

BUSINESS STRUCTURE FOR ARTISTS

Who is this fact sheet for?

- This Fact Sheet is designed for artists who are setting up a business to monetize their art.
- It's also important for artists who do freelance work! It's a common misconception that freelancers are not business owners – even though freelancers work independently, they still operate businesses and must often comply with specific legal requirements.

What business structure should I choose?

Choosing the right business structure is crucial for artists. It affects your taxes, the amount of legal and financial risk you may have, and how you keep your business in good legal standing. This Fact Sheet outlines business structures commonly used by artists, along with considerations to help you decide which is right for you.

There are three main business structures to choose from: (1) sole proprietorship, (2) partnership, and (3) corporation.

(1) Sole Proprietorship

Description: A sole proprietorship is a business owned and operated by one person. This could be an individual artist with an online shop selling artwork; an individual running a photography studio; a musician who gigs with several bands; or another kind of freelancer/independent contractor. If you are an individual who makes money from their art, you are likely the owner of a “sole proprietorship” and are called a “sole proprietor”.

Advantages: A sole proprietorship is the simplest and most inexpensive business structure to set up and maintain. Many business owners choose to begin as a sole proprietorship, and may choose to incorporate later when it becomes financially or legally advantageous for them to do so. Because there is no distinction between your business and your personal affairs, any expenses you incur in operating your sole proprietorship can be deducted from your income and lower your total tax obligations.

Disadvantages: The downside of operating your business through a sole proprietorship is that, under Canadian law, you (the business owner) and your business are viewed as one and the same. This means that your business assets and personal assets are indistinguishable. For instance, if you owe business debts or have other liabilities related to your business, creditors may be able to enforce these debts and liabilities against your personal assets, such as your car or home.

Best for: Individual artists who are starting out and want to maintain simple operations, and businesses that will have many start-up expenses and losses which will be funded by other income the owner earns.

(2) Partnership

Description: A partnership is similar to a sole proprietorship. The key difference is that two or more people carry on the business and share in the profits and liabilities.

Advantages: Partnerships have the same advantages as sole proprietorships in that they are fairly easy and inexpensive to set up and maintain. As well, having a partnership allows artists to split the financial burden of a new business with other partners.

Disadvantages: As with sole proprietorships, the business owners will be personally responsible for the full amount of all the partnership's debts and obligations, and their personal assets will not be protected from lawsuits. Each partner will be liable for the debts, obligations, and wrongful acts or omissions of the other partner(s). As well, there is a potential for conflicts to arise between business partners. If you decide to pursue a partnership, obtaining a written partnership agreement is strongly recommended.

Best For: Artists collaborating on projects or business owners with shared goals and responsibilities.

(3) Corporation

Description: To “incorporate” means to make your business into a separate legal entity from yourself. This separate entity is called a “corporation”. Corporations don’t have “owners”, they have shareholders (who invest in the corporation and have rights to the corporation’s residual income and property), directors (who manage the affairs of the corporation), and may have officers (who may or may not be directors or employees of the corporation, and manage the day-to-day operation of the corporation’s business).

Advantages: There are two main reasons why people choose to incorporate. First, corporations may benefit from certain tax advantages. It’s therefore worthwhile to consult an accountant about whether it makes financial sense for you to incorporate your business. Second, because a corporation and its assets are separate from those of its shareholders/directors/officers, creditors cannot enforce debts or taxes against the shareholder’s/director’s/officer’s personal assets.

Disadvantages: The disadvantage of corporations is that they cost more to set up and maintain. For example, shareholders need to file paperwork annually with the corporate registry in order to keep their corporation in good legal standing.

Best For: Artists with significant business activities and those looking to grow their operations and protect personal assets; artists who have higher risks of being subject to a lawsuit (for example, a gallery owner who could be sued for a slip-and-fall injury on their premises); and businesses that employ other people.

Basic Steps to Establish a Business Structure

Sole Proprietorship or Partnership

- All that is usually needed to create a sole proprietorship or partnership is to [reserve and register a business name with the Manitoba Companies Office online](#) (about \$45.00 to reserve and \$60.00 to register).
 - One exception is if you are operating under your first and/or last given name. For example, if Jane Doe sells her paintings under the name “Doe’s Gallery”, she would not need to reserve and register her business name.
- You may also need to obtain certain licenses and permits, depending on the type of business you are operating.

Corporation

- Choose a unique business name and file a “Request for Name Reservation” (about \$45.00).
- File “Articles of Incorporation” with the federal or provincial government (about \$350.00).
- “Organize” your corporation, which includes holding a first Directors and Shareholders Meeting.
- Carry out ongoing activities to keep your corporation in good legal standing, such as filing an Annual Return each year.

Contact the Manitoba Legal Clinic for the Arts

The Manitoba Legal Clinic for the Arts can assist you in choosing the right structure for your business, and guide you through the process of setting up and maintaining a sole proprietorship, partnership, or corporation. Fill out an [online intake form](#) today for help reaching your artistic goals!