

FORMS OF BUSINESS IN NOVA SCOTIA

ORIGINALLY WRITTEN IN OCTOBER 2022 BY JOSHUA BOWERS WHILE STUDYING AT NOVA SCOTIA COMMUNITY COLLEGE IN THE BUSINESS ADMINISTRATION PROGRAM (CLASS OF 2024)



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Nova Scotia has many different forms of business to consider when starting your entrepreneurial journey. In this memo we will discuss a few of the different options a business owner might be interested in when it comes to incorporating their business and consider their pros and cons. Not every form of business will be ideal for everyone and some may be inaccessible to newcomers, but it is important to gain at least an overview of the wide range of options before making any decisions. The primary forms of business discussed in this memo are sole proprietorships, partnerships, companies, co-ops, and societies. Some of these forms of business have alternative versions as well which will also be discussed to some extent. For young professionals looking to start a business I would recommend focusing on the first two types of businesses while reading this memo, sole proprietorships and partnerships, as these are the easiest to start with the least amount of upfront cost for reasons that will be explained in those sections.

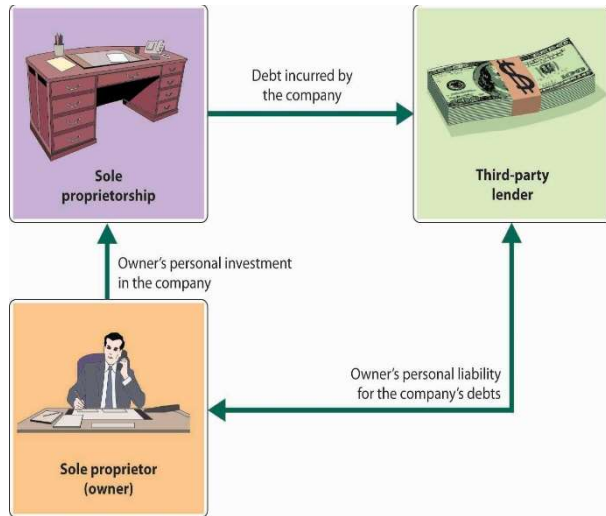
Sole Proprietorship: a sole proprietorship is a form of business in which the owner assumes all liability for the business and is the only (sole) employee. The possible benefit of this form of business is that there is virtually no overhead to setup the business especially if the owner operates under their own legal name (not a business name) and thus does not need to register with the Joint



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Stock Companies of Nova Scotia (ROJSC, 2022). If the owner decides to operate under a business name but wants to remain a sole proprietorship then they will need to register with the ROJSC and maintain their listing annually. Furthermore, since the owner is essentially the entire business, they can keep all the revenue for themselves without paying any special business taxes (NSCC Fundamentals of Business, 2021). This means that all profits are taxed as income on their personal tax returns. This form of business is extremely straightforward and great for people such as hobbyists who might want to turn their hobby into extra income without having to register a business or file separately for their business.

The major downside to this form of business is that the owner assumes all liability. This means that any losses, legal troubles, or other negative actions will affect the owner directly. Long-term this could lead to the owner's personal financial situation being permanently devastated by a major business failure since there is no cushion between them and the business. In the case of the hobbyist, if they were a woodcarver and wanted to try and sell more during the holiday season, they might take a loan to purchase extra wood. Then, if their sales don't pan out like they thought, and they can't pay back the loan it will affect their person credit score and their personal assets might be used as collateral. This could mean that they go deeply into debt and lose their collateral when they default on their loan obligations. It's important to keep in mind these factors when choosing whether to remain a sole proprietorship or expand into a larger separate entity such as a corporation.



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Partnership: on a simplistic level, a partnership is like if two or more people were part of a sole proprietorship together. What that means is that all the members of a partnership share the liabilities and revenues from their business. Most of the details of a partnership business are the same as a sole proprietorship including that they can either register under a business name or they can remain unregistered if they only use their full personal names (ROJSC, 2022). This makes a partnership similarly beneficial to people just looking to work on a smaller project without having to get into all the details of a corporation. That being said, a partnership typically benefits from having something known as a Partnership Agreement to help mediate decisions that might affect the business and its owners. Establishing an agreement which outlines the responsibilities of each



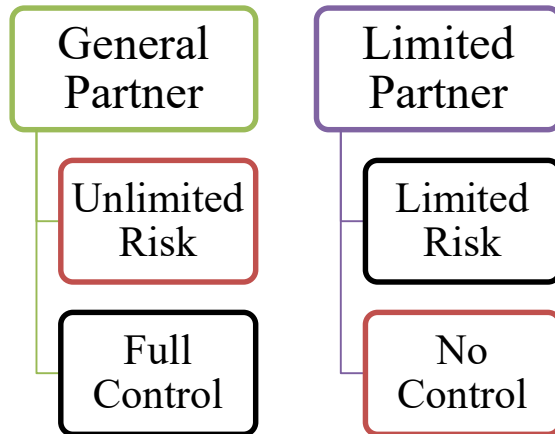
owner and what they can and cannot do helps to mitigate damage that could be caused by an unresolved dispute between the partners.

Regarding the liabilities of the owners it is also important to note that not only do partners take accountability for their own portion of the business, but they are responsible for the other partners as well. This means that if the partnership has any sort of legal issue or other disaster it will affect all partners even if it was the direct fault of just one of them. Further to that it means that every partner's personal assets could be taken as a result of the business defaulting on loans, or during some sort of legal settlement. Since a partnership has the same unlimited liability as a sole proprietorship the risks involved with any sort of loan or project are not just business risks but personal risks too. Consider the woodcarver from earlier: if they entered a partnership with a woodcutter to grow their business, and somehow the woodcutter accidentally felled a tree on top of someone, both of the partners would be liable. Even though the woodcutter was at fault, since they were operating as part of the business and both of them are the business owners, they are both responsible for damages.

However, there are additional benefits from joining a partnership in that the more people who are part of the business the more funding that will likely be available to the business. This means that

when it comes time to take out a loan or to generally make some sort of investment into the business it will be much easier than if someone tried to do it by themselves. Since the liability is split among more people banks will see it as less risky for them to give out a loan or even a larger than usual one. Again, this means that your personal assets are at risk, but it also means you have more people to help mitigate the risks at the same time. Not only that but depending on your profession or business model there are alternative forms of partnerships which may prove beneficial to you.

Limited Partnership: a limited partnership is generally the same as a regular partnership except that only one person has unlimited liability for the business and all other partners have limited liability. What this means is that the limited liability partners can invest money into the partnership with the only major risk being that they might lose that investment. Limited partners don't run the business directly but aren't risking their personal assets beyond the investments they choose to make (NSCC Fundamentals of Business, 2021). Meanwhile the general partner who runs the business and has unlimited liability is still at risk for their personal assets just like in a regular partnership or sole proprietorship (ROJSC, 2022).



This can be beneficial for those looking to invest in a small business without incurring a lot of risk or a business owner who wants to generate funding without having to share control of their business or develop a complicated partnership agreement between multiple owners. In the case of our woodcarver example this would mean that he could get partners to invest in more wood for him to carve and better tools to use without needing to let them decide what he carves. When revenue is generated everyone gets a cut of the profits based on the amount they invested or agreed upon.

Limited Liability Partnership (LLP): this is a partnership model that is only available to lawyers and chartered professional accountants (ROJSC, 2022). This form of business is designed to help protect partners from the consequences of their other partners negligent actions. Fundamentally, it is the same as a partnership. But not only is it only available to the professions mentioned, the partners must also have a minimum level of liability insurance before they can register as an LLP (Justice Department, 2002). Due to the nature of accountants' and lawyers' roles in the business world it would make sense to limit the liability of partners to just their own actions for many things. If a partnership of accountants is hired to work for another business, and one of the partners helps the business to commit fraud without the others knowing, then it won't be the responsibility of the other partners to incur damages or other liabilities under the LLP model. The limited liability of this model only extends to the negligence side of things in the partnership and all partners still share the risks related to the business just like in any other partnership or sole proprietorship.



Co-operative: a co-op is a type of business where the owners of the business are usually also the customers of the business. This form of business takes aspects of partnerships and aspects of regular businesses. The intent of the business is to lower the costs of operating for its members whether they're customers or producers (NSCC Fundamentals of Business, 2021). By pooling their resources together through investments and membership

fees members can take advantage of bulk ordering, diverse thinking, and profit sharing. Or, a co-op can be incorporated as a non-profit so that it may keep the profits and either reinvest them or maintain a surplus for any downturns (ROJSC, 2022). For example, if there were a group of woodcarvers in Nova Scotia who wanted to save on materials and equipment upgrades, they might form a co-operative to help negotiate bulk orders of wood or knives to reduce costs. Each woodcarver would pay a membership fee to help raise funds and they would work together to market and sell their carvings. By pooling their collective resources, they reduce their individual burdens and increase profit margins. Furthermore, the only additional risk is whatever each member invests into the co-op such as the membership fee.



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Company: in Nova Scotia there are three different types of companies that can be created if an applicant meets the requirements. In general, though, a company is an entity that exists separately from the person or people that own it (NSCC Fundamentals of Business, 2021). Although this entity is not a person, a company does share all the same privileges and rights of a person such as asset ownership, debt obligations, and signing contracts (ROJSC, 2022). Companies pay their own income tax separate from the tax owners/shareholders pay on their income. This means that theoretically if you were the owner of a business and didn't take a salary and didn't received dividends you wouldn't pay any income tax related to that business since it is a separate entity from yourself. This also means that if you do earn income from the company either through salary or dividends you are going to pay income tax on your personal tax return. So, the business will be taxed on profits it earns and from those profits the shareholders could also be taxed when they receive dividends. This differs from a sole proprietor where in that case the business tax and personal income tax are often one in the same and taxed on the same return.



Additionally, the company can be owned by many people and anyone who owns a share of the company is technically an owner known as a shareholder. They can be the people who run the business or just investors who receive benefits for owning a part of the company. This is beneficial for businesses as it can either help raise capital through selling shares to interested investors or by reducing the individual risk of the business owners by splitting ownership among many people. And, since the company is its own separate entity from the owners their personal assets are not at risk beyond what they choose to invest directly into the company except in very specific circumstances. The different types of companies in Nova Scotia have different nuances to their operation.



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Limited Company: a limited company is the most general form of company and lines up with the general summary given above. People buy into a company through their purchase of shares which entitles them to dividends of the company's profits (ROJSC, 2022). The only risk for these shareholders is that they may lose the amount of money they invested by buying the shares, hence it is 'limited'. Since this type of company is owned by shareholders and thus exists separately from any single person (usually), that means the company will not cease to exist upon the death of any owner. This means that a company can be passed down through generations of owners and continue to operate or can be sold to another owner by selling the shares for that company. By incorporating a business into a limited company, it can become a long-term investment for multiple people.

In the woodcarver example, the woodcarver could establish a limited company and sell shares to raise capital to try and expand his operations. He could use the money from his company to buy a new workspace and hire other woodcarvers to help him meet demand. Then, if anything goes wrong with the business such as the company is unable to meet debt obligations, it won't affect the woodcarver and shareholders personally beyond what they already invested. This reduces a lot of the risk and burden for the business owners when trying to grow their business and gives them access to more options in terms of financing and capital.



Company Limited by Guarantee: this type of limited company is mostly the same as a regular company but is usually used by non-profits, clubs, and other charitable type organisations. Instead of ownership only being through investors who purchase shares, ownership is typically established by guarantors who pledge money as, essentially, collateral toward the business (Tyagi, 2022). Though, businesses using this form of company can still issue regular shares if they wish (Articles of Incorporation Nova Scotia, n.d.). With this setup, guarantors do not receive profit in the form of dividends and are limited to only losing their pledged capital. This is why this form is typically used by non-profits since it is designed around not generating profits for the owners from the ground up while also limiting the risk to potential supporters/owners. The business otherwise operates as a regular business with all the same powers and capabilities of a limited company.



Unlimited Company: this type of company is very complicated and follows some older ideas of business operation. Nova Scotia is one of the few places in North America that still allows companies to be incorporated this way. The main feature of this type of company is that while the company is operating regularly it has, generally, limited liability for its shareholders (Reagh & Festeryga, 2008). However, if the company is liquidated or goes bankrupt the shareholders can be personally liable for any obligations of the company whether a debt to be paid or some other responsibility. This unlimited liability also extends for one year after someone is no longer a shareholder whether due to selling their share(s) or due to the company going under. Typically, this type of company is used for international trades and deals where companies or owners from multiple nations wish to enter a partnership. The unlimited company structure is comparable to that of a partnership with some of the tax benefits of one, while also having some benefits of shareholding (Reagh & Festeryga, 2008). This type of company is not common for the average business owner and takes a lot of knowledge and time to properly establish. This is something that would definitely require more research for the interested entrepreneur.



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Society: this is a structure dedicated to purely non-profit goals whether charitable, social, or otherwise benevolent. Members of the society can pay into the business through membership fees, but any accumulated value cannot be paid out to the members. Since most members are typically volunteers there is only the expectation that the society be used to help further the goal established in the associations founding ordinance. Fundamentally, a society is similar to a limited liability company in that the members are not personally responsible for the obligations of the business beyond what they willingly put into it through things like membership fees. However, the directors of a society might still be liable for certain debts and obligations in some cases. As well, a society cannot be used to engage in any trade, industry or business practices and must solely operate as a means to further the non-profit goal of the organisation (ROJSC, 2022). That being said, a society can still use most of the powers of a regular corporation such as owning land, constructing new properties, making purchases, and entering contracts (Societies Act, 1998). The benefits to this form of business are that members may contribute to a common goal without putting all their personal assets at risk. As well since typical for-profit business practises are prohibited it encourages altruistic behaviours from the directors and members alike. The fees associated with running a society are lower as well due to a lower incorporation cost and the fact that membership fees are determined by the members (ROJSC, 2022). And there is no obligation to generate profits or incur expenses as most of the work done by a society is either volunteer work or otherwise non-profit.

Hopefully this overview provided some insight into the various structures of business that can be incorporated in Nova Scotia. It is important to weigh the costs and benefits of each different type of business before moving forward with incorporation as this can determine not only the fate of the business but in many cases the fate of your own personal assets and financial future. Each type of incorporated business provides a unique benefit for businesses of all different sizes, but they also bring with them their own downsides. For many young entrepreneurs it may even be more beneficial to stick with an unregistered sole proprietorship if they operate purely as themselves as this is certainly the easiest and cheapest method of doing business. Then as their business needs grow and they take on bigger risks they can consider the other options available which will help reduce those risks. Ideally, with this fundamental basis it will be a little easier to make that choice when the time comes.

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