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LAWYERS

Should I incorporate my Business?

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The two most common forms of businesses are sole proprietorships and corporations. A sole proprietorship refers to an individual who owns a business in his/her personal name, or operates through a trade name. The business income is considered the same as the owner's personal income for tax purposes and are both included in an individual's tax return. Business expenses and losses are deductible and a proprietor is personally responsible for all debts or liabilities of the business. A corporation is a separate legal entity. Corporations exist as virtual persons able to purchase assets, incur debt, file lawsuits or be sued just like a "natural" person and grants limited protection to the actual people involved in the business of the corporation.

Most entrepreneurs and small business owners, at some point in the life of a company, ponder the question "should I incorporate". It is important to understand that the form of a business is not irreversible, and commonly, people make the switch from a sole proprietorship to an incorporated structure after the establishment of the business as one structure may be beneficial at a certain stage of the business life cycle but not all stages.

Some of the advantages of incorporating a business include; the limited liability afforded to the business owner, the ability of the business to carry on after the owner's death or leaving the business and the qualification for various government grants. There are also various tax advantages such as a lower tax rate on income, the ability to determine when to pay income to the owners and utilize potential tax deferral, income splitting with family members, potential small business tax deductions and potential capital gains exemptions.

It is important to realize that there are some disadvantages of incorporating as well. For instance, if the corporation incurs losses, you can not apply those losses to personal income. Also, the process of incorporation costs some money and there are ongoing tax, filing and record keeping requirements. Lastly, a corporation only limits the liabilities of the business owner; there still remain some potential risks to personal assets.

There are numerous advantages and disadvantages to incorporating a business in addition to the foregoing. You should consult a lawyer and/or accountant to help decide what form of business is right for you given the unique situation of your business. A lawyer can prepare and register the necessary documents to incorporate your business and arrange all of the required start-up and organizational documentation.