



**Greater Shelby County
Chamber of Commerce**
Community • Commerce • Collaboration

Small Business Guide

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Sponsored by



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How To Use This Guide

This manual should help you get on the right track toward making your business idea a reality. First, it will help you get started in the information-gathering and questioning-answering process that must take place before your actual plans are made. Second, it will help you assimilate all the information pertaining to your business into a well-thought-out, written business plan. Third, it will provide an outline of the actual steps you must follow to get your business successfully started.

The importance of “getting your business down on paper” can’t be emphasized too much. Make sure before taking any steps that you have a written business plan. A business plan offers you at least five benefits.

1. Should you need to borrow money, it is an essential part of a loan package.
2. A plan gives you a logical path to follow.
3. A plan makes it easy to inform your banker, accountant, insurance agent and attorney about your ideas and operations. By reading or hearing the details of your plan, they will have the necessary insight into your situation to advise you properly.
4. A plan can be a communication tool when you need to inform employees, suppliers and others about your operations and goals.
5. A plan can help you develop your managerial ability. It can give you practice in thinking about competitive conditions, promotional opportunities and situations advantageous to your business. Such practice over a period of time can help you increase your ability to make sound judgments.

You may find additional benefits as you prepare the plan. The Small Business Administration and the Greater Shelby County Chamber of Commerce provide aids to preparing a business plan.

Here are a few suggestions for your procedure in using this book.

1. Read this whole book once and jot down ideas as you read.
2. Begin formulating ideas specifically pertaining to your business.
3. Do some outside research. Talking to people who run their own businesses and consulting the other sources listed in this book will give you a better understanding of the problems you may encounter in the future.
4. As you proceed, get EVERYTHING down on paper and begin writing a well-defined business plan.
5. Contact your banker, attorney, insurance agent and accountant about your plans.
6. Be sure to check into all tax and licensing requirements.
7. Keep this Guide handy in your office as a reference and workbook for your own thoughts. Free space in the book allows you to make it uniquely your own.

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CHAPTER 1

ENTREPRENEURSHIP

Entrepreneurship is that intangible motivating force which makes business owners dedicated to the development of innovative ideas, willing to take monetary risks, willing to expand long hours all because of a desire to be free to build businesses of their own ideas and work at their own direction and pace.

Without this motivating force, people starting a business will not have the desire and staying power required facing all the problems one will surely encounter in the course of running a business.

You should recognize at the start that creating a business is not an easy task. Unless you are equipped with the necessary dose of entrepreneurship coursing through your veins to endure the trials involved, then you should not jump into starting a new business.

I. Leadership and the Entrepreneur

There are basic differences between entrepreneurs and “good” corporation personnel. A real entrepreneur could become a thorn within the corporation structure of a large company. He or she will want to profit directly from his or her ideas and efforts. Therefore, an entrepreneur needs to be “on his own” for everyone’s sake.

An entrepreneur founds and runs his or her own company. That takes discipline. A slogan worth mounting on the wall might be, “*Accounting* - to know where you stand. *Vision* - to know that the future is worth this entire struggle.” After all, Kodak was once a Mom and Pop operation.

It is hard - but exciting- to be on the cutting edge of an economy. That native sense of independence still runs high in the United States, in spite of big business and big government. While beginning business people must constantly stay alert, be wise and work long hours, they will always be conscious that they are living the dream others cannot follow. Such beginnings, no matter how small, are never to be scorned.

On to the advantages of small businesses. Who can retool faster, a local fabrication plant or General Motors? Who is closer to its employees and their needs? Who is more obviously a community participant, the local small businessperson or the president of a New York corporation?

And, who should be more optimistic about the future? If we patronize our local Shelby County business people and if they can run their businesses sensibly, the county and all of its municipalities can be assured of a strong financial future. Local businesses hire local workers, pay local taxes and buy from neighboring support companies. This is almost a textbook description of capitalistic growth.

II. Are You an Entrepreneur?

Entrepreneurs are almost all extremely innovative, even if that means recognizing possibilities in existing situations. They can find new solutions to problems and put those solutions to work. Let us not forget that they must also be able to sell those solutions to the buying public. Usually they are especially talented in at least one field.

As their businesses grow, they are modest enough to realize that they should hire others to cover their own weaknesses. No one can handle all jobs well in a fast-growing concern. Successful entrepreneurs seem to have a sixth sense about choosing trustworthy associates. Their timing is also uncommonly inspired. Asked if optimism was important, a successful businessman said once, "I believe in optimism-- at the right time."

Control and balance become crucial at all times. Because common sense in a changing economy demands attention to details, the entrepreneur must maintain an awareness of the actual situation, constantly taking a mental fix of the current balance sheet and income progress. He or she develops interdependence with suppliers and others in the community to nourish future growth by a good reputation.

Many currently successful entrepreneurs have failed in their first attempts at starting businesses. It's great to have the courage to step out again, but today's marketplace does not allow much leeway for failure. If you are to be the spectacular addition to Shelby County's economy that we want you to be, make every capital expenditure count, watch your cash flow and keep us posted so that we can applaud your enterprise.

CHAPTER 2

BUSINESS STRUCTURES

Choosing the best type of legal structure for your venture means custom fitting your business to your needs. After reviewing your own business goals, you should carefully weigh the pros and cons of sole proprietorships, partnerships and corporations. Each has its pluses and perils. You will need help from an attorney and financial advisor to pick the structure that will work best for you and your business. The following information will guide you through the decision-making process.

I. Sole Proprietorship

A business owned by one person, who obtains a county and city business license, is a sole proprietorship.

Advantages:

1. A sole proprietorship is easiest to start.
2. It is least expensive to establish.
3. It is the most flexible. You have absolute authority.
4. You don't have to file a separate business tax return. Sole proprietorships report their business revenues and expenses on Schedule C of their personal tax returns.
5. Losses and business expenses are tax deductible.
6. You can deduct 25% of your medical expenses, including those of your spouse and dependents.
7. Profits do not have to be shared. You are the sole owner of the company.
8. Profits pass directly to the sole proprietor. There is no double taxation.

Disadvantages:

1. You assume unlimited personal liability for all debts and lawsuits. Creditors can go after your personal possessions in the case of bankruptcy.
2. Your death or illness endangers the business.
3. Pension plan contributors and deductions are limited to 20% of profits per year. (Corporate employees can contribute up to 25%).
4. Your resources limit success.
5. A sole proprietorship involves heavy responsibility ~ you make all the decisions.
6. Your ability to raise capital is limited by your own resources.

7. Potential lenders are more leery of sole proprietorships. The incapacitation or death of the owner jeopardizes the lender's ability to recover their loaned capital.

II. Partnership

You and one or more people agree to share the ownership and management of a business. You should have a formal written agreement, setting forth how much start-up capital each will contribute, how the business will be managed and how the responsibility and authority will be divided. There are two kinds of partners: General partners participate in all obligations; limited partners are only liable to the extent of their investment in the business.

Advantages:

1. The workload, ideas, skills and responsibilities are shared in a partnership.
2. A partnership means potential additional sources of capital.
3. Partnership losses are tax deductible.
4. A partnership doesn't pay any tax. Each partner reports their share of income or loss on federal and state personal tax returns.
5. Each general partner can act on behalf of the business.
6. Each additional partner's expertise and resources enhance the partnership's credit rating and improves the likelihood of available loan consideration by potential leaders.

Disadvantages:

1. General partners have unlimited personal liability.
2. If bankruptcy occurs, the partner with more personal assets loses more.
3. The partnership ends upon death of a general (but not a limited) partner.
4. Lines of authority are not always clear.
5. Many partnerships fail because the individual partners have different management philosophies and divergent, conflicting goals for the company.

III. Corporations

Incorporating is the most complex and expensive way to structure a business. A Corporation is a distinct legal entity that protects a shareholder's personal assets if the company can't pay its debts. The owners are often not the same people who manage it. A regular corporation treats the corporation as a separate entity from the owners. The owners are stockholders, but the managers may or may not be.

An "S" corporation, having no more than 35 shareholders, has limited liability and the tax advantages of a partnership or sole proprietorship. The "S" corporation pays no tax itself. All income of the company, after expenses, is taxed at the individual shareholders' rates and the earnings are divided among the shareholders.

Advantages:

1. Liability of shareholders is limited to the amount they've invested.
2. It is easier to raise capital because of greater access to investors.
3. With the corporate form of business, continuity is assured. Ownership is transferable.
4. A corporation doesn't necessarily dissolve if the owners die.

Disadvantages:

1. For regular corporations, the same restrictions apply on retirement plans and fringe benefits as partnerships.
2. With the corporate form, individual owners and shareholders have less control.
3. Power is limited by the corporate charter; minority interests are often overruled.
4. Corporations are complex and often difficult to set up or dismantle.
5. Management must meet the goals of its shareholders, which may be geared toward higher earnings rather than better management.
6. Regular corporations are subject to double taxation—taxed at a corporate tax rate and then again at individual rates of income distributed to shareholders as dividends.
7. Stricter legal rules apply to corporations than to sole proprietorships and partnerships.

NAMING YOUR BUSINESS

If you wish to name your business with anything except your name, you will have to register the business name with the county clerk at your County Courthouse. The name you give to your corporation must be authenticated and reserved by the Secretary of State in Montgomery. Your attorney can help.

Naming your business should be done with care and much research. The name you choose should be coordinated with your total marketing plan. A well-chosen name can be a terrific promotional tool. A poorly chosen name can cause disastrous consequences quicker than just about any other mistake you make.

For more information, read carefully the chapter in this guide titled “Decent Exposure.”

INTERNAL CONTROLS

I. A Word of Caution!

Before you actually start your business, you should develop and implement a system of sound workable controls over all the functions of your business. The controls should be rigidly adhered to from the very first day, even if you are the only one who must live with them at the outset.

First, you will have a firm handle on the business; and second, they will be in place as your business grows and as other employees are brought into your firm to perform these functions.

In a growing business, it is quite easy to add staff to operate in areas that you handled yourself. Frequently, there is a tendency to let employees take over completely and have faith that they will perform as you would. This is a poor assumption. The fact remains that employees have a personal need to have their work monitored and for the employer to be aware of what they are doing. And, there is also a need for the owner-manager to keep a tight rein on income and expenses. You accomplish both by having a good system of controls. Your accountant can install these controls at the time your initial bookkeeping is being organized.

II. The Importance of Recordkeeping In Your Business

The successful independent business person must frequently ask:

1. How much business am I doing?
2. What are my expenses? Which expenses are too high?
3. What is my gross profit margin? And my net worth?
4. How much am I collecting on my charge business?
5. How much do I owe my suppliers?
6. How do my assets compare to what I owe? What is my net worth?
7. What are the trends in my receipts, expenses, profits and net worth?
8. Is my financial position improving or deteriorating?
9. What is the percentage of return on my investment?
10. What is the percentage of return on my sales?
11. What is my “break-even” point?

12. Have I determined my pricing so as to cover all costs plus profit?

Publication 583, issued by the Internal Revenue Service (IRS), outlines the minimum requirements for keeping records to insure that each business person can prepare complete and accurate returns, and to insure that only the proper tax is paid. Any type of system suited to the business will be acceptable to the IRS so long as net income for tax basis purpose is clearly reflected. All such records are subject to audit by both IRS and State Revenue Agents.

The wise business person establishes a system prior to opening the door for the first customer. Publication 334, *Tax Guide for Small Businesses*, is an excellent book from the IRS. Every small business owner should read it. You can get a free copy by dialing 1-800-829-3676.

CHAPTER 3

FINANCING

More businesses fail from insufficient financing than any other reason. In order to increase your chances of successful financing on favorable terms, you should be prepared to understand and organize your own needs, understand and be prepared to satisfy the basic needs of lenders and see competent professional assistance.

This Guide is not designed to answer all questions on any given subject. Obviously, a subject as broad as financing cannot be completely covered in anything less than volumes. Thus, for this discussion, we will focus on the primary and necessary ingredients in successful financing.

In order for a business to be successful, it must have proper financing. This financing may be in the form of funding requirements for capital expenditures for the purchase of equipment and real estate or in the form of financing for working capital to provide cash to carry inventories, pay personnel and meet other recurring expenses.

I. Working with Your Lender

First, you should develop a personal relationship with the commercial loan officer at your bank. Then, in talking over your plans with the officer, you must broaden your perspective to understand his needs. In other words, you must understand what the lender is looking for and how to satisfy it. Two of the factors a lender focuses on are: collateralization (protection of the lender) and project potential (ability to pay back the financing). These are of primary importance to the lender and, if the small business cannot satisfy them, successful financing may be difficult.

1. **Collateralization** - All small business owners should realize that a lender must protect its interest. Contrary to popular belief, very few small businesses are able to borrow money without fully collateralizing the lenders. Often the business owner than considers certain assets more valuable by a lender. These assets indeed may be valuable to the small business: however, the lender must consider that in liquidation; almost everything is sold on a discount basis. In order to fully collateralize a loan, you may consider offering the lender personal assets as well as assets of business partners.

2. **Project Potential** - You must be sure of your ability to succeed and have developed the necessary financial projections to demonstrate this potential to the prospective lender. Financial projections developed by businesses are often overly optimistic and may be totally discounted by using conservative assumptions. This often lends credibility to the small business in the eyes of the lender.

Income and expense projections should be done on a monthly basis for the next two years. An excellent test of feasibility is to develop a financial projection on a worst-case basis (fewer sales and greater expenses than anticipated). If substantial deficits accumulate on the worst-case financial projection, the project should be reevaluated.

As in all phases of our economy, financing continues to be more and more sophisticated. It is important, therefore, that the small business seek out competent professionals for assistance. It is easy

to be “penny wise and pound foolish” in this area by trying to do it by oneself or by hiring inexpensive, and perhaps incompetent, assistance. At a minimum, the small business should have a good accountant, experienced in dealing with business in related fields. In addition, there is no substitute for developing a personal working relationship with a commercial loan officer at your bank.

II. Be Organized

It is very important you get organized before seeking assistance or financing. Nothing reflects more negatively on the potential of a business than an unorganized businessperson seeking undetermined financing for an unclear goal. You should be prepared to provide to others, in written form, a minimum of the following.

1. Personal financing statements
2. Projected income statements and balance sheets, with assumptions
3. An outline of the business plan
4. Personal resumes of key persons
5. A complete statement of sources and uses of funds

CHAPTER 4

CASH FLOW AND CREDIT

I. Cash Flow

An important element of financing is an understanding of cash flow. More specifically, the cash flow activity that is concerned with the conversion of accounts payable to cash disbursements, the rate at which cash disbursements clear a bank account and what is done with cash balances in the meantime.

Detailed projections of cash flow should be prepared. The more detailed the projections, the more reliable it will probably be. The projection should be updated at least monthly in order to assure a refined analysis.

II. Credit

The significance of credit in the growth of commerce is well known. Practically all of the goods and services which make up the American gross national product move through the channels of distribution on credit. Credit, then, is a powerful, positive force. Like any powerful force however, it must be well managed.

If you are operating a business, your overall objective is probably to maintain or increase your profit. As with any other function of business, the steps to organize and operate a credit and collection function must be in conjunction with the general policies and plans of the business.

The objective of credit management should be:

1. Increase profits
2. Increase customer stability
3. To protect the company's investment in accounts receivable, often the largest asset on the company's balance sheet.

III. Credit Policy

Your credit policy should be written in order that you can more easily communicate the policy to both your employees and customers.

Many factors and combinations of factors go into the formulation of a credit policy suitable for an individual company, including the following:

1. Nature and size of business
2. Overall business objectives
3. General policy of the business
4. Product or service requirements
5. Channels of distribution
6. Classes of customers

7. Conditions of competition
8. Price of the product or service
9. Expectations of the customer

Credit department policies may be generally characterized in several different ways, such as:

1. Liberal extension of credit with a liberal collection policy
2. Liberal extension of credit with strictly enforced collection policy
3. Strict extension of credit with a collection policy adjusted to individual circumstances.

When the profit margin is high and the overall economy is more stable, a liberal credit policy will allow a wide margin of acceptable credit risk. This may stimulate sales, but it may also result in a greater exposure to bad debt loss. The accounts receivable and subsequent working capital position of your business can be hurt by lax collections.

A strict credit policy requires less collection effort and expense, and it minimizes bad debt loss. However, a strict credit policy curtails sales to marginal accounts, and profitable businesses may be lost. Too strict a collection policy may also hamper goodwill.

Any policy you decide upon must be flexible. You must maintain a firm businesslike attitude with both your sales department and your customers. The terms of the sale should be sound, consistent, practical competitive and clearly expressed. You should determine the credit period that can be permitted without detrimentally affecting your working capital and adhere to it as closely as possible.

IV. Classification of Accounts

It is a good idea to classify your accounts according to credit risks, such as “good”, “fair” or “weak”. You can determine these risks from the information gathered in the customer’s credit file, trade reports, length of time in business, financial strength and your previous credit experience with the customer. “Good” credit risks may be placed on a preferred list for automatic approval within certain dollar limits. Periodic review of these accounts is usually sufficient.

Accounts classified as “fair” risk will require closer checking, particularly on larger amounts of if some slowness in payment is developing. The “weak” accounts still represent acceptable credit risk, but you must closely watch the accounts. Here is where the credit manager will spend most of their time. Such risks are usually those with good management and sales ability, but with limited working capital.

A business that may be considered marginal by one company may not be viewed as such by another. The standard for accepting businesses of this type should be defined and set forth in your credit policy.

V. Credit Line

As an aid to credit approval, it is extremely helpful to establish a credit line for each customer’s requirements and debt-paying ability. The credit line should serve the customer’s normal requirements.

The credit line represents the maximum amount of credit to be extended to the customer based on the customer’s balance sheet and financial capacity. Both the credit line and the credit limit will need

periodic review, based on changes in the customer's financial status and credit experience gained with the account.

VI. Credit Investigation

A primary cause for bad debt loss is a credit decision based on an inadequate credit investigation. Yet, prompt shipment of orders is essential. Your credit method should be geared for speed and efficiency to enhance the order flow.

The extent to which you investigate each customer's credit will vary with each case. You will want to consider:

1. The size of the order and the potential for future orders.
2. The length of time the customer has been in business.
3. The status of the present account.
4. Whether the present product is seasonal and how it relates to the products offered by competition.
5. Amount of time until delivery.
6. Relationship of the order to the total credit exposure of the customer.
7. Whether the credit risk falls within the firm's credit policy.
8. If it is a special order, whether a deposit should be requested or if it should be C.O.D.

You will base your credit investigation primarily on past experience of a customer, both yours and the experience of other suppliers as well. Your own customer ledger file is the first place to look. This will give you payment history, high credit and frequency of purchase.

The management background and the experience of the firm are very important factors in its ability to maintain a profitable business. This makes the difference between a marginal and an unacceptable credit risk.

Information concerning bank dealings is always helpful, as is trade experience from other suppliers. You can get this information in a number of ways. For new accounts, a complete credit application may be desired. Direct credit inquiry is a very effective way to gain the name of the customer's bank and trade references. Your sales people are also a valuable source of information. Most suppliers and banks are very cooperative in exchanging credit information. Whenever possible, a financial statement should be obtained, usually directly from the company prospectus if they issue one or are publicly held.

CHAPTER 5

OUTSIDE SOURCES OF INFORMATION

Valuable credit information is available from several outside sources. You should have a thorough knowledge of where to find these facts. Some of the sources are:

1. National Association of Credit Management (Alabama Association of Credit Executives) ~ Business Credit Reports
2. National Association of Credit Management (Alabama Association of Credit Executives) ~ Credit Industry Groups
3. Dun & Bradstreet - Business Credit Reports
4. Special Industry Association Reports
5. Merchants Credit Association - Consumer Credit Reports

I. Collection Procedures

The collection of outstanding receivables is as much a responsibility of the credit department as the investigation, evaluation and approval of the customer's credit. The collection effort should include a systematic and regular follow up. This is vital to establish credibility with the customer concerning the company's credit terms.

Time is of the essence in regards to credit and collection. The follow up must be made on a timely basis in order to be effective. A timely, accurate, monthly-aged trial balance of the company's accounts receivable is most valuable method of reviewing and controlling the collections as well as for reference when granting further credit.

Holding customer's orders when an account is past due is an extremely effective collection tool. Prompt contact with the customer, tactfully and courteously made, will generally produce results. It is essential that the credit department and accounts receivable bookkeeper have close communication with each other.

Since the credit department is responsible for the protection of working capital along with the promotion of profitable sales, periodic review of these goals should be made. Simple reports can be made for review and a comparison on a month-to-month basis to establish trends for evaluation.

One such report is the monthly collection index. This is a percentage of collection during the month compared to receivable turnover period, which represents the average length of time that the firm must wait after making a sale before receiving cash. It is normally expressed as days/sales outstanding.

When computed monthly ~ along with aging data ~ days/sales outstanding proves an excellent means for watching collection trends. The aged trial balance and percentages of past due accounts also provide a measure of effectiveness, along with bad debt loss experience for the physical period compared to previous years and similar businesses in the industry.

II. Analysis of Results

It is not enough to simply compare the results of these various reports. The overall results of the credit function and collection efficiency must be judged in accordance with the sales and credit policy of the business, as well as with industry trends and economic conditions for the period.

Accurate records and reports will facilitate the evaluation of your credit and collection activities. If reports are prepared conscientiously and accurately ~ and if trends are observed, and adjustments are made when needed in a timely manner ~ your credit department will make a valuable contribution toward increased sales and profits for your company.

CHAPTER 6

CONTRACTS

It is important for any person in business to be aware that when any goods or services are sold or purchased, a contract is created. A good definition of a contract would be:

An agreement creating obligation, in which there must be competent parties, subject matter, legal consideration, mutuality of obligation and agreement must not be so vague or uncertain that terms are not ascertainable.

To cover every type of contract, consideration, terms, relief, remedy for breach and forms of civil suit would take volumes. This section is intended to acquaint you with the basics of a contract and some possible inherent in certain situations.

I. Terms of a Contract

It is important for you to remember that the terms of a contract define the obligation. The standard matters included in most business contracts include the following:

1. Delivery/performance
2. Cost/payment
3. Warranties - expressed or implied
 - a. Disclaimer of warranties
 - b. Limitation on duration of warranties
 - c. Limitation of liability for breach
 - d. Limitation of remedies for breach
4. Jurisdiction and venue
5. Late charges/costs/attorney's fees
6. Retention of any security interest until payment
7. Enforcement
 - a. Arbitration
 - b. Waiver of jury trial
8. Insurance terms
9. Refunds/restocking charges
10. Modification clause

These are the basic issues that should be examined in each and every contract. Sometimes these issues are buried in the "boilerplate." It is important for you to pull out each of these issues to determine whether they are handled in a manner consistent with your intent.

There are four basic rules in signing a contract:

1. Everything is negotiable
2. Read what is written

3. Make it say what you mean
4. If you don't understand what it says, don't sign it

Carefully read every line and thoroughly understand what you have read before you sign it. Never let anyone force, hurry, or push you into signing. Understand and agree to everything on the document. By observing these rules, you will be able to save a great deal of time and money that you otherwise would have wasted. If in your business dealings you discover that you do not understand your legal obligations, contact your business attorney. It will be less expensive in the long run to let an attorney advise you on the proper course of action.

II. Written and Oral Contracts

Keep in mind that contracts may be written or oral. In the everyday operation of a business, it is more frequent to enter into oral agreements, such as telephone orders for goods and services. Oral contracts, with certain restrictions, are as binding as written contracts. They may be harder to prove in many circumstances.

When making or receiving telephone orders, be certain that the terms used are totally understood, as every business has terms or words that are peculiar to that business. The concept of "usage in the trade" gives certain contractual terms specific meanings, even though those terms may mean something different in non-business language.

III. Common Business Contracts

Perhaps a review of several common business contracts will be helpful:

1. Upon the delivery of goods to the business by a common carrier or other means, make sure all the goods received are in good condition and that all goods on the shipping invoice are in the delivery for which you are to sign. The signing of the receipt is evidence of acceptance of the goods. If you later find a latent defect of other damages or error, you must take certain steps as prescribed by law to protect your interests. The former will save you time and money in the long run, but if the latter arises, act quickly to protect and preserve your legal rights.
2. Credit applications are contracts that, if accepted, may place a financial burden on the applicant if the account goes to collection. Typical contracts for credit include the applicant's duty to pay for the creditor's attorneys' fee as well as any court costs if the creditor is successful in a court action.
3. The term "standard lease" is frequently used in business, but in fact there is no such thing as a "standard lease" except the lease used as a standard by a particular leasing entity. Business leases are negotiable to some extent and if the lease offered is not acceptable to you, make a counteroffer on the terms you don't like. Be sure that the lease is satisfactory as these are binding contracts and in most cases are hard to break.

IV. Educate Yourself

These are just some examples of potential danger spots in the business world of contracts. To get a more complete education into contracts, consider contacting a local college and take a business law

course. The course will not give you the legal education of an attorney by any means, but it will better acquaint you with the legal effects and consequences of going into and sustaining a business.

Of course, the best place to go for specific legal questions is your business attorney. If you start and stay with one attorney, it will be better for you in that he or she will become better acquainted with your business operations and can aid you in your growth. In the field of contracts and other legal matters, it is financially dangerous to proceed without a business attorney.

Throughout this Guide it is stressed that you need a good insurance agent, banker, accountant and attorney. If you cannot afford to spend the money to seek the help of these people, then you cannot afford to go into business.

CHAPTER 7

DECENT EXPOSURE (A.K.A. MARKETING & ADVERTISING)

Marketing and advertising are not the same thing, but it takes both to promote your company and its products or services. A well-researched marketing plan is essential before you begin any advertising, perhaps even before you begin your company. A detailed marketing plan will be a part of your business plan. Business owners who don't know where, when or how to promote their product or service to its best advantage waste too many dollars. A scattershot approach seldom accomplishes anything except to speed you on your way to disillusionment and bankruptcy.

I. Focus

A good marketing plan will help you focus on:

1. The profile of your typical customer or client. Is it an individual or a business? If your client is a business, what is the position of the person who will make the decision to buy? It makes no sense to court the purchase manager if your service or product's purchase will have to be authorized by the accounting department or the CEO.
2. The types of advertising in which your typical customer places credibility, and will see, hear, or read. Regardless of the circulation of the *National Enquirer*, if the purchasers of computers do not turn to it for information when they are considering various systems, it is not the place to put your advertising dollars. Even if flyers on windshields are very inexpensive and can reach thousands, is your target customer shopping in a mall on any given day? What if your customer is offended by windshield flyers - what will that do for your product's image?
3. The image your firm is trying to convey. One of the most important steps you must take, and then adhere to, is defining your company's image. All of your marketing, advertising and promotion should flow from that decision. Are you trying to be offbeat, kooky, inexpensive and informal? Is your firm built on service, innovation, tradition or integrity?

Once you characterize your company, stick to it! Be consistent. All of your advertising and promotion should enforce the profile you have developed. The colors you use, the style of your ads, the place you advertise, what you say and how loud you say it, should all enhance the company image you fashioned in your marketing and business plans. Image consistency includes, but is not limited to, your stationary, business cards, logo, signs, employee uniforms, paint colors, menus, and your imagination.

II. Types of Advertising

There are numerous types of advertising and promotions. They include:

1. Press releases
2. Public service announcements (PSAs)
3. Publicity events

4. In store promotions
5. Print media (newspapers, magazines, newsletters and flyers)
6. Outdoor ads (billboards)
7. Television
8. Radio

Sponsoring a Little League team, participating in charity sports events and joining various civic organizations are other ways in which you can promote your company. Marketing firms, market research organizations, advertising agencies, graphic artists and public relations firms are all groups that can assist you in defining and designing your marketing program. Take the time to talk with principals in these firms before you decide how much and what kind of advertising you will do. Along with your accountant, they will help you determine the dollar budget for your marketing and public relations campaign.

CHAPTER 8

LOCATION, LOCATION, LOCATION

Choosing a location for your business may be one of the most critical decisions you will face, depending on the type of business you own.

If you have a service business where you usually go to your customers or clients, your location decision primarily will involve choices regarding price per square foot or space, convenience for you, services offered by building management, and so on. If, however, your customers or clients frequently come to your office or store, the appropriate location decision, right down to on which side of the street your business should be situated, could be the difference between success and failure.

Before you choose your location, you need to be able to answer the following questions:

1. Do you locate near the same type of business as your business?
2. On which side of the street should you locate and why?
3. Does it make any difference to the success of your business to locate in a mall with a major anchor store or a strip shopping center?
4. How important is lease renew ability?

If you are a new business, you should investigate the potential benefit of locating your business in a shared service option or an incubator facility.

CHAPTER 9

ZONING AND LICENSING

Before leasing or buying, you should be well acquainted with the Zoning Authority of where your business is located (County and/ or municipality).

You will need to check with the Fire Department to see if there are fire regulations applicable to your business. Should your business operation produce pollutants, you will need to contact your County Health and Public Works Departments as well as the Alabama Water Improvement Commission (334) 277-3630 and the Alabama Air Pollution Control Commission (334) 834-6570. All permits are eventually coordinated through the Environmental Protection Agency in Atlanta.

You should also now be checking with the various utilities to see what services they can offer as well as seeking their advice as to what you might require.

I. Building Inspections

After you have your location selected, it then needs to be inspected by a building inspector from Inspection Services, the Fire Chief or one of his assistants and, if you are opening a business that deals with food, you will need an inspection by the County Health Department.

If your location requires new construction or alterations, a municipal building permit will be necessary. Your contractor should handle this with the local municipality.

II. Obtaining a Business License

Every business must secure a business license for each county and municipality in which it conducts business. For county licensing information, contact the County Clerk in your County Courthouse. For a city license, see the licensing department at City Hall. Make sure that you have a general idea of what licenses you may need.

Some unincorporated areas of your county have Volunteer Fire Districts for which fire protection is provided for a yearly fee. In some districts the yearly dues are mandatory. Contact other businesses near your location for this information.

III. Concurrent Licensing

In most cases, the county and city must license your business. In some cases the Federal government may require licensing. Check with your accountant to see whether you will need Federal Licensing.

CHAPTER 10

RISK MANAGEMENT

Getting hit by the unexpected is an instant possibility once you open your business. Protecting your business ~ and yourself ~ with the proper insurance policies is one aspect of managing the risk you face as business owner. Using common sense and obeying rules, regulations and laws also keep your risk under control.

I. Insurance

Insurance is available to compensate you for losses due to fire, flood and theft. Other insurance can reduce losses due to a host of potential personal injury and liability claims. Insuring the lives of your partners is also important. If your partner dies, there is a strong possibility that your partner's spouse will want you to buy out their part of the business. A life insurance policy can cover this demand and keep you from having to liquidate the business in order to satisfy the spouse.

As is repeated throughout this Guide, there is no substitute for good professional advice. Find and use the services of an insurance professional that works with your type of business. The Chamber's Membership Directory can be an excellent source of potential professionals that can assist you. This person can guide you in finding the policies that best fit your circumstances.

II. Other Risk Management

Risk management also involves loss control measures. This can be establishing the proper internal controls to discourage employee theft as well as measures to protect the lives of your employees and customers. Setting up safety rules and strictly enforcing them is another vital aspect of risk management. The Occupational Safety and Health Administration will work with you in learning which regulations apply to your business.

Sometimes you retain a portion of your risk. A high deductible on an insurance policy saves on the cost of the premium and means that you pay for some of the loss yourself. Some risks - such as shoplifting - are simply uninsurable. No one will compensate you for those losses.

Ideally, you want to transfer as much risk as possible off your business. This can be done through insurance policies such as hold-harmless agreements. Again, nothing can substitute for the advice of a business attorney and insurance professional in developing the right methods to transfer risk from your business.

Best of all, of course, is to avoid hazards in the first place. Follow all rules and regulations and don't take "short cuts" that could endanger people. Keep all of your business dealings honorable, above board and properly documented.

Common sense, high ethics, following the rules and good professional advice can keep the unexpected from destroying your business.

CHAPTER 11

TAXES...OR, PAYING THE POUND OF FLESH

For most business owners, this is the part of the business they would most like to avoid. However, avoidance here could spell disaster faster than any other single business omission. Prompt and accurate calculation, reporting and payment of payroll and income taxes are critical to the survival of your business.

If you run the company yourself, and have no employees, then your paperwork and reporting requirements are fairly simple. Once you hire one or more employees, the reporting and tax remission process becomes more frequent and more complicated.

The following is a brief summary of the forms and returns that businesses typically file to report their results of operation. It is not intended to be all-inclusive, covering every business and every conceivable reporting requirement. This is a general guide to get you started. Your accountant will ensure that you are aware of all required reports and returns necessary for your particular business.

I. Income Taxes

1. Sole Proprietorship

Sole proprietorships report their business revenues and expenses on Schedule C of their personal tax returns. The net profit or loss of the business, as calculated on Schedule C, is reported on Federal Form 1040 and State of Alabama Form 40. A copy of the Federal Schedule C is attached to the State tax return. State Schedule CF must also be prepared to adjust for differences between State and Federal tax laws.

2. Partnership

Partnerships must file an income tax return each year. The return is only an information return – the partnership itself pays no income tax. The profits or losses of the partnership pass through to the individual partners. Partnerships report their business revenues and expenses on Federal Form 1065 (State Form 65). Each partner receives a K-1 schedule from the Federal return. The partner uses the information from that K-1 to report their share of profits, losses and deductions on the personal tax return.

3. Corporation

Corporations must file a tax return each year. The Federal Form is 1120 (State Form 20). Regular C corporations will pay taxes on earnings; S Corporations file a tax return (1120-S) but pay no corporate tax. As with partnerships, the profits, losses and deductions in an S Corporation pass through the organization to the owners (shareholders).

II. Business Privilege Tax

There is a fee incurred as part of the cost of establishing a corporation.

A Business Privilege Tax is based on the amount of capital stock of the corporation. The rate is .25 cents per thousand dollars of paid up stock. You will need to file a separate tax form which is a PSA. This form is secured through the Business Privilege Tax Division, Department of Revenue, Montgomery, AL 36130. For more information on the Business Privilege Tax please call 1-334-353-7923.

III. Other State and County Taxes

A state sales tax is paid at the rate of 4% on all items purchased within Alabama by all consumers, corporate, or otherwise. This is in addition to the sales and use taxes imposed by both the County and your local municipality. On property purchased in another state, if the amount of tax paid to the other state is less than the Alabama tax, then the difference must be paid to Alabama.

You should be aware of three different types of County taxes in addition to payroll taxes:

1. **County Sales** - A sales tax is imposed on persons required to pay state sales tax because of business done in a county. This tax is administered by the Commissioner of Licenses, in your County Courthouse, and forms for securing a reporting number and particulars pertaining to this tax may be obtained from that office. This tax is 1% in Shelby County.
2. **License of Privilege** - This is imposed on almost every business doing business in your county a license or privilege tax. The Director of Revenue administers this tax in your County Courthouse.
3. **General Property (Ad Valorem)** - Between October 1 and December 31 of each year, a business owning personal or real property in your county is required to file with the tax assessor of the county, a report of the property owned in that county. A tax is then assessed on the value of that property. All real personal property is subject to ad valorem tax unless specifically exempted by law. The **Constitution of Alabama of 1901** (the Constitution) contains various ad valorem tax provisions that may be considered as industrial incentives. For example, Section 214 of the Constitution limits the state millage rate on both real and personal property to 6.5 mills. This rate is equivalent to a tax of \$6.50 for every \$1,000 of assessed value. However, counties and cities may levy millage rates in addition to the state's 6.5 mills. These local rates vary but the average millage rate for any one locality is 43 mills, including the state's 6.5 mills. Amendment 373 of the Constitution further provides that business property will be taxed on 20% of its fair market value. That is, for property with a fair market value of \$5,000,000 a business would pay state property taxes of \$6,500 (i.e., \$5,000,000 x 20% x 6.5 mills).

Under the State of Alabama Department of Revenue Ad Valorem Tax Abatement Program, companies whose SIC Code meet the qualifications of an industrial or research enterprise in accordance with Section 40-9B-3(f), **Code of Alabama 1975**, as amended AND who meet the minimum qualifications on the basis of investment and number of employees, may be granted an abatement of non-educational ad valorem taxes by the local governing authority and the State of Alabama. **Alabama has the lowest property taxes in the United States.**

Business property and equipment are rated under Class II and are assessed at 20 percent of the appraised value. The assessed value is then multiplied by the appropriate millage rate to determine the amount of tax.

The millage rates for the State of Alabama and Shelby County are listed below. For more information, you may contact the Alabama State Department of Revenue and the Shelby County Revenue Commissioner.

**Shelby County Alabama Millage Rates Tax
Year 2013**

City	MUN CODE	MUN RATE	Rate	Factor	Per Hundred
County *	1	N/A	30/36/44	0.44	4.40
Alabaster	2	10	54	0.54	5.40
Birmingham	14	36.2	66.2	.0662	6.62
Calera	3	10	54	.054	5.40
Chelsea	17	N/A	44	0.44	4.40
Columbiana	4	10	54	0.54	5.40
Harpersville	5	5	49	.049	4.90
Helena	6	5	49	.049	4.90
Hoover	13	30.5	66.5	.0665	6.65
Indian Springs	15	N/A	44	.044	4.40
Leeds	12	9.2	53.2	.0532	5.32
Montevallo	7	7	51	.051	5.10
Pelham	8	14	58	.058	5.80
Vestavia	16	49.3	79.3	.0793	7.93
Vincent	9	5	49	.049	4.90
Westover	18	N/A	44	.044	4.40
Wilsonville	10	5	49	.049	4.90
Wilton	11	5	49	.049	4.90
County Millage Breakdown		Rate	Factor	Per Hundred	
State		6.5	.0065	0.65	
County		7.5	.0075	0.75	
School Dist 2* County		30	.030	3.00	
School Dist 2* Hoover		22	.022	2.22	

Once the assessed value of your property has been determined, multiply it by the appropriate Millage Rate for the AREA of the County in which you live. Millage is the tax rate expressed in decimal form. Millage rates are determined by the municipality, county and other taxing agencies.

A mill is one-tenth of one cent. (.001)

1 mill = \$0.001

10 mills = one penny or \$0.01

100 mills = ten cents or \$0.10

1000 mills = one dollar or \$1

GENERAL FUND 2.5

Total State 6.5

GENERAL FUND 5.0

ROAD & BRIDGE 2.5

Total County 7.5

A. COUNTY WIDE 16.0

B. District 2 - County Outside Hoover, Birmingham & Vestavia Hills 14.0

C. District 2 - County inside Hoover 6.0

D. Dist2 - Outside (A+B) Total School 30.0

E. Dist2 -Inside Hoover (A+C) Total School 22.0

F. Dist2 -Inside Birmingham, Vestavia (C.) Total School 16.0

IV. Municipal (Town or City) Taxes

Most municipalities (towns and cities) claim the right to tax business doing business within their boundaries.

Sales (USE) – A municipal sales tax is levied on retail sales of tangible personal property in most other municipalities. Municipalities self-administer this tax. Forms for securing a reporting number in a specific municipality may be obtained from the local sales tax/ revenue office within that municipality. Generally, this tax is payable by the business.

City License – This tax is imposed for the privilege of engaging in any trade, occupation or profession within a specific municipality. A licensing tax is payable by the business.

A word of caution about municipal taxes, if your business is not located within the boundaries of an incorporated municipality, it may be within the police jurisdiction of a municipality. In many cases, the business may be subject to an occupation tax or business license of approximately one-half the rate charged similar businesses located in the applicable municipality whose police jurisdiction governs the business. Check this out with the nearest municipality.

V. Payroll Taxes

If you intend to hire employees, you must first apply for a Federal Employer Identification Number (EIN) on Form SS-4 (call the IRS for the SS-4 application). You should also request a copy of Circular E from the IRS which will give you specific instructions regarding how much to withhold from your employees and the due dates for remitting payments.

From the State of Alabama (Income Tax Division) you should request Form WH-1, Application for Withholding Tax Number, and a copy of the State Withholding tax tables. From the State of Alabama (Department of Industrial Relations) you will need to file a form SR-2, Report to Determine Liability, to find out if you must pay unemployment tax for your employees and, if so, what experience rating to use.

On a quarterly basis you must file Form 941 with the IRS to report FICA and withheld income taxes. The report is due the last day of the month following the last month of each quarter. Annually, you must file Form 940 with the IRS to report your Federal Unemployment Tax (FUTA) liability. The 940 is due January 31 of each year.

FUTA tax must be remitted during the year at any point when your unpaid liability equals or exceeds \$100.00. FICA and withheld income taxes must be remitted periodically depending on the gross amount of total liability. Circular E will give you specific amounts and due dates. FUTA taxes, FICA taxes and withheld income taxes are not mailed to the IRS. Payments are deposited with your local bank using Form 8109, which will be sent to your Federal Employer Identification Number. After you make your first deposit, the IRS will send you a preprinted coupon book to use for all future deposits.

State withholding amounts must be remitted according to the gross amount of liability (the greater your liability, the more frequently you must remit). Payments are made by filling out A-1 and A-6 forms supplied by the State Revenue Department (a preprinted coupon will be sent to you each year). You also must send in an annual reconciliation of your withheld amounts and payment remissions on Form A-3 (the form is included in your coupon book).

State unemployment compensation and the gross wages to which it applies must be reported quarterly. Payment is remitted with the quarterly report, which is the UC-CR 4. The preprinted form will be sent to you each quarter. Unemployment tax is paid by the employer and is figured on the first \$8,000 of each employee's gross wages.

VI. Corporate Income Taxes

Corporations pay Alabama income tax based on their net taxable income derived from business conducted within the state. The amount of Alabama net income apportioned to Alabama is determined by applying an equally weighed three-factor of: property, payroll and sales to total net income. There are two constitutional restrictions that add to the stability of Alabama's corporate tax environment. Amendment 212 of the **Constitution of Alabama of 1901** (the Constitution) allows the corporate tax payer to deduct from its gross apportioned and allocated income, the apportioned amount of federal income tax paid. Currently, only Alabama allows the deduction of all federal income taxes paid whereas three other states permit a deduction of only up to 50% of federal income taxes paid. Another interesting fact for corporate tax payers is Alabama's 5% tax rate. Amendment 212 also limits the rate of corporate income taxation to no more than 5%.

VII. Sales and Use Tax

Alabama's sales and use tax statutes contain many items which give Alabama a definite advantage over other states. These statutes allow exemptions for specific organizations and commodities (see 40-23-et al, **Code of Alabama 1975**). Some of the more common items which are exempt include: gasoline, fertilizer and insecticides (when used for agricultural purposes), feed or livestock, wholesale sales, and sales to governmental entities. Additionally, there are four state rate differentials, which include: a 1-1/2% rate for manufacturing and farm machinery, a 2% rate for automotive vehicles, a 3% rate for food sold through vending machines and a 4% general rate for all other items.

Shelby County Tax Information (2013)

- Tax sales are held annually for all unpaid tax properties.
- Properties are advertised in the local newspaper, *The Shelby County Reporter*, for three weeks prior to the sale date.
- Properties are for sale in front of courthouse in a public outcry auction, usually beginning at 10:00 A.m., on the day specified in the Notice of Sale. Anyone wishing to purchase must appear in person- and if there are bids property interest goes to the highest bidder.
- In Alabama- purchasers of tax sale properties are only purchasing the Tax interest only- not the property. Alabama is not a fee simple state.
- The State of Alabama warns: Buyers Beware on the purchase of tax title
- At the time of purchase the buyer is given a paid receipt. After five (5) business days the buyer is issued a certificate of purchase- not a tax deed.
- Purchasers may pay by certified check or cash the day of the sale.
- Any time within the first three (3) years the owners of said property can redeem this property through the Property Tax Commissioner's Office. The principle, plus interest, at time of redemption is refunded to the purchasers of the tax lien. The present rate of interest is 12% per year (1% per month). The certificate of sale is then null and void.
- A tax deed cannot be issued until three (3) years from the date of the tax sale. At that time the purchasers must surrender his certificate to the Judge Probate, who in turn, issues a tax deed.
- Tax properties not purchased are returned to the State of Alabama. After these are sent to the state- purchasers wishing to buy tax interest at this time must apply to the State Department of Revenue Ad Valorem Tax Division, Post Office Box 327210, Montgomery, Alabama 36132-7210. The state will notify you of the amount necessary to purchase the tax lien. The State will only accept certified checks for tax sale purchases.

CHAPTER 12

PERSONNEL MANAGEMENT

Regardless of the size of a business, the quality of work performed is determined by the ability of management and its employees. Personnel costs represent as much as 50% of the cost of doing business. The highest priority should be given to the management of personnel if you are to be a success.

The following points are the most basic areas of personnel management. Consider all of these in light of EEOC regulations. No employer is exempt from discrimination suits.

1. **Planning** - Decide on the number of employees you'll need and the quality of workmanship needed. Schedule future needs for the growth as the business expands.
2. **Staffing** - You can recruit employees by asking current staff for referrals, placing newspaper ads, and using private and public employment agencies. A good application form and a check on previous employment are necessities, but be sure you comply with EEOC regulations. A pre-employment physical can prove a useful tool for selecting candidates for physically demanding positions. A thorough orientation session will allow you to explain in detail what is expected from your employees and what they can expect from you (wages, hours of work, promotion, performance evaluation, fringe benefits, etc).
3. **Training and Development** - Will you offer on-the-job or formal outside training, education reimbursement, home study and career planning benefits?
4. **Wage and Salary Administration** - Before hiring your first employee, you must decide on pay policies, job evaluations, and incentive plans. Area wage surveys are useful for setting a competitive pay scale.
5. **Employee Benefits** - What benefits will you be able to offer employees: paid leave (vacations & sick), holidays and leaves, insurance, retirement benefits, savings and stock sharing. A benefit booklet or typed list of benefits should be given to the new employee on their first day at work to eliminate any misunderstanding at a later date.
6. **Employee Relations** - How are disciplinary problems and employee grievances to be resolved? You should have a written policy outlining the rules you expect employees to follow and the disciplinary actions they can expect for breaking the rules. Become familiar with the state's right-to-work laws and the rules governing unemployment compensation claims.
7. **Communications** - Listening to what your employees have to say about your business can be valuable. Decide how to establish two-way departmental meetings, newsletters, etc.
8. **Work Environment** - You must have a safety program to protect the lives of your employees and customers. It is your responsibility to ensure that all OSHA and other governmental regulations are followed. If an injury does occur, it is preferable for you as the employer to choose a physician to

treat job injuries. Require accidents to be reported on the day of accident, investigate the accident and keep thorough records.

9. **Record Keeping** - Individual personnel files should be maintained. If a file is impractical, an individual employment record card should be maintained to indicate hiring date, beginning wage, promotion information, transfers accident information, medical information, etc. Good record keeping is a must in future personnel planning and for complying with governmental regulations. Know all laws pertaining to personnel record keeping.

As your business expands, a constant review of the personnel function will provide an excellent tool for growth planning. Your local public library can provide current publications on personnel.

CHAPTER 13

LABOR RELATIONS LAW

I. Overview

A cornerstone of our free enterprise system is the concept of “employment at will” ~ the principle that an employer may hire, not hire or fire whomever it pleases and, similarly, that an individual may work or not work for whomever they choose.

In the absence of union or individual contracts dealing with employment rights, this concept is still viable. However, during the past several decades, employees have been granted numerous legal protections of which you must be generally aware. Expansion of employee rights in this area has been accomplished mainly by specific federal laws. This section will briefly review those federal and state laws, which are most likely to affect you in the employee relations area.

II. Prohibition of Employment Discrimination

Equal employment opportunity for all people is the declared national policy of the United States. There are numerous Federal laws and executive orders, some of which overlap, that implement this national policy and protect employees and job applicants against employment discrimination based on race, color, religion, sex, national origin, age and physical handicap. The State of Alabama has not enacted any similar employment discrimination laws. The summaries of the three specific Federal laws, which follow, do not comprise an exhaustive list of every law and regulation in this field. However, they are perhaps the most important laws of which a business should be aware.

1. Title VII of the Civil Rights Act of 1964 (Equal Employment Opportunity Act)

Title VII of the Civil Rights Act declares that it is unlawful for an employer, an employment agency or a labor union to discriminate against any individual with respect to terms and conditions of employment because of each individual’s race, color, religion, sex or national origin. The term “employer” is defined as a business engaged in an industry affecting commerce which has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. This statute created the Equal Employment Opportunity Commission (EEOC), which administers this law.

Whenever an individual submits a complaint to it, the EEOC seeks to obtain a voluntary resolution of the alleged unlawful employment practice, both before and after it makes any determination of whether there is a reasonable cause to believe a violation has occurred. Either the EEOC itself or an aggrieved person has the authority to file a court action to obtain relief when a charge of discrimination fails. An individual may also file a court action after the lapse of certain periods of time from the date, on which a charge of discrimination was filed with the EEOC.

2. Age Discrimination in Employment Act (ADEA)

Under the ADEA, it is unlawful to discriminate against an individual with respect to terms and conditions of employment because of such individual's age when he or she is between 40 and 70 years of age. The term "employer" under this law includes any business engaged in an industry affecting commerce which has 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

An employer may consider age as a factor in an employment decision if in fact age is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business. Also, it is not unlawful for an employer to observe the terms of a bona fide seniority system or any bona fide employee benefit plans such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this law. Either the EEOC or the aggrieved individual has authority to file a court action to obtain relief when efforts to conciliate a charge of discrimination fail or after certain time-lapse requirements are met.

3. Equal Pay Act of 1963

This law prohibits employers subject to the Federal minimum wage requirements from paying lower wages to employees of one gender than the other in which equal skill, effort and responsibility and which are performed under similar working conditions.

III. Labor Relations

1. National Labor Relations Act (Taft-Hartley Act)

Congress enacted the National Labor Relations Act (NLRA) in 1935, and it deals with the rights of employees to engage in union activities and regulation of employer-union relations. It established the National Labor Relations Board (NLRB), which administers and enforces its provisions. The NLRA grants to employees of all but the smallest of private business enterprises the right to join, support or assist labor organizations, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all of the above activities. In enforcing the above stated employee rights, the NLRB's function generally falls into two broad categories: Investigation and potential prosecution of employer and union unfair labor practices and administration of the NLRA'S selection of representative (secret ballot election) procedures.

2. Unfair Labor Practice Provisions of the NLRA

The NLRA prohibits certain employer and union conduct. The specific actions prohibited have been designed as unfair labor practices:

- a. Interference with, restraint or coercion of employees in the exercise of their right to engage or not engage in union and protected concerted activities.

- b. Domination of, or interference with, the formation or administration of a labor organization or contribution of financial or other support to it.

c. Discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in a labor organization.

d. Discharging or otherwise discriminating against an employee because he or she has filed charges or given testimony under the NLRA.

e. Refusing to bargain in good faith with the duly designated or selected representative(s) of its (the employer's) employees.

Unions are prohibited from engaging in conduct similar or parallel to employer unfair labor practices. Additionally, unions are prohibited from engaging in such other activities as secondary boycotts, forcing or requiring employers to enter into "hot cargo" agreements or requiring employees to pay excessive fees as a condition of union membership. The NLRB does not initiate unfair labor practice cases on its own. An appropriate charge of specific violations of the NLRA must be filed by, or on behalf of, an individual, an employer or a union against a specific violation of the law. If a charge is filed, the NLRB will issue a complaint against the charged employer or union and proceed to an advisory hearing on such complaint.

3. Representation Case Provisions of the NLRA

When presented with an appropriate petition for an election supported by an adequate showing of interest (normally the signatures of 30% of the employees in a proposed bargaining unit cards or similar designation), the NLRB is empowered to determine what unit, if any, of the specified employer's employees is appropriate for the purpose of collective bargaining and, if warranted to ultimately hold a secret ballot election within such unit. Most commonly, a case petition is filed by a union seeking initial certification as the collective bargaining representative, an incumbent union, or by an employer faced with single or competing demands for union recognition.

If the NLRB holds an election, one or more NLRB agents will conduct it at the employer's premises during working hours. The eligible employees will be afforded the right to mark their ballots in secret stating whether they do or do not wish to be represented by the union involved. To ultimately be certified as the collective bargaining representative for the unit of employees involved, the union must receive a majority of the eligible votes cast. The NLRB will hold a valid election in a given unit of employees only once every 12 months. The policy provides an employer with some insulation from repetitious elections.

Most often, overt evidence of union organizational activity foreshadows the arrival of a NLRB representation petition. An employer has the right, within legal bounds, to oppose such unionization efforts. However, such legal bounds are highly technical and occasionally shifting. More than in any other area of labor law, an employer, which senses union, should seek competent professional advice immediately.

IV. Fair Labor Standards Act (Federal Wage & Hour Law)

The Wage & Hour Division has a local office at:
Medical Forum Building.
Suite 656
950 22nd Street, N
Birmingham, AL 35203-3711
Tel: (205) 397-7100

V. Title III, Consumer Credit Protection Act

This law applies to all Federal wage garnishment orders, but does not change most garnishment procedures in state laws or the right of creditors to collect the full amount due. It prohibits employers from firing an employee whose wages have been garnished for a single debt (even if there have been multiple garnishments on such debt) and limits the amount that can be taken through garnishment. Generally, the amount that can be subject to garnishment per pay period is 30 times the Federal minimum wage, but not more than 25% of the employee's disposable earnings.

VI. Occupational Safety and Health Act

The Occupational Safety and Health Act specifies an employer's obligations to maintain a safe work place. This Act includes procedures related to particular equipment and machinery, as well as communications to employees who may work with hazardous substances. Additionally, employers are required to maintain certain records for OSHA and to post an informational notice to employer's reporting of certain levels of injuries.

VII. State Laws

While the labor relation's area is one, which is primarily regulated by the Federal Laws, there are certain Alabama laws of which you should be aware. Those laws which require administration are under the jurisdiction of various Divisions within the State Department of Industrial Relations. The Unemployment Compensation Law is one to which almost every business is subject. Since this is primarily a tax measure, it will not be discussed in this section. However, you should be aware that the reason for which you terminate any employee can affect such employee's right to collect unemployment compensation and affect your tax rating. The following three State laws are perhaps the most significant of which an employer in Alabama should be aware.

1. Right-to-Work Law

Alabama is a right-to-work state. Thus, an employer cannot require as a condition of employment that any of its employees join a labor union or pay dues, fees or other charges of any kind to a labor union. Any person who is denied employment or deprived of continued employment in violation of this law may seek redress and damages in State Courts.

2. Jury Service Law

Any employee who is summoned to report for duty as a juror in any court created by the Constitution of the United States or the State of Alabama must be excused from his employment for the day or days required for such a jury service. An employee does have a duty to exhibit the jury summons to his immediate supervisor. Notwithstanding, the excused absence from work provided by this law, any full-time employee must be paid by his or her employer the usual compensation which would have been earned during such period of jury service less the fee of compensation received from serving as a juror

3. Child Labor

There are certain restrictions on the employment of minors, which closely parallel the requirements of the Federal Fair Labor Standards Act. Generally, employment of children under the age of 16 is prohibited. Employment of persons under 19 years of age if their duties include serving alcoholic beverages is also prohibited. Persons under 18 years of age cannot be employed in certain jobs regarded as highly hazardous such as mines, quarries or demolition work. Employment of children between the ages of 14 and 16 is permissible outside of school hours and during vacations except in certain hazardous occupations.

VIII. Employment Contract Disputes

Alabama, like many other states, recognizes that verbal or written communications to applicants or employees may create binding employment contracts. Therefore, you should check all written communications to applicants, such as employment applications and written offers of employment, in addition to all written communications to employees, such as handbooks, memoranda and benefit plans, be sure that no language is contained therein which could result in an employee claiming that he had an employment contract with you, unless you want to create such a contract.

IX. Summary

At the risk of a one-sentence oversimplification, it can be said that an employer can hire, not hire or fire a person for any reason except on account of that person's race, sex, religion, national origin, age (if between 40 and 70), physical handicap, union or protected concerted activities, wages being garnished for a single debt and jury service and that an employer must pay wages at or above the federal minimum and at time-and-one half the regular wage rate for all work above 30 hours per week.

However, you must realize that this section can serve only as a broad guide and cannot furnish specific answers to every situation, which you may encounter. Regardless, of the absence of any illegal motive on the part of an employer in making an employment decision, employees - prospective, current or former - still have access to various government agencies and the courts if they feel that they have been unjustly treated. You should stay aware of the possibility of unionization. An employer's defense against these possibilities should be established from the outset through a definite, consistent and evenly administered employee relations program. Seek professional advice in this regard if warranted and keep constantly aware of what is occurring in your workforce.

CHAPTER 14

NETWORKING

Whether you want to call it tapping into the “old boys network,” the “new girls network,” leveraging your options, fulfilling your civic responsibilities, winning friends and influencing people – or any other catchy phrase, the idea remains the same: *Learning from others who have gone before you is a lot less expensive (monetarily and emotionally) than trying to go it alone and assuming you have all the answers.*

Shelby County is filled with organizations, classes and seminars geared to helping businesses and business owners succeed. Some are free and some have nominal fees or annual dues. Check into as many as possible. Look at what they offer. Decide how much time you can budget, what areas you must need to concentrate on and then choose among the available options.

Don't decide that just running the business will take all of your available time and that learning new things and meeting other business people will have to wait. Learning and marketing are critical success factors, no matter what product or service your company provides. If you cannot budget time for these activities, you are not ready to go into business or will soon be out of business.

I. Small Business Administration

An excellent source of assistance for the new business owner is the Small Business Administration. Other programs offered by the SBA include local development company loans, small general contractor loans, seasonal line of credit guarantees, energy loans, handicapped assistance loans, disaster assistance and pollution control financing. The SBA also licenses, regulates and provides financial assistance to privately owned and operated Small Investment Companies. If you are interested in learning more about the programs of SBA, contact the Alabama District Office:

Small Business Administration – Alabama Division
801 Tom Martin Drive
Suite 201
Birmingham, AL 35211
Tel.: (205) 290-7101

II. Chamber of Commerce

Providing you with opportunities to network with other business and professional people so you can expand your business opportunities is one major goal of the Greater Shelby County Chamber of Commerce.

The Chamber also offers a variety of resource materials, seminars, workshops and increased visibility for your business. If you are interested in learning more about the programs of the Chamber contact them at their office:

Greater Shelby County Chamber of Commerce
1301 County Services Drive
Pelham, AL 35124
Tel.: (205) 663-4542
E-mail: info@shelbychamber.org
Website: www.shelbychamber.org

BUSINESS START – UP CHECKLIST

I. Introduction

Every legal jurisdiction – city, county, state and federal – has separate requirements for new businesses. In starting a new business, you must be aware of and comply with those requirements that apply to your type of business. This checklist outlines the usual requirements. It is not intended to be a complete guide.

People who have ever been in business before should heed these two bits of advice:

1. Get Professional Help

No matter how small your business, you protect yourself by consulting an attorney and an experienced accountant as you plan your business. Their professional assistance will ensure that your business conforms to all laws and will help avoid many problems as your business account to vital for smoothly conducting your business's financial affairs. A list of competent and qualified professionals can be found in the Chamber's Membership Listing available on-line at www.shelbychamber.org.

2. Research Your Type of Business

Talk with other people running their own business. Read up on “how to”, do research and then develop a business plan based on your research.

The Shelby County or Harrison Public Library has books and magazines articles that cover not only how to start a small business in general, but also how to start the specific type of business you want. The librarians will show you how to find this information and how to use their reference materials. The library also has a Government Document Section, which contains all brochures and pamphlets on starting a business published by the Small Business Administration.

II. Utilities

Phone/Internet: AT&T - Alabama, (800) 661-3696 or (205) 557-6000
Charter, (888) 692-8635 or (205) 824-5414

Electricity and Gas: Alabama Power Company , (800) 245- 2244
Alabama Gas Company, (800)-292-4008

Water: Shelby County Water Services, (205) 678-2818

Waste: Shelby Waste Management, (205) 841-2740

III. Federal Requirements

1. Employer Identification Number

The Internal Revenue Service (IRS) requires each individual or business to have a Taxpayer Identification Number or TIN. A sole proprietor uses his or her social security number as the TIN unless the proprietorship has employees or is required to file any business tax forms. In these situations, an employer identification number, or EIN, is needed as the TIN. A partnership or corporation must have an EIN whether or not it has employees. For additional information refer to Publication 583.

A new EIN is also needed if a business changes from one form to another, e.g.: from a sole proprietor to a corporation. A new EIN is also needed if someone takes over another's business; the previous owner's EIN cannot be used. If an EIN is not assigned before a tax return is due, write "applied for" and the date of application in the space provided for the number.

To obtain an EIN, go to www.irs.gov/business/small or call 1-800-829-4933 from 7:00 AM to 10:00 PM in applicants local time zone.

Shelby County Property Tax Office
102 Depot St.
Columbiana, AL 35051

Or call Tax Payer Education program for more information at 1-800-829-1040

2. Withholding Federal Taxes From Employees

As an employer, you are required to withhold federal income tax (FIT), Social Security and Medicare Taxes (FICA) from the wages you pay to your employees. Local governments may require additional withholdings for the state, city or county income tax. The amount of federal income tax withheld depends on four factors: payroll, employee's marital status, amount of wages and number of withholding allowances claimed by the employee. If you know these factors, you can determine the amount of FIT withholding. For more information, refer to Circular E, Employer's Tax Guide.

3. Income Tax

If you have employees, you must withhold income taxes (including yourself if you take a salary). Pick up from the IRS a copy of the Employer's Tax Guide (Circular E) and the following forms with usually are required:

940—Employer's Annual Unemployment Tax Return
941—Employer's Quarterly Federal Income Tax and FICA

W-2—Employer’s Wage and Tax Statement
W-3—Employee’s Withholding Allowance Certificate
1099—Information Return

4. Social Security and Medicare Taxes (FICA)

FICA (Social Security) taxes are paid by both you and your employee. All employees must have a Social Security Number. If an employee does not, have the person, file for an Application for a Social Security Number (Form SS-5) at the:

Social Security Administration
950 22nd St. N
Birmingham, AL 35203

General Information- (800) 772-1213
Local Office- (205) 731-2621

5. **Form 941, Employer’s Quarterly Federal Tax Return**

Use Form 941 to report the Federal Income Tax (FI) and FICA tax withholdings from your employee’s pay. This form also reports the portion of FICA taxes, which you pay. For more information, refer to Circular E, Employer’s Tax Guide.

IV. **Other Requirements**

6. Occupational Safety and Health Administration

If you employ anyone other than yourself, your business may come under OSHA regulations. Generally, employers are not bound by OSHA recordkeeping regulations if they: (1) have fewer than 10 full-time employees, (2) are in retail trade, (3) are in finance, insurance or real estate, or (4) have a service business. All others are covered by OSHA and are responsible for finding out exactly what regulations apply to their type of business.

If you have employees, protect your business by checking with the local OSHA office to find your obligations under the Act. Ask for the **OSHA Handbook for Small Business** and/or **Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970:**

Birmingham Area Office
U.S. Department of Labor-OSHA
Medical Forum Building
950 22nd St., North, Room 1050

Birmingham, AL 35203
Tel: (205) 731-1534
Fax: (205) 731-0504

7. Americans with Disabilities Act (ADA)

The Americans with Disabilities Act requires employers with 15 or more employees to have the ADA Act in effect. Title I of the ADA prohibits discrimination in employment on the basis of disability.

8. Equal Employment Opportunities Commission (EEOC)

As an employer, you must be aware of equal employment opportunity regulations. You may obtain information relating to employment practices and any other pertinent information on equal opportunity employment by contacting the:

Equal Employment Opportunity Commission
Birmingham District Office
Ridge Park Place
1130 22nd Street, South, Suite 2000
Birmingham, AL 35205
Tel: 1-800-669-4000
Fax: (205) 212-2105

Open Monday - Friday 8:00 AM - 4:30 PM. (IF YOU LIVE MORE THAN 50 MILES FROM THE OFFICE (PLEASE CALL TO SCHEDULE AN APPOINTMENT)).

V. Alabama Requirements

The Alabama Department of Revenue can answer questions about your company's obligations to the State.

Alabama Department of Revenue
50 North Ripley
Montgomery, AL 36104
(334) 242-1000

Businesses that are incorporated in the State of Alabama should contact the **Franchise Tax Division** at (334) 242-9800 for information. You must register for any corporate taxes administered by the **Corporate Income Tax Division** by calling (334) 242-1200.

Proprietors, partners, corporate shareholders and others should contact the **Withholding Tax Section** (334) 242-1300 to get the requirements for the Alabama Individual Estimated Income Tax (Form 40ES). These individuals must report estimated earnings and pay income tax quarterly.

For more information, you can also contact: Alabama Tax Payer Service Centers at:

Jefferson/Shelby Service Center
2020 Valleydale Road, Suite 208
Hoover, AL. 35244
(205) 733-2740

1. Income Tax:

If you have employees (even yourself if you take a salary), then you must withhold income taxes. To obtain an **Alabama Withholding Tax Tables and Instructions for Employers**, contact the:

Alabama Department of Revenue
2024 3rd Avenue North
Birmingham, Alabama 35203
(205) 323-6387

And you must file an Application for **Alabama Withholding Tax Code Number** (Form WH-1) with:

Alabama Department of Revenue
Income Tax Division - Withholding Tax Section
50 North Ripley
Montgomery, AL 36104
(334) 242-1000

The following forms will also be required:

- A-1 (or A-6) - Employer's Quarterly (or monthly) Return of Income Tax Withheld
- A-3 - Reconciliation of State Income Tax Withheld
- A-4 - Employee's Withholding Exemption Certificate

2. Unemployment

Most employers must contribute to the Unemployment Compensation fund by filing a **Report to Determine Domestic Liability** (SR-2D) form to the:

Department of Industrial Relations
Audit Section
649 Monroe Street
Montgomery, Alabama 36131
Tel: (334-) 242-8830

An **Employer's Contribution and Wage Report (UCCR-4)** form to the:

Effective quarter ending June 30, 2009, all employers are required to pay amounts due to this agency via Electric Funds Transfer (EFT). Ref: Administrative Rule No. 480-4-2.17. Select "EFT" from menu, then click on "Special Interest Payment: to pay assessment.

Wage and Tax Reporting

File a quarterly unemployment compensation report, Forms UC-CR-4 and UC-10-R, both as an individual or as a third party filer with Power of Attorney (POA) on file with this Department, or bulk file as a third party filer with POA.

Employer Account Status

Register for a state unemployment insurance (SUI) account number (Form SR-2, Application to Determine Liability).

Employers pay based on their experience rating, starting at 2.7% of gross wages paid to employees. Your experience rating is based on how many of your former employees file unemployment compensation claims against your company.

3. Sales Tax

If you sell tangible property or amusement (video arcades or Movie Theater, for example), you must collect state sales tax of 4%. Counties and cities charge additional sales taxes. File and License and **Application for Sales Tax Return** (Form ST-1) with the:

Alabama Department of Revenue
Sales and Use Tax Division
P.O. Box 327710
Montgomery, Alabama 36132
(334) 242-1490

As a business owner, you are responsible for finding out whether or not you must collect sales tax. If what you sell is exempt from sales tax (services or labor or sales to wholesalers, for example), file an Application for Sales Tax Certificate of exemption with the Alabama Department of Revenue, Sales & Use Tax Division.

VI. County Requirements

The information given below is for Shelby County. Other counties have similar departments and resources.

New business owners must be aware of four basic requirements:

- (1) You must have a County Business License (205) 669-3706
- (2) You must pay sales tax (205) 6769-3706
- (3) You must pay a County Privilege Tax (205) 669- 3706

In Shelby County, the first three requirements may be filed at the:

Shelby County Alabama Courthouse
112 Main St.
P.O. Box 1810
Columbiana, AL 35051
(205) 669-3760

- (4) You must pay General Property (Ad Valorem) Taxes to the:

Property Tax Commissioner, Don Armstrong
Shelby County Property Tax Office
102 Depot St.
P.O. Box 1298
Columbiana, AL 35051
(205) 670-6900

1. Health Department

Health Department approval is required for restaurants and other food handling facilities. Their approval is also required to install a septic system if a public sewer is not available, or if your business will release waste products into the air.

Shelby County Health Department
2000 County Services Drive
P.O. Box 846
Pelham, AL 35124
Tel: (205) 664- 2470

2. Environmental Department

Environmental Service approval is required before connecting to an existing public sewer.

Environmental Services Department
Ray Building, First Floor
504 Hwy. 70
Columbiana, AL 35051
(205) 669-3730

VII. City Requirements

If your place of business is within the city limits of an incorporated municipality, check with your city hall for obtaining a business license and other licensing, sales tax, occupational tax, zoning and other regulations that may apply to your type of business. If your business is not within an incorporated municipality, check to see if it is located in a Police Jurisdiction of an adjacent municipality or within a Volunteer Fire District, both of which require special fees, but could save on insurance costs.

The following information is applicable to most businesses. Specific contacts are given for the Specific city only.

1. Zoning:

The location you choose for your business must be zoned for that type of business. For permits, zoning information and inspection information for your location, contact:

Unincorporated Shelby County:

Shelby County Services Building
1123 County Services Drive
Pelham, AL 35124
Tel: (205) 620-6650

Greater Shelby County Municipalities:

- **Alabaster**

Alabaster City Hall	Phone: (205) 664-6800
201 1 st Street North	Fax: (205) 664-6841
Alabaster, AL 35007	www.cityofalabaster.com

- **Calera**

City Hall	Phone: (205) 668-3500
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10947 Hwy 25
Calera, AL 35043

Fax: (205) 668-3624
www.cityofcalera.org

- **Chelsea**

City Hall
11611 Chelsea Rd.
Chelsea, AL 35043

Phone: (205) 678-8455
Fax: (205) 678-7391
www.cityofchelsea.com

- **Columbiana**

Columbiana City Hall
107 Mildred Street
Columbiana, AL 35051

Phone: (205) 669-5800
Fax: (205) 669-5811
www.cityofcolumbiana.com

- **Harpersville**

City Hall
P.O. Box 370
Harpersville, AL 35078

Phone: (205) 672-9961
Fax: (205) 672-1929
www.townofharpersville.com

- **Helena**

Helena City Hall
816 Highway 52
Helena, AL 35080

Phone: (205) 663-2161
Fax: (205) 663-9276
www.cityofhelena.org

- **Hoover**

Hoover City Hall
100 Municipal Lane
Hoover, AL 35216

Phone: (205) 444-7500
Fax: (205) 444-7572
www.hooveral.org

- **Indian Springs Village**

Town Hall
2635 Cahaba Valley Road
Indian Springs, AL 35115

www.indianspringsvillage.org

- **Montevallo**

Montevallo City Hall
545 Main Street
Montevallo, AL 35115

Phone: (205) 665-2555
Fax: (205) 665-9203
www.cityofmontevallo.com

- **Pelham**
 Pelham City Hall Phone: (205) 620-6400
 3162 Pelham Parkway Fax: (205) 620-0050
 Pelham, AL 35124 www.pelhamonline.com

- **Vincent**
 Vincent City Hall Phone: (205) 672-2261
 25 Florey Street Fax: (205) 672- 7662
 Vincent, AL 35178 www.townofvincent.com

- **Westover**
 Westover City Hall Phone: (205) 678-3375
 3312 Westover Road Fax: (205) 678-3376
 Westover, AL 35147 www.westoveralabama.org

- **Wilsonville**
 Wilsonville City Hall Phone: (205) 669-6180
 9905 Main Street Fax: (205) 669-6205
 Wilsonville, AL 35186 www.wilsonvilleal.com

If the business involves flammable materials or could otherwise be a possible fire hazard, check with your municipality's **Fire Marshall** to ensure the business is located in the correct **Fire Zone**. For your particular municipality, contact:

Cahaba Valley Fire District
 Chief Jim Witherington
 PO Box 505
 Chelsea, AL 35043
jim.witherington@cahabavalleyfire.org

Alabaster Fire Department
 Chief Jim Golden
 201 1st Street North
 Alabaster, AL 35007
jgolden@alabasterfire.org

Calera Fire Department
Chief Sean Kendrick
10947 Highway 25
Calera, AL 35040
skendrick@calera.org

Chelsea Fire Department
Chief Wayne Shirley
PO Box 165
Chelsea, AL 35043
wshirley@cityofchelsea.com

North Shelby Fire and EMS District
Chief Eugene "Buddy" Tyler
4617 Valleydale Road
Birmingham, AL 35242
chief@northshelbyfire.com

Helena Fire Department
Chief John W. Wilder II
PO Box 262
Helena, AL 35080
jwilder@cityofhelena.org

Pelham Fire Department
Chief Danny Ray
PO Box 1419
Pelham, AL 35124
pfd@pelhamonline.com

Westover Fire Department
Chief Kelly Morris
PO Box 356
Westover, AL 35185
kmorris@westoveralabama.org

Vincent Volunteer Fire Department
Chief Michael Smiley
PO Box 49
Vincent, AL 35178

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 Business Software Applications - 500MB	52 sec.	11 min. 39 sec.	46 min. 36 sec.
 HD Video - 1.6GB	2 min. 51 sec.	38 min. 10 sec.	2 hr. 32 min.
Upload Speed	Up to 5Mbps	Up to 1Mbps	Up to 1.5Mbps

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sam.tucker@charter.com

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