

# LLC or sole proprietorship? Why the business form matters for your big idea.



## Legal Matters

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Guest columnist

**S**o you want to start a new business in Tennessee.

The 2012 NFL Rookie of the Year once tweeted, “Know Your Why!” This may be one instance when what is true in football is also true for business: The most important part of starting a new business is asking the question “Why?”

You have already done that, either directly or indirectly, in coming up with the idea for the business. Don’t stop asking it. Here are a few other “whys” to consider.

### Should I consult with experts?

Although creating a business is relatively straightforward, choosing the correct form for your business is harder. We have all heard terms such as

“partnership,” “LLC,” “S-corp.,” etc., but each of these terms refers either to a form in which people do business or an entity that is considered its own legal “person,” separate from the people who own it.

In Tennessee, the business forms for a single owner are the sole proprietorship, LLC, and corporation. For multiple owners, there are the general partnership, LLC, corporation, limited partnership, and limited liability partnership. You should consult an attorney and an accountant early in the process to understand the differences and how they will impact you.

### Why are there so many choices?

The answer is simple: liability and taxation. Liability and tax consequences should be factors in your decision-making throughout the life of your business. The interplay of liability and taxes is too complex to address in this article, but generally, each of these forms addresses liability and taxation differently.

For example, sole proprietorships and general partnerships offer no liability protection for their owner(s), but other forms (LLC, corporation, etc.) do. Similarly, each form falls into at least one tax category at the federal level and some may be exempt from certain state-level taxation. Each form comes with a tradeoff on liability and taxation. Choosing the wrong form can have significant negative consequences in liability protection, taxation, or both.

### Why can’t I just open?

Liability can be addressed through a combination of the appropriate business form, insurance, and compliance with any legal requirements (including taxes). Once you have chosen the proper form, you should focus on compliance. The most common “next steps” are requesting a Federal Employment Identification Number and obtaining business license(s) for the state and municipality where you are doing business. Depending on

your business, you may need additional permits or licenses.

If you start a microbrewery, you need more than a business permit. You need additional federal, state and local permits. These permits take time and have restrictions that need to be considered. As you are having initial meetings with your attorney and accountant, make sure they know the products and services your business will provide. They can help you choose the right entity and obtain the necessary permits so that you can be successful from day one.

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