When Do I Need a Business Lawyer for My Small Business?

Among the myriad worries for entrepreneurs who are starting or are already running a small business is the question of whether they need a business lawyer. Attorneys charge high hourly rates and many small businesses don’t have much, if any, extra capital with which to pay lawyers. As a result, most small business owners only hire an attorney experienced with business matters when confronted with a serious legal problem (e.g., you’re sued by a customer).

Business lawyers are simply professionals who have experience with and knowledge of issues surrounding the starting and running of a business. They are typically generalists who have a working knowledge of a wide range of issues, from copyright and trademark to tax and employment law, although larger law firms employ attorneys who specialize in particular areas.

While you certainly don’t need an attorney for every step of running your business, as the saying goes, an ounce of prevention is worth a pound of the cure. This article will cover when you can cover legal issues on your own or with minimal attorney assistance and when you will definitely need a business lawyer.

Issues You Can Handle on Your Own

There are certain matters that are fairly straightforward and/or not unduly difficult to learn and therefore do not require the services of an attorney who charges at least $200 per hour. There are enough expenses associated with running a business, why not save yourself a load of money and do it yourself if you can?

The following is a list of some tasks that business owners should consider taking on themselves (with the aid of self-help resources, online and in print):

- Writing a business plan
- Researching and picking a name for your business (previously trademarked business names can be researched online)
- Reserving a domain name for your website
- Creating a legal partnership agreement, limited liability company (LLC) operating agreement, or shareholder’s agreement
- Applying for an employer identification number (EIN), which you will need for employee tax purposes
- Applying for any licenses and permits the business requires
- Interviewing and hiring employees (there are federal and state antidiscrimination laws which regulate the hiring of employees)
- submitting necessary IRS forms
- documenting LLC meetings
- hiring independent contractors and contracting with vendors
- creating contracts for use with customers or clients
- creating a buy-sell agreement with partners
- updating any partnership, LLC, or shareholder’s agreements under which you are currently operating
- handling audits initiated by the IRS. Note that there are three types of IRS audits: correspondence, field, and in-office. Correspondence audits can generally be handled by the taxpayer alone. For field and in-office audits, businesses and individuals would be well-served to retain the services of a tax attorney to assist in the audit.

The above is not an exhaustive list of legal tasks which small business owners can do on their own. It should be stated that if your business is well-funded or you feel that you need the assistance of an attorney, you can always retain a lawyer.
to help you with everything listed above. Doing them on your own is cost-effective, but if you need peace of mind or a topic is too difficult for you to handle by yourself, an attorney can always help.

**Issues Where You Will Need a Business Lawyer**

Most of the issues outlined above can be handled by any intelligent business owner (if you can run a business, you can certainly fill out IRS forms or fill in boilerplate business forms). There are times, however, when a business faces issues that are too complex, too time consuming, or fraught with liability issues. At that point, the wisest move is to retain a business lawyer.

A few examples include:

- former, current, or prospective employees suing on the grounds of discrimination in hiring, firing, or hostile work environment
- local, state, or federal government entities filing complaints or investigating your business for violation of any laws.
- you want to make a "special allocation" of profits and losses or you want to contribute appreciated property to your partnership or LLC agreement
- an environmental issue arises and your business is involved (even if your business didn’t cause the environmental problem, you may be penalized)
- negotiating for the sale or your company or for the acquisition of another company or its assets

**An Ounce of Prevention**

While you certainly need to retain an attorney for the serious issues above, your emphasis should be placed on preventing such occurrences in the first place. Prevention does not necessarily involve hiring an attorney, though consulting with one wouldn’t hurt. By the time you or your business is sued, the preventable damage has been done and the only question that remains is how much you’ll be paying in attorney’s fees, court fees, and damages.

For example, by the time a prospective employee files a lawsuit claiming gender discrimination based in part upon questions posed at the job interview, all you can do is hire an attorney to defend the lawsuit. If, on the other hand, you had done your own research on anti-discrimination laws, or you had consulted an attorney beforehand, you would have known not to inquire as to whether the applicant was pregnant or planned on becoming pregnant. The small effort at the beginning of the process would save you an enormous headache later.

To prevent unnecessary attorney costs at the inception of your business as well as tremendous costs after a lawsuit has been filed, you might consider a consultation arrangement with an attorney. Such an arrangement would entail you doing most of the legwork of research and the attorney providing legal review or guidance.

For example, you might use self help and online sources to create a contract with a vendor and ask an attorney to simply review and offer suggestions. Or from the previous example, you might research types of questions to ask during an interview and then send the list to an attorney for his or her approval. This way, you prevent the potential headache later and the cost to you is minimal because you’ve already done most of the work and the attorney simply reviews the document.
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