Starting a Business

Information for new businesses

Table of Contents

How do I know if I am in business? 4

Deciding what type of entity to establish for your business 4

- Sole trader 4
- Partnership 4
- Companies 5

Registering your business – Getting a Business License 5

- Qualifications/Credentials for Specialised Professions 5
- Starting Capital & Source of Funding 6
- Site Map 6
- Health Compliance Certificate 7
- STA confirmation 7
- Legal Form of Identification 7
- Foreign Investment Certificate 8
- Company Certificate of Incorporation 8
- Partnership Agreement 8
- Deed of Trust 8
- MOF License- Petrol Stations 8
- MOP License for Bingo Operations 8

Temporary (Special) Business License 8

Business License fees payable 9

Getting a tax number to operate the business 9

- Business TIN number (partnership, company, non-profit organisation, trust/estate) 9
- Personal TIN number (sole trader, partner) 9

Registering for VAGST 10

Registering as an employer 10

- Are your workers employees or are they self-employed? 10

Registering for withholding tax 11

Budgeting for tax payments 11

- Your first year in business is not tax free 12

Business examples 12

- Sole trader 12
- Partnership 12
- Company owned by a foreigner 13

How do I know if I am in business?

In general, you are in business when you carry out:

> **Any activity aimed at generating revenue in trade commerce or industry, and includes any trade or profession**

To decide whether you are in business we look at

- the nature of your activity
- how much time, money, and effort you put into the activity
- how long you have been doing the activity and your future plans for the activity
- how much you make from the activity
- whether you run your activity in a similar way to most businesses in the same trade if you intend to make a profit.

If you are still unsure about whether your activity qualifies as a business, please contact us to discuss your situation.

Deciding what type of entity to establish for your business

The most common types of business entities are:

- Sole Trader
- Partnerships
- Companies
- Trusts

Sole trader

A sole trader is a person trading on their own. The sole trader:

- controls, manages and owns the business
- is personally entitled to all profits
- is personally liable for all business taxes and debts.

As a sole trader you can usually begin the business without following any formal or legal processes to establish it. You may employ other people to help run the business.

Partnership

In a partnership, two or more people run a business together. Each partner:

- shares responsibility for running the business
- shares in any profit or loss equally, unless the partnership agreement states otherwise
  is liable for any debt within the partnership.

Many partnerships are established with a formal partnership agreement.

Companies

A company exists as a formal and legal entity in its own right. It is separate from its shareholder(s) or owner(s). To register (incorporate) a company under the Companies Act, you need to:

- contact the Ministry of Commerce Industry and Labour pay for a legal registration process.

Assets and liabilities

The company:

- owns the assets and liabilities of the business
- is responsible for any debts.

The shareholders' liability for losses is limited to their share of ownership of the company.

Registering your business – Getting a Business License

To run a business, you must apply to the Inland Revenue for a Business License for each different business you operate. If you have decided to run your business as a company you must first register that company with the Ministry of Commerce Industry and Labour. If your business will be run as a partnership or trust, you should have a formal partnership agreement or a trust deed prior to registering with the Inland Revenue.

The following information is required by Inland Revenue to process a Business License application.

Qualifications/Credentials for Specialised Professions

Evidence of qualifications/credentials is required from those applying to register a business that is considered a specialised profession. Outlined in the table below are the professional bodies and trades which are the professions that the Commissioner of Inland Revenue has determined as being specialised professions.

Professional Bodies & Trades
Accountants Lawyers Auditors Scientists Doctors Dentists Architects ICT (Information Communication Technology) Teaching Plumbing Electrical Building/Carpentry Automotive (e.g. Motor Mechanics) Engineering (e.g. Mechanical Trade (Refrigeration & Air-Conditioning) Hairdressing

If you are establishing a new business in Samoa using any of these specialised professions as the basis of earning income, you must provide evidence that you are suitably qualified in that profession. Acceptable evidence would include:

- Tertiary Qualification; e.g. Bachelor of Commerce, etc
- Certificate of Trade; e.g. Certificate in Engineering, Certificate in Plumbing, etc
- A letter from the applicant's previous employer stating that whilst the applicant doesn't hold any formal qualification they have the knowledge required to successfully operate a business of this nature.
- Copies of formal qualifications held by people that the applicant (who has sufficient funds, but no relevant experience or qualification) intends employing, when their Business License application is approved.

Starting Capital & Source of Funding

Evidence of sufficient starting capital is required to ensure that every business have a good level of financial resources to support their day to day operations during start-up stages. Most successful businesses have funds in the bank to pay their expenses until they build a good customer base. Ensuring that all new businesses have sufficient funds decreases the risk of the business failing and being unable to pay their tax liabilities.

In addition, the Government of Samoa entrusts the Ministry for Revenue to ensure that no foreign investors are behind the business operations specifically reserved for Samoan citizens (e.g. Samoan person applies for a Business License but a foreign national has provided the starting capital and is essentially running the business). The Government has requested that the Inland Revenue obtain copies of local bank accounts prior to issuing a business license.

All taxpayers wishing to obtain a Business License must provide evidence of start up funds. This can be **any** of the following:

1. Copy of a local bank statement (Savings, Cheque/Current, etc) showing a minimum of:
    - $500 balance for micro/small businesses (<$78,000 turnover and not VAGST registered)
    - $1,000 balance for all other businesses (>$78,000 turnover and VAGST registered)
2. A letter explaining the source of business funds, such as:
    - Start-up capital was received from an overseas relative (copies of international remittance receipts must be attached)
    - Stock and/or assets have been purchased by overseas relatives and are being shipped (copies of Customs Bill of Lading from NZ, Australia, America, etc must be attached)
    - Start-up capital by way of bank loan (a letter from the bank/financial institution confirming that the loan will be approved subject to the issuing of Business License must be attached)
    - Start-up stock/assets were received by way of inheritance

Businesses must also provide a list of any business assets and their current book value

Site Map

Every taxpayer who applies for a Business License must provide a site map of their business location. This is so that we know exactly where the taxpayer is going to run their business from and can find them to deliver letters, etc. A site map should contain the following details:

- Physical Location of the business premises including:
    - Street Number (if known)
    - Street Name (if known)
    - Name of Building (e.g. Lotemau Centre, Chandra House)
    - Level of Building
    - Village Name

- If none of the previous information is applicable, we require a hand-drawn map showing the premises the business is operated from and the nearest public landmark e.g. Church, Community Centre, etc
- Valid Postal Address

Examples:

PO Box 1877 Apia
Ground Floor, NPF Plaza, Main Beach Rd, Savalalo, Apia
Village Store, Vailele, 3 houses down from the Methodist Church

Health Compliance Certificate

If your business is involved in fast-food or food preparation activities, a copy of the Health Compliance Certificate (HCC) is required to be supplied with your application. This must be obtained from the Ministry of Health (MOH) before applying for a Business License.

The MOH has formally requested Inland Revenue to sight the HCC before we issue a Business License. This is one of the main ways that the MOH can be assured that those taxpayers who commence a business involving food preparation are complying with the Food Safety standards. By requiring taxpayers to obtain the HCC before their Business License, IRS can be assured that they have suitable premises (already approved by Health Inspector) from which to operate their business.

STA confirmation

If your business provides tourist accommodation or related activities the letter issued by the Samoa Tourism Authority addressed to the Commissioner of Inland Revenue is required to be supplied with your application. This must be obtained from Samoa Tourism Authority (STA) before applying for a Business License.

The STA has formally requested Inland Revenue to sight the STA Confirmation before we issue a Business License. This is one of the main ways that the STA can be assured that those taxpayers who start up tourism related businesses are well-organised and meet standards set by STA to deliver quality services to tourists, which benefits the wider Samoan economy.

Legal Form of Identification

To be sure that the taxpayer applying for the Business License is who they claim to be we require a copy of a legal form of identity documentation. This is especially important when registering a business. Inland Revenue has recently released an Operational Statement on Evidence of Identity (GEN001) which requires all taxpayers to provide either a copy of their Samoan Driver's License or any two (2) of the following identity documents, one of which must have a photograph of the applicant.

1. Samoan Birth Certificate
2. Samoan Citizenship Certificate or Naturalisation Certificate
3. Samoan Passport (current)
4. Foreign Passport (current)
5. National Provident Fund Identification.

Shareholders and directors of Companies and partners in a partnership applying for Business License registration must provide photo identification (e.g. passport) for each shareholder, director or partner.

As part of protecting the integrity of the Business License Act 1998, before issuing a Business License we may ask to see the applicant's Samoan Passport to confirm their nationality or citizenship.

Foreign Investment Certificate

If the Business License application is being made by a person who is not a Samoan citizen, we require a copy of the Foreign Investment Certificate (FIC) to ensure that the foreign national has permission to operate a business of that nature. Foreign Investment Certificates are issued by the Ministry of Commerce Industry and Labour. We will check to ensure that the purpose for which the FIC was issued is the same as the nature of business of the Business License they are applying for. The Ministry for Revenue is charged with enforcing the issuing of Business Licenses to foreigners under the Foreign Investment Amendment Act 2011.

Company Certificate of Incorporation

If the Business License application is for a company we require a copy of the Certificate of Incorporation so we can confirm that they are entitled to be registered as a company.

Partnership Agreement

If the Business License application is for a partnership, we require a copy of the Partnership Agreement so that we can confirm how the profits are to be allocated between the partners.

Deed of Trust

If the Business License application is for a trust, we require a copy of the Deed of Trust and the names of the Trustees.

Ministry of Finance License- Petrol Stations

If your business is a petrol station, a copy of the approval from the Energy Board (Ministry Of Finance - MOF) is required to be supplied with your application.

Samoa Ministry of Police and Prisons License for Bingo Operations

If your business is involved in bingo operations, a copy of the permit from the Ministry of Police is required to be supplied with your application.

Temporary (Special) Business License

Temporary (also known as Special Business) Licenses need to be obtained by taxpayers wishing to conduct business for a limited time. Section 2 of the Business License Regulations 2012 defines Special Business as:

A temporary business or economic activity that:

- *a) Is carried out in a place where:*
  - *i. A public entertainment or sport activity is conducted; or*
  - *ii. A bazaar or sale of work for patriotic, charitable or religious purposes is held; or*
  - *iii. A stall is specifically constructed for the purposes of catering for tourists or the general public during festivals; or*
- *b) Is approved by the Commissioner*

Due to the limited trading period of the special business operator, Inland Revenue makes the process of obtaining a Temporary License easier than for a full business license. There is however still some specific information required to be supplied with the application form.

1. Site Map
2. Foreign Investment Certificate
3. Health Compliance Certificate
4. Legal Form of Identification

Business License fees payable

The fees applicable for obtaining a new Business License are contained in Section 3 of the Miscellaneous Fees Amendment Act 2008. Schedule 2 of that Act sets the rate at which fees are payable under section 6(1)(c) of the Business License Act 1998.

Schedule 2 Table of fees

Type of license	Frequency	SAT
A business or economic activity undertaken by a company or a trust	per year	500.00
Commercial traveller	per year	500.00
Special business /temporary license	per day	20.00
Any other business or economic activity	per year	220.00

From 1 January 2013, new businesses only pay a portion (Pro-Rata) of the annual Business License fee, based on the number of calendar months left to run in the year. Like existing businesses, their license will expire at 31 December and they must renew for a full 12 months by the end of January or incur a $200 late payment fee.

Getting a tax number to operate the business

Your business needs a Tax Identification Number (TIN) and this will be allocated at the time you get your first business license. Please keep the number handy and tell us what it is whenever you contact us.

Business TIN number (partnership, company, non-profit organisation, trust/estate)

Your business must have its own TIN number if it is a partnership, company, non-profit organisation or trust/estate. If it is a partnership, each partner in a partnership also needs a **personal** TIN number.

Personal TIN number (sole trader, partner)

You need a personal TIN number as:

- a sole trader
- a partner in a partnership.

Registering for VAGST

Value Added Goods and Services Tax (VAGST) is a tax on most goods and services in Samoa. It is also charged by Customs on goods imported and payable for certain imported services.

VAGST is charged and accounted for at 15% on the selling price or market value of goods and services you provide. Some supplies like those that are exported or schools charging for education are called zerorated supplies and charged at a rate of zero percent. Some supplies are exempt from VAGST. Some examples are electricity, financial services and taxi fares. For more information on what is zero rated or exempt, please contact the Inland Revenue.

VAGST is not a tax on your business income. Your customers pay this when buying your goods and services so it is called a tax on consumption.

You are required to register when your business turnover:

- for the last 12 months was $78,000 or more, or
- for the next 12 months you expect it to be over this threshold

A turnover of $6,500 a month is a guideline to gauge whether you need to register.

If you are registered you are required to file a bi-monthly (2 month period) VAGST return. You can choose your VAGST taxable period eg, whether you would like to file VAGST returns on an even month (February, April, June, August, October, December) or an odd (January, March, May, July, September, November) month and its common to line these up with the balance date of your business (normally December). Whichever filing option you choose, your return and any payment are due no later than the 21st of the month following the end of your VAGST taxable period.

Note: You are not permitted to charge people VAGST on your goods and services, unless you are registered for VAGST with the Inland Revenue.

Registering as an employer

As soon as you start employing one or more people, you must register as an employer with Inland Revenue. Use the online employer registration or you can download and fill in a printable Employer registration form then post it back to us.

Are your workers employees or are they self-employed?

In general, people working for you are employees if you are controlling how and when they do their work.

To determine whether your worker is an employee or self-employed, answer the following questions.

1. Must the worker do the work himself or herself, rather than having the option of hiring someone to help?
2. Can you tell the worker what work to do, and when and how to do it?
3. Do you pay the worker at a set rate (eg, by the hour, week, month, unit of production)?
4. Can the person get overtime or penal rates?

5. Does the person work set hours, or a given number of hours each week or month?
6. Does the person work at your premises or at another place of your choice?
7. Do you set the standards for the amount and quality of work?
8. Do you provide sick pay or holiday pay?

If you answered "yes" to most of the questions above, the worker is probably your employee and you should register as an employer and deduct salary and wage tax (PAYE) from their wages.

You then need to pass the PAYE to Inland Revenue before the 15th day following the month the tax is deducted. You will need to lodge a monthly P4 form with your payment. If employees pay is below $231 per week, $462 per fortnight or $1000 per month, then no PAYE needs to be deducted from the wages, however you still need to send your PAYE returns showing the amount of wages paid to each employee.

Registering for withholding tax

If you make certain payments to residents or non residents (see table below), you may be required to deduct withholding tax. Tax deducted must be paid to the Commissioner by the 15th day of the month following the month the tax is deducted. You will need to lodge a monthly form (P5) with your payment and you will also have some annual obligations.

Payments to residents	**Rate**
Commissions	10%
Director's fees	27%
Payment in relation to motor vehicles, machinery hire except taxis.	10%
Secondary Income	27%
Secondary Income for teaching, marking exams etc.	27%
Payments to non–residents	**Rate**
Film hire payments	15%
Interest	15%
Royalties & other like payments	15%

If you require more information about any of these taxes please contact Inland Revenue.

Budgeting for tax payments

When you start out in business, it is important that you budget for the tax payments you will pay in future. These payments may include:

- Income tax
- VAGST
- PAYE and other deductions from employees' wages

Your first year in business is not tax free

Usually you are not required to make any income tax payments to Inland Revenue during your first tax year in business until you file your first Income Tax return. However, during your second year of business you must pay tax on the profit you made in the first year and you may also need to pay provisional tax (Income Tax in advance) for your second year.

You may choose to make voluntary tax payments during your first year of business, which helps to spread the cost.

For specific advice on what percentage of your income to put aside for tax purposes, contact your accountant, tax agent, financial adviser or Inland Revenue.

Business examples

Sole trader

Ian: 'Ian's restaurant' & 'Ian's auto shop'

Ian starts a small restaurant business at SNPF plaza. He employs 2 people to help him to run the kitchen and serve customers.

Ian also runs a small auto repair business at home. He does not employ anyone else to help him in this business. He operates this business as a sole trader as well.

Ian will need to register as a sole trader. He needs to apply for two separate business licenses for each business. He will receive one TIN. He will use the same number for all tax payments for both businesses.

Ian will need to lodge one income tax return that shows the income and relevant deductions for both businesses. He will lodge this return using his TIN.

During the year Ian may also have to make other tax payments such as PAYE, provisional tax and VAGST tax. He will also use his TIN when lodging relevant tax returns and making payments.

Partnership

Ana and George: 'Accountants Lead'

Ana and George have been working for an accounting firm for many years and decide they would like to go into business together and run their own accounting practice. They form a partnership whereby they agree to share the profits and expenses of the business on an equal basis. They employ someone to assist with reception duties. They call their business 'Accountants Lead'.

Ana and George need to register their business with Inland Revenue. They will receive one TIN for the partnership. Ana and George will also receive their own individual TIN for tax purposes.

They will use the Partnership's TIN when making any tax payments for the partnership such as PAYE, VAGST etc. Each partner will lodge an individual income tax return showing the income and deductions of the partnership and how they have been shared between the partners.

Company owned by a foreigner

John: JJ Construction Ltd

John is from NZ and decides to set up a construction business in Samoa. He sets up a company to run the business. The company employs 10 staff.

The company will need to be incorporated from registrar of companies (MCIL) and obtain a Foreign Investment Certificate (FIC) before obtaining a business license from Inland Revenue and also be issued with a TIN. The company will lodge tax returns and pay taxes such as provisional tax, PAYE, VAGST etc using the company's TIN.

Need more information or help?

Starting a business? Come to our free seminars to learn about:

- working smarter with our online services
- business structures
- income tax
- expenses you can claim VAGST, and more.

Call us on 20411 and ask to speak to a community compliance officer in Taxpayer Services.

OR:

- Visit our offices in Apia or Salelologa, Savaii
- Phone: 20411 and ask to speak to someone in Taxpayer Services. Visit us on line at: **www.revenue.gov.ws**