



# Boots to Business Module 5

## *Legal Considerations for Veteran-Owned Small Businesses*

*Version 4.0*



ASSOCIATION OF  
WOMEN'S BUSINESS CENTERS



MISSISSIPPI STATE  
UNIVERSITY

The Boots to Business entrepreneurship training program is provided through the coordinated efforts of the SBA and its valued partner network. All SBA services are extended to the public on a nondiscriminatory basis. Reasonable arrangements for persons with disabilities will be made if requested at least two weeks in advance.

# Objective

Understand the various legal forms of a business

- The opportunities and challenges associated with each

Offer an overview of other legal considerations impacting veteran-owned businesses

Additionally:

- How is the owner paid, taxed, and what type of liability are they exposed to?
- The importance of seeking legal counsel and establishing your B.A.I.L Team

# Agenda

## **Small Business Entities**

- Types
- Pros & Cons of Each

## **Other Legal Considerations**

- Selecting Your BAIL Team
- Contracts
- Government Contracting
- Intellectual Property

# Selecting a Legal Entity For Your Business

- In order to do business, you will create a legal entity that represents the firm...even if you work for others as an independent contractor
- There are multiple forms to choose from
- Each with different implications for:
  - Taxation
  - Your liability
  - How you get paid

**HANDOUT**

# Types of Legal Entities

- Sole Proprietorship or Partnerships with or without a Fictitious Name/ “DBA”
  - Default Entities based on number of owners
- Limited Liability Company (LLC)
- S-Corporation
- Other Legal Entities

Learn more at [\*\*Choose a business structure \(sba.gov\)\*\*](https://www.sba.gov/choose-a-business-structure)

# Sole Proprietorship and General Partnerships (d/b/a = Fictitious Name)

**ADVANTAGES:** Easy and inexpensive to start and relatively easy and inexpensive to dissolve. Income goes to owner(s) to keep or reinvest.

**Both are PASS-THROUGH ENTITIES** = profits or losses reported on individual owner's tax return, according to percentage of ownership. Estimated income & self-employment taxes may apply.

**DISADVANTAGES:** *Unlimited liability* because there is no difference between the owner(s) and the business. May be difficult to obtain financing.

**TYPICAL USAGE:** Independent Contractors, Consultants

# Limited Liability Company (LLC)

**ADVANTAGES:** *Limited liability!* Easy and inexpensive set-up, less record-keeping and paperwork. Operating agreements between multiple owners are important.

**LLCS are PASS-THROUGH ENTITIES** = income reported on individual income tax return (single member), or on partnership return (multiple members)

**DISADVANTAGES:** Limited life in some states (annual renewal). Estimated income & self-employment taxes. Potentially difficult to obtain financing.

**TYPICAL USAGE:** Single Member LLC, Multi-Member LLC

# S-Corporation

**ADVANTAGES:** Corporation independent from shareholders. Easier financing. Enables owners to retain profits for reinvestment/growth.

**PASS-THROUGH ENTITY WITH SEPARATE CORPORATE RETURN.** No self-employment tax (may still have estimated income taxes).

**DISADVANTAGES:** Requirements on shareholder compensation and distributions. Stricter operational processes/corporate formalities. Restrictions on shareholders. Possible state-level taxes.

**TYPICAL USAGE:** All types of business.



# Other Legal Entities

**C-CORPORATION:** Limited personal liability for officers, board members, and shareholders. Double-taxation on dividends. May be publicly traded /non-participating outside stockholders.

**BENEFIT & CERTIFIED B-CORPORATION:** Available in some states for corporations with a benefit or social mission.

**FAMILY LLC/LLP:** Used by families to conduct business operations with ownership amongst legally-related individuals. Assist in protecting assets, sharing income, and estate planning.

**LIMITED (LP) & LIMITED LIABILITY PARTNERSHIP (LLP):** Advanced entities often used for specific industries, like legal and medical practices.

# Registration Steps

- **State Corporations Division/Secretary of State**
  - Businesses that operate in multiple states
    - Registering as a Domestic or “Foreign” business
  - Multiple and/or Holding Company Consideration
- **Federal Employer Identification Number (EIN) at [www.IRS.gov](http://www.IRS.gov)**  
once organized (for taxes/withholding)
- **State Registrations:** some states have annual renewals; payroll withholding ; disability and unemployment insurance; sales taxes
- **Local/Other Registrations:** local business licenses; zoning, HOA restrictions. Excise taxes, fuel taxes, and other permits

# Register your business at SUNBIZ.org



FLORIDA DEPARTMENT OF STATE

Corporations | Cultural Affairs | Elections | Historical Resources | Library and Information Services



The Division of Corporations is the State of Florida's official business entity index and commercial activity website.

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Para español, seleccione de la lista  Powered by Google Translate

Department of State / Division of Corporations / Start a Business

## Start a Business

### Step 1: Research Starting a Business

FYI: Getting Started with a Florida Business

### Step 2: Identify Your Type of Business

Decide on a Corporate Structure

### Step 3: Form Your Business

1. Form a Profit or Non-Profit Corporation
  - > **Online Filing:** Profit Articles of Incorporation, Non-Profit Articles of Incorporation
  - > **Print & Mail Form:** Profit Articles of Incorporation (PDF), Non-Profit Articles of Incorporation (PDF)
2. Form a Limited Liability Company
  - > **Online Filing:** Articles of Organization
  - > **Print & Mail Form:** Articles of Organization (PDF)
3. Form a Partnership

### Step 4: Register Your Business Name (Optional)

- > [What is a Fictitious Name and When Should It Be Registered?](#)
- > [Register a Fictitious Name](#)

#### START A BUSINESS

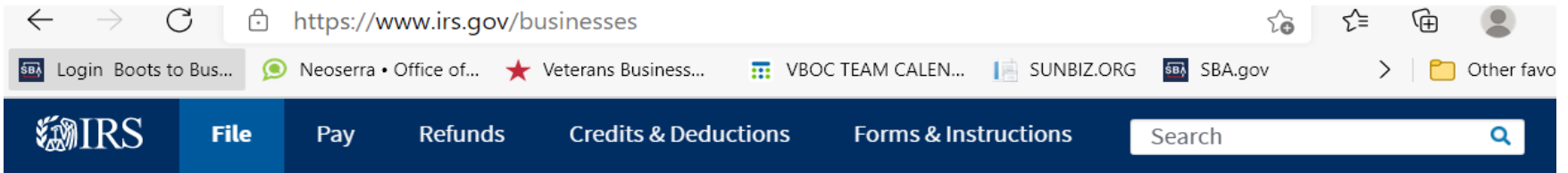
[General Information & Available Resources](#)

[Types of Business Entities/Structures](#)

[Start E-Filing](#)



# Go to IRS.gov for EIN and Tax Info



## Tax Information For Businesses

English | [Español](#) | [中文\(简体\)](#) | [中文\(繁體\)](#) | [한국어](#) | [Русский](#) | [Tiếng Việt](#) | [Kreyòl ayisyen](#)

### Individuals

#### Businesses and Self-Employed

Small Business and Self-Employed

Large Business

Corporations

Partnerships

#### Charities and Nonprofits

#### International Taxpayers

#### Government Entities

Tax information, tools, and resources for businesses and self-employed.

**Employer ID Number (EIN)**

**Employment Tax**

**Estimated Tax**

**Foreign Account Tax Compliance Act (FATCA)**

### Prepare Your Taxes

- [Business Tax Credits](#)
- [Deduct Expenses](#)
- [Calculate Your Employment Taxes](#)
- [Employment Taxes](#)
- [Excise Taxes](#)
- [Gift Taxes](#)

### File or Pay Your Taxes

- [Estimated Taxes](#)
- [Order Forms Online](#)
- [Electronic Federal Tax Payment System \(EFTPS\)](#)

### Run Your Business

- [Start a Business](#)
- [Operate a Business](#)
- [Close a Business](#)

# In Summary

- There is no one magical entity that works for everyone. The important thing is to consider the operational, legal, and tax aspects of each structure as they apply to your unique situation!
- **Don't make this choice lightly!** It is possible to change forms if need be, although it can sometimes be expensive

# Other Legal Issues to Consider

- Banking, Accounting & Taxes
- Business Insurance
- Assembling your B.A.I.L team
- Contracts
- Government Contracting
- Intellectual Property

# Banking/Accounting/Taxes

- After registering your business and obtaining an EIN, your first stop should be at a business bank to open a business account in the business name
- Keep your personal and business matters separate to protect both your legal liability as well as protect yourself from IRS or state tax audits
  - Pay from the appropriate account by transferring money as appropriate (capital contribution/loan or distribution)
  - Any business expenses you use your personal funds (i.e. personal credit cards) to pay for should be well documented

<https://www.irs.gov/businesses/small-businesses-self-employed/deducting-business-expenses>

**HANDOUT**

# Business Insurance

**Professional Liability/Errors & Omissions Insurance (E&O)** covers malpractice, errors, and negligence on your part. Trade associations may be a good source for this type of coverage.

**Commercial General Liability Insurance** covers claims of bodily injury, property damage, medical expenses, libel, slander, the cost of defending lawsuits, and settlement bonds or judgments required during an appeal procedure. Consider a general liability umbrella under your personal policy for home-based businesses.

**Business or Commercial Property Insurance** covers damage to or loss of your business' physical property and equipment from a variety of causes.

**Automobile/Rental Vehicles used for business** works like personal coverage. Add “business use” of personal vehicles to your personal policy.

**Workers Compensation** covers you and your employees if you are injured on a job. Requirements vary by state



**HANDOUT**

# Your BAIL Team

**BANKER:** Community banks are often great for small businesses; personal vs. business - same bank or different

**ACCOUNTANT:** Assists with legal entity selection. Prepares taxes and financial statements. Use a CPA or Enrolled Agent who has experience and continuing education requirements

**INSURANCE AGENT:** Loss protection. Business insurance and “liability riders” for business and shared assets

**LAWYER:** Legal entity selection, contracts and agreements. *Ensure you use a business lawyer. Check websites like your state’s Bar Association or <https://www.martindale.com>*

# Contracts

- You may need written contracts with customers, suppliers, partners, investors, employees, etc.
- Contracts are often used for ownership and operating agreements, purchases, orders and service agreements with customers, employment including non-compete agreements.
- Some contracts can be standardized and customizable (fill in the blank) for repeat use. EX: rental agreements
- Seek legal advice before entering into contracts

**An ounce of prevention is worth a pound of cure**

# Other Legal Issues

- **Ownership Agreements:** Critical for business operations. Defines roles, responsibilities and authorities for each owner
  - **Addresses the Four D's:** Disagreements between owners, disability or death of an owner, and dissolution. Sole proprietors should have a Business Power of Attorney to handle business operations
- **Work for Hire Contracts:** Sets the terms of ownership of work done or products developed for your business by others. EX: artwork; technical writing; website development
- **Website Domains and Hosting:** Contractual agreement ensures the business owns its website and can transfer it to another host

# Government Contracting

## Basic Requirements:

Eligibility for federal government contracting programs requires qualifying individual(s) to unconditionally own, direct and control at least 51% of the business. There can be more than one owners but the 51% requirement still applies.

**Veteran-owned small business (VOSB)** is self certifying at no cost to the owner.

**Service-disabled veteran-owned small business (SDVOSB)** status involves the VA's Vets First Verification Program  
<https://www.va.gov/osdbu/verification/>

# Getting Started on SAM

- **The US Government's procurement portal is SAM,** the System for Award Management <https://sam.gov/>
- **Registration in SAM is FREE.**  
<https://sam.gov/content/entity-registration>
- **Your business must be operational.** Have your business information (like LLC number) and EIN handy.
- **Research your NAICS codes for your products and services free** at <https://www.census.gov/naics/>. Write them down.
- Learn more at <https://www.sba.gov/federal-contracting> and <https://vboc.org/government-contracting/>

# Intellectual Property

**Patents** protect inventions, designs, and processes

**Trademarks** <sup>TM</sup> identify goods used in business and **Service Marks** are for services and activities but do not have legal protection.

**Registered Trademarks** <sup>®</sup> protect logos and slogans

**Trade secrets** protect recipes, formulas, processes, etc. deemed a competitive advantage to a business

- For more information, visit [www.USPTO.gov](http://www.USPTO.gov) and [www.SBA.gov](http://www.SBA.gov)

**Copyrights** protect creative work like writing, music, artwork and software that is original and in tangible form

- For more information, visit [www.Copyright.gov](http://www.Copyright.gov)

Intellectual property protection can be expensive to obtain and sometimes difficult to defend. It may be better to go to market

# Key Takeaways

As part of founding your firm, seek the advice of a qualified lawyer

Assemble a good BAIL team

Keep your personal and business finances separate

Laws and regulations differ across states, and sometimes, within states

**The consequences of not knowing could have serious legal and financial consequences**

# Questions & Discussion