Commercial

Common Forms of Business Organisation in the UK

When starting up a business in the UK, one of the first considerations for any business owner will be the form that it will take. The most common form of business is a limited company but this is by no means the only option. This article will discuss the various structures a business could take and will help you to decide what the best option is for you and your enterprise.

Sole trader

A sole trader is someone who is in business on his own as a self-employed person. He may have employees but he is the person running the business. A sole trader earns his income from the money received from customers/clients and pays income tax as a self-employed person. He is personally liable for all the debts of the business.

A sole trader is a person who alone:

- Has the right to make all decisions affecting the business
- Owns all assets of the business
- Is responsible for paying income tax on all the profits of the business
- Is responsible for the debts and obligations of the business without any limit

Partnership

A partnership is formed when two or more individuals are in business together as equals. Partners divide the profits and losses of the business between them. They share the right to take part in decisions which affect the business and share ownership of the business assets.

The major disadvantage of a partnership is that the partners have unlimited liability for the debts of the partnership, both jointly and severally. Also, a partnership may find it harder to raise capital and so partners may have to contribute personally to any capital demands. When a partner leaves, he will be bought out by the remaining partners who have to raise the money themselves.

The advantages of a partnership are that there are no formalities required when setting it up and it does <u>not</u> require:

- Memorandum and articles
- Registration
- Publicly available accounts or other details
- Need for a written agreement
- Prescribed roles of 'director' or 'member' so internal management is fluid

Private limited company

A business which is run as a private limited company will be owned and operated by the company itself. The company is recognised in law as having an existence which is separate from the person who formed the company and from the directors and shareholders. Decisions affecting the business, the company or its assets are made either by directors or by shareholders. The division of powers between board meetings (where directors' decisions are made) and between general meetings (where shareholders' decisions are made) imposes a degree of formality.

In many private companies, the same people hold the positions of directors and shareholders; nevertheless the distinction between the roles must be observed since the validity of many decisions may be in question if the appropriate formality has not been observed.

The big advantage of a limited company is the limited liability it allows the members, and consequent protection for shareholders and directors. The debts of the company are borne by it itself, they are not the responsibility of the directors or shareholders, except in limited and extenuating circumstances. The downside of a limited company is increased formality, although there are special exceptions for small companies contained in the Companies Act 2006.

Public limited company

To be a public limited company, the company's constitution must state that it is a public company, it must include the words 'public limited company' or 'plc' at the end of the company's name and satisfy the requirements as to the minimum amount of its share capital. A public company may apply to have its shares listed on the Stock Exchange or on the Alternative Investment Market. It must have a trading certificate before it can commence business and must have allotted share capital of £50,000, at least one quarter of which must be paid up.

As with a private company, the business will be owned and operated by shareholders and directors respectively. However, there will usually be a significant difference in personnel between the shareholders (who are likely to include institutional investors) and the directors (whose position is more like that of an employee who is paid to manage the business).

A private company may or may not choose to pay dividends to its shareholders. In practice, a public company needs to have a record of paying dividends every year in order to encourage investors to buy or maintain shares in that company.

If you would like to discuss the form and structure of your business, please contact the commercial team at 3HR Legal.

Shamina Chowdhury
Solicitor
E: shamina.chowdhury@3hrlegal.com

3HR Legal Ltd is a Solicitors Practice, authorised and regulated by the Solicitors Regulation Authority, No: 597935. The registered office of 3HR Legal Limited is New Broad Street House, 35 New Broad Street, London EC2M 1NH, registered in England and Wales no: 08198795
VAT Registration No: 163-5744-93 Tel: 0207 194 8140 Web: www.3hrlegal.com