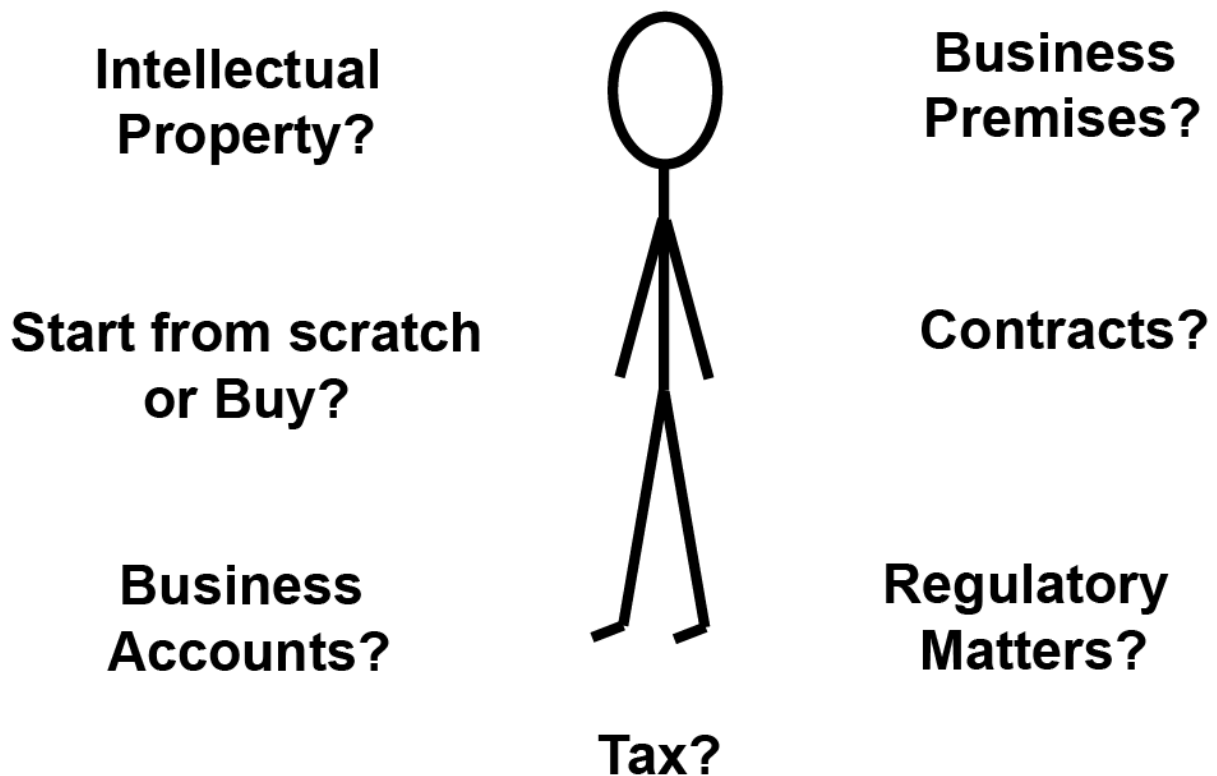


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Guide 1 – Starting Your Own Business

Sole trader, Company, LLP or Partnership?



1.1 Reasons to be Self-Employed?

There may be lots of reasons why anyone wants to be the owner of their own business. Maybe (s)he view it as a way of achieving a better work / life balance or maybe as a way of earning more money or perhaps as a way of taking control that's not available when working as an employee. Or perhaps you simply see it as a challenge.

Whatever the reason behind taking this step, to turn the dream into a reality needs quite a lot of planning. This is where these Guides might assist.

1.2 What's in this Guide?

This guide contains guidance and information that might assist in starting a new business. For example, anyone starting a business will need to have an understanding of the following:

(1) The different types of business structure that can be used for running a business e.g. sole trader, partnership, company or Limited Liability Partnership (LLP). These will often be referred to as “business vehicles” in these Guides.

(2) How to actually go about setting up the chosen business vehicle, whether that be as a sole trader, partnership, company or LLP. More on this in Guides 3-6.

(3) Some basics on business accounts. For example, what a Profit and Loss Account, Balance Sheet and Cash Flow Statement are and why they are important tools for setting up and running a business? More on business accounts in Guides 7 and 8.

(4) If a person decides that, rather than setting up their own business from scratch (*“from scratch” meaning the starting of a business from new*), that they would prefer to buy an already existing business then that person needs to have an understanding of what processes have to be gone through in order to buy that existing business. More on this in Guide 9.

(5) What a franchise is and how to buy into one (see Guide 9).

(6) Which rules and regulations a business owner will need to comply with and how to find out about those. More on this in Guide 10.

(7) What to consider when buying premises (*“premises” means land and any buildings that might be on that land*) that the business will operate from either as the outright owner of the land (known as the “**freeholder**”) or as a “**tenant**” (*also sometimes described as lessee or leaseholder*) or even as an undertenant.

A freeholder is at the top of the pile, so to speak, when it comes to ownership of the land. If a person owns the freehold of land then that person has the right to transfer their land to whoever they choose and they can transfer ownership whilst alive or even after they have died (transfer after death will be under the terms of a will or, if he/she left no will, the land will pass to the freeholder’s relatives, under the “intestacy rules”. If there are no relatives then the freehold will transfer to the Crown). A tenant, meanwhile, is someone who, **in general terms**, is granted an interest in land for a set period of time. It is also possible for a tenant to grant a lease to another person and the result of this is a sublease (see Guide 11.8 for further details).

It was mentioned above that a tenant, “**in general terms**”, has an interest in land for a specified amount of time. However, it is also possible to have a lease (tenancy) on a rolling basis, say from month to month or year to year, and these are known as “periodic tenancies”. Most leases, though, will be for a specific number of years, whether that be 6 months, 1, 2, 5, 10, 99 years or whatever other period is agreed by the landlord and tenant at the beginning of the lease.

(8) What is “Intellectual Property” and how can rights in this type of property be protected. Intellectual Property is a business asset but it cannot be physically touched. It is, for example, the right that an owner has in a design or an invention or a trade mark. More on that in Guide 12, in which a closer look will be taken at the different types of Intellectual Property Rights (IPRs) along with how to protect those rights and also how to transfer IPRs (if buying from another person, as part of a business purchase).

(9) A prospective business owner will want to know about the legal aspects of engaging employees. Guide 13 deals with the legal requirements of employing new employees and the legal rules involved in buying a business that already has employees.

(10) Tax matters. A business owner needs to know the tax basics for their chosen business vehicle; whether that be a sole trader, partner in a partnership, shareholder (owner) / director (manager) of a company or member (owner) of a Limited Liability Partnership. They also need to know about tax matters for any employees that they might engage (see Guide 13 for employee tax considerations). On top of that there are tax implications of buying a **business** and of buying a **company** outright (see Guide 14).

(11) A prospective business owner will want to know how to manage their business vehicle. Each of the separate Guides on sole trader, partnership, company and Limited Liability Partnership has details on how decisions are made on a day-to-day basis, within those separate business vehicles. However, because a company is subject to more regulations than the other business vehicles, there is included a separate Guide specifically on decision making in companies (see Guide 15).

(12) A prospective business owner will need to know about contracts. A major part of a business’ day-to-day activities revolves around contractual relationships; whether that be contracts with customers and suppliers or others such as agents, distributors etc. Guide 16 has some details on different types of contracts, including some basics on international trade.

1.3 Tip

You will find some “Tips” throughout this Guide. These are generally in bold font.