetings, and annual report filing	Relatively few requirements
<b>Management</b>	Full control	Shareholders elect directors who manage business activities	Shareholders elect directors who manage business activities	Members can set up structure as they choose
<b>Term</b>	Terminated when proprietor ceases doing business or upon death	Perpetual: can extend past death or withdrawal of shareholders	Perpetual: can extend past death or withdrawal of shareholders	Perpetual, unless state requires fixed amount of time
<b>Taxation</b>	Entity not taxable Sole proprietor pays taxes	Taxed at corporate rate and possible double taxation: Dividends are taxed at the individual level, if distributed	No tax at the entity level. Income passed through to the shareholders	No tax at the entity level. Income passed through to members
<b>Double Taxation</b>	No	Yes, taxes at corporate level and then again if distributed to shareholders in the form of dividends	No	No
<b>Self Employment tax</b>	Subject to self employment tax	Salary subject to self employment tax	Salary subject to self employment tax, but shareholder distributions are not subject to employment tax	Salary subject to self employment tax
<b>Pass Through Tax Treatment</b>	Yes	No	Yes	Yes
<b>Tax Forms</b>	1040	IRS Form 1120	IRS Form 1120S Shareholders get K-1 for personal tax	1 member: sole proprietor IRS Form 1040 - Schedule C Partnership: IRS Form 1065, Members
<b>Transferability of Interest</b>	No	Shares of stock are easily transferred	Yes, but must observe IRS regulations on who can own stock	Possibly, depending on restrictions outlined in the operating agreement
<b>Capital Raising</b>	Individual provides capital	Shares of stock are sold to raise capital (Securities laws apply)	Shares of stock are sold to raise capital. Limitations prevent S corp stock ownership	May sell interests, but subject to operating agreement (securities laws may also apply)
<b>Ease operation</b>	Easiest	Must have annual meetings, Board of Directors meetings, corporate minutes, and stockholder meetings	Must have annual meetings, Board of Directors meetings, corporate minutes, and stockholder meetings	Easy, some stated may require more than others

[Download the Legal Comparison Matrix as a PDF](#)

## NEXT STEPS

One type of business entity is not necessarily better than any other but will depend on the owner and risk of the business. Before making a selection, it's a good idea to consult with your attorney, accountant, or a key adviser (like the

SBDC) to assist you in the process of selecting a business structure for your company.

In addition to forming an entity, there are other potential registrations such as:

- Federal Employer Identification Number or FEIN (much like a social security number for a business) with the Internal Revenue Service,
- Illinois Business Tax Number (sometimes referred to as a sales tax permit) from the Illinois Department of Revenue to sell products and certain services
- Illinois Department of Employment Security when hiring employees
- Occupational licensing with the Illinois Department of Financial and Professional Regulations

Your initial choice of a legal business entity isn't necessarily a permanent decision, and you can change later. If your business grows or the level of risk increases, you can always convert your business to a LLC or a corporation with the help of an attorney.

Need additional information about starting your business? Help with a business plan? Finding financing? Contact the Illinois Small Business Development Center (SBDC) at Joliet Junior College for a confidential business consultation at no-cost to you. Sign up for our services through our site [ecenterdirect.com](http://ecenterdirect.com).

# Choosing a business name post

(link it to “register a business name” (fourth step) hyperlink on the main SBDC page)

Choosing a business name is an important step in the business planning process. Not only should you pick a name that reflects your brand identity, but you also need to ensure it is properly registered and protected for the long term. You should also give a thought to whether it's web-ready. Is the domain name even available?

Here are some tips to help you pick, register, and protect your business name.

## Factors to Consider When Naming Your Business

Many businesses start out as freelancers, solo operations, or partnerships. In these cases, it's easy to fall back on your own name as your business name. While there's nothing wrong with this, it does make it tougher to present a professional image and build brand awareness.

Here are some points to consider as you choose a name:

- How will your name look? – On the web, as part of a logo, on social media.
- What connotations does it evoke? – Is your name too corporate or not corporate enough? Does it reflect your business philosophy and culture? Does it appeal to your market?
- Is it unique? – Pick a name that hasn't been claimed by others, online or offline. A quick web search and domain name search (more on this below) will alert you to any existing use.

## Check for Trademarks

Trademark infringement can carry a high cost for your business. Before you pick a name, use the [U.S. Patent and Trademark Office's](#) trademark search tool to see if a similar name, or variations of it, is trademarked.

## Apply for Trademark Protection



A trademark protects words, names, symbols, and logos that distinguish goods and services. Your name is one of your most valuable business assets, so it's worth protecting. You can file for a trademark for less than \$300 at [www.uspto.gov](http://www.uspto.gov).

### **If You Intend to Incorporate**

If you intend to incorporate or form an LLC, you'll need to check with the Illinois Secretary of State

[https://www.cyberdriveillinois.com/departments/business\\_services/corp.html](https://www.cyberdriveillinois.com/departments/business_services/corp.html) to check whether your intended business name has already been claimed and is in use. If you find a business operating under your proposed name, you may still be able to use it, provided your business and the existing business offer different goods/services or are located in different regions.

### **Pick a Name that is Web-Ready**

In order to claim a website address or URL, your business name needs to be unique and available. It should also be rich in key words that reflect what your business does. To find out if your business name has been claimed online, do a simple web search to see if anyone is already using that name.

Next, check whether a domain name (or web address) is available. You can do this using the WHOIS database of domain names [www.whois.net](http://www.whois.net). If it is available, be sure to claim it right away. This guide explains how to register a domain name.

### **Claim Your Social Media Identity**

It's a good idea to claim your social media name early in the naming process – even if you are not sure which sites you intend to use. A name for your Facebook page can be set up and changed, but you can only claim a vanity URL or custom URL once you've got 25 fans or "likes." This custom URL name must be unique, or un-claimed.

### **Register Your New Business Name**

Registering a business name is a confusing area for new business owners. What does it mean and what are you required to do?

Registering your business name involves a process known as registering a “Doing Business As (DBA)” name or trade name. This process shouldn’t be confused with incorporation and it doesn’t provide trademark protection. Registering your “Doing Business As” name is simply the process of letting your state government know that you are doing business as a name other than your personal name or the legal name of your partnership or corporation. If you are operating under your own name, then you can skip the process.

Read more about registering your business

More about registering your business name: <https://www.sba.gov/content/how-name-business>

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## ***Registering your business post***

(link it to “apply for business licenses and permits” (fifth step) hyperlink on the main SBDC page)

## Doing Business As/DBA/Assumed Name Notice

A fictitious name filing, also known as Doing Business As or DBA, allows you to create name for your business that is different than your personal name, the names of your partners or the officially registered name of your LLC or corporation. When a business name is different from the owner(s) full legal name(s), the Illinois Assumed Name Act requires sole proprietorships and general partnerships to register with their local county clerk's office. Corporations, LLCs, LLPs, and limited partnerships register an assumed name as part of their required business filings with the Illinois Secretary of State.

Registering your business name under the Assumed Business Name Act, does not prevent anyone from using your business name. The only way to prevent someone from using your business name is to file as a corporation or have a trademark for your name.

**WHO MUST FILE:** Anyone using a name (other than his/her own personal name, i.e. John Doe or Sally Smith) for his/her business. Note: By adding any word to your own personal name constitutes an assumed name (i.e. John Doe **Company** or Sally Smith **Computer Service**).

**HOW TO FILE:** Illinois State Law requires that the Notice shall be published in a newspaper of general circulation within the county in which the Certificate is filed. Such notice shall be published once a week for three consecutive weeks.

## PROFESSIONAL LICENSING

The [Illinois Department of Professional Regulation](#) (IDFPR) is the main licensing agency for the State of Illinois for most professions. Individuals must be licensed prior to conducting business as one of the listed professions.

## BUSINESS TAX REGISTRATION

### Federal

A Federal Employment Identification Number, also known as a [Federal Tax Identification](#) Number or FEIN, and is used to identify a business entity. This

number is required if your business is a Partnership, LLC or Corporation or if you are a Sole Proprietor that has employees.

## **State**

You must register with the [Illinois Department of Revenue](#) if you conduct business in Illinois, or with Illinois customers.

## **Local**

Some towns in Illinois require local registration. Be sure to check with your City Hall and/or county first.

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## ***Financing post***

(link it to the first hyperlink of the (sixth step) on the main SBDC page)

Even with a great business idea and plan, financing can be a huge challenge. With the developments in the financial markets over the past several years, banks have become more conservative but there are other options available. Don't underestimate the time it may take to get your loan approved and get started on the process earlier, rather than later.

Before going to the bank, your credit score should be checked to ensure your information is correct. Visit [www.annualcreditreport.com](http://www.annualcreditreport.com) to get your report for free. Make sure you get a complete report (which explains where any deficiencies may be) as well as your credit score, which is a number up to 850. Banks in general are looking for 650 and above.

Here is a brief summary of the major options for funding a business.

### **1. Personal funds**

The first place you should look is your personal savings to start your business. The less you borrow is the less you need to come up with every month to make the monthly payment. In addition, expect the bank will require you to put in cash or personal assets to secure the loan. There are no 100% financed business loans. The amount you will be required to provide will vary depending on the type of collateral, your credit score, riskiness of the industry or loan program but expect anywhere between 10% to as high as 50%.

### **2. Friends & Family**

Many businesses are started with funding from friends and family and many relationships have been lost too. Be sure to discuss the expectations in the beginning to avoid hard feelings later. Even though you have every intention of paying the money back, businesses are rarely predictable and the ability to meet obligations can change. Family and friends can have blinders to the risk involved with running a business and you should have the talk before anything goes wrong. Be sure to put **any** financial agreements in writing – to protect you and those who lend to you.

### **3. Business loans**

Banks are another source of funding for businesses. Before going to the bank be sure to have your business plan and credit in order. Banks in general have

become more conservative in their lending and place a high value on credit scores and collateral.

If you don't have enough collateral or the bank sees your project as being too risky to fund themselves, there is an option of using an SBA or USDA guarantee. Contrary to popular belief, the SBA does not make business loans. Instead they provide a guarantee to the bank and should the loan go into default they will pay a percentage back to the bank, thereby lifting a majority of the bank's risk. A loan guarantee is much like insurance which makes this loan more costly to get.

#### **4. Investors**

Investors are looking for opportunities to take on more risk with a small business but have the possibility for more financial reward should the business grow quickly. Investors typically look for high-growth, technology-based and exciting businesses that have the potential for a high payout (though many end up not). While there are investors who put money into smaller projects, these people are usually within your network and are investing in you as much as the idea. Finding investors is typically a lengthy and difficult process. For an example of investing in small businesses, check out the show Shark Tank on NBC. While the show is more dramatic than real life, the concept is still the same.

#### **5. Grants**

Despite what all of the infomercials tell you, there are really not many grants to start or even grow a business. You will find a few in areas such as science, technology, agriculture, tourism and recycling but all of this information is free to find. A few recommended sources include:

[Grants.gov](http://Grants.gov)

[Illinois Tourism Grant](#)

[Illinois Department of Agriculture](#)

[Illinois Recycling Grant](#)

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## ***Hiring Employees post***

(link it to “hire employees” (seventh step) hyperlink on the main SBDC page)

**Unemployment Insurance**

Typically a business is required to make unemployment insurance contributions to the Illinois Department of Employment Security (IDES) if they have: 1) employed one or more workers in each of 20 or more calendar weeks; or 2) paid at least \$1,500 in total wages during the calendar quarter. IDES offers a New Employer Packet. To request this packet, contact:

- [Department of Employment Security](#)  
Division of Unemployment Insurance  
33 South State Street  
Chicago, Illinois 60603  
(800) 247-4984  
(866) 212-8831 TTY

### **Illinois Department of Financial and Professional Regulation**

The Illinois Department of Financial & Professional Regulation (IDFPR) is the main licensing agency for the State of Illinois. IDFPR provides an on-line database listing every individual licensed with their agency.

Visit the [IDFPR web site](#) and click on “License Look-up” to learn if an individual is licensed in a certain profession or determine if a licensed number is valid.

### **Anti-Discrimination Laws**

The Equal Employment Opportunity Commission (EEOC) is responsible for the enforcement of all anti-discrimination laws. These laws include: Title VII of the Civil Rights Act of 1964, Equal Pay Act, Age Discrimination in Employment Act, Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act, and the Civil Rights Act of 1991. Business owners should acquaint themselves with these laws because they affect the company’s hiring practices. To order information on these laws, contact:

- EEOC Publications Office  
PO Box 12549  
Cincinnati, Ohio 45212  
1-800-669-3362  
Fax: 513/489-8692



TDD: 1-800-800-3302

Material Orders Only TDD: 1-800-669-6820

<https://eeoc.gov/employers>

## **Workers' Compensation Insurance**

Under the Workers' Compensation and Workers' Occupational Diseases Acts, an employer is required to provide insurance for accidental deaths, injuries and occupational diseases of employees arising in the course of employment.

Temporary workers who normally do not receive company benefits are still provided workers' compensation. Insurance generally is purchased through private companies. Companies can apply to the Workers' Compensation Commission to become self-insured. For a free handbook, contact:

- [Illinois Workers' Compensation Commission](#)  
100 West Randolph, 8-200  
Chicago, Illinois 60601  
Toll Free: 1-866-352-3033  
312-814-6611  
TDD: 312-814-6519

## **Employment Service/Labor Market Information**

The Illinois Department of Employment Security can assist you with finding new employees. Find out about labor market conditions and industry projections.

- <https://illinoisjoblink.illinois.gov> finding new employees
- <http://www.ilworkinfo.com> labor market conditions and industry projections

## **Wage Withholding for Child Support**

The Illinois Department of Healthcare and Family Services is the Child Support Enforcement Agency for the State of Illinois. If you (as an employer) are served a Notice of Withholding, you are required by law to withhold a portion of an employee's income for payment of child support. For a copy of "Ensuring A Child's Birthright: An Illinois Employer's Guide To Income Withholding", contact:

- [Illinois Department of Healthcare and Family Services](#)  
Division of Child Support Enforcement  
Employer Verification Unit  
PO Box 19405  
Springfield, Illinois 62794-9405  
217-782-1380  
TDD: 217-524-3148  
In Cook County: 312-793-3289  
TDD: 312-814-1580

## Immigration Reform and Control

The Federal Immigration Reform and Control Act of 1986 requires every employer to keep on file a form for every employee certifying that employee's identity and work eligibility. For further Information contact:

- [U.S. Citizenship and Immigration Services](#)  
219 South Dearborn  
Chicago, Illinois 60604  
312-353-7334  
TDD: 1-800-767-1833

## Required Posters for Illinois Employers

The Illinois Department of Labor's website has a listing of State and Federal posters employers are required to display in the workplace. Visit their website at <http://www.state.il.us/agency/idol/Posters/poster.htm> for details on how to obtain each poster.

## ***Business development Center post***

(on the FAQ page, please link this post to "where to go to help" hyperlink)

## Business Advisors

The Business Development Center strives to advance the practice of business ownership to stimulate economic growth and development through new company formation and growth.

The Center is committed to the business community with programming and customized advising and high-quality training.

There are three core programs offered under the Business Development Center, a department within the Continuing Education Division.

### **Illinois Small Business Development Center**

Businesses can receive assistance in the areas of management, marketing, finance and operations.

### **Illinois Procurement Technical Assistance Center**

Businesses can receive specialized assistance in the area of expansion through governmental contracting. Advising will meet the needs of selling to the local, state or federal markets.

### **Rita Haake, College of DuPage**

Phone: (630) 942-2184

### **Illinois International Trade Center**

Businesses can receive specialized assistance to ensure export readiness in the global marketplace.