



Reentry Law Project

Small Business Toolkit



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Reentry Law Project

Small Business Toolkit

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Foreword

This toolkit is designed to give New Yorkers an overview of legal issues that may come up for persons with criminal convictions who want to start a new business or move forward with a business they already have begun. We designed these materials to outline some important steps along the way, beginning at the early stages of reentering society after leaving prison and getting your life back on track.

The toolkit starts with an explanation of the laws that prohibit employment discrimination based on criminal records and provides tips for getting necessary identification documents and applying for certificates of rehabilitation, both of which can be very helpful when starting a new business or trying to get a job. It then sets out steps for planning and starting a business, and for applying for necessary licenses.

An online version of this toolkit is available at www.citybarjusticecenter.org along with additional resources.

Acknowledgements

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You Have Rights

As you try to start a business, you may face barriers if you have a past criminal conviction. It is important for you to know that ***it is unlawful for you to be discriminated against because of a criminal conviction*** when you are applying for a vocational license or a job, except in certain specific circumstances.

If you have a criminal conviction, Article 23-A of the NY State Corrections Law makes it unlawful for a licensing agency or a potential employer to discriminate against you, unless:

- There is a direct relationship between one or more of your criminal offenses and the specific license or employment that you are seeking; or
- The issuance of the license or the granting of the employment would cause an unreasonable risk to property or to the safety or welfare of the general public.

In determining whether either of the exceptions to Article 23-A apply to you, the licensing agency or employer must consider a number of factors, such as:

- The amount of time that has passed since you committed the offense;
- The seriousness of the offense;
- Your age at the time the offense was committed; and
- Evidence that you have been rehabilitated since the offense was committed.

*If you have a **Certificate of Relief from Disabilities** or a **Certificate of Good Conduct**, the licensing agency or employer must consider it as some proof of rehabilitation. For more information on these certificates, please see Section 3 – Apply for a Certificate of Rehabilitation – of this toolkit.*

If you are denied a license or a job, you should request a written statement from the licensing agency or employer detailing the reasons for the denial, which must be provided to you within 30 days. If you were denied because of your past criminal conviction, you should contact a legal services provider immediately for legal services to help you challenge the denial.

For a list of free legal services providers, please see Section 10 – Access Resources – of this toolkit or visit www.lawhelp.org/NY

Be your own best advocate! Keep clean copies of all documents and write down the names, phone numbers and the dates and times you communicate with the agency or employer.

To see the full text of Article 23-A, the statutes mentioned above and others, visit our website www.citybarjusticecenter.org

Be Able to Identify Yourself

You must have acceptable forms of identification to conduct all kinds of public and private business. Also, you will need photo ID just to enter many public and private buildings. The following forms of ID issued by the government are important and, in some cases, necessary to have:

Birth Certificate: Bureau of Vital Statistics, NYC Dept. of Health & Mental Hygiene, 125 Worth St., NY, NY 10013, Room 133. **212.788.4520**. Or call **311**.

Social Security Card: Social Security Administration, 26 Federal Plaza, Room 120, NY, NY 10278. Visit **www.ssa.gov/online/ss-5.html** or call **800.772.1213** for local office and information.

Driver's License or Non-Driver Photo ID: New York State Department of Motor Vehicles. Call **311** or **212.645.5550** or **718.966.6155** for the location of the DMV office nearest you. The applications for a license or learner's permit are also online. You will find a driver's manual, a practice quiz and other helpful information online at www.nydmv.state.ny.us

U.S. Passport Card (photo): New York Passport Agency, U.S. Department of State, 376 Hudson St., NY, NY 10014. **877.487.2778**. This U.S. government ID card is not the same as a passport and costs less to get. It **cannot** be used for international air travel, but it can be used for border crossings with Mexico and Canada and for entering U.S. ports from the Caribbean. Of course, if you have a regular U.S. Passport, that is a great form of ID.

Employment Photo ID: If you get a job that provides you with a photo identification card, you can use that card to identify yourself in non-employment situations where a photo ID is required.

Once you have any of these forms of ID, you will be better able to obtain employment, open a bank account and access important resources by getting a **Library Card**. A library card is a free card that will allow you to check out books and other materials from a library, in addition to giving you access to free computer and internet use. Many public libraries also provide free computer skills classes. You can apply for a New York City Public Library Card online at **www.nypl.org** or at any branch.

Apply for a Certificate of Rehabilitation

In New York, there are two different types of certificates of rehabilitation: a **Certificate of Relief from Disabilities** and a **Certificate of Good Conduct**. If you have one of these, a licensing agency or employer must consider it as some evidence that you are “rehabilitated.” Therefore, these are important to have when you apply for a job, a license or a New York City Housing Authority/Section 8 apartment.

Certificate of Relief from Disabilities

- You should apply for this certificate if you were convicted of any number of misdemeanors and/or only one felony.
- If you have served no state prison time, you apply to the court where you were sentenced. You must make a separate application for each conviction.
- If you have served state prison time, you apply to the State Division of Parole*
- It can take up to a year to get this certificate, so apply as soon as you can.

Certificate of Good Conduct

- You should apply for this certificate if you were convicted of two or more felonies and any number of misdemeanors.

*Certificate Review Unit, New York State Division of Parole
97 Central Ave. Albany, NY 12206
Telephone: 518.485.8953
Website: www.parole.state.ny.us

- You apply to the State Division of Parole* and only need to file one application that will cover all your convictions.
- If you were convicted of a Class “A” or “B” felony, you must wait at least 5 years from the date of your last conviction, payment of fine, or prisoner release without or with supervision, depending on what is the most recent, before applying.
- If you were convicted of a Class “C,” “D,” or “E” felony, you must wait at least 3 years from the same possible dates as above before applying.
- It can take up to 18 months to get this certificate, so apply as soon as you can.

To obtain an application form for either type of certificate, visit www.lawhelp.org/NY

*Certificate Review Unit, New York State Division of Parole
97 Central Ave. Albany, NY 12206
Telephone: 518.485.8953
Website: www.parole.state.ny.us

Get a Job

You will need income as you develop your business and, although finding work can be very difficult, you will have a better chance of getting a job if you get assistance from one of the following agencies. They offer multiple services, including job training, interviewing skills, career counseling, resume writing and job placement services. If you are homeless or have an unstable living arrangement, you should ask them about transitional housing.

America Works, Inc. – Criminal Justice Program

575 8th Ave., 14th Fl., NY, NY 10018

212.244.5627

www.americaworks.com

Center for Employment Opportunities

32 Broadway, 15th Fl., NY, NY 10004

Recruitment Manager

212.422.4430

www.ceoworks.org

ComALERT

Office of the District Attorney, Kings County

350 Jay St., Brooklyn, NY 11201

718.250.2665

www.brooklynda.org/comalert/comalert.htm

Developing Justice Project

141 Fifth Ave., Brooklyn, NY 11217

718.237.2017

fac@fifthave.org

www.fifthave.org

The Doe Fund's Ready, Willing and Able

89-111 Porter Ave., Brooklyn, NY 11237

718.417.2555

www.doe.org

Exodus Transitional Community

161 E. 104th St., 4th Fl., NY, NY 10029

917.492.0990

info@etcny.org

www.etcny.org

Fortune Society Career Development

29-76 Northern Blvd., Long Island City, NY 11101

Outreach Coordinator

212.691.7554

www.fortunesociety.org

Good Help Brooklyn:

Brooklyn Chamber of Commerce

25 Elm Place, Suite 200, Brooklyn, NY 11201

718.875.1000

info@brooklynchamber.com

www.ibrooklyn.com/site/chamberdirect/goodhelp

Making Career Connections

278 Clinton Ave., Albany, NY 12210

518.432.0499

Midtown Community Court/Times Square Ink

314 West 54th St., NY, NY 10019

646.264.1338

www.timessquareink.org

Osborne Association

809 Westchester Ave., Bronx, NY 10455

718.707.2600

www.osborneny.org

STRIVE

240 E. 123rd St., 3rd Fl., NY, NY 10035

212.360.1100

info@striveinternational.org

www.strivenewyork.org

Urban Pathways

575 8th Ave., 9th Fl., NY, NY 10018

212.736.7385 ext. 29

www.urbanpathways.org

Wildcat Service Corporation

2 Washington St., NY, NY 10004

212.209.6000

www.wildcatnyc.org

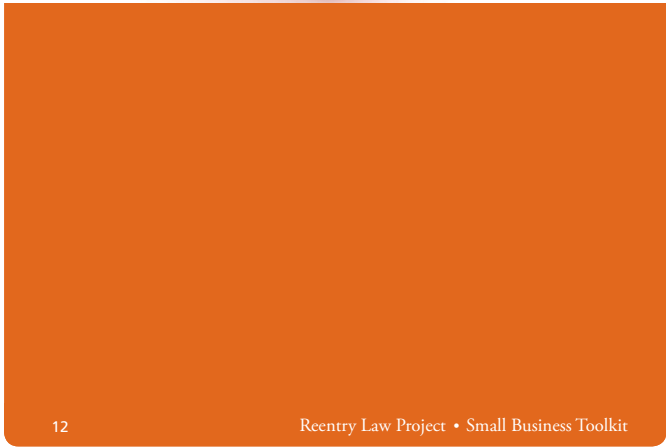
Women's Prison Association

110 Second Ave., NY, NY 10003

212.674.1163

info@wpaonline.org

www.wpaonline.org



Become Financially Literate

Reasons Why You Should Open a Bank Account

Banks are good places to keep your money. They provide a safe and convenient way to take care of your income and your expenses.

- Bank accounts are insured by the FDIC (Federal Deposit Insurance Corporation) so your money is safe—up to \$250,000.
- Banks make it easy for you to keep separate accounts for personal and business expenses. It is important to keep them separate, especially for tax purposes.
- Checking accounts let you take out money by writing a check or using a debit or ATM card.
- When you pay with a check, the check becomes an automatic record that you made that payment.
- Your bank statements can help you keep better track of your money and expenses.
- Banks offer easy 24-hour access to your money with ATMs.
- If you put money into a savings account, you can usually earn interest on that money. It's a good, easy way to save money.

Questions to Ask Before Opening a Bank Account

It is important to remember that you are a customer who is purchasing the bank's services. You should be satisfied with the services being offered and should not be afraid to sit down with bank representatives and ask questions about the services they provide to account holders.

You should ask:

- Is there a minimum amount of money that you need to deposit in order to start a bank account?
- Do you have to keep a certain amount of money in the bank account at all times?
- Are there any monthly fees? If so, how much are they and what are they for?
- Does the account include Overdraft Protection?
 - This is a service that protects you if you write a check for more money than you have in your bank account. It's like a loan and the bank charges you interest on it.

Other Things to Consider When Shopping Around for the Right Bank

- Does the bank have offices near your residence or business?
- Does the bank have staff that speak your language and who can provide you with assistance with which you feel comfortable?
- Is this a bank with which you already have a satisfactory relationship?

- Does the bank offer special banking services for small businesses, such as U.S. Small Business Administration sponsored loans or micro loans?

Opening a Bank Account

The actual process for opening a bank account may differ slightly from bank to bank and account to account. However, most banks will require that you provide them with two forms of identification, one of which has your picture on it, and will ask you to complete a signature authorization card and an account agreement. For more information on forms of identification, please see Section 2 – Be Able to Identify Yourself – of this toolkit.

Using Direct Deposit

You can arrange for your regular paycheck or other regular monthly payments that you receive (i.e., SSI or public assistance payments) to be automatically deposited into your bank account. This is called Direct Deposit.

Keeping Track of all Transactions

It is important to keep up-to-date records of all the transactions you make with your bank accounts. Even though the bank keeps its own records and sends you a monthly statement, you need to keep your own records so that you know, at all times, how much money you have in your accounts so that you can keep your bank accounts balanced and not bounce any checks.

Bouncing Checks

If you write a check for more money than you have in your bank account and you don't have Overdraft Protection, the bank may "bounce" the check. This means the check will not be cashed. Instead it will be returned to you and you will be charged a returned check fee. Writing checks that bounce can be considered a crime under certain circumstances.

Keep Your Business Bank Account Separate From Your Personal Bank Account

- It is easier for tax and accounting purposes, such as keeping track of business expenses that are tax deductible.
- Clients will take your business more seriously.

Debit Cards Versus Credit Cards

A debit card is linked to your checking account. When you use a debit card, money is taken directly from your bank account. When using a debit card, it is important to record those purchases in your bank account register or you may end up bouncing a check.

In contrast, when you use a credit card, you are borrowing money from a lender and will have to repay the amount borrowed plus interest. So, although using a debit card is similar to a credit card, the consequences of each are very different. The law doesn't provide as much protection for purchases made with a debit card as it does for purchases made with a credit card.

This chart highlights some of the major differences between credit cards and debit cards.

| Credit Card | Debit Card |
|---------------------------------------|---|
| You are borrowing money from the bank | You are withdrawing money from your own bank account |
| It is an unsecured loan | It is linked to your checking account or sometimes savings accounts |
| It is a buy-now, pay-later tool | It is a buy-now, pay-now tool |



Get Licensed

Over 100 occupations in New York State require some kind of special license, registration, or certification. Each licensing agency has its own set of standards and requirements. If you have further questions about the specific requirements for an individual license, call **311** and ask for the name and telephone number of the agency that issues the license, permit or certification you want.

Be aware that it is unlawful in the state of New York to deny a person a license solely on the basis of his or her criminal conviction. If, when you apply for a license, you receive a letter telling you that your application is being denied, you should contact a legal services provider immediately to help you challenge the denial.

Application Tips for Vocational and Business Licenses

- Identify the government agency that licenses your vocation or business.
- Call, visit or go online to ask for a license application.
- Make several copies of the application form so that you can fill it out in draft form before filling out the final copy that you will submit.
- Carefully read the instructions for completing the application.
- Call the agency for an explanation about any part of the application that you do not understand.

- Complete all the questions and sections of the application form.
- Answer all questions truthfully.
- Check your answers and make sure you have not made any mistakes or left anything out.
- Sign the final copy and date it the day that you sign it.
- Photocopy the completed application form.
- Photocopy each document you submit with the original application, if any.
- If you are submitting the application without any other documents, fold it and mail it in a business envelope.
- If you are including documents, do not fold. Use a large envelope.
- Check the mailing address to be sure it is complete and correct.
- Weigh large envelopes at the Post Office for the correct amount of postage for mailing.
- Make a note of the date that you mail the application and keep it with your copies.

Important: Licenses and certifications require payment of an application fee and additional fees for New York State and FBI background checks. Call, visit the agency, check its website, or call **311** to make sure that you qualify for the license before you apply, because the fees are not refundable. You can also get useful licensing information at **www.nys-permits.org**.

Create a Business Plan

If you are interested in starting your own business or if you are trying to get your existing business off the ground, your first step should be to write a business plan. Writing a good business plan will help you to think through all aspects of your business. The following section outlines what should go into a business plan. If you are interested in receiving some hands-on free mentoring as you create your business plan, you should contact the Service Corps of Retired Executives (**SCORE**) at 212.264.4507 to schedule an appointment.

Some Important Tips Before You Start!

- The business plan should tell a compelling story about your business, explaining who, what, when, where, how and why.
- The plan should be focused and clear.
- The plan should define your specific business objectives and goals.
- A good business plan is a living document that should be updated regularly as you work to develop your business.

The Components of a Good Business Plan:

I. Executive Summary

This section should:

- Provide an enthusiastic snapshot of your business, explaining who you are, what you plan to do and why.
- Be less than 2 pages.

II. Business Description & Vision

This section should include:

- A mission statement explaining the purpose of your business.
- Your business goals and objectives and how you envision the business growing.
- A brief history of the business, if any.
- A list of the key people who will be involved in the business.

III. Definition of the Market

This section should:

- Describe the industry which your business will be part of.
- Identify your target market: who are the clients and customers you plan to reach and what are their needs.
- Describe what share of the market you anticipate having.

IV. Description of Products and Services

This section should:

- Describe all of your products and services.
- Explain your anticipated pricing and how your products and services will be competitive in this market.
- If applicable, refer to a picture or brochure of your products, which should be included in the plan's appendix.

V. Organization and Management

This section should:

- Provide a description of how your business will be organized and will include an organization chart, if available.
- Describe the legal structure of your business. For more information on business structures, please see Section 9 – Business Structures – of this toolkit.
- Identify any licenses and/or permits that your business will need in order to operate.
- Provide a brief biography or description of key managers within the business.

VI. Marketing and Sales Strategy

This section should:

- Explain how you are planning your sales strategy, with regard to pricing, promotion, products and place (the 4Ps).

VII. Financial Management

This section should include:

For a new business:

- An estimate of start-up costs.
- A projected balance sheet (going one year forward).
- A projected income statement (going one year forward).
- A projected cash flow statement (going one year forward).

For an existing business:

- Balance sheets (for the last three years).
- Income statements (for the last three years).
- A cash flow statement (for the last year).

If you are applying for a loan:

- A current personal financial statement and federal tax return for each principal of the business.

VIII. Appendices

This section should include as attachments:

- Company brochures.
- Resumes of key employees.
- A list of business equipment.
- Copies of press articles and advertisements (if available).

- Pictures of your business location and products (optional).
- Information supporting the growth of your industry and/or products (optional).
- Copies of key business agreements, such as leases, contracts, etc. (optional).

For further help with the business plan refer to the Small Business Resource List in Section 10 – Access Resources – of this toolkit.

You Don't Have To Do It Alone!



Protect Your Work

There are laws that protect inventions, literary and artistic works, symbols, names, images and designs that you may create in the process of developing and operating your business. Those “creations of the mind” are called “intellectual property.” The protections that are available for intellectual property break down into three main categories:

Trademark

A trademark is any word, name, symbol or color that is used to identify and distinguish goods or services from those manufactured, sold or offered by others, and to indicate the source of those goods and services. Business names and logos are examples of items that you may want identified exclusively with your business that can be trademarked.

Patent

A patent is a legal right granted by the federal government that gives the owner of the patent the right to exclude others from making, using, offering to sell, selling or importing into the U.S. an invention claimed in the patent (subject to the conditions and requirements under patent law). Any new and useful process, machine, composition of matter or design improvement may be patentable.

Copyright

A copyright is a legal right to a literary, musical, dramatic, choreographic, pictorial, sculptural, motion picture, audio, audiovisual, software or architectural work that prevents anyone besides the copyright owner from making copies, modifying, selling, performing or displaying the work without permission.

Each of these different types of intellectual property rights has its own registration requirements.

Please contact the City Bar Justice Center's Neighborhood Entrepreneur Law Project at www.citybarjusticecenter.org or 212.382.6633 for more information about getting legal assistance with the application process.

Structure Your Business

Businesses in New York are set up according to one of several legally recognized structures. This section of the toolkit describes some of the most common legal structures and asks questions to help you select the one that is most appropriate for the kind of business you want to run. At the end of this section, we have included several charts that provide more information on the different types of business structures in order to help you understand the material better and choose the right one for your needs.

And remember that more detailed information is available online at www.citybarjusticecenter.org, or you can call the Neighborhood Entrepreneur Law Project at 212.382.6633.

Why You Need to Structure a Business

Your choice of a business structure affects:

- The amount of control you have over your business.
- How business decisions have to be made.
- How you can fund your business.
- How much of your personal funds are at risk.
- How much you will pay in taxes.

What to Do to Formalize Your Business

- Choose a business structure and register.
- Maintain licenses and permits.
- Have written contracts with the people you work with.
- Keep accurate and complete accounting records.

- File and pay taxes.
- Follow employment law.
- Get insurance.

The Six Most Common Business Structures

Sole Proprietorship

This is the simplest form of business. A sole proprietorship is an **unincorporated**, informal business owned by one person that does not exist apart from its owner. In other words, you and your business are basically a single entity, and there is no limited liability protection. (See following description of the difference between limited liability and unlimited liability.)

General Partnership

This is an association of two or more persons who run the business as co-owners. There is no limited liability protection for either of the partners.

Limited Partnership

This structure has a *General Partner(s)* for hands-on management and a *Limited Partner* who is not involved in the day-to-day operations of the business but makes an investment in the business. The Limited Partner has limited liability protection, but the General Partners do not.

C-Corporation

This structure involves ownership by one or more persons who own shares and have a financial interest in the business. Owning shares means that you have an ownership interest in the business based on your having provided money, property or past services to the business. Shareholders have limited liability protection.

S-Corporation

This structure provides shareholders with limited liability protection like a C-Corporation; however, it is treated like a partnership for tax purposes. S-Corporation status requires a tax election with the IRS and the NYS Department of Taxation and has special restrictions on who can be a shareholder.

Limited Liability Company (LLC)

This structure is something of a hybrid. It can be organized like a Corporation, with members instead of shareholders, and treated like a partnership for tax purposes. All members of an LLC have limited liability protection, and there are no restrictions on who can be a member.

The Difference Between Limited Liability and Unlimited Liability

- Liability is a very important concept for any business owner to be aware of. It refers to the amount of risk, which is usually the debt or money that your business and, in some cases, you personally may be held responsible for if the business is sued.
- Certain business structures, however, can protect or limit your level of personal liability, while others will not. If you have *limited liability* protection, you may not be personally responsible for the debts of the business, beyond the value of your personal investments in the business. This means that personal assets, such as your home or car, have a certain level of protection if your business is sued. If you have *unlimited liability*, you **may** be held personally responsible for the debts of your business and your personal assets may be at risk.

Other Legal Issues to Consider

Leases

- This is a contract between a landlord and tenant to occupy space.
- The person who signs the lease is obligated under the lease.
- Be aware that some properties are for residential use only, and a landlord may not accept a corporation, partnership or LLC as a tenant of a residential space.

Insurance

- Consider what kinds of insurance exist to protect you if a lawsuit is filed against your business.
- If you operate a sole proprietorship or partnership, all of your personal assets are potentially at risk. Insurance may protect your business enough to make you feel comfortable with a less formal structure, even if that structure has unlimited liability.

Business Structures at a Glance*

This section is intended to serve only as a general guide to the basic characteristics of certain New York corporate entities. The charts below should not be taken or used as legal advice for specific situations, which depend on the evaluation of precise factual circumstances.

Sole Proprietorship

Owner & business are the same.

Best Suited For

Single-owner business that does not have tax concerns and for which potential product and/or service liabilities are minimal.

Main Advantages

- Simple and inexpensive to create and operate (little reporting).
- Owner reports business profits or losses on personal tax return; losses and business expenses are tax deductible.
- Owner has sole control over business.
- Can convert to corporate, partnership or LLC form later, generally tax-free.

Main Disadvantages

- Owner personally liable for business debts and lawsuits; creditors can go after owner's personal assets.
- Access to business resources, including capital, is limited.

- Owner must make all business decisions, and business does not survive owner.
- If operating in New York City, owes an unincorporated business tax (4%) if it has taxable income of \$35,000 or more or gross income of more than \$75,000.

Basic Requirements

- If doing business using a name other than your birth name, must file a *Certificate of Doing Business Under an Assumed Name* with the County Clerk in the county in which the business is located. (Form can be obtained from most stationery stores. Ask for "Blumberg form X-201.")

**We gratefully acknowledge the pro bono support of Stroock & Stroock & Lavan LLP, which prepared these charts originally for the City Bar Justice Center's Neighborhood Entrepreneur Law Project.*

General Partnership

Two or more owners, owners treated as business.

Best Suited For

Multiple-owners, all of whom will manage a business that has single-level taxation and for which potential product and/or service liabilities are minimal.

Main Advantages

- Simple and inexpensive to create and operate.
- Owners report business profits or losses on personal tax returns; losses and business expenses are tax deductible.
- Allocations of income, loss and other tax items do not need to be proportional to capital contributed (e.g., the loss can be allocated to the person who is best able to use it).
- Owners share management responsibilities and complement each other's skills and ideas.
- Partners can include people who could not be shareholders in a S-corporation such as corporations, other partnerships, LLC, nonresident aliens, trusts, etc.
- The entity does not pay taxes (those are paid at the partner level) but it must file a return.
- Partners must pay the tax on entity earnings whether or not the entity distributes cash to pay the taxes.
- In New York City, the partnership is subject to the unincorporated business tax (described above); there is some flow through to the partners who are New York City residents.
- Must have at least two partners.

Basic Requirements

- Choose a name and determine whether it is available by doing an on-line search or contacting the New York Secretary of State.
- Though not required, it is highly recommended that partners enter into a written *Partnership Agreement* that sets out each partner's rights and obligations.
- You must file a *Certificate of Doing Business as Partners* with the County Clerk in each county in which business is conducted. (Form can be obtained from most stationery stores.)
- File a Form SS-4, Application for Employer Identification Number, with the IRS.

Main Disadvantages

- Owners personally liable for business debts and lawsuits, including actions of other partners. Creditors can go after owners' personal assets.
- Unless otherwise specified in a formal agreement, business dissolves with separation of a partner, making it difficult to deal with an uncooperative partner.

Limited Partnership

Two or more owners, business is separate legal entity from owners.

Best Suited For

Two or more owners, at least one of whom seeks a passive investment with no participation in management.

Main Advantages

- Owners report business profits or losses on personal tax returns; losses and business expenses are tax deductible.
- Liability of a limited partner can be limited to the extent of a partner's investment.
- Limited partners do not manage business.
- Great freedom in terms of how to run the organization and to document the structure.

Main Disadvantages

- General partners personally liable for business debts and lawsuits, including actions of other partners. Creditors can go after owners' personal assets.
- Unless otherwise specified in the *Limited Partnership Agreement*, business dissolves with separation of a general partner, making it difficult to deal with an uncooperative partner.
- Members must pay the tax on entity earnings whether or not the entity distributes cash to pay the taxes.
- May have to pay upwards of \$2,000 to satisfy onerous publication requirements.

Basic Requirements

- Choose a name and determine whether it is available by doing an on-line search or contacting the New York Secretary of State.
- The general partners must enter into a written *Limited Partnership Agreement* that sets out each partner's rights and obligations. If possible, limited partners should sign it too.
- The partnership must file a *Certificate of Limited Partnership* with the New York Secretary of State and then satisfy publication requirements.
- File a Form SS-4, Application for Employer Identification Number, with the IRS.

C-Corporation

Common form of for-profit corporation, owned by shareholders.

Best Suited For

Single or multiple-owner business seeking both limited liability and established procedures for funding. Each owner is referred to as a “shareholder.”

Main Advantages

- Shareholders, officers and directors (who can be owners) generally have no liability for business debts and lawsuits, and lawsuits are brought against corporation, rather than owners or managers. Note, however, that parties with whom the entity deals (e.g., banks) may ask for personal guarantees, thereby reducing this liability limitation. Additionally, in egregious circumstances courts may allow “veil piercing” to make shareholders, officers or directors liable.
- Tax-deductible fringe benefits including health insurance, retirement plans.
- Capital can be raised through sale of stock.
- Ownership interests transferable and corporation survives death of owners.

Main Disadvantages

- Expensive and sometimes difficult to create.
- Administrative duties burdensome; complex to set up, operate and dismantle.
- Double-level taxation: corporation pays corporate income tax (federal income tax of 15% on first \$50,000; 25% on next \$25,000 and 34% above \$75,000 plus state corporation

franchise tax of up to 7.5% plus New York City tax of up to 8.4%) and shareholders pay personal income tax on any distribution received from the corporation. Can be minimized, however, to the extent that income can be paid out as reasonable salaries to employed equity owners.

- Sale of stock to nonactive shareholders may involve complex federal and state securities law issues.
- Annual state and federal tax filings and periodic state corporate filings.
- For NY corporations, top 10 shareholders are liable for unpaid wages! This does not apply to stock exchange and OTC quoted companies.

Basic Requirements

- Choose a name and determine whether it is available by doing an on-line search or contacting the New York Secretary of State.
- The “incorporators”—those who are creating the corporation—must file a *Certificate of Incorporation* with the New York Secretary of State.
- An “organizational meeting” should be held at which directors and officers are elected or appointed and by-laws are adopted.
- File a Form SS-4, Application for Employer Identification Number, with the IRS.

S-Corporation

Small or “closely held” form of for-profit corporation.

Best Suited For

Smaller or family business seeking single level tax treatment, limited liability and established procedures for funding.

Main Advantages

- All the advantages of a C-corporation listed above, plus:
- Taxation only at the shareholder level if proper elections are made on the relevant IRS and state forms. (Note that there may be a small New York State tax but S-corporations are not recognized for New York City tax purposes, so they are subject to the full city tax of up to 8.5%.)
- S-corporation election requires additional filings with the IRS and NYS within 2-1/2 months after formation to get S status that year.
- Although you can have a single shareholder S-corporation (and the taxes are paid at the shareholder level), the entity must still file a corporate tax return.
- Shareholders must pay the tax on entity earnings whether or not the entity distributes cash to pay the taxes.
- For NY corporations, top 10 shareholders are liable for unpaid wages! This does not apply to stock exchange and OTC quoted companies.

Main Disadvantages

- Expensive and sometimes difficult to create.
- Administrative duties burdensome; complex to set up, operate and dismantle.
- Must have under 100 shareholders, cannot be publicly traded; must have only one class of stock; no shareholder can be another corporation, partnership or LLC or a nonresident alien (there are certain restrictions on trusts as holders).
- Restrictions on shareholders limit capital-raising possibilities.

Basic Requirements

- Choose a name and comply with all the formation requirements set out above for a C-corporation.
- For S-corporation status, the shareholders must file an IRS Form 2553, *Election by a Small Business Corporation*. If the election is approved, then the shareholders can apply for similar treatment in New York by filing a Form CT-6, *Election by a Federal S-Corporation to be Treated as a New York S-Corporation*.
- File a Form SS-4, Application for Employer Identification Number, with the IRS.

Limited Liability Company

One or more owners, business is a separate legal entity from owners.

Best Suited For

Single or multiple-owner business needing liability protection and single-level taxation. Each owner is referred to as a “member.”

Main Advantages

- In New York State, can have as few as one member.
- The law recognizes freedom of contract in structuring the entity, more so than is found in the corporate form.
- Can be run by the owners directly like a partnership or by managers appointed by the members and/or through officers.
- Liability can be limited to the extent of owner’s investment. Note, however, that parties with whom the entity deals (e.g., banks) may ask for personal guarantees, thereby reducing this liability limitation.
- Profits and losses can be allocated differently than ownership interests.
- Can choose to be taxed as a partnership or as a corporation; a single-member LLC will be treated as a sole proprietorship.
- Capital can be raised through the sale of company interests.
- Ownership interests transferable and corporation survives death of owners.
- Administrative duties can be burdensome for owners but far less than with a corporation.
- In egregious circumstances courts may allow “veil piercing” to make members, managers or officers liable.
- May have to pay upwards of \$2,000 to satisfy onerous publication requirements.
- While conversions from the LLC form to the corporate form can be easily accomplished without tax complications, if the entity has assets a conversion from corporate form to LLC form later can create tax complications.

Basic Requirements

- Choose a name and determine whether it is available by doing an on-line search or contacting the New York Secretary of State.
- Members must prepare *Articles of Organization* and file them with the NY Secretary of State and then satisfy publication requirements.
- Members must enter into a written *Operating Agreement* governing the relationships between them and the way the business is to be run. In New York, the agreement must be in writing and signed prior to or within 90 days after the Articles of Organization are filed.
- File a Form SS-4, Application for Employer Identification Number, with the IRS.

Main Disadvantages

- Expensive and sometimes difficult to create, due to great freedom to write formative documents.



Access Resources

Reentry

MULTIPLE SERVICES

Center for Community

Alternatives

39 West 19th St.

10th Fl.

New York, NY 10011

212.691.1911

[www.community](http://www.communityalternatives.org)

alternatives.org

Center for Employment

Opportunities

32 Broadway, 15th Fl.

New York, NY 10004

212.422.4432

www.ceoworks.org

Community Service Society

105 East 22nd St.

New York, NY 10010

212.254.8900

www.cssny.org

The Doe Fund

232 East 84th St.

New York, NY 10028

212.628.5207

www.doe.org

Exodus Transitional

Community

161 East 104th St.

New York, NY 10029

917.492.0990

www.etcny.org

The Fortune Society

29-76 Northern Blvd.

Long Island City, NY

11101

212.691.7554

www.fortunesociety.org

Greenhope Services

for Women

448 East 119th St.

New York, NY 10035

212.369.5100

www.greenhope.org

The HOPE Program

One Smith St.

Brooklyn, NY 11201-5111

718.852.9307

www.thehopeprogram.org

The Osborne Association

809 Westchester Ave.

Bronx, NY 10455

718.707.2600

www.osborneny.org

Project Renewal

200 Varick St.

New York, NY 10014

212.620.0340

www.projectrenewal.org

Vera Institute of Justice

233 Broadway

12th Fl.

New York, NY 10279

212.334.1300

www.vera.org

INFORMATION & ADVOCACY

Center for NuLeadership on Urban Solutions, Medgar Evers College

1150 Carroll St.
Brooklyn, NY 11225
718.270.5136
www.mec.cuny.edu/spcd/caddi/nuleadership.asp

Correctional Association of New York

2090 Adam Clayton Powell Blvd., Suite 200
New York, NY
212.254.5700
www.correctionalassociation.org

Feerick Center for Social Justice

33 West 60th St.
2nd Fl.
New York, NY 10023
212.636.6807
212.636.6775
<http://law.fordham.edu>

ICARE

3041 Broadway
Mailbox 37
New York, NY, 10027
212.280.1386
www.nyicare.org

National HIRE Network

225 Varick St.
4th Fl.
New York, NY 10014
212.243.1313
www.hirenetwork.org

Prisoner Reentry Institute of John Jay College

555 W. 57th St., 6th Fl.
New York, NY 10019
212.484.1399
www.jjay.cuny.edu/centersandinstitutes/pri/1921.php

Legal Services

City Bar Justice Center Reentry Law Project and Neighborhood Entrepreneur Law Project

42 W. 44th St.
New York, NY 10036
212.382.6633
www.citybarjusticecenter.org

Bronx Defenders

860 Courtlandt Ave.
Bronx, NY 10451
718.838.7878
1.800.597.7980
www.bronxdefenders.org

LawHelp

www.lawhelp.org/NY

Lawyers Alliance

330 Seventh Ave., 19th Fl.
New York, NY 10001
212.219.1800
www.lawyersalliance.org

Legal Action Center

225 Varick St.
New York, NY 10014
212.243.1313
toll free 1.800.223.4044
<http://lac.org>

Legal Aid Society

199 Water St.
New York, NY 10038
212.577.3300
www.legal-aid.org

**Legal Referral Service/
Monday Night Law Project**

212.626.7373
www.nycbar.org

MFY Legal Services

299 Broadway, 4th Fl.
New York, NY 10007
212.417.3700
www.mfy.org

**Neighborhood Defender
Service of Harlem**

317 Lenox Ave.
10th Fl.
New York, NY 10027
212.876.5500
www.ndsny.org

**New York State Defenders
Association**

194 Washington Ave.
Suite 500
Albany, NY 12210
518.465.3524
www.nysda.org

Project Restore

New York County
Lawyers' Association
14 Vesey St.
New York, NY 10007
212.267.6646
www.nycla.org

Urban Justice Center

123 William St., 16th Fl.
New York, NY, 10038
646.602.5600
www.urbanjustice.org

Volunteers of Legal Service

54 Greene St.
New York, NY 10013
212.966.4400
www.volsprobono.org

**New York City Commission
on Human Rights**

40 Rector St., 10th Fl.
New York, NY 10006
212.306.5070
www.nyc.gov

**New York State Division
of Human Rights**

One Fordham Plaza, 4th Fl.
Bronx, NY 10458
718.741.8400
www.dhr.state.ny.us

Small Business**MULTIPLE SERVICES****Abyssinian Development
Corporation**

4 W. 125th St., 3rd Fl.
New York, NY 10027
212.368.4471
www.adcorp.org

**Asian American Business
Development Center**

80 Wall St., Suite 418
New York, NY 10005
212.966.0100
www.aabdc.com

**Asociación de Tepeyac
de New York**

251 W. 14th St.
New York, NY 10011
212.633.7108
www.tepeyac.org

**Brooklyn Business
Solutions Center**

25 Elm Place, Suite 200
Brooklyn, NY 11201
718.875.1000
www.ibrooklyn.com

**Brooklyn Economic
Development Corporation**

25 Washington Ave., Suite 50
Brooklyn, NY 11201
718.522.4600
www.bedc.org

Brooklyn Public Library

Grand Army Plaza
Brooklyn, NY 11238
718.230.2100
www.brooklynpubliclibrary.org

**Business Outreach
Center Network**

85 South Oxford St., 2nd Fl.
Brooklyn, NY 11217
718.624.9115
www.bocnet.org

CAMBA

1720 Church Ave., 2nd Fl.
Brooklyn, NY 11226
718.287.2600
www.camba.org

**Chinatown Manpower
Project/Lower Eastside
Business Outreach Center**

125 Canal St., 3rd Fl.
New York, NY 10002
212.966.7328
www.cmpny.org

**Harlem Commonwealth
Council**

361 West 125th St.
New York, NY 10027
212.749.0900
<http://harlemcommonwealth.org>

**Hunts Point Economic
Development Corporation**

355 Food Center Dr.
Suite C-104
Bronx, NY 10474
718.842.1717
www.hpdec.org

**Jamaica Business
Resource Center**

160th St.
Jamaica, NY 11432
718.206.2255
www.jbrc.org

**Local Development
Corporation of East New York**

80 Jamaica Ave.
Brooklyn, NY 11207
718.385.6700
www.ldcenyc.org

**Long Island City Business
Development Corporation**

29-10 Thomson Ave., 9th Fl.
Long Island City, NY 11101
718.786.5300
www.licbdc.org

**New York Association
for New Americans**

17 Battery Place
New York, NY 10004
212.425.2900
www.nyana.org

**New York City Economic
Development Corporation**

110 William St.
New York, NY 10038
212.619.5000
www.nycedc.com

**Queens Business
Outreach Center**

96-11 40th Rd., Ground Fl.
Corona, NY 11368
718.205.3773
www.bocnet.org

Queens College

65-30 Kissena Blvd.
Flushing, NY 11367
718.997.5000
[http://qcpages.qc.cuny.edu/
womenandwork/about.
html#internship](http://qcpages.qc.cuny.edu/womenandwork/about.html#internship)

**Queens Economic
Development Corporation**

120-55 Queens Blvd., Suite 309
Kew Gardens, NY 11424
718.263.0546
<http://queensny.org>

Queens Public Library

89-11 Merrick Blvd.
Jamaica, NY 11432
718.990.0700
www.queenslibrary.org

**Renaissance Economic
Development Corporation**

1 Pike St.
New York, NY 10002
212.964.6022
www.renaissance-ny.org

**Ridgewood/Bushwick
Senior Center**

319 Stanhope St. # 1
Brooklyn, NY 11237
718.366.3038
www.rbscc.org

**Science, Industry,
and Business Library**

188 Madison Ave.
New York, NY 10016
212.592.7000
sibleref@nypl.org
www.nypl.org

**Service Corps of Retired
Executives (SCORE)**

212.264.4507
www.score.org

**Small Business
Administration**

1.800.827.5722
answerdesk@sba.gov
www.sba.gov

**Small Business Development
Center – Baruch College**

55 Lexington Ave.
New York, NY 10010-0010
646.312.4790
www.nyssbdc.org

Small Business Development Center – La Guardia Community College
29-10 Thomson Ave.
Long Island City, NY 11101
718.482.5303
www.nyssbdc.org

Small Business Development Center – Pace University
163 William St., 16th Fl.
New York, NY 10038
212.618.6655
www.nyssbdc.org

South Bronx Overall Economic Development Corporation
555 Bergen Ave.
Bronx, NY 10455
718.292.3113
www.sobro.org

Workshops in Business Opportunities
55 Exchange Pl.
New York, NY 10005
212.684.0854
www.wibo.org

Micro-Financing

Accion NY
115 East 23rd St., 7th Fl.
New York, NY 10010
212.387.0377
www.accionnewyork.org

Bethex Federal Credit Union
20 E 179th St., Lower Level
Bronx, NY 10453
718.299.9100
www.bethexfcu.org

Credit Where Credit is Due
4211 Broadway
New York, NY 10033
212.927.5771
www.cwcid.org

National Minority Business Council
120 Broadway, 19th Fl.
New York, NY 10271
212.693.5050
www.nmbc.org

Project Enterprise
144 West 125th St., 4th Fl.
New York, NY 10027
212.678.6734
www.projectenterprise.org

Trickle Up
104 W 27th St., 12th Fl.
New York, NY 10001-6210
212.255.9980
Toll Free: 1.866.246.9980
www.trickleup.org

Women's Venture Fund
212.563.0499
www.wvf-ny.org



At the City Bar Justice Center, we are committed to increasing access to justice by helping low-income people access the resources of the New York City legal community. This toolkit was produced through the collaboration of two City Bar Justice Center projects – the Neighborhood Entrepreneur Law Project and the Reentry Law Project – and the generous support of The John Merck Fund. The Neighborhood Entrepreneur Law Project provides legal assistance to low-income micro-entrepreneurs in the initial stages of structuring a company or strengthening an existing business. The Reentry Law Project provides legal services to persons with criminal records who are victims of the hidden and collateral consequences of having a criminal record.

If you would like more information about these projects please visit our website at **www.citybarjusticecenter.org** or call our project number at **212.382.6633** or our Legal Hotline at **212.626.7383**.

