

Legal Issues for Working At Home BY SUSAN SNOWDEN, ESQ.

Operating your own business from your home has its attraction and advantages. However, it's not without pitfalls. Working at home means that you have legal responsibilities in several vital areas.

First, you will need to determine whether there are any restrictions or prohibitions against operating your business in your home. The most obvious place to look is your property deed. Review your deed to determine if there are restrictions adopted by the developer prior to your purchase of your home. It's possible that you may be breaking the law simply by *opening* your home-based business.

You should also check to see if there are any zoning laws enacted by your city or county. Issues to consider: will you have interaction with the public or will you simply be working with-

out employees from your home using your computer and telephone? Complaints from neighbors are the number one cause of investigations by zoning boards into home-based business. Other zoning issues may be impacted by the type of merchandise you are selling or the amount of space in your home dedicated to your business.

Once you determine that you can operate your business out of your home, then determine what type of business entity you are going to operate under: as a sole proprietor, you could use your Social Security number for tax purposes; you may decide to form a corporation (Corp.) or a limited liability corporation (LLC) because of liability issues. However, regardless of the type of business entity that you chose, you will need a State business license and perhaps a city or coun-

ty license. Note that in the City of Martinsburg, there is a business and occupation tax (B&O Tax) which applies to businesses operating within the city limits. Always make sure that you research your city, county, and State licensing requirements so you can get the proper licenses or certifications prior to opening your business.

If you have never operated a business before, you should consult with an accountant. Resolve that you are going to keep accurate records for tax purposes. You may find that as your business progresses, you will need to stay current on tax issues, as they change on a frequent basis. Owning and operating your own business means that you will need to file your taxes differently and may need to pay estimated quarterly taxes. You'll likely need to obtain the assistance of

a professional to make sure that your records are correct and that you are paying the correct amount of tax.

Another area to be updated is insurance. Consult with your insurance agent and notify the agent that you are operating a home-based business. Many homeowners' policies exempt business pursuits from coverage. This is important because if you should lose inventory or equipment, you would have no coverage for the loss.

If you decide to hire an employee for your home-based business, you will have another host of issues which would need to be addressed. For instance, is your business subject to OSHA compliance? Have you followed all West Virginia Department of Labor and United States Department of Labor Rules and Regulations? Are you follow-

ing the Internal Revenue Service guidelines for tax withholding for employees? Is your employee covered by Worker's Comp Insurance? Having employees creates enough discussion for another article!

Although at first blush a home-based business sounds like a fantastic idea, do not jump in without proper investigation into the legal responsibilities that you have. You should approach your home-based business as though you are renting space in a commercial setting and prepare a business plan which addresses all of the areas outlined above, as well as many more that will make themselves known to you as you investigate your new career.

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