



Excerpted from
FastTrac® TechVenture™



TAKE CHARGE OF YOUR BUSINESS®

A program of the Kauffman Foundation

Governmental Regulations

It is essential to comply with all federal, state, and local regulations and to obtain all required governmental licenses or permits of any kind before beginning operations. Most of these requirements were created to ensure that workers, sales, and property are accounted for on the various tax rolls, such as income tax, Social Security, workers' compensation, unemployment, sales tax, and personal property (inventory) tax. Other requirements were established to prevent people from doing dangerous or undesirable things.



Federal Government

Unless your enterprise plans to make or sell alcohol, firearms, explosives, pharmaceutical drugs, nuclear devices, or other controlled substances, your main concern at the federal level is with the Internal Revenue Service (IRS).

The IRS wants to know where a business is and what it does. Thus, you most likely must file form SS-4 with the IRS to register your business. If a sole proprietor has no employees, an SS-4 form may not be required. When you file the form, you will receive an employer's kit containing information about the types of taxes owed, when to pay them, where to pay them, and how to compute the amounts due.

You will also receive a unique Employer's Identification Number (EIN) (sole proprietors use their Social Security number) to identify your business. All communications with governmental agencies must include this EIN. The EIN is also needed to open business bank accounts and brokerage accounts and to deal with others who report your business's actions to any governmental agency. The government identifies your venture by its EIN, not by name.

If your business has employees, you must withhold portions of each employee's earnings and contribute your share as well for payroll taxes. These funds are deposited to special accounts at designated banking facilities for the federal government. The regulations regarding withheld wages are very strict and must be complied with. Failure to make the required deposits in a timely manner usually brings swift action by the government. Agents can padlock your business and arrest you until you make the deposits. The reason for such drastic action is that the money involved belongs to your employees and then the IRS. Your business is simply a temporary custodian or trustee of it.

You will also need to ensure that you are in compliance with Sarbanes-Oxley. This is particularly true if you see your company as an acquisition candidate at any time. Many public companies or companies that do deals with public companies are required to be in compliance with Sarbanes-Oxley and will only buy other companies that are also in compliance.

Finally, the Occupational Safety and Health Administration (OSHA) has very specific requirements concerning health and safety, which apply to many businesses. The enactment of the Americans with Disabilities Act (ADA) affects businesses with 25 or more employees both in hiring practices and customer accommodations.

Tip You can find out more about the federal guidelines that pertain to your business from the Small Business Administration or a Small Business Development Center.



State Governments

While federal regulations are the same for everyone in the United States, each state has different regulations and may require additional licenses and sales tax collection.

The selection of the state in which to locate a business is not a minor matter. Where you choose to do business greatly affects the cost of operations, markets, and profits. Granted, circumstances are often beyond your control and force you to do business in a certain state. Still, you should be keenly aware of all regulations required by the state in which you do business.

One of the primary requirements of many state governments is that businesses collect sales tax from their customers when the customer is the end user of a product or service. Although most states have a sales tax, the method of each state for handling the tax differs. Some states tax certain products and services differently. You can find out about your state's sales tax on the state's Web site, from local chambers of commerce, or from your closest Small Business Development Center.

If you conduct business in several states, your venture may have to be authorized to do business in all of them. Companies that plan to resell goods use a state sales tax identification number when purchasing goods that will be resold. This way, the company does not pay sales taxes, but collects them when it sells the product or service to the final user. The business must still pay sales tax on the things it buys to use, such as plant equipment, office supplies, and plant-maintenance supplies.

Sales taxes should not cost you anything. You collect money from your customers for sales tax at the time of sale, and you turn in this money to the state sales tax division. Some entrepreneurs get caught in the trap of spending the collected sales tax money before it is due. Then they must scramble to come up with additional funds to pay the sales tax division. All state governmental agencies frown upon this practice.

Many state governments also require a business to register with the secretary of state. Corporations file their articles of incorporation, while sole proprietors may be required to file a fictitious name registration. A quick call to the secretary of state's office will reveal the regulations for companies doing business in that state. Also, many states have established Web sites with answers to frequently asked questions about starting a business and links to the appropriate agencies.

Local Governments

Local governments (county and city) regulate licenses, permits, and zoning. When you apply for a local license, you will probably be asked to get inspected by the fire department, building officials, and zoning authorities. The fire department wants to know if you are doing anything that could be a potential fire or chemical hazard. It also wants to know if the building meets all fire codes. The building inspection department may inspect the property to make sure it is safe and up to code, and the zoning department will determine whether your intended use is permitted in the zoning classification.

Local governments can impose changes to existing and new buildings. For example, a new plant was forced to cut a large hole in the middle of its floor for another stairway from the basement, even though the basement was unused. The stairway added a significant expense of \$9,500. Although the plant had been built to local building-code specifications, the local authorities still had the ability to order the extra stairway. A home-based business can sometimes avoid zoning regulations. Other entrepreneurs avoid such problems by locating themselves in rural areas or small towns without excessive requirements. A call to city hall or county government will reveal the requirements in your region.