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KEEPING YOUR FIRM'S FINANCES

When starting a law firm, there are many financial considerations. As with any business, it is important for the attorney to take into consideration the “business” of law as well as the “practice” of law.

1. Types of legal entities for law firm formation: The first step is to determine, on advice of an accountant, the type of entity the attorney will form in order to operate the practice. Aside from a sole proprietorship, the formation will include the filing of the entity with the New York State Secretary of State's Office.

- a. One attorney:
 - (i) sole proprietorship;
 - (ii) professional corporation (PC); or
 - (iii) professional limited liability company (PLLC)
- b. Two or more attorneys:
 - (i) partnership;
 - (ii) PC;
 - (iii) PLLC; or
 - (iv) professional limited liability partnership (PLLP)

2. Insurance policies: There are many different types of insurance policies that cover all sorts of potential liabilities. Additionally, there are also types of insurance policies required to be carried by any business by law.

- a. Worker's Compensation (covers employees; State Insurance Fund)
- b. Disability (covers employees; State Insurance Fund)
- c. Unemployment (covers employees; through New York State)
- d. Personal disability (covers owner of practice; private insurers)
- e. General liability a/k/a Business Owner's Policy (may include terrorism coverage, business interruption, crime insurance, employee theft)
- f. Professional liability (also known as malpractice insurance) -- errors and omissions insurance for attorneys. **IMPORTANT:** New York State law does not mandate that attorneys carry malpractice insurance but it is extremely important to do so. No attorney is perfect -- that's why it is called the “practice” of law; hard to be “perfect!”
- g. Life (can be either plan covering entire office or just owner of practice)
- h. Equipment (finance company/leasing company may require its own coverage)
- i. Health (can be either plan covering entire office or just owner of practice)
- j. Umbrella (personal coverage over and above other policy limits)
- k. Commercial auto insurance (if employees are driving for the law firm)
- l. Directors and officers insurance (if on boards or acting as general counsel)

3. Taxes: One of the “trouble” areas for attorneys is tax. Owners of law firm are responsible for putting aside their own tax payments and payroll deductions for their employees. This necessitates tax planning throughout the year to ensure that proper and timely estimated tax payments are made. Withholding taxes for employees are primary obligations of the law firm and secondary obligations of the principal(s) (and nondischargeable in a bankruptcy filing as fiduciary taxes).

- a. Federal withholding (941)
- b. State withholding (NYS-1 and NYS-45)
- c. New York City income tax (UBT)
- d. Federal quarterly estimated payments (1040-ES)
- e. State quarterly estimated payments (IT-2105)
- f. Metropolitan Commuter Transportation Mobility Tax (MTA-305)

IRS link to business taxes: <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Business-Taxes>

IRS audit techniques for law firms: <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Attorneys-Audit-Technique-Guide---Chapter-3>

4. Staffing the law firm:

- a. wages of employees/compensation of independent contractors.

Differences between the two are important:

<http://www.irs.gov/taxtopics/tc762.html>

- b. Types of staff: associate, secretary, receptionist, paralegal, investigator, of counsel, per diem attorney, bookkeeper, marketing and public relations, office manager.

IRS Employer’s Tax Guide: <http://www.irs.gov/pub/irs-pdf/p15a.pdf>

5. Pension/retirement plan: It is important to think not only of the present but of the future! Setting up a retirement plan, either on an individual basis or for the law firm is crucial. This may be accomplished through various types of plans, including an IRA, SEP IRA, SIMPLE plan, Keogh Plan, or 401(k).

IRS link to types of retirement plans: <http://www.irs.gov/Retirement-Plans/Plan-Sponsor/Types-of-Retirement-Plans-1>

IRS publication on choosing a retirement plan: <http://www.irs.gov/pub/irs-pdf/p3998.pdf>

6. Accountant/other professionals: This could include outside accountants, payroll service (such as ADP), marketing consultant, or a public relations consultant.

7. Office expenses:

- a. Rent (utilities included – such as electric)
- b. Telephone/Internet
- c. Postage/overnight delivery
- d. Photocopier rental/purchase - high speed scanner
- e. Lexis/Westlaw/Loislaw
- f. United Lawyers Service/American Clerical Service
- g. Printing (stationery, announcements, promotional items)
- h. Dues and subscriptions
- i. Software: Quicken, Amicus, Word, Excel, Timeslips
- j. Advertising and entertainment
- k. Case-specific expenses (index number; process service; subpoenae; etc.)
- l. Website hosting, emailing hosting services.
- m. Remote back-up storage, cloud computing.

8. Banking needs: It is recommended to develop a personal relationship with your banker. Banking services are crucial for a law firm, especially when it comes to handling escrow moneys.

- a. Accounts (types: business, escrow, IOLA and tax escrow)
- b. bank charges
- c. Other bank services (wire transfers, certification, signature guaranteed)
- d. Lines of credit/Credit cards
- e. Merchant services (such as Paypal, Square)

Other resources:

<http://myshingle.com/resources/startalawfirm/>

<http://www.foonberglaw.com/htsblp?gclid=CNWPq6XOqL0CFUVp7Aod->

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http://www.americanbar.org/publications/law_practice_today_home/law_practice_today_archive/april12/50-web-resources-for-the-suddenly-solo-lawyer.html

<http://www.nysba.org/ChecklistStartingaPractice/>

<http://www.nycbar.org/small-law-firm-center/slf-resources/763-basics>