From Beginning to Success:
Bet Tzedek’s Guide for Low-Income Entrepreneurs
2022
Small Business Development Project
"Risk-taking is the cornerstone of empires."

– Estée Lauder
Businesswoman and co-founder of Estée Lauder

"I created a product that needed **patent protection** and I needed to **form my LLC**. [Bet Tzedek] matched me with law firms that took care of all my legal needs and were extremely patient with all my questions. My experience was extremely pleasant and I wouldn't have been able to start my business without them. **I would recommend every small business to contact [Bet Tzedek] for their legal needs.**"

– Ebony Brown
Founder of Ebony Brown Fashion
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Introduction
About This Guide

The following guide was created to provide information and answer some commonly asked questions to support the passion and entrepreneurial spirit of small business owners in Los Angeles County, including low-income and undocumented individuals.

In the following sections, you will find information about starting your business, tax requirements, and intellectual property matters. This guide is hyper-linked with additional resources such as government websites and PDF forms. Click on the text that looks like this to be redirected to another website.

About Bet Tzedek

Bet Tzedek provides free, expert legal advice and representation to low-income residents of Los Angeles County. Each year our attorneys, advocates, and staff work with more than one thousand pro bono attorneys and other volunteers to assist more than 90,000 people regardless of race, religion, ethnicity, immigrant status, or gender identity.

The Small Business Development Program focuses on helping small business owners in Los Angeles County with transactional legal matters. The team works directly with small business owners to help them realize their entrepreneurial dreams by addressing intellectual property, contracts, and commercial lease issues.

Small businesses seeking legal counsel for legal issues may apply here. We will consider your legal matters, schedule a phone call with you, and verify your financial eligibility to secure a pro bono counsel for you or refer you to other resources.

Disclaimer

This guide provides general guidance on matters that small business owners should consider. However, this document does NOT constitute legal advice. The information, dates, amounts, and procedures contained herein are current as of June 30th, 2022. Please check with your county, state, and federal regulations for any changes or updates.
Starting Your Business
One challenge you may face as a new business owner is figuring out what you need to set up a business. First, you must get licenses or permits from your state, county, and/or city, which requires an identification number like Social Security Numbers (SSNs). Although undocumented immigrants are ineligible for SSNs, there are ways that they can legally start their businesses without SSNs.

Before creating your business, you will need to get an alternative identification number. This is because you’re required by law to pay federal and state taxes on your business, even if you’re an undocumented immigrant. So first, you can use your birth certificate or some form of official foreign ID to apply for an Individual Taxpayer Identification Number (“ITIN”). Then, you can use your ITIN to apply for an Employer Identification Number (“EIN”). ITINs and EINs allow people without SSNs to start businesses, process taxes, and open business bank accounts.

See this chart for an overview of the differences between SSNs, ITINs, and EINs. Please refer to the following pages for more information about ITINs and EINs and how to obtain them.

<table>
<thead>
<tr>
<th></th>
<th>SSN</th>
<th>ITIN</th>
<th>EIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who can obtain it?</td>
<td>Individuals who are U.S. citizens or permanent residents</td>
<td>Individuals who are ineligible for an SSN (e.g. undocumented immigrants)</td>
<td>Businesses with an owner who either has an SSN or ITIN</td>
</tr>
<tr>
<td>What is it used for?</td>
<td>Personal taxes</td>
<td>Personal taxes</td>
<td>Business taxes</td>
</tr>
<tr>
<td>When does it expire?</td>
<td>Never</td>
<td>If unused for 3 years</td>
<td>Never, even if the business entity ceases to exist</td>
</tr>
<tr>
<td>Which business entities can be formed with it?</td>
<td>Sole proprietorships without employees, single-member LLCs</td>
<td>Sole proprietorships without employees, single-member LLCs</td>
<td>Sole proprietorships, partnerships, LLCs, corporations</td>
</tr>
<tr>
<td>What forms do I need to fill out and submit?</td>
<td>None</td>
<td>Form W-7 and supporting documentation by mail, private delivery, in person, or acceptance agent. No filing fee.</td>
<td>Form SS-4 online, by fax, or by mail. No filing fee.</td>
</tr>
</tbody>
</table>
Individual Taxpayer Identification Number ("ITIN")

ITINs are unique numbers the IRS assign to personally identify individuals in the U.S. tax system. ITINs are given to people filing tax returns who are not eligible for SSNs. People who have SSNs or are eligible to get SSNs should not apply for ITINs.

ITINs are only used for tax processing, so they can't be used as valid identification (in place of an SSN). ITINs don't change your immigration status and don't authorize working in the U.S.

ITINs allow people to:
- Report earnings to the IRS
- Open bank accounts at certain banks
- Apply for a business loan
- Start businesses in the U.S.

Obtaining an ITIN

Applying for the First Time
1. Fill out Form W-7.
2. Attach Form W-7 to the front of the original tax return(s) for which the ITIN is needed. If you're filing multiple tax returns, attach them all.
3. Attach the required documentation.
   See Supporting Documentation Requirements for a list of the documents to be submitted with your application package.

Renewing Your ITIN
ITIN numbers expire if not used for three years. After that, you will have to renew it by following the steps on the left column. An ITIN only needs to be renewed if it'll be included on a U.S. federal tax return and it's expired. If you fail to file your tax return on time, refundable credits like Child Tax Credit and American Opportunity Tax Credit may be denied.

Instructions on which ITINs need renewal are found here. All Form W-7 renewal applications must include a U.S. federal tax return unless you meet an exception to the requirement. See Exceptions Tables, for more information.
Employer Identification Number ("EIN")

EINs are 9-digit numbers assigned by the IRS, used to identify the tax accounts of employers and other taxpayers that are required to file various business tax returns. They are also referred to as Federal Employer Identification Numbers or Federal Tax Identification Numbers. You need an SSN or ITIN to apply for an EIN.

You will need an EIN if you:

- Have employees
- Have a corporation or partnership business entity
- File tax returns for Employment, Excise, or Alcohol, Tobacco, and Firearms
- Withhold taxes on income (non-wages) you pay to a non-resident immigrant
- Have a Keogh plan (tax-deferred retirement pension plan for self-employed people or unincorporated businesses)
- Have any of the following: trusts (except grantor-owned revocable trusts, IRAs, Exempt Organization Business Income Tax Returns), estates, real estate mortgage investments, non-profit organizations, farmers’ cooperatives, plan administrators

Obtaining an EIN

Applying for an EIN is a free service offered by the IRS. Beware of websites on the Internet that charge for this service. You can find the full IRS instructions [here](#).

**There are four different ways to apply for an EIN:**

- [online](#) (only for applicants in the U.S.),
- telephone (only for applicants outside of the U.S.),
- fax, or
- mail.

You should only file once. Otherwise, there may be problems if you have more than one EIN for the same business. When applying online, you must have:

- a valid SSN or ITIN; and
- a legal residence, principal place of business, principal office, or principal agency in the U.S.
Privacy Concerns with ITINs & EINs and Next Steps for Starting Your Business

Protecting Your Personal Information

You might wonder if your information can be disclosed to ICE or anyone else when filing taxes using an ITIN and/or EIN. The information you give to get an ITIN is partially protected by the Internal Revenue Code §6103 (IRC).

However, it is important to be aware of the following exceptions:

- The IRS can share return information with state agencies responsible for tax administration.
- The IRS can share limited information for official tax investigations with third parties, if necessary.
- Court orders can allow return information to be shared with law enforcement agencies. This is for investigating and prosecuting non-tax criminal laws.
- Tax return information can be disclosed to the Social Security Administration (SSA), if needed. However, SSA employees are also bound by confidentiality rules like IRS employees, generally prohibiting them from disclosing taxpayer information.
- Disclosures can be made to attorneys.
- Under Section 6103, information on the ITIN is protected from being shared with federal agencies, including immigration agencies.

Next Steps: Starting Your Business After Obtaining an ITIN and/or EIN

After you have received an ITIN and/or EIN, you will need to follow these next steps to form a business entity in California.

1. **Create a Business Plan**: You can create your business plan using the U.S. Small Business Administration resource. You should calculate business start-up costs, locate funding, and identify target customers.

2. **Create Your Business Entity**: Choose a business name, choose a business structure, and choose a business location. See the “D. Entity Formation” section for more information and full steps.
Opening Bank Accounts for Your Business

What you need to open a bank account:

1 Name and date of birth

To confirm your name and birthday, if you're undocumented, banks typically require one of the following documents:
- Unexpired passport
- Government-issued driver’s license (including foreign licenses)
- Consular ID
- Birth certificate
  Municipal IDs can be used as proof of identity. Check if your city issues municipal IDs

2 Proof of address

Banks and credit unions often require proof of a street address to open an account. One of the following can satisfy this requirement:
- Utility bill
- Lease
- Current driver’s license or municipal ID

3 Identification number

An identification number means one of the following:
- Social Security number (SSN)
- ITIN (Individual Taxpayer Identification Number)
- Alien identification card number
- Any other government-issued document that proves your nationality or residence (such as a passport or foreign driver’s license)

Best Business Accounts as of June 2022

<table>
<thead>
<tr>
<th>Provider</th>
<th>Monthly Fee</th>
<th>Transaction Fee</th>
<th>Annual Percentage Yield (APY)</th>
<th>Cash Deposit Fee</th>
<th>ATM Fee</th>
<th>Minimum Opening Deposit &amp; Balance Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CHASE</strong></td>
<td>$15 (waivable)</td>
<td>Free (first 20), then 40 cents/transaction</td>
<td>N/A</td>
<td>$2.50/$1,000 after $5,000 deposit in a billing cycle</td>
<td>$2.50/ transaction + operator fees (non-Chase ATM)</td>
<td>None</td>
</tr>
<tr>
<td><strong>bluevine</strong></td>
<td>None</td>
<td>None</td>
<td>1.50% on qualifying balances up to $100,000</td>
<td>$4.95/deposit (Green Dot locations)</td>
<td>Free (MoneyPass ATM locations nationwide)</td>
<td>None</td>
</tr>
<tr>
<td><strong>Capital One</strong></td>
<td>$15 (waivable)</td>
<td>Unlimited free transactions</td>
<td>N/A</td>
<td>Free up to $5,000/month; $1 for every $1,000 after</td>
<td>Free (Capital One, MoneyPass &amp; Allpoint ATMs)</td>
<td>$250 to open; $0 to maintain</td>
</tr>
<tr>
<td><strong>Bank of America</strong></td>
<td>$16 (waivable)</td>
<td>Free (first 200, then 45 cents/transaction)</td>
<td>N/A</td>
<td>Free up to $7,500/month; 30 cents/$100/statememt cycle</td>
<td>Free (more than 16,000 ATMs nationwide)</td>
<td>$100 to open; $0 to maintain</td>
</tr>
</tbody>
</table>

Visit Chase
Visit Bluevine
Visit Capital One
Visit Bank of America
Employee or Independent Contractor?

**Employee**: a worker employed by another usually for wages or salary and in a position below the executive level.

**Independent Contractor**: an independent worker who has autonomy and flexibility but does not receive benefits such as health insurance or paid time off, except if paid on their own.

I am an accountant for a company when they need me. The company determines my work hours and days. I am paid when the service is completed and not an hourly wage. When I need to get paid I send the company an invoice. I work for other companies doing similar work. I work from my home and use my own computer.

I work 40 hours a week, part-time for a company as an accountant and I get a weekly salary. I have an office at the company's headquarters. I have health insurance and benefits from the company I work for.

<table>
<thead>
<tr>
<th></th>
<th>Accountant A</th>
<th>Accountant B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pays for its own place of business, materials, equipment, supplies, and tools.</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Assume financial risk for loss</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Set or negotiate pay rate</td>
<td></td>
<td>✔️</td>
</tr>
<tr>
<td>Hire help/employees</td>
<td></td>
<td>✔️</td>
</tr>
<tr>
<td>Free to refuse work or contracts</td>
<td></td>
<td>✔️</td>
</tr>
<tr>
<td>Offer extra services to clients for more money</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Control how, when and where work is done</td>
<td></td>
<td>✔️</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Employee</th>
<th>Independent Contractor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Licenses

When starting your business, you must have all the licenses and permits required for your business. Licenses give you the county, city, and/or state’s permission to run your business and may have different requirements at the city, county, state, and/or federal level.

If you operate your business without the required licenses, the business could be forced to close until compliance with the necessary licenses. The consequences, fees, and severity of the consequences depend on the issuing city/state and the type of industry.

On this and the following pages, we have outlined some common license requirements and how a business owner’s status as an undocumented immigrant may affect them. Please refer to the next few pages to learn about the requirements to obtain liquor licenses and street vendor licenses.

Federal or state licensing laws for undocumented immigrant:

Federal law (8 U.S. Code § 1621) prohibits undocumented immigrants from getting professional licenses unless a state has specific legislation that allows undocumented immigrants to obtain professional licenses.

In California, under California Senate Bill 1159 (SB-1159), individuals who meet certain requirements (necessary training) and apply for a professional license can use an ITIN or SSN, regardless of immigration status. SB-1159 (“Professions and vocations for license applicants: individual tax identification number”) is a California law that requires all 40 of the California Department of Consumer Affairs’ licensing boards to disregard applicants’ immigration status.

Thus, undocumented immigrants can apply for a professional license with an ITIN.
Liquor Licenses

For businesses in Los Angeles County, you need the following licenses to sell liquor:

- **Los Angeles City**: Conditional Use for alcoholic beverages (CUB) permit
- **California State**: Alcohol Beverage Control (ABC) license & California Department of Tax and Fee Administration (CDTFA) Sales Tax Permit
- **Federal**: Alcohol and Tobacco and Trade Bureau (TTB) permit

See the following pages for more information about each license and its application process:

**Los Angeles City**

For the sale of alcoholic beverages in Los Angeles County, but outside of Los Angeles city, you need a Conditional Use Permit (CUP) from Los Angeles County before selling any type of liquor. For Los Angeles City, in particular, you need a Conditional Use Beverage Permit (CUB) from the city. The link to more information about Los Angeles CUBs is located here: [Los Angeles CUB Information](#).

In April 2020, Los Angeles City introduced a new program, Restaurant Business Program, to simplify city approvals for restaurant owners that serve alcoholic beverages. Restaurant owners would pay approximately $4,000 for a permit to serve alcohol—significantly less than the permit’s current price of $13,000. These measures are in line with Los Angeles's broader efforts to help local and family-owned businesses.

You should also contact your county/city officials to see if you need a local business license. Visit your city’s website to learn more about local business licensing requirements. If your business is in an unincorporated area of Los Angeles, check with the [County Treasurer and Tax Collector](#) website for more information. If the location you plan on selling liquor is new/not used for selling liquor previously, check with local officials about local zoning regulations. You can find out which local officials to contact, depending on which city you plan to operate your business in.
For California state liquor licenses, citizenship status is only considered for sole proprietorships. However, your business information will be made public online after receiving your state liquor license. The California Department of Alcoholic Beverage Control (ABC) has a license lookup that shows such information.

You need two permits to sell liquor in California: (1) an ABC permit and (2) a California Department of Tax & Fee Administration (CDTFA) sales tax permit.

(1) ABC Permit

The California ABC Department offers permits depending on the type of liquor sold and the type of retail business you are operating. Please refer to the ABC Liquor License Types webpage, and you can access the ABC Licensing Forms List based on the kind of liquor you want to sell.

If you're applying for a new license, you can find a list of forms and documents required on the ABC New License Application List based on the business's ownership structure. Also, see this flow chart of the application process created by the California Department of Alcoholic Beverage Control.

There are various fees for new licenses and transferring a license, which are updated on the ABC Licensing Fee Schedule.

The following is a simple list of instructions on obtaining an ABC permit.

1. Choose your location.
2. Determine what type of liquor you want to sell.
3. Acquire your ABC permit through (a) an open market or (b) through the state government directly.

(a) Open market: In California, you must purchase some types of liquor licenses on the open market from an existing pool of available licenses because each state and county has a limited number of licenses at any given time.

(b) California State Government Application

1. Contact the nearest ABC District Office. You can reach the LA County office at (213) 833-6043 or LAMetro@abc.ca.gov, and a staff member will tell you what forms and fees are needed to apply. Some applicants must first obtain approval from zoning officials, open an escrow, or go to the office of the County Recorder for a certified copy of a Notice of Intended Transfer.
2. Submit your application to the California ABC department.
3. Receive your posting notices from the ABC and post the Public Notice of Application at the premises for 30 days.
4. Have the ABC investigate your business and surrounding area to see if the applicant and the premises qualify for a license.
5. If there are no protests, denials, or other complex issues, ABC headquarters will conduct a final review, and you will be issued a liquor license. The average waiting period is 55-65 days from the date the application is filed for issuance.
6. Renew your liquor license online, by mail, or in person at a District Office. All licenses are renewed on a 12-month basis.
(2) CDTFA Sales Tax Permit

The alcoholic beverage tax is a per-gallon excise tax collected on the sale, distribution, or importation of alcoholic beverages in California. After applying with the ABC, you must register with the California Department of Tax and Fee Administration (CDTFA). CDTFA will notify you of which CDTFA Alcoholic Beverage Tax Account type you are required to register for. You can register via the Online Registration page. It is a misdemeanor to sell liquor in California without a CDTFA Sales Tax Permit.

California imposes a sales tax depending on what type of liquor is sold. Please refer to the California Tax Guide for Alcoholic Beverages and California TFA Sales and Use Tax Information webpage for more information.

Federal

Beverage alcohol retailers that are considered "retail liquor dealers" must obtain a federal Alcohol and Tobacco Tax and Trade Bureau ("TTB") permit to sell distilled spirits, wine, or beer.

Below is a sample list of businesses that are subject to registration as a "retail liquor dealer" if they sell or offer for sale alcohol beverage products (e.g., beer, wine, distilled spirits, alcohol beverage coolers, mixed alcoholic drinks, etc.). This requirement applies to on-site consumption and off-site consumption sales.

- Bars
- Convenience stores
- Concession stands
- Liquor stores
- Restaurants
- Snack bars
- Catering services

You can register your business with the TTB by filing TTB 5630.5d - Alcohol Dealer Registration. You may register as a Retail Beverage Alcohol Dealer in Permits Online. An EIN is required to file this form. There is no fee at the federal level to apply for or maintain approval to operate TTB-regulated alcohol and tobacco businesses.
Street Vendor Licenses

There are two types of Street Vendors, food vendors and merchandise vendors, and the licensing process and requirements are different for both. See the following steps to process the necessary permits for each type of street vendor.

Food Vendors

1. Go to the City Department of Finance for your Business Tax Registration Certificate (BTRC).
2. Go to the California Department of Tax and Fee Administration to register for your Sellers Permit.
3. Go to the LA County Public Health office for your Public Health Permit.
   - For the Public health permit, you will need to have the following plans and permits approved.
     ▶ Fill out the Public Health Permit/License Application.
     ▶ Fill out the Mobile Food Facility Plan.
     ▶ Pay the Mobile Food Facility Plan Fee (see which one applies to your type of business).
4. Build Cart based on the approved plan, or buy a used or new cart that has been already approved.
5. Before Food Cart inspection, you must have:
   a. Commissary contract
   b. Route Slip
   c. Public Health Permit Application
   d. Permit Fee
6. Final Inspection of Food Cart
   a. Cart build to the approved plan.
   b. Submit documents listed above.
7. Public Health Permit Issued.
   ▶ Steps continue below.
1. Go to the [City Department of Finance](https://www.lacity.org) for your [Business Tax Registration Certificate (BTRC)](https://www.lacity.org).
2. Go to the [California Department of Tax and Fee Administration](https://www.cdtfa.ca.gov) to register for your [Sellers Permit](https://www.cdtfa.ca.gov).

**Final Step:**

Once you have the required permits for either food or merchandise vendors, bring them to the [Bureau of Street Services](https://www.lacity.org) office by making an appointment and applying in person.

**Successful start and maintenance of your street vendor business:**

- Have your taxes and health permits up to date
- Be aware of no vending areas
- Keep it clean and clean up before you leave
- Keep any produce bagged and clean
- Do not block the sidewalk
- Follow the [local laws](https://www.lacity.org) on food vending

**Be aware of the following restricted vending zones:**

- Maintenance or storage yards
- Parking stalls or designated parking areas
- Dirt paths, trails, grass areas
- Within 100 feet of any building, recreation center, bathroom, structure, or playground
- Within 500 feet of any school site, camp, youth activity center, or senior center
- Within 2500 feet of the Greek Theatre on concert and event nights
- Within 2500 feet of Griffith Observatory or the Griffith Observatory parking lot
- Five (5) feet of park benches or other park furniture and from within 10 feet of any crosswalk
- 25 feet of any fountain, statue, monument, or art installation
- Any park deeded, granted, or gifted to the City of Los Angeles with restrictions on commercial activity
- See [Map](https://www.lacity.org) for more info
California Driver’s License Eligibility for Undocumented Individuals
Obtaining a Driver’s License as an Undocumented Immigrant

Under AB 60, undocumented individuals can obtain California driver's licenses without showing legal status or having an SSN, as long as they can provide proof of identity and California residency.

In addition to completing a Driver's License application, getting an AB 60 Driver’s License requires you to do the following:

- Show proof of identity and CA residency (Please see the required residency documents list).
- Pay the nonrefundable application fee.
- Have your thumbprint scanned.
- Pass a vision exam.
- Have your photo taken.
- Pass all required knowledge and driving tests.

Obtaining a Commerical Driver's License (CDL), which is what you may want or need for your business, is more difficult than getting an AB 60 Driver's License.

### Commercial Driver's License

The applicant does not have to be a U.S. citizen, but they do have to show proof of legal presence in the U.S. This license type also requires the applicant to complete a Medical Examination Report (MER) Form (MCSA 5875) and Medical Examiner's Certificate (MEC) (MCSA 5876).

An undocumented individual may want to consider alternatives to operating the commercial vehicle themselves.

### Running a Food Truck

Undocumented food truck owners must carefully choose the weight of their vehicle(s) to avoid having to apply for a CDL (for vehicles or a combination of vehicles weighing more than 26,000 lbs.).

If the vehicle(s) exceeds 26,000 lbs., the owner might want to consider hiring someone eligible to drive the vehicle or to find a vehicle(s) that weighs less.

***Please note:** Misrepresenting information on the required forms is a crime, which could subject the individual to immigration proceedings.
Entity Formation
Types of Business Entities

There are six common types of business ownership models in California that are relevant for entrepreneurs.

Sole Proprietorship

General Partnership

Limited Partnership

Limited Liability Company (LLC)

Corporation (C-Corp & S-Corp)

California Cooperative (Co-op)

This section provides an overview of the first five business entities. A cooperative can be established by partnerships, LLCs, or corporations. Because of its special structure, there is a separate section for the business requirements and details for a California cooperative.
Sole Proprietorship

Sole proprietorship entities are owned and run by one individual. This is the simplest business structure to use and the easiest one to form. Unfortunately, there is no legal distinction between the owner and the business; therefore, this entity offers no protection and leaves the owners personally exposed to liability.

**Overview**

<table>
<thead>
<tr>
<th># of owners</th>
<th>1 owner</th>
<th>The sole proprietor is an individual business owner.</th>
</tr>
</thead>
<tbody>
<tr>
<td>owner's liability</td>
<td>high</td>
<td>Sole proprietorships do not offer any protection for owners' personal assets, and owners have personal liability for all business debts.</td>
</tr>
<tr>
<td>tax considerations</td>
<td>simple</td>
<td>The sole proprietor simply reports all business income or losses on their personal tax returns.</td>
</tr>
<tr>
<td>forms, filings, &amp; fees</td>
<td>simple</td>
<td>The sole proprietor is not required to file any forms with the California Secretary of State.</td>
</tr>
<tr>
<td>best suited for</td>
<td>A sole proprietorship is best suited for single-owner businesses that do not have tax concerns and for which potential product and/or service liabilities are minimal and insurance is available.</td>
<td></td>
</tr>
</tbody>
</table>

**Advantages**

- Owner has sole control over the business
- Simple and inexpensive

**Disadvantages**

- The owner has personal liability for business debts and lawsuits
- Creditors can go after the owner's personal assets
General Partnership

A General Partnership is created whenever two or more people agree to do business together for profit, even if there is no intent or written agreement to form a partnership. While no formal filing or registration requirements are needed to create a partnership, partnerships must comply with registration, filing, and tax requirements applicable to any business.

### Overview

| # of owners | 1 or more | Partners own a percentage of the business equal to their investment. |
| owner's liability | medium to high | General partners are personally liable for all business debts and take on personal liability for any employees. |
| tax considerations | moderately complex | Income, deductions and credits generally pass through to the partners as set forth in the partnership agreement. |
| forms, filings, & fees | moderate | Statement of Partnership Authority (Form GP-1) - $70 fee. Partnership Agreement not required. |
| best suited for | Businesses with multiple owners, all of whom will manage the business, seeking pass-through taxation and for which potential product and/or service liabilities are minimal. |

### Advantages
- Partners can generally claim losses and business expenses as personal tax deductions.
- Simple and inexpensive to create and operate

### Disadvantages
- Partners are personally liable for business debts and lawsuits, including claims caused by other partners
- Any individual partner can bind the whole business to a contract or business transaction
- The partnership may dissolve automatically when one of its partners dies or withdraws
## Limited Partnership

A limited partnership (LP) occurs when two or more owners (made up of at least one general partner and one limited partner) conduct a business in which one or more partners are liable only for the amount of money invested. The general partner is responsible for day-to-day operations and may be personally liable for business debt. The limited partner contributes financially to the business but has limited control over business decisions and operations.

### Overview

<table>
<thead>
<tr>
<th># of owners</th>
<th>1 or more</th>
</tr>
</thead>
<tbody>
<tr>
<td># of owners</td>
<td>1 or more</td>
</tr>
<tr>
<td>owner's liability</td>
<td>medium to high</td>
</tr>
<tr>
<td>tax considerations</td>
<td>moderately complex</td>
</tr>
<tr>
<td>forms, filings, &amp; fees</td>
<td>moderate</td>
</tr>
<tr>
<td>best suited for</td>
<td>Businesses with two or more owners, at least one of whom seeks a passive investment with no participation in day-to-day management.</td>
</tr>
</tbody>
</table>

### Advantages

- Partners can generally claim losses and business expenses as personal tax deductions
- Liability of limited partner can be limited to extent of partner’s investment
- Simple and inexpensive to create and operate

### Disadvantages

- Includes all the General Partnership disadvantages
- Limited partnerships in CA must pay an $800 annual franchise tax
- Out-of-state partners are subject to withhold income tax if income is more than $1500
- Limited partners do not have a say in the business's management

- Certificate of Limited Partnership (Form LP-1) - $70 fee.
- Partnership agreement not required.

- Out-of-state partners are subject to withhold income tax if income is more than $1500
- Limited partners do not have a say in the business's management
Limited Liability Company (LLC)

An LLC is a business structure allowed by state statute that provides the limited liability features of a corporation and the tax efficiencies and operational flexibility of a partnership. LLCs can have one or more owners and can be managed by the members or a board of managers.

## Overview

<table>
<thead>
<tr>
<th># of owners</th>
<th>1 or more</th>
<th>LLCs can have one or more owners.</th>
</tr>
</thead>
<tbody>
<tr>
<td>owner's liability</td>
<td>little</td>
<td>Owners are only liable for what they invest in the business, so they should carefully manage their financial investments.</td>
</tr>
<tr>
<td>tax considerations</td>
<td>moderately complex</td>
<td>Pass-through taxation or taxed as a corporation; CA franchise taxes; Owners of an LLC are considered self-employed and must pay Social Security and Medicare taxes.</td>
</tr>
<tr>
<td>forms, filings, &amp; fees</td>
<td>complex</td>
<td>Articles of Organization (Form LLC-1) - $70 fee. Statement of Information (Form LLC-12) - $20 fee. Operating Agreement not required.</td>
</tr>
<tr>
<td>best suited for</td>
<td>An LLC is best suited for single or multiple-owner businesses seeking pass-through taxation and limited liability to keep their personal finances separate from the business.</td>
<td></td>
</tr>
</tbody>
</table>

## Advantages

- Liability is generally limited to the extent of an owner's investment
- Profits and losses can be allocated differently than ownership interests
- Any person or entity can become a member (foreign citizens, LLCs, limited partnerships, etc.)

## Disadvantages

- LLC owners may be held personally liable for the debts of the LLC (i.e. circumstances involving negligent or intentional acts and breaches of fiduciary duty)
- Some LLCs must comply with securities laws.
- Any member can legally bind the entire LLC to a contract or business transaction unless the third party knows that such member does not have such authority.
Corporations (C-Corp)

A corporation conducts business, realizes net income or loss, pays taxes, and distributes profits to shareholders. Corporations are owned by one or more owners (i.e., shareholders). Certain taxation rules govern corporations (such as C-Corps' "double taxation"), so it is important to consider what tax benefits best suit your business needs.

Overview

| # of owners | 1 or more | Corporations are owned by one or more owners, known as shareholders. |
| owner's liability | little | Owners are only liable for what they invest in the corporation, so they should carefully manage their financial investments. |
| TAX | very complex | Corporations are taxed on profits; Shareholders are taxed on dividends from profits; CA franchise taxes; Owner-employees pay salary taxes on their individual tax returns. |
| forms, filings, & fees | very complex | Articles of Incorporation (Form ARTS-GS)- $100 fee. Statement of Information (Form SI-550) - $25 fee. |

| best suited for | A C-Corp is best suited for single and multiple-owner businesses seeking both limited liability and established procedures for funding. |

Advantages

- Limited owner liability for business debts or lawsuits, although owners may be liable in certain situations (piercing the corporate veil)

Disadvantages

- Burdensome administrative duties (including having to follow corporate rules, such as issuing stock, electing officers, holding regular meetings, keeping minutes of all meetings, etc.)
- Corporations must comply with securities laws
Corporations (S-Corp)

S-corp status is a special tax status recognized by the IRS that could potentially help you save on your taxes. An important distinction is that S-corp is not a standalone business entity type. Instead, S-corp status just exempts a business entity from business income tax. Its profits get passed through to the shareholders who individually file their personal income tax returns.

Overview

<table>
<thead>
<tr>
<th># of owners</th>
<th>1 or more</th>
<th>Corporations are owned by one or more owners, known as shareholders.</th>
</tr>
</thead>
<tbody>
<tr>
<td>owner's liability</td>
<td>little</td>
<td>Owners are only liable for what they invest in the corporation, so they should carefully manage their financial investments.</td>
</tr>
<tr>
<td>tax considerations</td>
<td>very complex</td>
<td>Pass-through taxation; CA franchise taxes; Shareholders must allocate profits according to the % of stock each owner has; Owner-employees must be paid “reasonable” salaries.</td>
</tr>
<tr>
<td>forms, filings, &amp; fees</td>
<td>simple</td>
<td>Election by a Small Business Corporation (Form 2553) - no fee except in special circumstances.</td>
</tr>
<tr>
<td>best suited for</td>
<td>S-corp status is best suited for smaller or family businesses seeking pass-through taxation and limited liability.</td>
<td></td>
</tr>
</tbody>
</table>

Advantages

- Pass through taxation

Disadvantages

- No more than 100 shareholders and cannot be publicly traded
- No shareholder can be another corporation, LLC, partnership or foreign citizen
- Can only issue one type of stock
- Expensive and sometimes difficult to create and dismantle
## Business Entity Formation

Please see the chart below for the general components of entity formation with respect to each business entity. See the following pages for more extensive descriptions.

<table>
<thead>
<tr>
<th>Step</th>
<th>Sole Proprietorship</th>
<th>General Partnership</th>
<th>Limited Partnership</th>
<th>Limited Liability Company</th>
<th>Corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Choose a name</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Register Fictitious Business Name (FBN)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
</tr>
<tr>
<td>File Articles of Organization</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepare Operating Agreement</td>
<td></td>
<td></td>
<td></td>
<td>(recommended)</td>
<td></td>
</tr>
<tr>
<td>File Articles of Incorporation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File Statement of Information</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Create Bylaws</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Hold organizational meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File Statement of Partnership Authority</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File Certificate of Limited Partnership</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepare a Partnership Agreement</td>
<td>(recommended)</td>
<td>(recommended)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Obtain an EIN</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
</tr>
<tr>
<td>Obtain a Local Tax Registration Certificate</td>
<td>(in most circumstances)</td>
<td>(in most circumstances)</td>
<td>(in most circumstances)</td>
<td>(in most circumstances)</td>
<td>(in most circumstances)</td>
</tr>
<tr>
<td>Obtain Permits, Licenses, &amp; Zoning Clearances</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
<td>(in some circumstances)</td>
</tr>
</tbody>
</table>
General Steps of Entity Formation

The general steps on this page are applicable to the formation of all business entities. Please refer to the following pages for a more specific description of each respective business entity's requirements and links to the relevant forms.

1 Choose a Name

A company may use any name that is not too similar to another registered business and is not misleading to the public.

Check these places to make sure your name hasn't been trademarked by someone else:

- U.S. Patent and Trademark office
- California Secretary of State
- The Records Office of the county where you plan to do business

2 Register Fictitious Business Name (FBN)

This process is also known as registering a "Doing Business As" (DBA) or "Trade Name."

An individual or a business entity must file a fictitious business name (FBN) statement with the Registrar-Recorder/County Clerk's office in the county where the business will be located.

This process is necessary when (1) the name of the business does not include the owner's last name (i.e., sole proprietorship and general partnership) or (2) the entity will be doing business under a name not stated in the documents filed with the California Secretary of State (i.e., limited partnership, LLC, and corporation).

The county clerk's office requires a signed affidavit of your published statement within thirty days after the final publication. In most California counties, the published DBA statement must be in a local paper weekly for four weeks.

A registered name with California doesn't protect or give you exclusive rights to use that name. You must register a trademark to secure an exclusive right to use that name.

3 Prepare & File Documents

Each business entity has different forms that must be filed with the California Secretary of State. Please refer to the respective pages to access the forms and learn about the filing fees.

The Secretary of State offers two options for submitting business entity filings depending on your entity and filing type:

- File online. Online submissions will have priority.
- File by mail or in person. Using this guide, or the California Secretary of State website, locate the form that you would like to submit and follow the instructions. For in-person drop-off at the Los Angeles office, information regarding the Los Angeles office address and business hours can be found on the Contact Information - Business Entities webpage.
General Steps of Entity Formation (cont.)

4 Obtain an EIN

The Employer Identification Number (EIN) for an entity is like a social security number for an individual. EINs are required for most businesses, even those that don’t have employees.

You may obtain an EIN via the IRS website or by filing IRS Form SS-4 at no cost.

The social security number is not required to get an EIN. The IRS only requires a social security number for the online application. If you apply via mail or fax, you will not be required to present a social security number.

All businesses with employees must report wages and pay employment taxes quarterly to the IRS using the EIN.

- In California, businesses that pay at least $100 to employees each quarter must register for a California employer account number. You can register online at the California Employment Development Department (EDD).
- For more information, visit the California Employer’s Guide.

5 Obtain a Local Tax Registration Certificate

This is commonly known as a “business license.”

Most cities require all businesses to register with the city’s tax collector, regardless of business type, structure, or size.

6 Obtain Licenses, Permits, & Zoning Clearances

Seller’s Permits:
- To sell tangible goods to the public, you must obtain a seller’s permit from the California Board of Equalization (BOE). Businesses that only provide services are exempt.
- The permit allows the business to collect sales taxes owed to the BOE.
- To obtain a seller’s permit, you can apply online or in-person at a CDTFA office.

Other Permits:
- Depending on the nature of your business, you may need to obtain additional licenses or permits. The best way to find out what licenses are relevant to your business is to go onto the CalGold database. This site allows you to enter your business type and location and returns a list of the licenses and permits you’ll need from the local to the federal level, along with contact information for applicable agencies.
<table>
<thead>
<tr>
<th>Step</th>
<th>Task</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Choose a Name</td>
<td>This is usually your birth name. See <a href="#">General Steps of Entity Formation</a> for more info.</td>
</tr>
<tr>
<td>2.</td>
<td>Register Fictitious Name (FBN)</td>
<td>If the sole proprietor is not using their birth name in the business name, they must file a FBN. See <a href="#">General Steps of Entity Formation</a> for more info. SPs are not required to file a FBN, but a FBN is practical for sales and marketing reasons.</td>
</tr>
<tr>
<td>3.</td>
<td>Prepare &amp; File Documents</td>
<td>There are no requirements to file organizational documents with the California Secretary of State.</td>
</tr>
<tr>
<td>4.</td>
<td>Obtain an EIN</td>
<td>Sole proprietors without employees are not required to have an EIN. However, if you wish to have employees you need to obtain an EIN.</td>
</tr>
</tbody>
</table>
## Forming a General Partnership

<table>
<thead>
<tr>
<th>Step</th>
<th>Task Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Choose a Name</td>
<td>- There are no specific naming requirements for a general partnership.</td>
</tr>
</tbody>
</table>
| 2    | Register Fictitious Name (FBN) | - There is no requirement to register a FBN if each general partner is using their birth name in the business name.  
- Otherwise, the partners must file a FBN statement with the County Recorder-Clerk’s office of the county in which the office of the business is located. |
| 3    | Prepare & File Documents | - Partners must file a [Statement of Partnership Authority (Form GP-1)](https://www.sos.ca.gov/businesses/fillable-forms) with the California Secretary of State. The filing fee is $70.  
- Partners must prepare a [Partnership Agreement](https://www.sos.ca.gov/businesses/forms) that summarizes the partners' obligations and controls the business's operation. A partnership agreement is not a mandatory legal requirement for establishing a partnership. However, it is an important step to ensure there are no misunderstandings between you and your partners. In the absence of a partnership agreement, California’s version of the [Revised Uniform Partnership Act (RUPA)](https://www.sos.ca.gov/businesses/forms) establishes standard rights and responsibilities of each partner. |
| 4    | Obtain an EIN    | - See [General Steps of Entity Formation](https://www.sos.ca.gov/businesses/forms) for more information. |
| 5    | Obtain a Local Tax Registration Certificate | - See [General Steps of Entity Formation](https://www.sos.ca.gov/businesses/forms) for more information. |
| 6    | Obtain Licenses, Permits, & Zoning Clearances | - See [General Steps of Entity Formation](https://www.sos.ca.gov/businesses/forms) for more information. |
## Forming a Limited Partnership

<table>
<thead>
<tr>
<th>Step</th>
<th>Task</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Choose a Name</td>
<td>- The name must include the words “Limited Partnership”, “LP” or L.P.”</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- The name cannot include terms such as corporation, incorporated, bank, insurance, corp, trustee, inc., or trust.</td>
</tr>
<tr>
<td>2</td>
<td>Register Fictitious Name (FBN)</td>
<td>- If operating under a name different from its official name as stated in its formation documents, then you must file a FBN statement with the County Recorder-Clerk’s office of the county in which the office of the business is located.</td>
</tr>
<tr>
<td>3</td>
<td>Prepare &amp; File Documents</td>
<td>- Partners must file a Certificate of Limited Partnership with the California Secretary of State <a href="https://www.sos.ca.gov/businesses/partnership">Certificate of Limited Partnership (LP-1)</a> with the California Secretary of State. The filing fee is $70 but it is waived until June 30, 2023.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Partners prepare a <strong>Limited Partnership Agreement</strong> that summarizes the rights and obligations of the partners and must be signed by the partners. A partnership agreement is not required but recommended to prevent possible problems. In the absence of a partnership agreement, California’s version of the Revised Uniform Partnership Act (RUPA) establishes the standard rights and responsibilities of each partner.</td>
</tr>
<tr>
<td>4</td>
<td>Obtain an EIN</td>
<td>- See <a href="https://www.sos.ca.gov/businesses/partnership">General Steps of Entity Formation</a> for more information.</td>
</tr>
<tr>
<td>5</td>
<td>Obtain a Local Tax Registration Certificate</td>
<td>- See <a href="https://www.sos.ca.gov/businesses/partnership">General Steps of Entity Formation</a> for more information.</td>
</tr>
<tr>
<td>6</td>
<td>Obtain Licenses, Permits, &amp; Zoning Clearances</td>
<td>- See <a href="https://www.sos.ca.gov/businesses/partnership">General Steps of Entity Formation</a> for more information.</td>
</tr>
</tbody>
</table>
# Forming a Limited Liability Company (LLC)

<table>
<thead>
<tr>
<th>Step</th>
<th>Task</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Choose a Name</td>
<td>- The name must include the words “limited liability company” that suits your style: “LLC,” “L.L.C.,” “Limited Liability Company,” “Ltd. Co.,” etc.</td>
</tr>
<tr>
<td>2</td>
<td>Register Fictitious Name (FBN)</td>
<td>- This is required if operating under a name different from its official name as stated in its formation documents. See <a href="#">General Steps of Entity Formation</a> for more information.</td>
</tr>
</tbody>
</table>
| 3    | Prepare & File Documents                  | - File Articles of Organization (Form LLC-1) with the California Secretary of State, which completes LLC formation. The filing fee is $70 but it is waived until June 30, 2023.  
  - Members enter into an Operating Agreement (or LLC Agreement), which governs the relationship between the members and the running of the business. For example, a company can explicitly state how the company will distribute shares and how the members will divide profits and losses. This is recommended, but not required.  
  - File a Statement of Information (Form LLC-12) within 90 days of initial registration and every two years thereafter. The filing fee is $20. |
| 4    | Obtain an EIN                             | - See [General Steps of Entity Formation](#) for more information.                                                                                                                                 |
| 5    | Obtain a Local Tax Registration Certificate | - See [General Steps of Entity Formation](#) for more information.                                                                                                                                 |
| 6    | Obtain Licenses, Permits, & Zoning Clearances | - See [General Steps of Entity Formation](#) for more information.                                                                                                                                 |
## Forming a Corporation (C-Corp & S-Corp)

<table>
<thead>
<tr>
<th>Step</th>
<th>Task</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Choose a Name</td>
<td>The name must include the words “Corporation”, “Company”, “Incorporated”, “Incorporation”, “Limited”, “Corp”, “Co”, “Inc”, “LTD”, “PC”, or “Professional Corporation.”</td>
</tr>
<tr>
<td>2</td>
<td>Register Fictitious Name (FBN)</td>
<td>This is required if operating under a name different from its official name as stated in its formation documents. See <a href="#">General Steps of Entity Formation</a> for more information.</td>
</tr>
</tbody>
</table>
| 3 | Prepare & File Documents (C-Corp) | - File [Articles of Incorporation (Form ARTS-GS)](#) with the California Secretary of State. The filing fee is $100 but it is waived until June 30, 2023.  
- Hold an initial organizational meeting where the Board of Directors is elected. The incorporator (the person who signed the Articles of Incorporation) must complete an "Incorporator's Statement" showing the names and addresses of the initial directors, sign the statement, and place a copy in the corporate records book. This does not need to be filed with the state.  
- Create Bylaws establishing governance of the corporation and the role of the Board of Directors. This is not required but strongly recommended to establish the corporation’s rules, and show banks, creditors, the IRS, and others the corporation’s legitimacy.  
- File a [Statement of Information (Form SI-550)](#) within 90 days of initial registration and every year thereafter. The filing fee is $25. |
| | Prepare & File Documents (S-Corp) | - Follow the steps above, then file an [Election by a Small Business Corporation (Form 2553)](#) with the IRS to complete your business filings and elect the S-Corp tax structure. There is no filing fee, but special conditions may dictate a fee. In those cases, the IRS will send you a bill.  
- You will need to obtain an EIN before filling out the form. |
<table>
<thead>
<tr>
<th></th>
<th>Obtain an EIN</th>
<th>• See <a href="#">General Steps of Entity Formation</a> for more information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Obtain a Local Tax Registration Certificate</td>
<td>• See <a href="#">General Steps of Entity Formation</a> for more information.</td>
</tr>
<tr>
<td>6</td>
<td>Obtain Licenses, Permits, &amp; Zoning Clearances</td>
<td>• See <a href="#">General Steps of Entity Formation</a> for more information.</td>
</tr>
</tbody>
</table>
California Cooperative (Co-op)

Along with the classic business entities discussed above, there is another business entity available in California, called the California Cooperative Corporation (Co-op) business entity.

A Co-op is governed by the California Corporations Code (CA Corp. Code Title 1, Div. 3, Part 2). Co-ops are hybrid entities that combine features from both for-profit and non-profit entities, in which workers own and manage the business and have the same voting power with respect to important business decisions.

For undocumented business owners, other business entities might seem more appealing because they don't need any filing requirements to create and are usually less expensive. However, such business entities, like sole proprietorships and partnerships, hold business owners liable for all business losses or debts. Co-ops could be a better option due to their liability protections and other flexible features.

What are the different types of co-ops?

The two main co-op types are listed below. You can find more information about many other co-op types here: Co-op Types

- Consumer Co-ops: Co-ops created to benefit customers by providing goods or services. Examples are retail and insurance co-ops.
- Worker Co-ops: Co-ops created for sustainable jobs and promoting community economic development. Members usually receive salaries or wages, with annual distributions. Worker co-ops must obtain an EIN from the IRS and an employer account number from the State of California.
Co-ops protect against personal liabilities.

Co-ops' practices must be legal and democratically structured.

Co-op members can invest up to $1000 without filing for securities.

Co-ops provide tax benefits, like members paying W-2 taxes at the employee level.

Co-op workers have employee status and are entitled to employment law protections.

You must pay a fee and a minimum $800 franchise tax to form a co-op.

You must create and maintain co-op corporate formalities such as holding board meetings, filing the proper paperwork, and keeping a separate bank account.

### Advantages

- Co-ops protect against personal liabilities.
- Co-ops' practices must be legal and democratically structured.
- Co-op members can invest up to $1000 without filing for securities.
- Co-ops provide tax benefits, like members paying W-2 taxes at the employee level.
- Co-op workers have employee status and are entitled to employment law protections.

### Disadvantages

- You must pay a fee and a minimum $800 franchise tax to form a co-op.
- You must create and maintain co-op corporate formalities such as holding board meetings, filing the proper paperwork, and keeping a separate bank account.

### Forming a California Co-op

A cooperative can be established by any business structure described in this guide, including partnership, LLC, or corporation. Usually, cooperatives use the LLC structure because it is flexible and requires lower costs to form and maintain than a corporation. It is ideal for a larger number of owners than partnerships. In addition, an LLC cooperative offers limited liability for members.

Cooperatives may help protect immigrants without legal status from being exploited through wage theft or other abuses when working individually. Co-ops are recommended for undocumented business owners, but please note that creating a co-op requires an EIN. You do not need a social security number to obtain an EIN.

You can learn the steps of creating a co-op by visiting this website: [How to Form a Cooperative Corporation](#).
Risks & Bankruptcy
Business Bankruptcy vs. Individual Bankruptcy

- Individuals and businesses can file for bankruptcy.
- Bankruptcy is a legal process available if you cannot repay your debts. Through business bankruptcy, eligible companies’ debts are eliminated or put on a repayment plan. Creditors receive a portion of debt repayment through the debtor’s (the person filing bankruptcy for a small business) available assets.
- Bankruptcy can potentially wipe out all the debts you list when filing, but not all debts are eligible to be forgiven through bankruptcy.

Debts Not Generally Dischargeable through Bankruptcy

- Debts left off the bankruptcy petition, unless the creditor knew of the filing
- Many types of taxes
- Child support or alimony
- Debts owed to a child or ex-spouse arising from divorce or separation
- Fines or penalties owed to government agencies
- Student loans
- Personal injury debts arising out of a drunk driving accident
- Debts arising out of tax-advantaged retirement plans
- Condo or cooperative housing fee debts
- Attorneys’ fees for child custody or support
- Criminal restitution and other court fines or penalties

Purposes of Filing Business Bankruptcy

- **Quickly close your company:** You don’t have to deal with wrapping up every aspect of your business, such as selling inventory, getting rid of equipment, and collecting unpaid invoices.
- **Keep your business afloat:** If you want to continue operating, filing bankruptcy can keep you in business while lessening your debt.

Bankruptcy Filing Process

- Federal courts handle bankruptcies. To get the ball rolling with bankruptcy, you must file a petition with your local federal bankruptcy court. The petition asks for your name and address, debt amounts, number of creditors, and asset value.
- Once you send the petition, you receive an automatic stay. That means your creditors must stop trying to collect money from you.
Types of Bankruptcy

**Liquidation:** During liquidation, the business closes, and its assets are divided among creditors. (Chapter 7).

**Reorganization:** Reorganization involves the restatement of assets and liabilities to extend the company's life. New arrangements are made to pay creditors, and the business continues to operate. In other words, businesses can create new repayment plans to pay their creditors. (Chapter 11 & 13)

<table>
<thead>
<tr>
<th>Chapter 7</th>
<th>Chapter 13</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of Bankruptcy; Who Can File?</strong></td>
<td><strong>Liquidation:</strong> Sole proprietorships, partnerships, corporations, limited liability companies (LLCs)</td>
</tr>
<tr>
<td><strong>Eligibility Restrictions</strong></td>
<td>Disposable income must be low enough to pass the Chapter 7 Means Test</td>
</tr>
<tr>
<td><strong>How Long Does It Take to Receive a Discharge?</strong></td>
<td>Typically, 3-4 months</td>
</tr>
<tr>
<td><strong>What Happens to Property in Bankruptcy?</strong></td>
<td>Trustee can sell all nonexempt property to pay creditors</td>
</tr>
<tr>
<td><strong>Allows Removing Junior Liens from Real Property Through Lien Stripping?</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Allows Reducing the Principal Loan Balance on Secured Debts?</strong></td>
<td>Yes, but only on tangible personal property</td>
</tr>
<tr>
<td><strong>Advantages</strong></td>
<td>Allows debtors to discharge qualifying debts and get a fresh start quickly</td>
</tr>
<tr>
<td><strong>Disadvantages</strong></td>
<td>Trustee can sell nonexempt property; Does not provide a way to catch up on missed payments to avoid foreclosure or repossession</td>
</tr>
</tbody>
</table>
Chapter 11

Large businesses file for Chapter 11 to help them reorganize their business debts and repay their creditors while continuing their operations. Chapter 11 bankruptcy might not be the most ideal for small businesses since it can be expansive and time-consuming. Moreover, small business owners will most likely need professional legal guidance in the process.

Chapter 11 has a debt limitation of $3,024,725 (amount valid when filing between April 1, 2022, and March 31, 2025).

Chapter 11 may be right for you if:

- You don't meet the debt limit requirements to file for Chapter 13 bankruptcy as an individual.
- You want to keep your business running as you go through the bankruptcy process.
- You want to avoid the liquidation of property and other assets.

Chapter 11 Advantages

- Make smaller payments to creditors through a debt restructuring plan
- Keep your business running while paying off creditors, giving you the ability to still profit from your business during the bankruptcy process
- Lower your high-interest loans
- Avoid liens, lawsuits, levies, and foreclosures
- A debtor's disposable income is not considered in Chapter 11 bankruptcy proceedings
- Keep your company's reputation intact

Chapter 11 Disadvantages

- While Chapter 11 can benefit many companies, it also has several disadvantages. Chapter 11 bankruptcy can be expensive and lengthy. So, many small businesses tend to seriously consider whether Chapter 11 is right for them over Chapter 7 or Chapter 13.
Bankruptcy and Immigration Status

How does filing for bankruptcy affect immigration status?

Typically, as long as you live (or have a domicile), have a business, or own property in the United States (or a municipality), you are eligible to file for bankruptcy. While an undocumented immigrant can file for bankruptcy, keep in mind that you must prove your identity to the court, usually with your ITIN.

Filing for bankruptcy could have an adverse effect on your immigration status, but it depends on your specific circumstance. For example, there can be repercussions to your immigration case if it is discovered that you lied on your bankruptcy petition (under oath), supplied false financial information, or left out certain information or assets on your bankruptcy petition.

Moreover, if you are an undocumented individual who does not fall into at least one of the following categories indicated in the 2019 Inadmissibility on Public Charge Grounds final rule, filing for bankruptcy will be considered when evaluating you for admission into the United States.

- **Refugees**
- **Asylees**
- **Afghans** and **Iraqis** with special immigrant visas
- **Special immigrant juveniles**
- **Amerasian immigrants**, born in Vietnam between 1/1/62-1/1/76.
- Those eligible for benefits under provisions such as the Cuban Adjustment Act (CAA), the Nicaraguan Adjustment and Central American Relief Act (NACARA), and the Haitian Refugee Immigration Fairness Act (HRIFA)
- **Violence Against Women Act (VAWA) self-petitioners** and their immediate relatives
- Certain nonimmigrant trafficking and crime victims, including applicants for T nonimmigrant visas and U nonimmigrant visas and their spouses, children and parents, and siblings
- Those to whom the U.S. Department of Homeland Security (DHS) has granted a waiver of public charge inadmissibility

If you do not fall under one of the above categories, your admission into the United States will be evaluated under the Public Charge Grounds Final Rule.
The Public Charge Grounds Final Rule “clarifies the factors considered when determining whether someone is likely at any time in the future to become a public charge.” Section 212(a)(4)(A) of the Immigration and Nationality Act allows for the denial of entry to the U.S. of any applicant who is considered likely to become a public charge at any time. Being considered a "public charge" means that one is determined to be dependent on government assistance.

Bankruptcy could affect your immigration status if you are subject to the Public Charge Grounds Final Rule since a person's financial status is a factor considered in the determination of whether someone is a public charge and thus ineligible for admission into the U.S.

Factors Considered in Determining Public Charge

- Age;
- Health;
- Family status;
- Assets, resources, and financial status;
- Education and skills;
- The sufficiency of Affidavits of Support if required under Section 212(a)(4) (C) or (D) (Form I-864 or Form I-864EZ showing an immigrant will not have to rely on welfare benefits); and
- Any other factor or circumstance that may warrant consideration in the public charge inadmissibility determination, such as prospective immigration status and expected period of admission

An undocumented immigrant who is neither a refugee or asylee (nor within any category mentioned above) is subject to the final rule.

The DHS takes a totality of the circumstances approach, meaning that no single factor on its own, without consideration of the other factors, would establish a public charge. Thus, a person’s financial status is considered in this determination, so filing for bankruptcy can have a negative effect on this factor, but it is not determinative.
Bankruptcy and Pending Asylum Applications

According to the **Public Charge Grounds Final Rule** exceptions, bankruptcy (and some other factors) may not be considered when deciding to admit someone under asylee status.

Asylum Eligibility

The Asylum Officer determines if you are eligible for asylum by evaluating and determining whether you meet the definition of a refugee based on the information provided on your Application for Asylum and for Withholding of Removal (Form I-589) and interview.

A refugee is someone unable or unwilling to return to and avail themselves of the protection of their country of nationality or, if stateless, country of last habitual residence due to persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

The Asylum Officer will also consider whether any asylum bars apply. Generally, you will be barred from being granted asylum if you:

- Ordered, incited, assisted, or otherwise participated in the **persecution** of any person on account of race, religion, nationality, membership in a particular social group, or political opinion
- Convicted of a **“particularly serious crime”** (includes aggravated felonies)
- Committed a **“serious nonpolitical crime”** outside the United States
- **Pose a danger** to the security of the United States
- **Firmly resettled** in another country prior to arriving in the United States (see 8 CFR § 208.15 for a definition of “firm resettlement”)
- Are described in any of the **terrorism or security-related inadmissibility grounds**

Visit the [U.S. Department of Homeland Security website](https://www.dhs.gov/) to learn about the different asylum processes and a complete description of each step.
Intellectual Property
Intellectual Property for Small Business Owners

Intellectual property (IP) is the broad term for a group of intangibles that are subject to ownership under state and federal laws. The four main types of intellectual property are copyrights, trademarks, trade secrets, and patents.

Undocumented small business owners are encouraged to register their works for protection. Business owners are often unaware that their business assets include IP rights. IP laws can help small business owners by:

- **Encouraging innovation** by ensuring that people can gain from their creations without the fear of misappropriation by others;
- **Increasing visibility** of your products on the market;
- **Distinguishing your business** and products from competition; and
- **Avoiding the risk** of unknowingly using third-party proprietary content or inadvertently losing valuable information.

Examples of Violations:

- Selecting a business name too similar to another company’s
- Picking a logo that is similar to one already in use
- Using photos, graphics, and images found online
- Using written resources found online
- Using music or videos for purposes other than the buyer’s reserved use

Business owners need to be aware of IP issues they may face and how to avoid violating IP laws. Violations are often unintentional and may bring an investigation upon the business.

To Avoid Liability:

- Download photos, videos, and audio from free or paid stock websites
- Linked are a few articles with sources for stock photos, videos, and audio:
  - 5 Sites to Find Free Stock Photos, Videos, Audio, and Icons
  - 16 Best Stock Photo and Video Sites
  - 10 Stock Image Websites You Need To Know in 2020
- Properly cite and source your content. Use a plagiarism checker such as Plagiarism Checker by Grammarly.
Please see the chart below for a general comparison between **copyrights**, **trademarks**, **trade secrets**, and **patents**. See the following pages for more extensive descriptions, and refer to [this presentation](#) by the U.S. Patent and Trademark Office (USPTO) for more information.

<table>
<thead>
<tr>
<th>What It Protects</th>
<th>Copyrights</th>
<th>Trademarks</th>
<th>Trade Secrets</th>
<th>Patents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Books, photos, music, fine art, graphic images, videos, films, architecture, computer programs</td>
<td>Words, symbols, logos, designs, or slogans that identify and distinguish products or services</td>
<td>Formulas, methods, devices, or compilations of information</td>
<td>Inventions (utility), ornamental designs (design), newly invented plants (plant)</td>
<td></td>
</tr>
<tr>
<td>Who It Serves</td>
<td>Authors</td>
<td>Brands</td>
<td>Businesses</td>
<td>Inventors</td>
</tr>
<tr>
<td>Example</td>
<td>Disney's copyright to Mickey Mouse</td>
<td>Apple logo</td>
<td>Coca-cola recipe</td>
<td>Thomas Edison's patent for the first light bulb</td>
</tr>
<tr>
<td>Protection Begins</td>
<td>Upon fixation</td>
<td>Upon use in commerce</td>
<td>Upon creation</td>
<td>Upon registration</td>
</tr>
<tr>
<td>Length of Protection</td>
<td>The life of the author + 70 yrs (or some works, 95 yrs from publication; others 120 yrs from creation)</td>
<td>As long as the mark is in continuous use in connection with the goods/services (renew yr 6, yr 10, then every 10 yrs)</td>
<td>As long as the information remains confidential and functions as a trade secret</td>
<td>20 yrs from the filing date (utility &amp; plant patent), 15 yrs (design patent)</td>
</tr>
<tr>
<td>Registration</td>
<td>Gives extra protection</td>
<td>Gives extra protection</td>
<td>None</td>
<td>Required</td>
</tr>
<tr>
<td>Exclusive Right to</td>
<td>Reproduce, make derivative works, perform, display</td>
<td>Use within class</td>
<td>Prevent misappropriation</td>
<td>Make, use, sell, import</td>
</tr>
<tr>
<td>Relevant Government Body</td>
<td>Federal (US Copyright Office)</td>
<td>State &amp; Federal (USPTO)</td>
<td>None</td>
<td>Federal (USPTO)</td>
</tr>
</tbody>
</table>
Copyright

There are two kinds of copyright:

(1) Original Works:
Works are original when they are independently created by a human author and have a minimal degree of creativity. Independent creation means that you created it yourself, without copying. The work must have a “spark” or “modicum” of creativity.

(2) Fixed Works:
A work is fixed when it is captured (either by or under the authority of an author) in a sufficiently permanent medium such that the work can be perceived, reproduced, or communicated for more than a short time. For example, a work is fixed when you write it down or record it.

Works excluded from copyright protection:
U.S. Government works, Ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries.

Copyright Registration

- Once you create an original work and fix it (e.g. taking a photograph, writing a poem or blog, or recording a new song), you are the author and the owner.
- Companies, organizations, and others besides the work's creator can also be copyright owners. Copyright law allows ownership through “works made for hire,” which establishes that the employer owns works created by an employee within the scope of employment. The work made for hire doctrine also applies to certain independent contractor relationships for certain types of commissioned works.
- Copyright ownership can come from contracts like assignments, wills, and bequests.

Filing a Copyright Registration

Online: Online filing is less expensive. (Certain types of applications must be submitted in paper form.)

On paper: Once you complete your paper application, mail it with your filing fee and deposit, all in the same package, to the address on the final page of the application. Boxes sent to the Copyright Office cannot weigh more than twenty pounds.

Filing fees vary. For more information on fees, visit this website.
Benefits of Copyright Registration

- Creates a public record of important facts about the ownership of the claimed work.
- Allows the author to file a lawsuit for copyright infringement and claim damages. Registration is required before doing so, and the work must be registered before the infringement began or within 3 months after the first publication of the work.
- **Note:** A registration provides information to prospective licensees, such as the name and address for obtaining permission to use the work.

Copyright Preregistration

Preregistration allows copyright owners to file infringement lawsuits and seek damages in cases where the work was infringed before the owner finished the work and announced it to the public. Preregistration does not substitute for registration.

Preregistration Qualifications

- The work must be a motion picture; a sound recording; a musical composition; a literary work being prepared for publication in book form; a computer program; a video game; or a photograph that is intended to advertise or market a specific product or service.
- The work must be copyrightable;
- The author must have begun to create the work;
- The work must be unpublished; and
- The work must be in the process of being prepared for commercial distribution.

File Preregistration application online. The application fee is $140.
Trademark

A trademark is a word, name, symbol, or device used to identify the source of the goods and to differentiate them from the goods of others. Trademarks protect against unauthorized use of your symbol, words, phrases, or elements that identify and are unique to your brand.

Internet domain names can be protected if used to identify the origin of particular goods/services.

Governing Law

The United States Patent and Trademark Office (USPTO) allows you to apply for federal registration of your trademark. Trademark laws also cover service marks and trade dress.

Each state has its own registration system. If you are only using your trademark within your state of business, then only register with the state. However, if you plan to use your trademark nationally or internationally, then you need to register your trademark with the federal office.

Difference between State and Federal Trademark Law

State:
Each state has its own registration system. This is California’s Trademark Application Form. It can be filed online, in-person over the counter in Sacramento, or by mail.

Federal:
Registering a trademark on the federal level is more difficult, more expensive, and a lengthier process than at the state level, but federal protections are stronger.

With a federal trademark, you have the basis to file in other countries, use the ® symbol, stop unauthorized importers from bringing or using your mark, and file a complaint (with the federal trademark office) against an unauthorized user before you begin using the trademark.
Access, Guides, and Basics of Obtaining a Trademark

- Trademark basics to know before filing a Trademark Application
- Trademark Application and Maintenance Process
- Step-by-step instructions for filing a trademark using Trademark Electronic Application System (TEAS): TEAS Tutorial
  - You can (informally) request to remove personal information that you inadvertently included (driver's licenses, SSNs, banking information, credit card information) by emailing TMFeedback@uspto.gov.
  - For information other than that listed above, you may petition the Director of the USPTO to remove it from public view ($100 fee)

General information on applying online to the United States Patent and Trademark Office (USTPO) Trademarks Filing: USTPO Apply Online for Trademarks.

Before You Apply

- Check the Trademark Electronic Search System (TESS) to see if your trademark is available.
- Search domain name registries if you intend to have a website (Note: domain names and trademarks are not registered together, so you must check both individually)
  
  Note: Hiring a trademark attorney is recommended to conduct an extensive trademark search. A professional-level trademark search goes well beyond any search you can perform via Google or the United States Patent and Trademark Office (USPTO) website.

Extra Information and Resources

- Free patent and trademark assistance: CA Pro Bono Programs and Clinics.
- Foreign-domiciled applicants must be represented by a U.S.-licensed attorney at the USTPO.
- U.S. domiciled applicants do not need a U.S.-licensed attorney.

Main elements of a trademark application:

- Applicant’s name, address, and email
- Applicant’s citizenship and type of entity (more information on this below)
- Counsel information, if the applicant is or must be represented by counsel
- A clear drawing of the mark
- A listing of the goods or services
- Classification of the goods or services
- Applicant’s verified statement
- The filing fee for at least one class of goods or services
- Additional use in commerce application requirements
The following documents are not required in your application, unless specifically requested:

- Driver’s license
- Social security number
- Credit card information
- Bank account numbers

Remedying Your Privacy Concerns

- The owner’s domicile can be kept private if (1) you properly use certain electronic forms and (2) you provide both a mailing address different than your domicile address.
- You can indicate on the initial application form or Change Address or Representation (CAR) form that your mailing and domicile address are not the same. The mailing address will be public while the domicile address will be hidden. Note that providing the domicile address in any other part of the form will make that address publicly viewable.

For more info USTPO’s [Privacy Policy](#) and [Personal Information FAQ](#).

Filing Basis

You must specify at least one filing basis in your application, and you may claim more than one basis. However, you cannot claim a commerce basis and an intent-to-use basis for the same goods and/or services.

Four possible bases:

- **Use in commerce basis**: You currently use your mark in commerce with your goods and/or services.
- **Intent-to-use basis**: you intend to use your mark in commerce with your goods and/or services in the near future.
- **Foreign registration basis**: you own a foreign registration of the same mark for the same goods and/or services from your country of origin.
- **Foreign application basis (aka “foreign priority basis”)**: you own an earlier-filed foreign application filed within six months of your U.S. application for the same mark and/or the same goods and/or services. You are requesting a priority filing date for your application that is the same date as that of the foreign application filing date.

After the filing basis has been established, the legal basis must be established (also known as a registration basis), upon which you can register the Trademark. The legal requirements for each filing basis can be found here: [Filing Basis Requirements](#).
Trademark Electronic Application System (TEAS) Plus v. TEAS Standard Applications

**TEAS** is the Trademark Electronic Application System used by the USPTO. TEAS Plus has an ID manual that lists goods and services already approved for use by the USPTO.

**TEAS Plus** has a lower fee (TEAS Plus costs $225 per class of goods/services. TEAS Standard costs $275 per class of goods/services). However, TEAS Plus has more filing requirements. If you fail to meet these requirements, your application will be reverted to TEAS Standard, and you will have to pay an additional fee of $125 per class.

The USTPO recommends using TEAS Plus only if:
1. You meet all the requirements for that option, and
2. You will select entries of goods/services only from the Trademark ID manual.

Access the complete list of TEAS Plus filing requirements here: [TEAS Plus Filing Requirements](#).

Access more information about the TEAS application here: [TEAS Standard Form](#).

**Disclosure of Citizenship Status**

**Applicants may have to disclose citizenship status.** The TEAS Plus application asks for the Applicant’s Legal Entity and Citizenship (or state or country of an applicant). In addition, trademark Rule 2.22(a)(4) requires that when the applicant is a partnership, the application must include the names and citizenship of the general partners.

Note: This requirement for the names and citizenship of the general partners applies only to domestic partnerships.
Trade Secrets

Trade secrets are any information that derives economic value from not being generally known or ascertainable and must be subject to reasonable efforts to maintain its secrecy. Trade secrets give a person or business a competitive edge.

Examples include recipes, product formulas, customer lists, search algorithms, and production methods. A trade secret is protected as long as its confidentiality is adequately maintained.

Choosing between a Trade Secret and a Patent

Sometimes, an invention is eligible for both patent and trade secret protection, so the person or business must weigh the benefits of each type of IP. For more comparisons between the different types of IP, refer to this chart.

<table>
<thead>
<tr>
<th>Why would I choose trade secret protection?</th>
<th>Why would I choose to obtain a patent?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade secrets do not expire and do not require registration. Moreover, they do not require the person or business to disclose the information to the public. However, trade secrets lose their protection when discovery occurs. Therefore, internal systems and policies to avoid public disclosure are particularly important.</td>
<td>Patent protection eliminates the need to maintain secrecy. Moreover, patents may protect against independent discovery/invention, in which two people have the same idea/invention. For instance, Gabby has an idea and files a patent for it on January 1st. Carlos has the same idea even though he has never met Gabby. Carlos files for the patent on January 2nd. Gabby is the first inventor to file for a patent, so she receives the patent. However, patents require a detailed and enabling disclosure about the invention in exchange for the right to exclude others from practicing the invention for a limited period of time.</td>
</tr>
</tbody>
</table>
The United States must provide trade secret protection as a member of the World Trade Organization and a party to the Agreement on Trade Related Aspects of Intellectual-Property Rights. In addition, the Defend Trade Secrets Act of 2016 created a federal civil cause of action, strengthening U.S. trade secret protection. Common law, state civil statutes, and federal/state criminal statutes also protect trade secrets (e.g., The Uniform Trade Secrets Act (“UTSA”) of 1996).

Unlike the other types of IP, you do not need to register a trade secret, and protection starts upon its creation. However, you still need to take steps to maintain its secrecy so that it does not lose protection.

### Strategies to Protect Your Business’s Trade Secrets

- Implement a trade secret protection policy and put it in writing.
- Educate your employees and make sure they comply with the policy.
- Restrict trade secret access to only those who need to know.
- Mark up documents containing trade secrets as **Confidential** or label documents like: "**WARNING: THIS DOCUMENT CONTAINS TRADE SECRET INFORMATION OF [COMPANY]. UNAUTHORIZED DISCLOSURE IS STRICTLY PROHIBITED AND MAY RESULT IN SERIOUS LEGAL CONSEQUENCES.**"
- Maintain privacy settings and secrecy on computers with trade secrets and only allow employees who need to know trade secrets to use computers that hold trade secrets.
- Restrict access to facilities that have trade secrets.
- Make third parties sign confidentiality agreements.
- Have employees sign non-compete agreements.
Patents

A patent for an invention is a grant of property rights to an inventor by the United States Trademark and Patent Office (USTPO). A U.S. patent allows its owner the right to exclude others from making, using, selling, or importing a patented invention for a limited time in the U.S. If approved, a patent term spans 20 years, starting from the date on which the patent application was filed, or the date that an earlier related invention was filed. Please visit the USTPO website for more information.

The most common patent is a utility patent, but there are three types of patents available:

- **Utility Patent**: Utility patents cover the invention or discovery of any new and useful process, machine, article of manufacture, composition of matter, or any new and useful improvement. (35 U.S.C. § 101)

- **Design Patent**: Design patents protect inventions of new, original, and ornamental design for an article of manufacture. (35 U.S.C. § 171)

- **Plant Patent**: Plant patents are granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plants. (35 U.S.C. § 161)

Obtaining a patent can help business owners in the following ways:

- Help enter, and deter others from entering, a market
- Attract investors
- Be used as a marketing tool to promote unique aspects of a product
- Be asserted against an infringer
- Be used as collateral to obtain funding
- Increase leveraging power
- Create revenue when sold or licensed like other property
The Patent Process

After you’ve determined which kind of patent you need (utility, design, or plant), the USPTO website outlines the following steps to receive a patent for your invention. For more details and resources, visit the USPTO website for an overview of the patent process.

Overview of the Patent Process

<table>
<thead>
<tr>
<th>1</th>
<th>Determine if Your Invention is Patentable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Under the U.S. Patent Act, there are four requirements for patent eligibility: (1) statutory (or subject matter eligible), (2) novel, (3) useful, and (4) non-obvious.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Statutory (subject matter):</strong> Your invention must involve subject matter that Congress has defined as “patentable,” which are processes, machines, manufactured articles, and compositions of matter. Examples of clearly non-statutory inventions are nonfunctional descriptive material like books or music, laws of nature, and other abstract ideas.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Novelty:</strong> The invention must be new and not known to the public more than a year before the application filing date. A registered attorney or agent is recommended if you are not experienced in performing patent searches.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Usefulness:</strong> The invention must be useful, which traditionally meant three things: practical utility, operability, and beneficial utility. Generally, a process, machine, or composition must operate to perform an intended purpose in the real world to meet this requirement.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Non-obviousness:</strong> The invention’s use/function cannot be the next logical step of an already patented invention.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2</th>
<th>Getting Ready to Apply</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Consider cost, processing time, hiring a patent attorney or agent, and provisional or nonprovisional application.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Cost:</strong> A patent application is subject to the payment of a basic fee and additional fees that include a search fee, an examination fee, and an issue fee. Depending on your application, there may also be excess claims fees. Fees vary depending on the type of patent application that you submit, and you can view them in the Current Fee Schedule.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Processing Time:</strong> The process usually takes 2+ years. Estimate how long it will be until you receive your first letter from the USPTO in response to your application.</td>
</tr>
<tr>
<td></td>
<td>• <strong>Hiring a patent attorney or agent:</strong> Typically, people hire a patent attorney or agent to file and prosecute a patent application.</td>
</tr>
</tbody>
</table>
- **Provisional or Nonprovisional application:**
  - A nonprovisional application is the standard application that the USPTO examines and approves. They offer stronger protections than provisional patent applications and have a more formal, longer filing process.
  - Provisional patent applications act as a placeholder for nonprovisional applications. They are never examined by the USPTO and automatically expire one year after their filing date. Provisional patent applications have less expensive filing fees, can be independently created without the help of attorneys, and offer a “head-start” on invention claims before competitors. However, they are tricky to word correctly because they cannot be too specific or vague, or you may encounter problems later.

<table>
<thead>
<tr>
<th>3</th>
<th><strong>Prepare &amp; Submit Initial Application</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• See the <a href="#">Patent Application Guides</a> for the detailed legal requirements for filing the type of Patent Application you have determined is right for you.</td>
</tr>
<tr>
<td></td>
<td>• Submit your initial application with all the required parts needed for obtaining a filing date and include the correct fee.</td>
</tr>
<tr>
<td></td>
<td>• Submit your application online: Use EFS-Web, the USPTO's electronic filing system for patent applications, to submit Utility patent applications, Provisional applications, and many other types of Office correspondence to the USPTO via the Internet.</td>
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<td>• Refer to this basic tutorial on <a href="#">Filing a New Application online</a></td>
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<th>4</th>
<th><strong>Work with Your Examiner</strong></th>
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<td></td>
<td>• Once your application has been accepted as complete, it will be assigned for examination.</td>
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<td></td>
<td>• Your examiner will review the contents of the application to determine if the application meets the requirements of <a href="#">35 U.S.C. 111(a)</a>.</td>
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<th>5</th>
<th><strong>Receive Your Approval &amp; Maintain Your Patent</strong></th>
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<td>• If the examiner determines that your application is in satisfactory condition and meets the requirements, you will receive a <a href="#">Notice of Allowance</a>.</td>
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<td></td>
<td>• The notice of allowance will list the issue fee and may also include the publication fee that must be paid before the patent is issued.</td>
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<td></td>
<td>• Maintenance fees are required to maintain a patent in force beyond 4, 8, and 12 years after the issue date for utility and reissue utility patents. If the maintenance fee and any applicable surcharge are not paid in a timely manner, the patent will expire. See the <a href="#">Maintain Your Patent page</a> for more information.</td>
</tr>
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<td></td>
<td>• After your patent is issued and published</td>
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<td></td>
<td>• <a href="#">Change the ownership of a Patent</a> (Assignments)</td>
</tr>
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<td></td>
<td>• <a href="#">Corrections to Patents and published Patent Applications, revival of Abandonments, Withdrawal of Grants and more</a></td>
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Resources
**Resources**

**Bet Tzedek** and the **LA Represents initiative** are helping small business owners in Los Angeles find free legal resources to address legal problems. [Apply here](#) to speak with someone at Bet Tzedek to get pro bono legal assistance or get a referral to other resources. [Here](#) you will find additional resources to help you in your journey as a small business owner.

Below is a chart with business and financial resources. Click the name of each resource to be re-directed to their flyer or website.

<table>
<thead>
<tr>
<th>Business &amp; Financial Resources</th>
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<tr>
<td><strong>Undocuhustle</strong></td>
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<td>Learning hub tailored to immigrants, regardless of citizenship status, looking to start their own businesses.</td>
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<tr>
<td><strong>Camino Financial</strong></td>
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<tr>
<td>Loan agency that lends almost exclusively to Latino business owners, half of them undocumented.</td>
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<tr>
<td><strong>Immigrants Rising</strong></td>
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<tr>
<td>Organization that empowers undocumented young people to achieve educational and career goals.</td>
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<tr>
<td><strong>SCORE</strong></td>
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<tr>
<td>Nonprofit business association that helps small business owners grow their networks, &amp; achieve their goals with online learning opportunities &amp; mentorships relations.</td>
</tr>
<tr>
<td><strong>CalGOLD</strong></td>
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<tr>
<td>Website that provides assistance in finding appropriate permit information for your business.</td>
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</tbody>
</table>
Resources (cont.)

Below are a few excellent design and social media tools with free or low-cost options. Click the name of each resource to be re-directed to their website.

| Design and Social Media Resources |
|-----------------------------------|----------------------------------------------------------------------------------|
| **Canva**                         | Graphic design platform that allows users to create social media graphics, resumes, presentations, business cards, posters and other visual content. |
| **Google Analytics**              | Web analytics service that helps track your website traffic so you can understand your audience and effectively use your website. |
| **Preview: Planner for Instagram**| Visual planner for Instagram that allows you to see what your feed will look like before you actually share the posts. |
| **Calendly**                      | Automated meeting scheduling software.                                          |
| **CoSchedule**                    | Marketing calendar software (free trial, $14/month after for basic package)      |
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Bet Tzedek Interns

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Bet Tzedek selects the top 25 to 30 candidates from law schools around the nation and 5 to 10 undergraduate students to participate in our full-time 11-week program. Summer clerks gain crucial skills for legal problem solving, learn to think critically about the policy implications of the legal system, and leave ready to create positive social change. The Summer for Justice Program affords professional, educational, and social opportunities that can only be found in a city as rich in diversity as Los Angeles. For more information click here.

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