

Things you have to do to start your business a practical guide



BUILDING YOUR KNOWLEDGE



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Things you have to do to start your business

Starting a new business is an exciting time, however there are a few things all new business owners must do before they can begin trading. While there is no single place to 'register' your business, by following the steps in this booklet you will have your new business up and running. Remember though, these are the **absolute minimum** requirements to start your business. If you want to survive and thrive, we recommend that once you've read this quick guide, book a place at one of our free, weekly Business Basics workshops. The workshop covers all the essentials of starting and running your own business.

Do your research

Whether you have thought of an original business idea, developed an innovative approach to an existing product or service or decided to turn your hobby or a skill into a business, it is very important to do preliminary research to assess if there is an actual market for your product or service.

This assessment should form part of a detailed business plan outlining your operational and financial strategies.



Use market research to assess the viability of your business idea. Is there a gap in the market? Although your business idea may be well intended, it may not be viable. For example, having a new baby may motivate you to start a children's clothing boutique because you cannot find a particular brand of clothing. However, further research could show strong online competition making your idea unlikely to succeed.

Select your business structure

Once you have established that you have a viable business idea, your next key decision relates to the type of business structure that will best suit your business and particular circumstances.

Some things to consider include:

- set-up and maintenance costs
- how the entity will be taxed in regards to income, capital gains and land tax
- asset protection
- control and succession
- flexibility to cope with change in circumstances
- exit strategy

You should aim to minimise taxation, protect your assets, and retain control.



It is likely that at some point you will need the services of an accountant, lawyer or other professional. For help in finding professional assistance, check out the SBDC's *Building your Support Team* guides.

The four most common structures in Australia are:

Sole trader

A simple business arrangement giving you, the sole owner, all the decision making power. You are also able to hire staff.

Pros

- relatively easy and inexpensive to establish
- you control business assets and management
- ability to claim business losses against any other taxable income (subject to certain criteria)
- access to 50 per cent capital gains tax discount
- easy to change business structure when circumstances alter

Cons

- unlimited liability – there is no legal distinction between your business and private assets
- inability to split income or distribute income to other family members
- limited ability to raise capital
- the business ceases to exist when the sole trader stops working (including retirement, permanent incapacitation or death)

If you already have a tax file number, you don't need to do anything special to register as a sole trader. Just follow the directions in the rest of this guide.

Partnership

Formed when two or more people (up to 20) go into business together, partnerships can be general (where all partners contribute to the day-to-day running of the business) or limited (where some partners invest money in the business but have little involvement in its day-to-day running).

Pros

- inexpensive and easy to set up
- income and assets belong to all partners jointly (all partners are jointly and separately liable)
- shared risk with business partners

Cons

- you will not have full control over operations
- you are potentially liable for your partner's business decisions
- ends automatically when one partner leaves or dies, meaning you will have to re-register

You can establish a partnership by yourself, but we recommend visiting a lawyer for assistance in drafting a formal partnership agreement.



We strongly recommend you create a formal partnership agreement. This should outline how the partnership will operate, the sharing of any profits and losses, the responsibilities of each partner, and a dispute resolution process. In the absence of a formal agreement, partnerships are governed by the *Partnership Act 1895* and all partners are assumed to have an equal share.

Company

A separate legal entity that is capable of holding assets in its own name and conducting business in its own right. A company is owned by members (shareholders) and run by directors.

Pros

- limited liability for shareholders
- ease of transferring ownership by selling shares
- company tax rate of 30 per cent allows a tax effective long-term accumulation of income in the company (eventually the net profits are paid to shareholders as a dividend and those profits are then liable to tax at the individual shareholder's rate of tax, but with a credit for the company tax paid)
- the business can survive the death or retirement of shareholders or directors

Cons

- complex reporting requirements
- directors can be held personally liable if the company fails to meet some legal obligations

To establish a company, speak with an accountant. You can also purchase an existing 'shelf company' from a re-seller.

Trust

A trust is a structure where a trustee (an individual or a company) carries out business on behalf of the members (beneficiaries) of the trust. They are often used in connection with running a business for the benefit of others. Unlike a company, a trust is not a legal entity.

A trustee is required to lodge tax returns but generally does not pay tax, as the income is distributed to the beneficiaries. Beneficiaries pay tax (individual beneficiaries pay tax based on their marginal tax rates, a company beneficiary at the company tax rate, and the trust pays tax on undistributed trust income at the highest marginal tax rate).

Pros

- limited liability if the trustee is a company
- flexible tax planning (due to flexibility in distributions to beneficiaries)
- good choice for family businesses

Cons

- not suitable for short-term operations
- not suitable for non-family operations

For further information speak with an accountant.



The two most common types of trust are:
Discretionary trust (family trust) - distribution from the trust is at the trustee's discretion.
Fixed trust (unit trust) - distribution from the trust is determined according to the number of units held.

For detailed information on business structures and their implications visit ato.gov.au



Conduct a business licence search

Your industry and geographical location will determine which licences you need before you can start trading. Visit smallbusiness.wa.gov.au and follow the 'Find a licence' link. After entering your details, you will receive a personalised report showing which licences, registrations and codes of conduct you need to address before starting your business. Your report will include many of the general topics covered in this brochure, however there are likely to be other mandatory regulations that are unique to your industry or location.

Example

Jane needs to register and license her new business; a mobile beauty salon (visiting clients in their homes) based out of her home in the City of Canning. She won't be hiring employees and expects to turn over approximately \$85,000 in her first year.

Initial business registrations for Jane		
✓	ABN (Australian business number)	Jane can obtain her ABN online at the Australian Business Register (abr.gov.au)
✓	TFN (tax file number)	As a sole trader Jane can use her personal tax file number.
✓	GST	As turnover from her business is more than \$75,000 Jane has to register for GST.
✓	Business name	Jane can register her business name 'Jane's Mobile Beauty' on the Australian Business Register when she registers for an ABN.
Licences		
✓	Notification of a Skin Penetration Premises	Required by the City of Canning for any procedure which involves the tearing, cutting, puncturing or shaving of the skin.
✓	Home occupation licence	A premise for the business has to be registered regardless of it being mobile. As Jane's home address is in the City of Canning, she has to seek a licence from that council.
Code of practice		
✓	Code of Practice for Skin Penetration Procedures	Jane needs to follow her industry's code of practice.

Obtain an Australian Business Number (ABN)

Businesses require an ABN when dealing with other businesses and the government.

While it is not mandatory, businesses dealing with you are legally required to withhold tax (at a rate of 49 per cent) from any payments they make to your business if you do not quote an ABN on your invoice.

You can operate multiple businesses under one ABN (i.e. a sole trader can run a lawn mowing business and a bicycle shop with just the one ABN).

You can obtain an ABN online for free from the Australian Business Register at abr.gov.au

Register your business name

Choosing your business name

The name of your business is a major element of its identity and image. Choose one that reflects what your business is about, and will continue to be relevant as the business grows and evolves. For example, 'Simply Cupcakes' leaves no room to move with market trends if cupcakes go out of fashion.

If you decide to use your personal name for your business e.g. John Smith, there is no need to register it. However, if you want to call your business 'John Smith & Co', this would need to be registered as '& Co' is not part of your personal name.

How to register your business name

Once you've decided on a name, the next step is to register it with the Australian Securities and Investments Commission (ASIC). Through the ASIC website (asic.gov.au) you can check if your chosen name is available and register it at the same time.

To register your name:

1. Have your ABN to hand.
2. Log on to asic.gov.au
3. Follow the step-by-step guide to registering your business name online.
4. Pay the application fee (for one or three years) online or have an invoice mailed to you.
5. Remember to renew your application before it expires.



Business name availability

Just because your chosen name hasn't been registered with ASIC, it doesn't mean it isn't being used in other ways. Before you register your business name, you should:

- Check the Australian Trade Mark Online Search System at IP Australia (ipaustalia.gov.au) to confirm the name is not infringing a registered or pending trademark.
- Visit mywebname.com.au to see if the name can be registered as a domain name for a website address.
- Conduct a general online search to see what appears when you type in the name. A different meaning, or an established international business under the same name, could confuse customers who are looking for your business.



Will you be servicing a particular region?

For instance a mobile electrician only servicing the northern suburbs could incorporate this into their business name – making the area you cover clear to potential clients and competitors.



Try to make your name:

- short and memorable
- easy to pronounce and spell
- original and not too similar to existing business names, company names or trademarks
- appropriate, professional and not offensive
- descriptive and functional (e.g. Marketing Results) or new and quirky (e.g. Blue Banana)

Register your domain name

Your domain name is your website's address on the internet (for example, yourbusiness.com.au). It's a valuable part of your business identity and an important marketing tool to help customers find and identify with your business.

It's a good idea to register a domain name with a recognised retailer through .au Domain Administration (auda.org.au) as soon as you can, even if you don't yet have an actual website. This will ensure your domain name is available when or if you need it.

Before registering, confirm that your chosen domain name:

- is not already registered as a business name or company (check at connectonline.asic.gov.au)
- is not registered or pending trademark at ipaustalia.gov.au



Generally the best domain names:

- reflect the name of your business
- are short and easy to remember
- are available for registration on social media channels

How to register your domain name

Go to ausregistry.com.au and choose an authorised registrar to take you through the process. Registrars are the retail channel for domain name registrations; they can also provide other online services. Prices, products and services will vary depending on which registrar you use.

Register for tax

Tax file number (TFN)

All businesses need a TFN. Sole traders use their personal TFN, while partnerships, trusts and companies need a separate TFN for the business.

Goods and services tax (GST)

You need to register for GST if you are a business and:

- your current /expected turnover is \$75,000 or more; or
- you are a taxi operator (regardless of turnover).

Once you reach the threshold, you are required to register for GST within 21 days.

Pay as you go (PAYG) withholding

This is the system for withholding amounts from payments you make to employees and businesses so they can meet their end of year tax liabilities, including

- payments you make as an employer to employees, company directors and office holders
- payments under labour hire arrangements
- payments under voluntary agreements
- payments to businesses that do not quote their ABN

You must apply to register for PAYG withholding by the day on which you are first required to withhold an amount from a payment.



Personal drawings are not considered a wage and sole traders and partnerships are not required to withhold amounts from these drawings. However, it's a good idea to set money aside to cover any personal income tax payments you may need to make.

How to apply for registration

There is no cost to apply for any registration required by the ATO. However, your accountant or tax agent may charge a fee to assist you with registering. You can register your business for tax purposes:

- online at the Australian Business Register (abr.gov.au) where you can apply for an ABN, GST and PAYG in a single application; or
- through your accountant or tax agent.

Protect your intellectual property (IP)

When starting a new business, registering a new business name or developing a new product, you should consider protecting your original business idea – your intellectual property (IP). Registering a business name or domain name doesn't automatically give you exclusive rights to that name. For instance if you register a new business name with ASIC but don't protect it, a competitor can register a similar:

- company name with ASIC
- trademark with IP Australia
- domain name with any registered retailer

There are a number of options for protecting your business. IP Australia (ipaustralia.gov.au) has practical information and can provide ongoing IP support.

The three most common forms of IP protection are:

1. Copyright

In Australia, the moment an idea or creative concept is documented, on paper or electronically, it is automatically protected by copyright. Copyright protects the original expression of ideas, but not the ideas themselves. Because it is automatic, there is no official registry or application process for copyright protection.

Copyright doesn't protect you from others creating similar works. The Australian Copyright Council provides more information on copyright, including international options copyright.org.au

2. Trademark

A trademark is a way of identifying a unique product or service and it can be your most valuable marketing tool. Sometimes called a brand, a trademark is your identity – the way you show your customers who you are. A trademark is a right that is granted for a letter, number, word, phrase, sound, smell, shape, logo, picture and/or aspect of packaging. Consider if a trademark would improve your business and also take into account if you will be conducting your business overseas.

3. Patent

A patent is a legal right granted for any device, substance, method or process that is new, inventive, and useful. It gives you (the owner) exclusive rights to commercially exploit the invention for the life of the patent. Before you apply, research to see if a patent is appropriate for your product.

Purchase insurance

In Western Australia the only compulsory insurance you need as a small business owner is workers' compensation (if you have employees). It's up to you to decide (based on your business type, activities, and industry) what other insurance you may need.

Keep in mind that many insurance companies will require you to have business registrations and licences in place before they agree to provide insurance.

There are various types of insurance to protect your business, which can be divided into three main categories:

- liability
- employees
- assets and revenue

Many insurance providers will offer several types of insurance bundled in a package.

Insurance is a complex area, so make sure you understand all the terms and conditions of the insurance contract and obtain independent advice before you sign.

Insurance cover may be arranged through an insurance company, agent or broker. Insurance brokers are required by law to act as your representatives and work in your interest, whereas insurance agents are acting in the interests of the insurance companies.

You can contact a broker through the National Insurance Brokers Association (niba.com.au) or the Insurance Brokers Network of Australia (ibna.com.au).

If you want to liaise directly with an insurance company, the Insurance Council of Australia (insurancecouncil.com.au) provides information and contact details of its members.



If your business relies on a key employee with a certain set of skills or qualifications, and your cash flow would be severely affected by their absence, you should consider taking out insurance against their incapacity or death.



There is much more to starting a prosperous and profitable small business than just fulfilling the basic regulatory requirements. To develop the skills to succeed in business and gain a competitive edge visit smallbusiness.wa.gov.au, sign up for the SBDC's workshops, then make an appointment to see one of our experienced business advisers free of charge.



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