FREQUENTLY ASKED QUESTIONS
Business start up

Q: Do I have to form a company before I go into business?

A: No, you don't have to form a company to start your business. There are three basic business structures in New Zealand: sole trader, partnership and company. Some businesses start as sole traders, then progress to partnership or company status later.

If you decide to start as a sole trader (the simplest way to start), you can choose whatever trading name you like, provided it does not conflict with an existing business name or brand, or is confusingly close to an existing name or brand.

Q: How do I check if someone else is using my preferred trading name?

This is difficult, because there is no central register in New Zealand of 'sole trader' trading names. For companies it's different. You can find out if someone else is already using your proposed company name by visiting www.companies.govt.nz and completing a name search.

We suggest you search this site first anyway to see if a company is using your proposed trading name. Then search the Telecom site
www.telecom.co.nz to make sure there's no similar or identical listing in either the White Pages or the Yellow Pages. Double check by searching at least your local phone book. As a final check, search for similar names through www.google.co.nz or other local search engines. If all these avenues show no one is using your preferred trading name, you should be in the clear to go ahead. If someone else is using the same name, you can at least show that you've made a serious attempt to find a match.

Q: Must I register somewhere before I start?

A: If you form a company, various formal steps are required. But even if you start as a sole trader, you should notify the Inland Revenue Department so that they can record you are self-employed. There are three good reasons for this:

Firstly, to register for accident cover. Inland Revenue will in turn notify ACC to provide you with the appropriate cover. Otherwise, if you have an accident, you may not have your claim accepted from the date you say you went into business unless the date has been recorded somewhere (with the IRD in this case). This applies both to the start of a full-time enterprise and to the start of a part-time business (such as in the evenings) while you're still employed.

Secondly, so that IRD can correctly code the computer to send you the appropriate Business Tax forms at the end of the financial year. These forms will help to remind you of your obligations.

Thirdly, to help you with your claims for business expenses. The reason for this is that Inland Revenue is unlikely to let you claim for equipment you bought some time ago when you were operating as a hobby. So if you want to claim legitimate business expenses, such as extra equipment you might need to buy, stationery, signage, etc., start keeping proper records immediately and let the IRD know you're 'in business'. You can then give your records to your bookkeeper or accountant at the end of your first financial year. Note: the most common ending for a financial year is the 31 March. Even if you haven't been trading for a full 12 months before the 31 March, you should still give your records to a bookkeeper or accountant for them to prepare a return for the Inland Revenue Department.

Here's a tip: the best way to let the IRD know of your intentions is by phone. But remember that the IRD phone lines are open until 8 pm each weeknight, and to 1 pm on a Saturday. So ring after normal business hours: it's quicker.

For contact phone numbers:
www.ird.govt.nz/contactus/phone

Q: If I'm starting as a sole trader, should I open a separate bank account?

A: Although not compulsory, it is advisable that you open a separate bank account for your business transactions. This will allow you to separate clearly your business income and expenses from your private income and expenses. Visit your bank and ask for a separate account. Before the bank can open a separate business bank account they will need a business IRD number.

As a sole trader your business IRD number will usually be the same as your existing personal one (but check this out with the IRD beforehand). This separate business account will typically be named something like 'Susan Brown trading as Susan Brown Craft Products' (or whatever). The

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bank statements are usually the prime source of information for your accountant or bookkeeper when they come to put together your accounts at the end of your first year's trading.

Make life even easier for yourself by getting a cash card from the bank in your trading name. This way, instead of running a separate petty cash account, you can use the cash card to pay for minor purchases (like stationery) through EFTPOS. All these transactions will be neatly listed on your business bank statements and you can just staple the relevant EFTPOS till receipts and invoices to the bank statement every month. No need to carry cash around or worry about balancing a petty cash account. A similar tactic is to use a business credit card. Make sure, though, that you receive and keep proper GST invoices for all your purchases.

Q: Should I use an accountant or lawyer?

A: You can trade and put in your own tax returns, or you can use a bookkeeper (someone skilled at keeping books who is not a fully qualified chartered accountant). It is recommended, however, that you find an accountant. You're unlikely to be aware of all aspects of the tax system. Ask friends already in business for recommendations, and choose an accountant who works with other small businesses. Your accountant should be able to save you money and stress by advising what you can claim and how, as well as giving you advice on how to set up a basic bookkeeping system.

It's also a very good idea to consult a lawyer about your business intentions. Certainly do so if you intend signing a lease or any legal document. Depending on your business, a lawyer might advise you to take out public liability insurance or other forms of protection.

Q: Should I approach the Inland Revenue Department?

A: Yes, don't be afraid to contact the IRD. One of the functions of Inland Revenue's job is to offer help and information, particularly for new businesses. Their web site (www.ird.govt.nz) is very useful for answering your basic questions about setting up a business and by phoning 0800 377 774 you can arrange to speak to a Business Tax Information Officer. The web site lists various helpful publications you can order, pick up from your local IRD office, or download from the site itself. There's also a good FAQ (Frequently Asked Questions) section. You can also ask for free advice even if you're just thinking about starting a business.

Q: Can you briefly explain the pros and cons of the different business structures?

A: A broad outline of the differences:

As a **sole trader** you are the business and the business is you. Operating as a sole trader offers a low-cost, easy entry way to operate in business, but the disadvantage is that you are totally responsible for the debts and liabilities of your business. You'll be taxed on your income from the business at individual tax rates.

Partnerships are usually formed when two or more people, perhaps with different or complementary skills and resources, get together to run a business or to share office space and overheads (the partnership structure is popular with accountants and other professionals). As a partner, you are liable both separately and jointly with the other partner(s) for the liabilities of the partnership. You split the profits according to the partnership agreement (for example, two partners agree to split the profit 50%). You are taxed at individual tax rates on your income from the partnership. The disadvantage is your liability not only for your own debts, but also for those partnership debts incurred by your partner(s).

When you form a **company**, you create a legal entity quite separate from yourself. The company can continue long after you have departed, because your shareholding in the company can pass to someone else. The 'Limited' part of a company's name stands for 'Limited Liability'. This means that as a shareholder in the company you are not personally liable for the company's debts (beyond the paid-up capital) unless it can be shown that you have acted recklessly (for example, continuing to trade when the company is insolvent). You'll be taxed at a different rate from the company.

Companies carry more credibility in the marketplace than sole traders, because taking the trouble to form a company shows that you are thinking about the long-term future of the business. The disadvantages are that a company costs more to run because more compliance paperwork and registration costs are involved. Also, in practice the 'limited liability' advantage is offset by the fact that a bank or other lender will typically require your personal guarantee before advancing finance of any significance.

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Q: How do I register a company and can I do it myself?

A: Although it is definitely possible to register a company yourself, discussing your intention with an accountant or lawyer is a good idea.

To register the company yourself, visit www.companies.govt.nz and browse the options. There are companies that will do this for you if you are unsure.

Q: Should I write a Business Plan for my business?

A: A business plan is certainly recommended. There are a number of good reasons for this:

Firstly, the research and thought you'll have to put into writing the business plan will help you to sharpen and/or adjust your ideas.

Secondly, any lending institution that you might approach for funds, such as a bank, will want evidence that you've done your homework and properly thought through your business concept.

Thirdly, the business plan provides a road map for your business. It lays out what you intend doing, how you intend to do it, the resources you need, and your action deadlines for each stage. The business plan forms a 'living document' that you can then revisit at regular intervals and modify according to your progress or changing circumstances.

Q: Must I register for GST?

A: It is not compulsory to register for GST until business turnover is more than $60,000 a year. In general, most small businesses would benefit by registering (if necessary phone
0800 377 774 and arrange to speak to a Business Tax Information Officer about the benefits and disadvantages of registering for GST).

Below are four reasons for registering:

Firstly, most serious businesses would want to turn over more than $60,000 a year. Start with the right, positive attitude and take your business seriously.

Secondly, you will be able to claim back the GST (currently 15% of the total purchase price) on all your business expenses, including start up costs that have a GST component, such as equipment, and supplies. A computer that is priced at $3,000 in fact costs you only $2,608.70. You will also have to add GST to all your invoices to your customers and pay this to the Inland Revenue Department (less the GST you're claiming back on expenses).

It is a good idea to start a separate bank account (still under your trading name) and channel sufficient funds into the account to meet your various tax obligations. Your accountant will give you advice on how much you should tuck away each month to meet your obligations.

Thirdly, the discipline of doing a GST return every two months (you can choose a six-monthly return if your turnover is low, but the two-month option is recommended for the discipline reason) will assist you in knowing how your business is doing.

If you're not paying any GST to Inland Revenue at the end of every two months, then you've probably made a loss (unless perhaps there was a large equipment purchase or some other one-off factor during this particular two-month period). This is because you pay the IRD the different between the GST you're claiming back (supplies and expenses, like the computer purchase) and GST you've collected on your invoices or cash sales. To stay in business you will be hoping to sell more than the cost of your expenses, so every two months you will be hoping to send a GST cheque off to the IRD. If cheques are not being sent on a regular basis, there may be a problem that needs correction. So the two-monthly return also offers you a quick check on the health of your business and a regular chance to correct things before a minor problem becomes a major problem.

The fourth reason for becoming GST registered is that larger businesses will take you more seriously. If you're not registered, the signal is that you're possibly something of a smaller, less serious business. Other businesses will not be concerned that adding GST makes your prices look too high. They are not worried about the GST component of your invoices because they can claim this back: it's an expense to them. All they look at is the price before GST. So if you sell them a $3,000 computer, (GST inclusive) they'll see it as a $2,608.70 (GST exclusive) computer, the true net cost to them.

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Q: What help and/or funding is available for small businesses

A: You are most likely to get funding for your business if you are starting the kind of business (such as in a high-tech area) that will be genuinely innovative or that has the potential to earn foreign exchange (export dollars) for New Zealand. But there is still a lot of help available out there. Visit www.nzte.govt.nz.

Q: Do I need business skills or experience to start a small business?

A: The failure rate of small business start-ups is high. One major reason is lack of business skills. Therefore, you should systematically set about improving your business skills. If you have never been self-employed, attend a business start-up course. Attend a Chamber business start-up event or to expand your skills, see our Vital Training courses. Some funding assistance maybe acquired under the government business capability programmes. Visit www.business.govt.nz for details.

Perhaps the most important ingredient you need to succeed is enthusiasm and drive, backed by persistence and a determination to achieve your goals no matter how much hard work is involved. You will greatly improve your chances of success if you have good business skills. These include the skills to market your business in a creative and sustained way and the skills to build and manage efficient business systems that enable the business to operate smoothly.

Many people start small businesses because they are very good at something, like making things, or being an electrician, or offering specialist knowledge, like computer installations, or public relations work. They often fail because their other business skills are poor. It seems more fun to do what you enjoy doing than to keep the book work up to date, chase debtors, invoice promptly, do a cash flow forecast or manage tax liabilities, so these tasks are neglected, and the business suffers.

Another major reason for failure is lack of experience in the chosen industry. The solution is to work in the industry before you start or buy that business - even if you have to work for low wages or just for the work experience. The idea of running a Bed & Breakfast might sound dandy, until you've actually tried it and learned about some of the difficulties. Buying a hot bread shop with all those fresh pastries on display might seem great until you realise that bakers often have to get up around 3 am to start the baking process for the day. We recommend that you learn about the advantages and the disadvantages of the industry you're interested in before taking the plunge.

INFORMATION ABOUT COMPANIES

Company's name:
The Ministry of Economic Affairs will allow you to use any name which is not the same as, or nearly the same as an existing company's name.

Control of the company:
The director(s) run the company. The shareholders can not interfere in the day to day management, but they can appoint or dismiss the directors.

Directors:
Your company must have at least one director. The directors attend to the day to day running of the company. They are appointed (and dismissed) by the shareholders.

Shareholders:
Your company must have at least one shareholder which can a person or a company, and can have as many as you want. The shareholders own the company in the same proportion as they own the shares. For example if you own 25 shares in a company which has 100 shares, then you own 25% of the company.

Shares:
Number of shares: Your company must have at least one share, and may have as many more as you wish. However, unless you have a particular reason for a particular number, it is convenient to start your company with 100 shares.

Issue Price of Shares:
When the company is formed, the shares are issued to the owners (the shareholders). You can issue the shares for any price, but the usual price is $1.00 each.

Shareholders' liability:
One of the main advantages of forming a company is that the shareholders have no liability for the company's debts. But if a shareholder has not paid the issue price for his shares, and the company goes into liquidation, a creditor could ask him to pay for his shares at that stage. If you start your company with 100 shares, issued for $1.00 each, then the maximum amount that the shareholders could be liable for would be $100.00.

Registered Office and postal address:
Every company must have a registered office in New Zealand. This must be a street address. It could be your own home, or your work, or your accountant's office.

Constitution:
A constitution is a set of rules which (with the Companies Act) regulates the company. The main points contained in a standard constitution are as follows:

Directors:
1. Directors are appointed or removed by special resolution of the shareholders.
2. A quorum at a Directors' meeting is a majority of the Directors.
3. The minimum number of Directors is one. No maximum number is set.
4. Directors need not hold shares in the Company.
5. A Director who has a special interest in a transaction of the Company may nevertheless vote on matters relating to the transactions.
6. The Board may indemnify and/or insure Directors to the extent allowed by the Act.

Shareholders:
1. A quorum is present at a shareholders' meeting if shareholders or their proxies are present (or have cast postal votes) who are between them able to exercise a majority of the votes which could be cast on the business to be transacted.
2. Special Resolutions must be passed by a 75% majority.

Shares:
1. Ordinary Shares carry the right to:
   a) one vote per share.
   b) equal share in dividends.
   c) equal share in distribution of assets.
2. With the approval of the shareholders by special resolution, the Board may issue more shares.
3. The Board may issue different classes of shares.
4. The Company may acquire its own shares.
5. New issues must be offered to existing shareholders pro rata.
6. The Company may give financial assistance to people to acquire shares in the Company
7. Pre-emption: Shareholders' rights to sell shares are restricted. Shareholders must first offer their shares for sale to remaining shareholders.
8. The Board may (with the consent of the shareholders involved) issue bonus shares in lieu of dividends.

Management:
1. No restrictions are placed on the Company's capacity, or on its rights powers and privileges.
2. The Board of Directors manages the Company. (It is suggested that if powers of management are to be given to any shareholders then those shareholders should be made directors).
3. Shareholders may pass resolutions relating to the management of the Company but such resolutions are not binding on the Board.
4. There is no provision for a Governing Director, because some provisions in the new Act give shareholders rights which are inconsistent with the role of Governing Director. If one person is to have the maximum possible control of the Company, that person could be made the sole director and sole voting shareholder.
5. The Board may indemnify and/or insure individual Directors to the extent allowed by the Act.
6. The Company may employ a Secretary of it wishes.
7. The Company will not have a common seal.

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