MONEY MANAGEMENT

BUSINESS

Structuring your business to meet your needs

One of the most important decisions you face when starting a business is choosing the legal form under which it will operate. Since each business form has its own set of advantages and disadvantages, the Nevada Society of CPAs urges you to examine each one carefully before making a decision.

Sole proprietorships are most common

A sole proprietorship is a business owned and operated by one person. Since there are no special federal legal requirements for establishing a sole proprietorship and no need for a legal charter, you generally can get started without an attorney. However, some state and local governments do require that you obtain a business license.

The most serious disadvantages of conducting business as a sole proprietorship is the unlimited liability you face. Since you and the business are one and the same, you are personally liable for the business' debts and other legal and financial obligations. Consequently, your personal assets are at risk.

As sole proprietor, your business' net profit or loss is combined with your other income and then taxed at your individual rate. You also may be required to pay self-employment tax.

Partnerships come in various forms

A partnership is an unincorporated business owned and operated by two or more people. It can be established informally or by having an attorney prepare a written partnership agreement that defines the rights and obligations of each partner.

While the partnership is not a taxable entity, the business reports partnership income and losses on Form 1065. Partners pay taxes on their share of partnership income, gains, losses, deductions, or credits as reported to them on Schedule K-1. You also must pay self-employment tax in some situations.

The main drawback of general partnership is the same as that of a sole proprietorship—each partner is personally liable for business debts. An option to consider is a limited partnership arrangement. Available in many states, these entities limit the liability of partners to the extent of the amount of money they have invested in the business. However, each limited partnership must have a general partner who is responsible for administering the business and is liable for all company debts.

A relatively new form of business available in some states-limited liability partnerships (LLPs)—provides further liability protection. Partners are not liable for acts, errors, or negligence of others unless they supervised or were involved in the work. They are, however, responsible for contractual obligations.

Corporations limit owners' liability

Corporations, which must adhere to state laws, can be more complex and expensive to establish than other business entities. But, the major advantage is that the owners of the company are not liable for the company's debts. Generally, the company is responsible for its debts only up to the amount of it assets, but the stockholder may be responsible to the extent of his or her investment. But be careful-in some situations, courts have allowed creditors to "pierce the corporate veil" to reach individual assets.

On the other hand, organizing as a regular, or "C" corporation tends to carry a heavy tax burden. Income can be taxed twice—once when it is earned by the corporation and again when dividends are distributed to individual shareholders.

Small companies can avoid this double taxation by electing to file as an S corporation. In an S corporation, profits and losses pass through the corporation to its shareholders with no extra tax to the corporation. Each shareholder includes his or her proportionate shareholders with no extra tax to the corporation. Each shareholder includes his or her proportionate share of profits and losses in individual income on his or her tax return, and it is taxed at personal income tax rates.

Limited liability companies gain more popularity

Generally, limited liability companies (LLCs) combine the liability protection of a corporation with the tax advantages of a partnership. As with corporations, owners of LLCs are not generally liable for debts and obligations of the LLC. What's more, when an LLC is taxed like a partnership, individual owners are taxed like partners—that is, at their own individual rates. Be organize as an LLC. Fortunately, Nevada does.

Since the form of business you choose will impact the legal, financial, and tax aspects of your business, you may want to consult with an attorney and a CPA before making a decision.

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FINANCIAL REPORT

Retirement change in 1997

By Fred Syder

President Clinton recently signed into law the small business job protection act. While this bill includes provisions for increasing the minimum wage, it will also affect many aspects of business retirement plans and individual retirement accounts (IRA's).

A little background on the specifics of this new legislation may help you determine how you or your business may be affected.

Among the changes that will be effective as of January 1, 1997:

Increased contributions to spousal IRA's

Starting next year, couples can contribute up to $4,000 each year ($2,000) per spouse) to a Spousal IRA, even if one spouse does not work. Previously, a non-working spouse could only contribute up to $250 annually to a spousal IRA, while a working spouse could contribute up to $2,000 annually ($2,250 per household). Individuals are still limited to $2,000 for annual contributions to an individual IRA.

"Simple" plan created

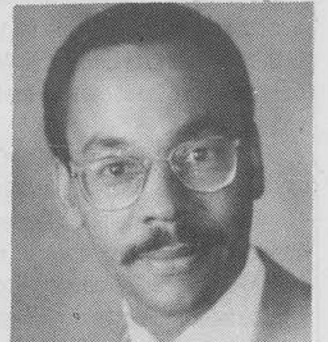
According to the new legislation, no new salary reduction simplified employee pension plans (sar-seps) can be established after December 31, 1996. However, if your company currently has a sar-sep plan in place, it will be allowed to keep and maintain it under current regulations.

To replace sar-seps, the new legislation creates a "simple" retirement plan available to employers with fewer than 100 employees. The savings incentive match plan for employees (SIMPLE) will allow employees to save up to $6,000 by contributing pretax salary dollars to an IRA or 401(k) trust. Similar to a 401(k), this plan also gives employers a choice of matching employees' tax-deferred contributions dollar for dollar up to 3% of the employees' compensation or making contributions equal to 2% of compensation for each eligible employee.

Changes in mandatory retirement plan distribution

Qualified plan participants who continue to work beyond age 70 1/2 will no longer be required to take minimum distributions from their retirement plan until they retire. However, the minimum mandatory distribution requirement at age 70 1/2 still applies to their IRA's and to those who own 5% of their employer's business.

401 (K) plans available to non-profit organizations



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For the first time, certain tax-exempt organizations (specifically, credit unions and native American Indian tribes) will be able to establish a 401 (k) plan or other plan type alternatives.

Changes for highly compensated employees

The definition of "highly compensated employees" has been changed. This could affect both the employees's and company's contribution amounts to retirement plans.

Five-year averaging repealed after December 31, 1999

Five-year averaging is a technique that allows recipients of retirement plan distributions to calculate the amount of tax due on the distribution as if it is received over five years. This tax-planning technique generally produces a lower overall tax-bill; however, it will no longer be allowed for most individuals after December 31,1999.

While these are just some of the changes, you may want to ask your employer or investment professional to see if these changes allow you more opportunities to build your retirement nest egg.

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