



# Starting a Business

## Limited Company Vs Sole Trade/Partnership

One of the first questions for a new business start-up is whether to set up a company to run the business or to operate it as a sole trader or partnership.

There are many issues to consider in deciding whether or not to incorporate. Principally amongst these is the anticipated future level of profit. Where it is anticipated that the business will generate more taxable profits than the business owner needs for their annual income it should be incorporated. It is not necessarily recommended where there are no surplus taxable profits as the initial costs of start-up are more for a limited company than for a sole trade or partnership.

Another significant consideration is whether or not the business will require significant levels of credit. If a sole trader takes on this credit he/she has unlimited liability to potential creditors should the business fail.

However, a limited company has the benefit of limited liability. This limited liability can protect the directors/shareholders where the company has been run correctly and not negligently or fraudulently.

Please see below some of the advantages and disadvantages of setting up a limited company:

### Advantages

- Limited Liability
- More effective Pension Planning
- Corporation Tax (CT) @ 12.50%
- Share Incentive Schemes
- Availability of credit
- Possible first 3 years exempt from CT (Ended 31-12-14)
- Greater retention of profits

### Disadvantages

- Close Company Surcharge
- Accounts available to public
- Additional administration and related costs
- Audit required if returns late or turnover etc > thresholds
- Stricter accounting rules and regulations

By setting up initially as a company you can avoid possible tax issues arising on the change over from sole trade/partnership to limited company.

The business idea itself is only step one of the process of commencing your own business. There are many issues to be considered when deciding on the correct configuration through which you will trade.

## 2014 Companies Act

### Comparison of different company types

#### New LTD Company Model

- # It may have just one director (but it must have a separate secretary if it has only one director).
- # It can have between 1 and 149 members.
- # It does not need to hold an AGM.
- # It has a one-document constitution which replaces the need for a memorandum and articles of association.  
of association.
- # It will not have an objects clause because it has full unlimited capacity to carry on any legal business, subject to any restrictions in other legislation.
- # It can claim eligibility for audit exemption (and dormant company exemption).
- # It has limited liability and has a share capital.
- # It can pass majority written resolutions (special and ordinary).
- # Name must end in "Limited" or "Teoranta"

#### Designated Activity Company

- It must have a least two directors.
- It can have between 1 and 149 members.
- It does need to hold an AGM where it has 2 or more members.
- It has a constitution document which includes a memorandum and articles of association.
- It has a memorandum in its constitution which states the objects for which the company is incorporated
- It can claim eligibility for audit exemption and dormant audit exemption
- It has limited liability and has a share capital or is a private company limited by guarantee with a share capital.
- It can pass majority written resolutions unless constitution states otherwise.
- Name must end in "Designated Activity Company" or "Cuideachta Ghníomhaíochta Ainmnithe" unless qualified for an exemption.