

# Sports players – Business structures



## Sole Trader

As a sole trader, you are self-employed for tax purposes and don't have any formal constitution for your business. You will have to prepare annual accounts as the basis of the profits to be included in your Self Assessment Tax Return, but those accounts do not need to be audited. You retain the profits from your earnings having made adequate allowance for tax. But:

- your personal liability is unlimited if something goes wrong, although this can be mitigated by appropriate insurance cover
- if the business fails owing money, you could be declared bankrupt. Your creditors can take possession of all your personal property including your home and car
- you have only a limited entitlement to state benefits.

## Partnership

A partnership is similar in format to a sole trader except that you will be sharing your profits, as well as your workload and problems, with one or more other people.

If you form a partnership you and your partners are individually self-employed for tax purposes. Although you aren't obliged to have any form of written "partnership agreement", you would be well advised to

do so even if your partner is your husband or wife. This can avoid any future argument about how you share the profits and help to resolve any disputes.

If the business makes a loss, you and your partners would each have to make good those losses. You and your partners are personally liable to your creditors for all the debts of the business. However, partners are normally "jointly and severally" liable, meaning that a creditor can claim in full against one or all the partners in the business. You are responsible for business debts run up by your partners even if you knew nothing about them, and each partner is responsible for the whole amount.

You can draw cash in anticipation of profits by agreement between you, but it is essential that you retain enough money to pay your Income Tax when it falls due. In normal circumstances, tax is a personal liability of each of the partners although it is usually paid by the partnership.

## Limited Company

To form a private limited company you only need one shareholder and one director.

Buying a company "off the shelf" from an agent is relatively cheap and has the advantages of speed and ease. The agent provides an already registered company, the Memorandum and Articles of Association and a Certificate of Incorporation.

The Memorandum and Articles of Association set out the nature of the business and the way in which it will operate. In late 2009 there will be changes to this part of company law which you need to check out.

If you form a limited company you will be an employee of the company, probably as a director. All directors (even for non-executives) have specific, statutory rights, duties and responsibilities with which you must acquaint yourself at the outset.

It is crucial that you fully understand the precise contractual status of everyone involved with the company. The shareholders, directors and the company itself are each separate people in the eyes of the law.

A contract entered into in the name of the company, is a contract between it and a third party. If something goes wrong, any complainants would have to sue the company, because it is the company that has entered into the contract. Normally creditors can claim only on the assets of the company, unless you have given them any personal guarantees. In this way, you can protect your personal possessions if the business becomes insolvent.

You can extract the profits of the company either by way of a salary if you are an employee or by dividend if you are a shareholder. These have very different consequences for tax purposes.

On the downside:

- you have to have a legal constitution which is set out in the Memorandum and Articles of Association
- you need to prepare accounts in a prescribed, statutory format which have to be filed and placed on public record at Companies House
- you would normally have to have those accounts audited if the statutory audit threshold is exceeded.

## Limited Liability Partnership

In broad terms this is a cross between a partnership and a limited company. You can organise your business and pay tax in exactly the same way as if you were an ordinary partnership, but:

- Your personal liability for debts of the business may be limited in certain respects. If a limited liability partnership is unable to pay its debts, you could lose any money you have tied up in the business at the time plus any amounts that you may have taken out of the business within the previous two years.
- If you are the partner responsible for the insolvency, you can be personally liable for all the debts of the partnership which cannot otherwise be settled from its assets
- There are a number of statutory reporting requirements that are similar to those for limited companies, including having to notify Companies House of the business address and the names of the partners, placing accounts on public record every year and having them audited if the statutory audit threshold is exceeded.

## Franchising and Leasing

Taking up a licence to franchise or becoming a distributor (which can be run as a sole trader, partnership or limited company) is an increasingly popular way of starting a business.

Before taking this route, you should check the track record of the franchisor by talking to other franchisees, reviewing bank status reports and audited accounts and ensuring that the franchisor has good publicity in the UK.

Franchising offers the unique opportunity of running and developing your own business using a product or service that is already successful, with financial and marketing support from a larger organisation. Because franchises have a higher survival rate than other business start-ups they are looked upon favourably by outside investors, particularly by the banks.

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