

To Be or Not To Be Incorporated

07/21/08

We're established as a DBA and I think it's time to switch to incorporation. Do you have any suggestions?

Many small business owners start out as a DBA (Doing Business As), Sole Proprietorship or LLC (Limited Liability Company). Why switch? Primary reasons include: professionalize the business, take advantage of tax and liability protection, and have stockholders. Incorporating is a relatively straightforward process. Before making any changes, be sure to check with both your accounting and legal advisors.

One reason to incorporate is attitude. To build a long-haul company you want to think of the business as a business. Begin by separating and professionalizing your relationship with the business. Operating informally as a sole proprietorship or DBA, means you are the business and the business is you. Instead, start early on to think of the business as standing on its own, separate from yourself as owner. This means you are freer to think of the business continuing on after you're done with it. It means that you are in the business of building a business, more than just doing something to have some personal income.

As a sole proprietorship your future and that of your business future are intimately tied together. As a corporation, you begin to clarify that there's a distinction

between yourself and the business. And you have a vehicle to add owners, or shareholders as you grow.

If you've started out as a Sole Proprietorship or DBA, you must keep in mind that you are personally liable for the business' losses – more directly than if you have a corporation. If a vendor or customer wants to come after you personally, for some real or imagined slight, they can do so much more easily if you're not incorporated. They can come after your car, your house, your button collection and anything else you own personally, with almost no barriers, if you are not incorporated or do not have a limited liability company.

It is worth keeping in mind that start-up companies have significantly higher failure rates in their first 5 years of business. If the business gets in trouble financially, and your business is incorporated, you, as owner, may be able to protect some of your personal or family assets as you deal with the financial losses your business incurred. That alone makes it worth considering incorporation right from the get-go for many small business owners.

What about taxes? Talk to your accountant. In general corporations have some tax advantages. These include ability to absorb and write off losses, lower payments for some

benefits, and, depending upon the type of incorporation, ability to write off some perks.

Many businesses in their early days do not have large amounts of net income on which to pay taxes. However, for many businesses, the plan is to grow. As the business grows, hopefully so do the profits. You'll want to have a legal structure to distribute profits to owners and shareholders. Should a year come along in which the business has losses, you'll want to take advantage of that as well. Having a corporation makes it easier to do both.

Incorporating also means you take formal action to identify your company name, at least in the state(s) in which you incorporate. The incorporation filing process includes a search for similar names, and registers your business' rights to its name.

When I first started my company, as part of the incorporation process I went through several name searches before finding one that was not already taken. Imagine how frustrating it could have been if I had started up as a DBA, with no state-wide name search. I might have invested time, money and effort building awareness of a business name that later on was not available to me for incorporation. When it came time to incorporate, I would have had to start the identify process all over again.



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The savvy business owner sets up a structure for the future. That includes expandability. In the future you may want to add shareholders, whether as investors or as reward for key players. You'll want to be able to transfer ownership, as the business survives beyond your early years. Having incorporated early on means no loss of momentum to make changes to accommodate the business' growing ownership needs.

Incorporating is relatively simple. It means investigating the name you want to use, and filing "Articles of Incorporation" which, in addition to the company name, defines who is (are) the officers and the business' primary address. There are lots of firms out there that can help you if you don't want to do it on your own. Fees are usually small, a few hundred dollars, to complete everything.

Looking for a good book? Try How to Start and Run Your Own Corporation: S-Corporations for Small Business by Paul Tulenko.

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If you are a business owner and you have a question or would like to discuss some aspect of your business, call [1.877.238.3535](tel:18772383535) or send an email to AskAndi@StrategyLeaders.com.

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