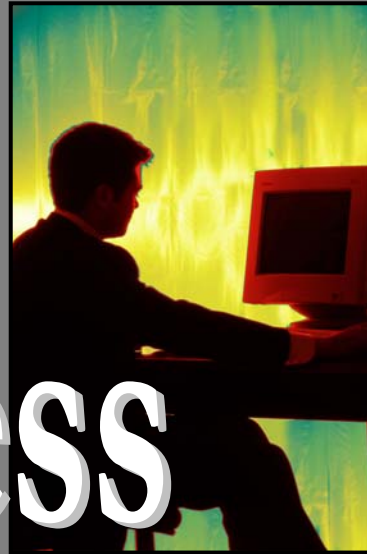


Starting a Business



TEAM SOUTH CAROLINA

We perform. You win.

South Carolina Department of Commerce
December 2002

Table of Contents

South Carolina’s Commitment to New Business.....	1
Getting Started	2
Deciding On the Legal Structure Of the Business.....	7
Understanding Tax Liability.....	12
Registering and Licensing the Business	16
Becoming An Employer.....	19

A Guide to Starting a Business in South Carolina

South Carolina's Commitment to New Business

New business is vital to South Carolina's economic growth because it creates jobs, brings new services and products to the market, and provides business ownership opportunities to many diverse groups. As part of South Carolina's commitment to business, the state offers this guide to help prospective business owners with the potentially overwhelming process of starting a new business. Prospective business owners and owners of existing businesses will find valuable information to assist them in establishing businesses in South Carolina.

"The events of 2001 posed critical challenges to the state of South Carolina as well as the nation. Nevertheless, the economic health of South Carolina benefited from its small business (those with fewer than 500 employees)"

2002 Small Business Profile
U.S. Small Business Administration
Office of Advocacy
<<http://www.sba.gov/>>

The information provided in this guide is intended to help potential new business owners in the following areas:

- *Getting started:* Writing a business plan and getting help from the experts are crucial to the success of the business.
- *Deciding on the legal structure of the business:* This is an essential step with legal and tax implications.
- *Understanding tax liability:* This section provides a guideline to understanding federal and local taxes.
- *Registering and licensing the business:* Necessary registration and licensing will vary depending on the type of business.
- *Becoming an employer:* Hiring employees and understanding the applicable laws is vital to a new business owner.

Getting Started

Approximately 80 percent of new businesses fail in the first 3 years due primarily to the lack of a thorough business plan and sufficient capital. Therefore, getting started in a new business requires long-term planning and good decision-making, including choosing a location, developing a business plan, finding financing, and marketing the product. A good resource for this planning stage is the U.S. Small Business Administration at <http://www.sba.gov/>.

Getting Help from the Experts

Because starting a business is an overwhelming process, there are a number of outside professionals with whom a business owner will want to establish a relationship in order to guarantee success. Some of these professionals include

- An accountant to help set up a good bookkeeping system for the business;
- An attorney to assist in choosing the legal structure, drawing up agreements and contracts, and providing information on legal rights and obligations;
- A banker to help obtain financing and financial information;
- An insurance agent/broker to advise about the type and amount of coverage that is best for the business; and
- A consultant to assist in areas such as management, marketing, promotion, and financial planning.

Choosing a Location

The following are some of the factors that should be considered when choosing a business location:

- Specific needs of the business—space, special installations, etc;
- Zoning requirements (check with the local planning office);
- Customer base of the area;
- Traffic patterns, accessibility, and parking;
- Nature of the competition; and
- Cost and lease terms.

Many organizations, such as local Chambers of Commerce, offer help in choosing a location. There are also professional consultants, bankers, lawyers, and realtors who have information that can help in making this important decision. In addition, the Frank L. Roddey Small Business Development Center (SBDC) is a consortium of 4 universities with 15 offices throughout the state.

For more information, contact:

**The Frank L. Roddey Small Business
Development Center of South Carolina
Director's Office
University of South Carolina
College of Business Administration
Columbia, SC 29208
Phone: 803-777-4907
[http://mooreschool.sc.edu/business/
centers/sbdc.html](http://mooreschool.sc.edu/business/centers/sbdc.html)**

The Business Plan

Every business begins with an idea, and a business plan is the blueprint to following through on this idea. Writing a business plan helps business owners consider all the parts of the business in detail, including the industry, competition, customers, goals, and potential for success.

The business plan will act as a guide to help allocate resources properly, handle unforeseen complications, and make the best decisions based on the business' goals.

The business plan should include the following:

- An introduction describing the business, its goals, and the advantages the business has over its competitors;
- A product description identifying competitors and the position of the product in the market;
- A marketing plan defining the products or services offered and identifying the customer demand, target market, pricing strategy, and advertising;
- Financial information, including financial sources, the amount of initial capital, a monthly operating budget, expected return on investment, and monthly cash flow for the first year;
- Operating information accounting for how the business will be managed on a daily basis, the equipment necessary to produce the products or services, and production and delivery of products or services; and
- A concluding statement summarizing business goals and objectives and expressing the commitment to the success of the business.

Financing the Business

Sufficient capital is essential for both the start-up and continuation of a business. Ideally, a new business should have a 12-month cushion to handle all of the expenses without counting on revenue from the business.

In most cases, a business needs a well-developed and convincing business plan that contains both short- and long-term projections based on realistic figures covering at least

two to three years. Lenders will usually require profit/loss statements, tax returns, and a current balance sheet; therefore, a good business plan is a crucial part of any loan package.

Marketing the Business

In order to market the product or service effectively, a business should develop a marketing plan to determine its customers, competition, and how to reach its target market. The first step in developing the marketing plan is to define the product or service and its features and benefits. It is also important to explain how the product is different and better than the competition. This step enables the company to place the product competitively in the market place. After defining the product and its competition, you can define the target market. Target markets can be described by demographic and lifestyle characteristics. Once the target market is pinpointed, it is time to create a communications strategy. It is important to know what forms of advertising will reach the target customer most effectively (radio, TV, magazine ads, mail, Internet, etc.). In addition, a good marketing plan should include a pricing strategy, sales forecast, and distribution plan.

One way to develop a successful marketing plan is by conducting market research. This will help in defining the target customer. Market research helps to clearly define the target group by demographic characteristics such as age, gender, economic status, lifestyle, geography, and other parameters. In addition, it helps to assess the competition and forecast industry trends. This information can come from existing sources (secondary research) or by gathering it yourself (primary research). Most businesses need both to effectively develop a successful marketing strategy.

Primary research provides information such as where customers live; how they learned about the business; and whether they are satisfied with the product selection, prices, and store appearance. Information can also be gathered about the strengths and weaknesses of the competition by shopping in and observing their businesses directly, buying and evaluating their products or services, and asking customers their impressions.

Secondary research comes from many resources that provide demographic characteristics of customers or trends in the industry. This information is available at the library or on the Internet. In addition, market research professionals are available for hire to do this research.

The following are some of the many government and private resources available to help with the market research and business plan:

- Small Business Development Centers (<http://www.sba.gov/>),
- Trade Information Center (<http://www.trade.gov/td/tic/>),
- U.S. Department of Commerce International Trade Administration (<http://www.ita.doc.gov/>), and
- World Trade Centers (<http://iserve.wtca.org/>).

Marketing on the Internet

Marketing on the Internet is a new option that is quickly becoming popular with small businesses. This method offers the chance to reach large numbers of people easily without printing and mailing costs. In addition, it provides an opportunity for customer feedback through online surveys and e-mail, and it evens the playing field between small and larger businesses.

Entering the Global Marketplace

Many small businesses are finding new markets in countries around the world. Exporting is potentially very profitable, but it takes planning and commitment. There is help available to those businesses interested in exploring this option.

One such program is available through the International Trade Development Group at the South Carolina Department of Commerce. This group assists South Carolina companies in finding new customers in overseas markets. The state understands that locating quality foreign prospects is the number one ingredient in a company's success in international trade. The available services include buyer/supplier networking, on-site sales representation, dissemination of trade leads, and coordination of trade shows and missions.

Insuring the Business

It is important for any business to purchase a number of basic types of insurance. The types of insurance listed below are some of the most commonly used and are a good starting point for evaluating the businesses' insurance needs.

- ▶ Liability
- ▶ Property
- ▶ Basic Fire
- ▶ Extended Coverage
- ▶ Theft Coverage
- ▶ Vehicle
- ▶ Product Liability
- ▶ Health
- ▶ Business Interruption
- ▶ Office and Director
- ▶ Workers' Compensation
- ▶ Home Office
- ▶ Professional and/or Malpractice

Business Incubators

Business incubators support young firms by helping them to survive and grow during the start-up period when they are most vulnerable. Incubators provide hands-on management assistance, access to financing, and exposure to business or technical support services. They also offer new firms shared office services, access to equipment, flexible leases, and expandable space—all under one roof.

An incubation program's main goal is to produce successful businesses that are financially viable and freestanding when they leave the incubator, usually in two to three years. Thirty percent of incubator clients typically graduate each year. Kryotech, one of South Carolina's success stories, incubated in the College of Engineering at the

University of South Carolina during its first year of operation and is now a successful addition to the business community.

In fact, EPSCoR, a Statewide Incubator Network (1999) developed by the U.S. Department of Commerce (DOC), is enabling Clemson University and the University of South Carolina to improve and expand business development and incubation activities for high technology ventures within South Carolina.

In addition, the South Carolina Experimental Program to Stimulate Competitive Technology (EPSCoT) project established a statewide research university-based incubator network that links physical facilities across the state through economic development entities, venture capitalists, entrepreneurs, and each other via a Virtual Entrepreneurial Development Center. The consortium of partners includes the South Carolina Technology Alliance, the Clemson University Center for Applied Technology, the University of South Carolina Technology Incubator, the South Carolina Commission on Higher Education and the South Carolina EPSCoR Program. For more information go to the following Web site: <http://www.scepscor.org/programs/doc/home.html>.

Not all businesses are good candidates for business incubation programs. Business incubators choose participants based on certain selection criteria. Some accept a mix of industries, but others concentrate on industry niches. Today, most businesses participating in incubators are developing new and innovative technologies. According to National Business Incubation Association research, incubator clients may be classified as follows:

- 43% Mixed Use
- 25% Technology
- 10% Manufacturing
- 9% Targeted**
- 6% Service
- 5% Empowerment
- 2% Other

**Targeted incubators focus on assisting start-up companies from a specific industry, such as biomedical, wood products, arts, food production, fashion, etc.

Deciding On the Legal Structure Of the Business

When organizing a new business, one of the small business owner's most important decisions is choosing the legal form of the business. This decision will have both tax and legal implications for the business and its owners.

Most small businesses start out as either a sole proprietorship or a partnership, but many eventually transition to another structure. Some of the factors that influence this decision include the owner's personal management style, capital needs, legal restrictions, the type of business operation, number of employees, and tax advantages or disadvantages. The following are some of the most common types of business structures.

Sole Proprietorship

The sole proprietorship is the simplest and least regulated business structure because it is owned by an individual who is responsible for all aspects of the business, including any debts, even in excess of the amount invested. In addition to potential personal liability for the owner, there is the possibility of dissolution of the business upon the owner's death. On the other hand, the sole proprietor has total control of the business and receives all profits.

When establishing a sole proprietorship, there are likely to be fees to obtain business name registration, a fictitious name certificate, and other necessary licenses. However, any potential attorney's fees for starting the business will be less than the other business forms because less preparation of documents is required.

To finance the sole proprietorship, the sole owner must contribute or borrow all of the capital needed to start the business. Any outside funding sources must be in the form of loans.

As a sole proprietorship, the business itself does not pay income tax. The profit or loss of the business is taxed as personal income and is included on the owner's individual tax return.

Partnership

Like the sole proprietorship, a partnership is relatively easy to form. As a legal entity that is jointly owned by two or more people, a partnership allows for additional financial resources. The two most common types of partnerships are *general* and *limited*.

A *general partnership* can be formed by an oral agreement between two or more persons. However, a legal partnership agreement drawn up by an attorney is usually recommended. As in the sole proprietorship, the partners or owners are personally responsible for all debts of the business, even those in excess of the amount invested in the business. Each partner is an "agent" for the partnership and can hire employees, borrow money, and operate the business.

A *limited partnership* is a special arrangement that allows limited partners to avoid personal liability for claims and debts against the partnership because liability is fixed at

the amount they have invested. However, limited partners do not have input in the day to day operations of the business. This type of partnership must also have at least one general partner. Because partners are responsible for any other partner's business actions, as well as their own, a written agreement is essential. Limited partnerships must be registered and must pay a franchise fee.

A partnership files an informational tax return telling the IRS how much each partner earned. The partnership does not pay tax on this income, and all profits are taxes as personal income. Each partner reports his or her share of income (or loss) on Schedule E, *Supplemental Income and Loss* and files it with Form 1040.

General Corporation

The corporation is the most complex of business structures because it acts as a legal entity that exists separately from its owners. In other words, a corporation is a business that is formed and authorized by law to act as a single person and is legally endowed with rights and responsibilities. In order to form a corporation, the business must file Articles of Incorporation with the Secretary of State in Columbia, South Carolina. Under South Carolina law, an attorney is required to sign and file the Articles of Incorporation.

The owners of a corporation are known as stockholders who invest money or other assets in the new business in return for shares of stock. Control depends on stock ownership and is exercised through regular board of directors' meetings and annual stockholders' meetings. Generally, the stockholders are at risk only for money they have invested in the stock of the corporation, except where fraud is involved. Officers of a corporation can be liable to stockholders for improper actions.

**To incorporate a business
in South Carolina, contact:**

Secretary of State

P.O. Box 11350

Columbia, SC 29211

<<http://www.scsos.com/>>

Phone: 803-734-2158

Depending on the business, a corporate structure may be advantageous because it allows capital to be raised more easily through the sale of stocks or bonds and can continue to function even without key individuals. It also enables employees to participate in various types of insurance and profit-sharing plans.

As a separate entity, the corporation files income tax returns and pays taxes. This creates "double taxation" because the profits of a corporation are taxed first as income to the corporation and then as income to the shareholder. However, all reasonable business expenses, such as salaries, are deductions against corporate income and can minimize the double tax. For example, in many small corporations, the shareholders are employees who receive all profits of the business in the form of salaries and bonuses, which are tax-deductible by the corporation as a business expense. In that situation, the corporation would have no taxable income. Not all small corporations, however, are able to pay out their income in the form of salaries and bonuses and thus must pay a corporate income tax.

If a corporation expects to have taxable income, the corporation must make periodic deposits of its estimated income taxes. If the owner is an employee of a corporation (as is almost always the case with an owner of a small business corporation), taxes and

Social Security payments must be withheld from the owner's paychecks. In addition, if a shareholder performs substantial services for the corporation, the shareholder is considered an employee for tax purposes. Corporations must also pay an annual corporate license fee, which is based on capital stock and paid-in surplus of the corporation.

Statutory Close Corporation

The statutory close corporation is most beneficial to businesses with 1 to 2 owners because it allows the corporation to do away with bylaws, a board of directors, and annual shareholder meetings, but it does require a shareholder management agreement and some other operating agreements. Basically, the statutory close corporation allows the elimination of some of the paperwork requirements of a general corporation that are burdensome to small businesses. However, since the requirements are reduced, it is important that all the remaining requirements outlined in the Articles of Incorporation be followed in order to maintain the liability protection available under the corporate form. In South Carolina, a statutory close corporation is simply a corporation whose Articles of Incorporation contain a statement that the corporation is a statutory close corporation.

S Corporation

Many entrepreneurs and small business owners take advantage of the S corporation structure because it combines a lot of the advantages of the sole proprietorship, partnership, and corporate forms of business.

The S corporation is not really a different type of corporation; it is a special tax designation applied for and granted by the IRS to corporations that have already been formed. To become an S corporation, the business first must form a general, statutory close, or professional corporation in South Carolina. Second, the business must obtain formal consent from the corporation's shareholders, which should be noted in the corporation's minutes. Finally, the company must complete Form 2553, Election by a Small Business Corporation, which should be filed with the IRS.

S corporations have the same basic advantages of the general corporation. The main difference between the two is tax liability because the S corporation does not file or pay federal taxes on profits of the corporation. Instead, the IRS allows all profits to "pass through" to the individual shareholder's personal tax return. This means that S corporations avoid the "double taxation" of general corporations. Form 1120S filed by an S corporation is an informational return telling the IRS how much each shareholder earned.

The following restrictions apply to the S corporation:

- It can only be a domestic corporation;
- It cannot have more than 75 stock shareholders;
- Only individuals can be stockholders; and
- Each stockholder must be a citizen of the United States.

Limited Liability Company

A limited liability company (LLC) is an unincorporated business association that provides its owners limited liability, flexible management, and financial alternatives. An LLC is a cross between a partnership and a corporation because it is treated as a partnership for federal income tax purposes, but it provides owners the limited liability of a corporation.

Owners of limited liability companies are called "members," which are comparable to stockholders in a corporation or limited partners in a limited partnership. The LLC provides for members to contribute money or other consideration to the company. These members share in profits and losses and can participate in its management.

The LLC is created by two documents: the Articles of Organization and an operating agreement. The Articles of Organization are similar to corporate Articles of Incorporation and must be prepared and signed by the organizers of the LLC; they must also be approved by and filed with the South Carolina Secretary of State. The LLC must have a registered office and a registered agent—the person who receives the legal documents required to be served on LLCs. The registered agent should be either an individual or a corporation. The operating agreement is the governing instrument of the LLC and must be adopted by all members.

To form an LLC in
South Carolina, contact:

Secretary of State
P.O. Box 11350
Columbia, SC 29211

<<http://www.scsos.com/>>
Phone: 803-734-2158

A single-member LLC is normally taxed as a sole proprietorship. An LLC that has two or more members, unless the owners choose to have the business taxed as a corporation, will be taxed as a partnership and will file an informational return that tells the IRS how much each member earned. The LLC does not pay taxes on its income, but, as with a partnership, each member reports his or her share of income (or loss) on Schedule E, *Supplemental Income and Loss*, which is filed with Form 1040. LLC's file the same type of return (corporate or partnership) with South Carolina as they file with the IRS.

For detailed information on business filings and the fees associated with each type of business structure, please visit the South Carolina Secretary of State's Web site at <<http://www.scsos.com/>>.

	<i>Sole Proprietorship</i>	<i>General Partnership</i>	<i>Limited Liability Company</i>	<i>S-Corporation</i>	<i>General Corporation</i>	<i>Statutory Close Corporation</i>
Characteristics						
Formation	No permission required	Agreement of parties involved	File with state	File with state	File with state	File with state
Duration	Dependent on sole proprietor	Dissolved by death of partner or bankruptcy	Typically limited to a fixed amount of time	Ongoing	Ongoing	Ongoing
Liability	Unlimited	Unlimited	Members are not liable for the debts of the LLC	Shareholders are not personally liable for the debts of the corporation	Shareholders are not personally liable for the debts of the corporation	Shareholders are typically not personally liable for the debts of the corporation
Requirements	Few legal requirements	Few legal requirements	Some formal requirements	Formal board of directors, officers, annual meetings, and annual reporting	Formal board of directors, officers, annual meeting, and annual reporting	Like a corporation, but no bylaws, board of directors, or annual shareholder meetings
Management	Full control	Shared by partners	Based on operating agreement	Managed by elected board of directors	Managed by elected board of directors	Requires a shareholder management agreement and some other operating agreements
Taxation	Not a taxable entity. Sole proprietor pays all taxes	Each partner pays tax on his/her share of the income and can deduct losses against other sources of income	Typically no tax at the entity level. Income/loss is passed through to members of the LLC	No tax at entity level. Income/Loss is passed through to the shareholders	Corporation is a taxable entity	Corporation is a taxable entity
Double Taxation	No	No	No	No	Yes	Yes
Cost of Creation	None	None	Filing fee with the state	Filing fee with the state	Filing fee with the state	Filing fee with the state
Raising Capital	Difficult, unless individual puts in money	Contributions from partners or an addition of more partners	Possible to sell interests. Subject to operating agreement restrictions	Sell shares of stock to raise capital	Sell shares of stock to raise capital	Sell shares of stock to raise capital

Understanding Tax Liability

It is important for business owners to understand the main categories of business taxes:

- Income tax,
- Employment-related taxes,
- Self-employment tax,
- Sales and use tax, and
- Property tax.

Income Taxes

Income taxes are levied by the federal and state governments on earnings of any business. Therefore, each business must file an income tax return with both agencies.

Federal Income Tax

Income tax liability will depend on the legal structure of the business.

- *Sole Proprietorship*: The profit or loss of the business is taxed as personal income and is included on the owner's individual tax return.
- *Partnership*: Profits are taxed as personal income, and the partners are personally liable for debts and taxes. A partnership files an informational tax return telling the IRS how much each partner earned. The partnership does not pay taxes on this income; each partner reports his or her share of income (or loss) on Schedule E, Supplemental Income and Loss and files it with Form 1040.
- *Corporation (General and Statutory Close)*: Because corporations are considered separate entities, they must file income tax returns and pay taxes.
- *S corporation*: The S corporation does not file or pay federal taxes on profits of the corporation. Instead, the IRS allows all profits to "pass through" to the individual shareholder's personal tax return. Form 1120S filed by an S corporation is an informational return telling the IRS how much each shareholder earned.
- *Limited Liability Company*: A single-member LLC is normally taxed as a sole proprietorship. An LLC that has two or more members, unless the owners choose to have the business taxed as a corporation, will be taxed as a partnership and will file an informational return that tells the IRS how much each member earned. The LLC does not pay tax on its income but, as with a partnership, each member reports his or her share of income (or loss) on Schedule E, Supplemental Income and Loss, which is filed with Form 1040.

For information on when to file returns and make tax payments, see IRS Publication 509, *Tax Calendars*, which is updated annually. The IRS also has free publications that can answer many tax questions. A partial listing of free IRS publications for business owners includes:

- Circular E: Employer's Tax Guide (#15)
- Tax Guide for Small Business (#334)
- Tax Withholding & Estimated Tax (#505)
- Tax Calendar (#509)
- Self-Employment Taxes (#533)
- Depreciation (#534)
- Business Expenses (#535)
- Accounting Periods and Methods (#538)
- Starting a Business and Keeping Records (#583)
- Business Use of Your Home (#587)
- Business Use of a Car (#917)
- Business Reporting (#937)

For more information, call the IRS main number at 1-800-829-3676 or visit the IRS Web site at <http://www.irs.gov/>.

South Carolina Income Tax

For South Carolina residents, federal taxable income is the starting point in determining how much state income tax is owed. South Carolina's individual income tax rate ranges from 2.5 percent up to 7 percent, and the corporate income tax rate is 5 percent. Please note that businesses may be required to file estimated tax returns and pay estimated taxes on a quarterly basis.

Employment-Related Taxes

Business owners are required by law to withhold the following from wages paid to employees: federal income taxes, state income taxes, and FICA (Social Security). Because everyone must pay Social Security Tax, those who are self-employed make their Social Security contribution through the self-employment tax.

Federal Employment Taxes

- *Federal income tax withholding (FIT)*: Income taxes must be withheld from employees' paychecks based on the following:

- ▶ The employee's filing status (single, married, or married but withholding at the higher single rate);
- ▶ The number of dependents (withholding allowances) declared by the employee; and
- ▶ The size of the employee's salary.

Federal Form W-4, the *Withholding Exemption Certificate*, should be signed by each employee and kept on file to determine the amount of tax to withhold.

- **Federal Social Security and Medicare taxes (FICA):** The employee's share of the Social Security tax and Medicare tax must be withheld from the employee's pay. The amounts to be withheld are listed in the most current edition of Circular E, *Employer's Tax Guide*, published by the IRS. In addition, an owner who is considered an employee of a corporation must complete and submit Form W-4 to the corporation like any other employee, and the corporation must withhold income taxes and a share of Social Security and Medicare taxes from the paycheck.

**For more information on
Social Security Taxes,
contact:**

**Social Security Administration
Strom Thurmond Building
2nd Floor
1835 Assembly Street
Columbia, SC 29201
Phone: 803-929-7635
800-772-1213**

- **Federal unemployment tax (FUTA):** As an employer, the business must report and pay the federal unemployment tax (FUTA); it is not withheld from the employee's pay. The FUTA rate through 2007 is 6.2 percent of the first \$7,000 of the employee's wages for the year. Employers are given a credit for participating in state unemployment programs. The credit reduces the FUTA rate to 0.8 percent for most employers, which translates into \$56 for an employee earning \$7,000 or more per year. Use Form 940 or 940EZ to report federal unemployment tax. Sole proprietorships and partnerships do not pay the FUTA on the owners' compensation.
- **Home-businesses:** For tax purposes, if the home office is claimed as a business expense, that part of the home must be used "exclusively and on a regular basis."

South Carolina Employment Taxes

- **State income tax withholding:** Businesses with at least one employee earning wages at the rate of \$800 per year in South Carolina need to register as a withholding agent for state income tax. Business owners who form a corporation are considered an employee of that corporation and must withhold income tax from their own income. Businesses must make a return or deposit to the S.C. Department of Revenue of any taxes that have been withheld for state purposes at the same time they make a return or deposit with the IRS. All South Carolina withholding agents are required to withhold tax from employee wages at the same time employees are paid. South Carolina has adopted the use of the federal form W-4, therefore, it is not required that an employee file a separate form for state purposes. In addition, federal Form W-2, *Withholding Tax Statement*, must be furnished to each employee before January 31 for the previous year.

- *South Carolina's unemployment insurance:* The rate is 2.64 percent on the first \$7,000 of earned income and is in effect for the first two years a company operates in South Carolina. After two years, the company will be re-rated each year based on experience, with a resulting rate between 0.54 percent and 5.4 percent.
- *Workers' Compensation:* Insurance must be carried to provide protection to those injured in on-the-job accidents. Employers are required to maintain insurance sufficient for the payment of compensation, or they shall furnish the Workers' Compensation Commission satisfactory proof of their ability to pay the compensation in the amount and manner due an injured employee. A private insurance council sets the base rate, and South Carolina companies select agencies of their choice.

For more information on unemployment insurance:

SC Employment Security
Commission
P.O. Box 995
Columbia, SC 29202
<<http://www.sces.org/>>
Phone: 803-737-2499

It is important to note that the business must periodically deposit the withheld income tax and the employer's and employee's shares of Social Security and Medicare taxes at an authorized financial institution. The IRS sends coupons to use in making these deposits and provides instructions on how often the funds are required to be deposited.

Self-Employment Tax

The self-employment tax applies to income received from actively working in your own business, but not as an employee of that business. A sole proprietor or a partner must pay the federal self-employment tax in addition to regular income tax. The tax is equal to the employer's and employee's portion of the Social Security and Medicare taxes that you would pay on your compensation if you received it as an employee. However, the full self-employment tax may not be owed on all of your business earnings.

If income from another job is subject to withholding, common for people just getting started in business, the income from the other job will reduce the tax base for the self-employment tax.

Sales and Use Taxes

In South Carolina, a 5 percent sales and use tax is assessed on the retail purchase; retail sale; and rental, storage, use or consumption of tangible personal property or certain services. Some counties also assess a local option sales tax of 1 percent. A sales tax number is required for each business before opening.

Property Tax

Property tax is administered and collected by local governments with assistance from the South Carolina Department of Revenue. Real and personal property are subject to the tax, which is paid by individuals, corporations, and partnerships owning property in the state.

Unlike some states, South Carolina exempts all inventories (raw materials, work-in-progress, and finished goods), all intangible property, and pollution control equipment from property taxation. Three factors are used to determine property taxes:

- **Depreciation:** Personal property (machinery, equipment, etc.) is allowed to depreciate annually (once it is placed in service) at a rate established by state law.
- **Assessment:** Real and personal property are assessed at a ratio unique to the type of property. The assessment ratio is applied to the fair market value of the property to determine the assessed value of the property.
- **Millage rate:** The local millage rate is applied to the assessed value of real and personal property. A mill is equal to \$0.001 and is site specific.

For more information on tax liability in South Carolina:

South Carolina Department of Revenue
Post Office Box 125
Columbia, South Carolina 29214
<<http://www.sctax.org/>>.

Tax Incentives

New businesses may qualify for certain tax incentives in South Carolina. The type of business, location, total capital investment, and jobs created are all factors that determine the eligibility and amount of these tax incentives. Refer to the South Carolina Department of Revenue's *Business Tax Guide* at <<http://www.sctax.org/>> for information about applicable incentives.

Registering and Licensing the Business

Regulations concerning new businesses vary by location and business type. To determine which regulations are applicable, begin with the city and/or county government and then contact the state and federal agencies that apply to the business. Not all businesses require the same licenses. The following are the major licenses and registration types:

- **Business license:** Business licenses are issued by the city or county in which the business is located and can be obtained through the city/county hall. This also applies to businesses conducting business within the city or county limits. The fee for a business license is based upon the projected sales and category of business.

Before opening a business, South Carolina law requires that it must be registered with the South Carolina Secretary of State's Office. Most businesses must also register with the South Carolina Department of Revenue and Taxation through Form SCTC-111. Some small, sole proprietorship businesses that are service-related and do not sell goods and products to customers,

File Form SCTS-111 with the South Carolina Department of Revenue and Taxation to:

- Register the business,
- Obtain a withholding number, and
- Apply for a retail license.

South Carolina Department of Revenue and Taxation
Post Office Box 125
Columbia, South Carolina 29214
<http://www.sctax.org>

may not have to be registered with the Department of Revenue; however, any business with employees will be required to register to withhold income tax from employee wages.

- *Withholding number:* A withholding agent must apply for a South Carolina withholding number by completing Form SCTC-111. If the form of business changes, such as from a partnership to a corporation, a new withholding number must be obtained.
- *Retail license:* A retail license must be obtained for any business that will sell a product to the end user. Usually service firms are not required to obtain a retail license unless they also sell products. Retail licenses are available by submitting Form SCTC-111 to the Department of Revenue. Businesses with more than one business outlet must obtain a separate retail license for each location.
- *Employment Security Commission:* All new employers, regardless of the number of employees, are required to file Form UCE-151, the *Employer Status Report*, with the South Carolina Employment Security Commission to report and pay unemployment insurance for any employees.

(<http://www.sces.org/ui/employer/tax/Registration/EmployerStatusReport.htm>).

- *Workers' Compensation Commission:* A business employing four or more full- or part-time employees is required to register with the Workers' Compensation Commission. Workers' compensation insurance must be carried to provide protection to those injured in on the job accidents. Employers are required to maintain insurance sufficient for the payment of compensation, or they must furnish the Workers' Compensation Commission with satisfactory proof of their ability to pay the compensation in the amount and manner due an injured employee.

For more information on workers' compensation laws, contact:

SC Workers' Compensation
Commission
P.O. Box 1715
Columbia, SC 29202
<<http://www.wcc.state.sc.us/>>
Phone: 803-737-5700

- *Certificate of occupancy:* This license is issued by both city and county governments and enables them to enforce zoning laws and make sure that the building meets all building codes. Contact the local city or county government to determine if a certificate of occupancy is required.

- *Federal identification number (federal tax number):* If the business will be a sole proprietorship with no employees, the owner's Social Security number may be used for this purpose.

To receive a federal employer identification number, contact:

Internal Revenue Service
1835 Assembly Street
Columbia, SC 29201
<<http://www.irs.ustreas.gov/>>

- *Environmental Issues:* Responsibility for the environmental impacts of the business is an important ethical consideration. Environmental ethics and protections are increasingly reinforced with government regulations and penalties, so noncompliance can become a serious

issue. Solid waste, hazardous waste, and air quality control are some of the areas with which business owners need to be familiar. The Small Business Assistance Program at the South Carolina Department of Health and Environmental Control offers new businesses help in determining which regulations may apply to the business. Call their Hotline at 1-800-819-9001 for more information.

- *Fictitious business name*: Businesses that use a name other than the owner's must register the fictitious name with the county as required by the Trade Name Registration Act. The Fictitious Business Name Statement should be filed with the County Clerk and then published in a newspaper of general circulation once a week for four successive weeks in the county where the principal place of business is located. An affidavit of publication must be filed with the County Clerk within 30 days after publication. This does not apply to corporations doing business under their corporate name or to those practicing any profession under a partnership name. If the business name includes the owner's last name, there may be no need to register.
- *Trademarks, patents, and copyrights*: Trademarks and service marks may be registered in a state for a term of ten years. For federal registration of a trademark, contact the U.S. Department of Commerce's Trademark Office. To register a patent, contact the Assistant Commissioner for Trademarks & Patent Applications. You may also visit their Web site at <<http://www.uspto.gov/>>.
- *Home-based businesses*: Before starting the business, make sure that the location is permitted for a home business. Some housing associations, lease agreements, or zoning restrictions may prohibit home businesses or have rules about signs, sales, deliveries, or other practices. Depending on the type of business, a home occupation permit, as well as the usual licenses and permits, may be required.

The following is a list of industries that may require special permits to operate in South Carolina:

- | | |
|---------------------------------------|-----------------------------------|
| ▶ Abrasive blasting | ▶ Autobody shops |
| ▶ Concrete batch plants | ▶ Cotton gins |
| ▶ Crematories | ▶ Drycleaners |
| ▶ Fiberglass product manufacturing | ▶ Foundries |
| ▶ Furniture manufacturing | ▶ Grain elevators, silos |
| ▶ Incinerators | ▶ Industrial furnaces/ovens |
| ▶ Marble manufacturing | ▶ Organic and inorganic chemicals |
| ▶ Paint manufacturers and applicators | ▶ Plating operations |
| ▶ Printing shops/graphic arts | ▶ Rubber and tire manufacturers |

- ▶ Sand and gravel operations
- ▶ Solvent cleaning
- ▶ Soil remediation
- ▶ Surface coating

Because the above list is just an example of some of the businesses that may require special permits, please contact the Small Business Assistance Program at 1-800-819-9001 (898-3900 in Columbia) for more specific information.

In addition to the required licenses, there are a number of optional certifications that can help some businesses. For example, a business can be certified as a small business, minority-owned, woman-owned, or disabled veteran-owned enterprise and may be eligible for certain benefits or incentives.

There may be other licenses required for the business; a lawyer or small business adviser can be instrumental in ensuring that the business is registered with all the proper government agencies. Contact the Small Business Development Center of South Carolina at or another local economic development organization for help with business regulations.

Becoming An Employer

As an employer, it is important to be aware of taxes and legal requirements associated with hiring employees. Employers have a legal and ethical obligation to provide a safe and equitable workplace for employees. Some programs to be aware of include:

- Americans with Disabilities Act (ADA),
- Drug-Free Workplace,
- Affirmative Action, and
- Wellness Programs.

South Carolina OSHA

Under the South Carolina Occupational Safety and Health Act (S.C. OSHA), employers must comply with safety and health standards adopted by the South Carolina Department of Labor, Licensing, and Regulation (LLR). Although South Carolina has its own state OSHA program, it must still adopt standards that are identical to or “at least as effective as” federal OSHA standards. To ensure compliance with the rules, LLR safety and health inspectors conduct periodic inspections. S.C. OSHA citations

For information on federal labor laws, contact:

**U.S. Department of Labor
Wage and Hour Division
1835 Assembly Street
Room 1072
Columbia, SC 29201
Phone: 803-765-5981**

For information on Occupational Safety and Health (OSHA), labor management services, and employment standards, contact:

**SC Department of Labor,
Licensing, and Regulation
P.O. Box 11329
Columbia, SC 29211-1329
<<http://www.llr.state.sc.us/>>
Phone: 803-734-9606 (OSHA)
803-734-9600 (general information)**

can carry monetary penalties of up to \$70,000 per violation.

All private and public sector employers in South Carolina are covered by the law with the exception of maritime, railroad, mining, and federal operations. The OSHA standards specify how a workplace safety and health law is to be carried out or obeyed. Employers with 11 or more employees must record on-the-job injuries and illnesses on the OSHA 200 form.

In addition, LLR requires the display of two posters. One covers the state payment of wages, child labor, and right-to-work laws. The other is the state OSHA poster, which advises employees that employers must provide them a safe and healthy workplace. All employers are required to post the S.C. OSHA poster at the place of business. Both are free and are available by contacting:

LLR's Office of Public Information
PO Box 11329
Columbia, SC 29211-1329

LLR also distributes two posters required by the SC Employment Security Commission and one required by the SC Workers' Compensation Commission.