

Business Start-Up Guide

Assisted Living Facilities



Certified Public Accountants
Tax, Audit and Business Strategy



Table of Contents

1. Identifying Facility Types
2. Determining Entity's Business Structure
3. Naming The Facility
4. Applying For Federal Employee Identification Number (EIN)
5. Filing Articles Of Incorporation/Organization With The State
6. Obtaining State Tax Identification Numbers And Accounts
7. Choosing An Attorney
8. Choosing A Business Bank
9. Obtaining Financing
10. Finding An Accountant And Tax Preparer
11. Choosing An Accounting System
12. Setting Up A Payroll System
13. Hiring Employees
14. Obtaining Business Liability And Workers' Compensation Insurance
15. Joining An Association
16. Appendix – Additional Helpful Websites

1. Identifying Facility Types

The State of Wisconsin classifies facilities for persons who need care but do not provide 24-hour access to nursing services into four categories. The Department of Health and Human Services (DHS) is responsible for supervising licensed assisted living facilities. A description of each type of facility is detailed below.

Type	Description	Licensing	Certification	Other
Adult Day Care Programs	Provides services for part of day, in group setting, for adults who need help with daily activities	Not required	Required if one or more participants receives funding from Medicaid waivers	Usually operate during normal business hours
Adult Family Homes	3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board. This may include up to 7 hrs/wk of nursing care	Under Chapter DHS 88 – complete application, biennial fee of \$171 and visited by licensing specialist	County certifies one and two bedroom facilities	Caregiver Background checks
Community Based Residential Facilities	5 or more adults who do not require more than intermediate care, reside where they are not related to the operator/ administrator. Residents receive care above level of room and board but no more than 3 hrs/wk of nursing care	Under Chapter DHS 83 – complete application; biennial fee of \$389 plus \$50.25 per resident based on # the facility is licensed to serve; visited by licensing specialist	None	Caregiver Background checks; Allegation Reporting
Residential Care Apartment Complex	5 or more adults reside. Provides less than 28 hrs/wk of supportive services, personal assistance, nursing services, emergency assistance	None	Required to qualify for reimbursement from Community Option Programs and the Medical Assistance Program; fee of \$350 plus \$6.00/apartment	Caregiver Background checks; Allegation Reporting

2. Determining Entity's Business Structure

The entity structure you choose will have important tax and legal consequences. It is important to review all of the business formation options before choosing an option for your business. Please visit SVAaccountants.com for a grid detailing the different business structure options.

The table below summarizes the advantages and disadvantages of each structure.

	Sole Proprietorship	Partnership	Limited Liability Company (LLC)	S Corporation	C Corporation
Advantages	<ul style="list-style-type: none"> Minimal legal restrictions Easy to discontinue 	<ul style="list-style-type: none"> Can combine the skills and/or financial abilities of several people Easy to establish Business usually benefits from partners who have complementary skills Terminations generally can occur without taxation 	<ul style="list-style-type: none"> Limited liability Avoids certain S-Corp restrictions Avoids double taxation of profits Business usually benefits from members with complementary skills 	<ul style="list-style-type: none"> Limited liability Perpetual life Avoids double taxation on profits Profits passed through are not subject to SE tax Ability to raise capital by issuing stock 	<ul style="list-style-type: none"> Limited liability Perpetual life Ability to raise capital through issuance of stock Ease of ownership transfer
Disadvantages	<ul style="list-style-type: none"> Unlimited liability May not bring in new owners or outside capital contributions Income tax cannot be deferred by retaining profits 	<ul style="list-style-type: none"> Easier to get into than out of General partners have unlimited liability Profit sharing Potential for disagreements in decision making 	<ul style="list-style-type: none"> Inconsistent treatment state to state Must have at least two to be taxed as partnership for federal tax purposes Sharing of profits Potential for disagreements in decision making 	<ul style="list-style-type: none"> Shareholders pay tax on earnings even if undistributed Less flexibility in choosing tax year Contribution limits to qualified retirement plan are based on employee/ shareholder wage, not overall profits Limit on number of shareholders can limit capital infusions 	<ul style="list-style-type: none"> Double taxation of profits Corporate character restricts types of business activities Subject to various state & federal controls Dissolution can trigger capital gains

3. Naming the Facility

After deciding the business structure of your entity, you will need to choose a name for your business. The process of naming the business will differ depending on the type of entity you have chosen. Trademark issues should be addressed upon the formation of your entity. Please visit the link below to determine what is necessary for you to begin the process of naming your entity.

http://wdfi.org/Notary_Public_and_Trademarks/defaultTrademark.htm

4. Applying for Federal Employee Identification Number (EIN)

Also known as Federal Tax Identification Number, this number is used by the IRS to identify each business entity. The IRS prefers that you obtain this number using their online system. The online system can be reached by visiting the following website:

<https://sa2.www4.irs.gov/modiein/individual/index.jsp>

5. Filing Articles of Incorporation/Organization with the State

After determining which type of entity you will operate, articles of incorporation/organization need to be filed with the State of Wisconsin. The filing process will differ based on the entity type and if the business sells stock or not. If electing S corporation status, you will need to file a **Form 2553** with the IRS. The following website contains links to the forms necessary to file the articles of incorporation/organization in Wisconsin:

<https://www.wdfi.org/corporations/forms/corp180forms.htm>

<https://www.wdfi.org/corporations/forms/corp183forms.htm>

Form 2 –Used to file the articles of incorporation for businesses which offer stock

Form 502 –Used to file the articles of organization for limited liability companies

6. Obtaining State Tax Identification Numbers and Accounts

Accounts and ID numbers must be set up for:

Withholding and sales & use tax – Both of these accounts can be set up using the State of Wisconsin's *My Tax Account*. The link for *My Tax Account* is

<https://tap.revenue.wi.gov/#1>. If this is your first time using this website, you will have to set up a new username and password, which will be used going forward.

WI Unemployment – The unemployment account can be set up using the website link below. To create a new account, click on the "Create Logon ID" option.

<http://dwd.wisconsin.gov/uitax/>

7. Choosing An Attorney

Many entrepreneurs try the *do it yourself* approach. Selection of an appropriate business attorney can help you:

- Develop bylaws (for corporations) or operating agreements (for partnerships)
- Review critical contracts
- Contractually reduce risks
- Protect trademarks, patents, copyrights, etc.
- Negotiate
- By providing consultations and advice

8. Choosing A Business Bank

When beginning a business, your expenses and financial activity should be in one place. By shopping around for a business bank, you can find the best package to fit your financial and banking needs. Keep the following ideas in mind when searching for a business bank:

Go to your existing bank first. Since you have experience working with this bank, you know its level of customer service, location, employees, and the services offered. If your bank offers everything you require, at the quality you expect, there is no reason to change.

Location. If your business will be dealing with a great deal of cash, you may be making frequent trips to your bank. Location becomes more important if you plan on making daily visits.

Shop around. If you have no specific bank in mind, visit several banks to help create benchmarks that allow you to make more informed decisions. When visiting a bank, ask to speak to the Small Business Manager or Advisor and tell them you are looking for information about starting a business. Some important items to consider in this process are:

- Online banking options
- Accessibility of a contact person
- Loan applications and terms of loans
- Customer service help and support
- Information required from you to open an account
- Incentives offered for opening an account
- Commercial loan department favorable to your business' economic sector

9. Obtaining Financing

Local banks can provide loans for your business venture. To obtain a loan commitment, financial documents, such as income statements, business plan, purchase agreement, etc., need to be supplied to the bank. If the loan commitment is approved, the following items need to be obtained before financing is provided:

- Appraisal
- Environmental review
- Title insurance
- Commitment fee

Typical loan terms are for 60 – 70 percent of the value or cost for a three-year loan with 20-year amortization.

Sale-leaseback financing is another option, which finances the venture at 100 percent. Rent payments are then paid, which are deductible to the business. Typically, rent is 10 – 15 percent of the cost with a lease term of 10-20 years. The business pays all expenses incurred by the property. Sale-leaseback financing is provided by private investors and real estate investment trusts (REITs). A purchase option may be available upon completion of the lease.

Mortgage brokers and the Small Business Administration (SBA) are both helpful resources.

10. Finding An Accountant And Tax Preparer

IRS compliance is crucial to running a successful business. Finding a trusted tax advisor, who understands start-up businesses and assisted living facilities, can help reassure you that your business is in compliance with IRS regulations and that it succeeds. An accountant familiar with your industry can also help you develop a business plan for your venture. Contact SVA Certified Public Accountants, S.C. for information about working with a tax and business professional to suit your needs.

11. Choosing An Accounting System

It is important to determine the appropriate level of bookkeeping software to suit your business needs and to help you make good financial decisions. *QuickBooks* is one of the most popular bookkeeping software applications for small businesses; this is primarily a cash basis system. You also have several different options for bookkeeping:

- Hire a full charge bookkeeper to set up your accounting records and enter your transactions. This is generally the most expensive bookkeeping option and is recommended for people with little or no financial or accounting background and no desire to learn.

- Contact a CPA firm to assist you with your *QuickBooks* set-up and initial tutorial on how to use the software. SVA can provide you with a sample chart of accounts upon request.
- Purchase the software and teach yourself. This is the best option for do-it-yourselfers. There are a couple of key things to be aware of when setting up your *QuickBooks* file; so, at a minimum, an online tutorial is recommended.

12. Setting Up a Payroll System

When new employees are hired, they must complete the following forms:

- **Form I-9** (<http://www.uscis.gov/files/form/i-9.pdf>) – Verifies that each new employee is authorized to work in the United States. After the form is completed, it is retained by the employer and made available for inspections by U.S. Government officials as needed.
- **Form W-4** (<http://www.irs.gov/pub/irs-pdf/fw4.pdf>) – Informs the employer of federal income tax to be withheld from an employee’s income. The completed form should be kept on record by the employer.
- **Form WT-4** (<http://www.revenue.wi.gov/forms/with/w-204f.pdf>) – Informs the employer of Wisconsin income tax to be withheld from employee’s income. The completed form should be kept on record by the employer.

For more details regarding new hire payroll reporting and required quarterly and annual reports, refer to the IRS publication 15 <http://www.irs.gov/pub/irs-pdf/p15.pdf>. If you have additional questions on payroll report filings and forms, please contact SVA.

The following chart details 2015 payroll tax rates for the employee and employer.

Tax	Employer Liability	Employee Liability
Social Security	6.2% of wages paid, up to \$118,500 of wages per employee	6.2% of wages earned, up to \$118,500 of wages per employee
Medicare	1.45% of wages paid	1.45% of wages earned; additional tax of 0.9% on wages earned over \$200,000
Federal Unemployment	0.6% of applicable wages up to \$7,000 of wages per employee	N/A
State Unemployment	Rates vary by employer – taxable wage base \$14,000 http://dwd.wisconsin.gov/ui/employers/taxrates.htm	N/A

13. Hiring Employees

When hiring employees, be aware of all labor laws that apply to your business and industry. Also, make sure you have the appropriate resources available to employees and documents on file. Outlined below are a few things to note:

- Ensure that you have the correct labor law posters posted. The posters you are required to display are determined by several factors including (but not limited to) industry, type of employees, number of employees and type of vendors that you work with.
- Be aware that Wisconsin minimum wage is \$7.25/hour.
- Be aware of overtime laws and exempt vs. non-exempt classifications of Employees.
Make sure you have proper documentation for all workers including non-U.S. citizen workers within 20 days of hire.
- Listed below are some of the Federal Government Acts that employers, at a minimum, must comply with:
 - *Fair Labor Standards Act (FLSA)* - companies with gross sales volume of at least \$500,000, hospitals, schools, public agencies and individual employees who regularly engage in interstate commerce, including production, handling or selling goods that cross state lines. This act sets minimum wage, requires time and one-half overtime pay for certain employees, restricts the type of work that can be performed by employees under age 18 and sets recordkeeping requirements.
 - *U.S. Civil Rights Act* - companies with 15 or more employees. Mandates equal compensation, working conditions and treatment of employees regardless of race, color, religion, sex or national origin.
 - *Age Discrimination Act of 1967* - covers businesses with 20 or more employees. Mandates the equal treatment of applicants and employees age 40 and over.
 - *Americans with Disabilities Act* - companies with 15 or more employees. Equal treatment of disabled persons as long as the person can perform essential functions of a job.
 - *Immigration and Nationality Act* - applies to all employers. Employer must establish identity of employee and eligibility to work in the U.S. Employee must complete Form I-9. The employer must keep the I-9 on file three years from the date of hire or one year from the date of termination.
 - *Employee Polygraph Protection Act* - applies to all private companies. Generally, employers may not request or require that an employee or applicant take a lie detector test either for pre-employment screening or during the course of employment.
 - *The Occupational Safety and Health Act of 1970 (OSHA Act)* - mandates that the employees have a right to a safe working environment. Both employees and employers must comply with this act.

14. Obtaining Business Liability and Workers' Compensation Insurance

Business liability insurance can help you manage risk that is inherent when running a business.

- *Workers' compensation and employer's liability* – generally, if you have three or more full- or part-time employees or pay \$500 or more in gross wages in any one calendar quarter to one or more employees, you must carry workman's compensation insurance
- *Property* – provides protection against most risks to property, such as fire, theft, and some weather damage. Additional coverage can cover the losses from interruption of business operations as a result of these events
- *Auto liability and physical damage* – protects you against claims regarding bodily injury and property damage caused to others or to property in an auto accident
- *General liability* – covers you against claims regarding bodily injury or property damage caused to others relative to your ongoing business operations, products, and services
- *Executive liability* – protects the firm, its directors and officers, employees and volunteers from claims of financial injury brought by those outside their organization and by disgruntled employees. Coverage includes director's and officer's liability, employment practices liability, fiduciary liability as well as internet/cyber liability protection
- *Umbrella* – provides additional liability insurance over and above your general liability, automobile, and employer's liability insurance policies
- *Business continuation* – provides funds to cover losses in the event of a death or the disability of a key employee of the business
- *Data breach* – covers costs associated with a data breach where personal and confidential information including notification, legal action, public relations, and liability expenses.
- *Employee dishonesty* – covers a financial loss due to the fraudulent activities of an employee. The loss can be the result of the employee's theft of money, securities, proprietary information, confidential records, or other property of the employer.

15. Joining an Association

Joining a senior living association is a great way to keep current in the industry network and become more educated. Joining an association can help provide information about the right fit and budget for your start-up facility. In Wisconsin, these assisted living associations include:

- Wisconsin Assisted Living Association (WALA) – www.ewala.org
- Wisconsin Association of Homes and Services for the Aging, Inc. (WAHSA)
- Residential Service Association of Wisconsin (RSA)



16. Additional Helpful Website

www.dhs.wisconsin.gov/aboutdhs/

Contact SVA for assistance in establishing your new business.

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