

Agribusiness Procedures



SELECTING THE FORM OF BUSINESS

Business Forms



	Sole Proprietorship	Partnership	S-Corporation	Corporation
Taxes	Business does not file or pay taxes. Owner is taxed based on income.	Partners taxed individually based on income.	Corporate earnings are “passed through” to shareholders who are taxed on the income	Corporation taxed and individual earnings are also taxed
Regulatory	Minimum requirements; no formalities.	Created through written or verbal agreement. Articles of partnership recommended! No reporting.	Created through articles of incorporation. Biennial reporting required.	Created through articles of incorporation. Biennial reporting required.
Continuity	Usually no continuity upon disability, retirement, or death of owner	By partnership agreement (RECOMMENDED) or events (i.e. death, withdrawal etc)	May perpetual, but can be dissolved	May perpetual, but can be dissolved
Liability	All liability falls on the owner and her personal assets are at risk.	Liability is limited to the individual’s contribution to the partnership.	Liability is limited to the assets of the corporation.	Liability is limited to the assets of the corporation.

Special Varieties To Consider



- **The Sub-chapter S Corporation**

- An "S" corporation is the same as any other business corporation with one important difference - the IRS allows it to be taxed like a partnership, a pass-through entity.
- Many people begin corporate life as an S corporation when there are losses to offset their "paycheck" income and then revert to standard C corporation status when the corporation begins to make taxable profits.

It is important to remember that being an S corporation (vs. a standard C Corporation) is a tax matter only.

Special Varieties to Consider



- **The Limited Liability Company**
 - Available in 49 states, including Iowa
 - Features pass-through taxation of the partnership, and limited liability of the corporation.
 - Law regarding the LLC is still evolving and some issues regarding its operation remain unsettled.
 - Employment tax favors the S Corporation but the amount of paperwork involved may offset this as a benefit.

Special Varieties to Consider



- **Professional corporation**
 - Allows professionals (lawyers, doctors, CPAs) to practice together.
 - Organized for the sole purpose of providing a service
 - **All shareholders are required to be licensed professionals in the state of Iowa.**
 - Still liable for malpractice

This is a common form for Veterinary clinics.

Which form would you recommend for
ACME (from Looney Tunes)?



Which form would you recommend for
Wonka Industries?



Santa's Workshop



Wayne Enterprises



Mario Brothers



Springfield Nuclear Power Plant



Agribusiness Procedures



**BUYING EXISTING
VERSUS
“STARTING UP NEW”**

Starting a New Business



ADVANTAGES

- Start and set up the way you want
- No inherited ill will
- Easier to start from scratch than to fix things (including employee attitudes, customer dissatisfaction, etc.)
- Your idea gets an exciting, fresh beginning

DISADVANTAGES

- What if the market can't support another competitor ?
- High cost of equipment
- More work for you
- No history
- No one to go to for advice
- No Business or brand name recognition
- Must build awareness and market from scratch
- Heavy promotional burden and costs
- Can't find a suitable location
- Lack of competitive advantage

Buying an Existing Business



ADVANTAGES

- Get up and running quickly
- A successful business may stay successful while *you* get up to speed
- May have equipment and assets you want
- Set-up and installation costs are cheaper or not necessary
- Their clientele may be your clientele.
- Get the "best" location or acquire a favorable lease
- Expenses, scale, and revenues are known
- Easier to get licenses and permits
- Easier to get loans and other financing
- Intangibles: Goodwill, Brand Name.
- Supplier relationships are established
- Trade credit may be established
- Inventory is in place
- Get key employees on your team
- Get trained experienced employees and staff
- Prevent competitor from entering area
- Little competitive backlash or reaction
- May be able to use the experience and advice of the previous owner
- May be a bargain

DISADVANTAGES

- It may be a loser
- Ill will from previous owner's practices
- Poor employees
- Poor location
- Obsolete, worn out facilities or equipment
- Un-sellable inventory
- Expensive – takes more capital

Buying vs. Starting



**It looks like there are more pros than cons to buying compared to starting.
BUT there is a LOT of investigation (“Due Diligence”) involved!**

1) Why does the owner wish to sell? new competition, traffic re-routing, leases expires, cash flow, etc.

2) What is the physical condition of the business?

Tangible: building, equipment, inventory...

Intangible: accounts receivable, lease, financial records, mailing lists, trademarks, patents, copyrights, goodwill, accounts payable contracts...

3) What are you buying?

Stock purchase of a corporation means you buy the business assets, assume its liabilities (debts), and assume contracts and other formal/legal relationships.

Asset purchase you buy only the assets of the company; usually all contracts must be renegotiated between the new parties and debts remain with the seller. (Sole Prop. and Parts.)

Buy the Company Assets and some or all of the liabilities, contracts or legal relationships. (Sole Prop. and Parts.)

4) What is the potential for the company's products & services? - customer characteristics, vulnerability to competition, seasonality, fads, changing demographics or lifestyles...

5) Legal Aspects to consider? Complexity of transferring title (liens, etc.), Liabilities and their responsibilities,

Bulk Transfer requirements (section 6, Uniform Commercial Code), Rights & obligations with suppliers, employees, lessors, lenders, customers... , Organizational structure for management , Legal form of business,

Covenant not to compete , Legal liabilities: physical premises, product claims, labor relations...

6) Is the Business financially sound? - accounting practices (creative?); financial records: income statements, balance sheets, tax returns, owner's compensation records