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## GETTING TO KNOW THE SOLE PROPRIETORSHIP

LLCs are all the rage these days, but did you know that even without formally forming a business, like an LLC or corporation, you may very well be operating a business without even considering it as a business. For example, do you have an [Etsy](#) shop? Cut the neighbors' lawns around the neighborhood? Sell things on [eBay](#)? Babysit? Do freelance writing? If so, you have a business, and it's called a sole proprietorship. It's the simplest and by far the most common type of business structure used to start a business, and it comes with some important rights and responsibilities.

### So how is a Sole Proprietorship Formed?

Pretty easily actually. Technically, nothing is required to form a sole proprietorship aside from conducting a business activity. As long as you are the only owner, or the only person actually realizing profit from your venture, you are a sole proprietorship.

### If I have a Sole Proprietorship, What Do I need to Worry About?

Your worries should be the same things that all business owners are worried about. But, from a legal standpoint, a few items to pay close attention to are taxes, licenses and zoning.

Taxes: As a business owner, you need to pay tax on all income your business generates. That means that, if you sell a musical instrument on eBay, you'll have to report the income to state and federal tax authorities. Similarly, if you are a hairstylist or run a moving company, [you'll need to report all cash tips](#) as income as well. Failure to do so can lead to substantial fines, among other penalties.

Now that you're generating income on your own, you'll also need to make [periodic estimated tax payments](#) to the IRS and state taxing authority. The logic is this- when you work for another company, your employer pays periodic taxes on your wages when you're paid (look closely at your paystub and you'll notice those items). The government is essentially getting an interest free loan from you. But, when you're self-employed, the government is missing out on your tax dollars until the end of the year. To bypass this, the government required business owners to file estimated tax payments four times per year. The payments usually coincide roughly with the end of each quarter of the fiscal year (if you have a standard calendar fiscal year for your business).

Licenses: Practically all businesses are subject to state and/or federal licensing bodies. For example, as an attorney, I must be licensed to practice law by each state where I offer my services. Similarly, a cosmetologist is licensed to cut hair, and a daycare is licensed to provide childcare services. Licenses are the government's way of keeping tabs on who is doing what in order to ensure that some sort of standards are being met in the delivery of those goods or services. Figuring out exactly which licenses your business will need can sometimes be

overwhelming. Luckily, there are some convenient tools out there to help you in your search. For example, the U.S. Small Business Association has a nifty [business license search tool](#) that will give you a good starting point based on zip code and profession.

**Zoning:** Zoning is the government's way of providing some sort of order to the organization of communities. It's the reason you (probably) don't live next to a power plant or find your church in the middle of an industrial complex. What zoning means to you as a business owner depends on what your business does. The vast majority of sole proprietors operate their businesses from home. While most jurisdictions permit home based businesses, you should be sure to check with your local governing body prior to setting up shop. There may be restrictions on what you can and can't do, for example, whether you can put up a sign in your front yard advertising your business or whether you need a certain number of spaces for cars to be parked. Zoning maps and regulations can become a bit tedious to review, so this is an area where an experienced land use or zoning attorney can simplify your job.

### **What About Naming My Business?**

As a sole proprietor, the legal name of your business is your own. For example, John Smith, hairstylist would go by something like John Smith Hair, Hair by John Smith, etc. If you choose to operate under a different business name, then you will need to apply for an assumed or trade name. The requirements for making such a filing vary greatly by state, county and city or village, but typically involve filing an application with the appropriate governing body, publishing notice of your intended use of the name and paying a fee. In John Smith's case, he could then choose to do business as Crazy Clown Hair, Fun Cuts, etc. [SBA.gov](#), as well as your states business licensing body (typically, the Secretary of State) and especially your county website can be great resources for figuring out the exact requirements to apply for an assumed business name where you live.

### **So What Are the Advantages of a Sole Proprietorship Over Other Business Structures?**

The biggest advantage to operating as a sole proprietorship is simplicity. Essentially, you continue to take actions as an individual without much formality. Another benefit is tax preparation. As an individual operating your business, you'll simply report all income and loss on a [Schedule C](#) when you file your [Form 1040](#) at the end of the year.

### **Are There Disadvantages to Operating as a Sole Proprietorship?**

As with any business structure, there are natural disadvantages to operating a sole proprietorship. By far, the biggest drawback is unlimited personal liability. As a sole proprietorship, there is no separate entity conducting business as there is with an LLC or Corporation. The business is you and you are the business. That means that all actions you take (or fail to take) carry a lot of weight. For example, if you get a loan from a bank to open a home daycare and the business fails, you'll need to personally repay the bank. In reality, the drawback of unlimited liability is sometimes overblown as financial institutions will be hesitant to lend money to LLCs or corporations without the owner's personal promise to repay, and an air tight insurance policy can protect against loss or lawsuits. Nevertheless, it's important to be aware of the legal distinction



of a sole proprietorship compared to a formal corporate entity like an LLC when deciding how to structure your business.

Ultimately, the decision on how to structure your business is yours and yours alone. Each form, including the sole proprietorship has its benefits and its drawbacks. But with some research and advice from your accountant and attorney you'll certainly be able to find the business structure that is most beneficial to your operations as a new business owner.

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