

Q. My business is set up and has been running as a sole proprietorship for a number of years. Should I incorporate?

A. It depends. It depends on the type of industry you're in. It depends on the amount of growth you're experiencing. It depends on your goals for the future. While many businesses are fine continuing as sole proprietorships, many others "outgrow" this form of business structure.

The thing to be mindful of is that as a sole proprietorship, you and your business are considered a single entity. Therefore, your personal assets could be at risk in a legal action against your business.

Tax consequences are certainly something to be considered when determining the best structure for your business, because business decisions should not be decided based solely on cutting tax liability. Your accountant will be able to help you determine the best structure for your situation.

Here is just a brief overview of other forms of business structure. A general partnership is two or more people operating a business together. There is little government regulation and is easy to form. As with a sole proprietorship, profits are taxed as income to the partners, usually at the lower personal income tax rate.

A "C" corporation is itself a legal entity, formed by a charter legally recognizing the corporation as a separate entity from the individuals involved. The corporation has rights, liabilities, and privileges; it can own assets, borrow money, and conduct business. It can provide limited liability protection to the individuals, but is subject to greater government regulation, and is the most complex organizational structure.

The "S" corporation operates much like a C corp. but must meet specific IRS requirements. However, the S corporation is allowed to be taxed as a sole proprietorship or partnership, meaning profits are taxed at the individual rate, rather than the corporate rate.

An "LLC" or limited liability corporation is a legal entity, but combines characteristics of both the corporate and sole partnership forms of organization.

Please see your accountant and/ or attorney to determine the type of business structure that is best for your business situation.