

VII. Business Regulations

A new business in Wisconsin will be subject to some or all of the following regulations through local, state, or federal regulatory agencies. This list is by no means complete; it does not cover specific city or county requirements, and requirements change periodically. Contact appropriate agencies below for further information. Working with a small business attorney and accountant is strongly suggested.

An excellent place to start is **Business Wizard**: www2.wisconsin.gov/state/wizard/app/LoadIntro
Or call the **Wisconsin Business AnswerLine (800) 940-7232**. They can provide you with assistance in finding out which license or permit requirements apply to your business.

Basic Business Regulations

| ✓ | What | Who | Where |
|--------------------------|---|---|---|
| <input type="checkbox"/> | Business Entity Registration (All forms of business <u>except</u> sole proprietors & general partnerships) Sole Proprietors/General Partnerships Trademark or Service Mark→ | WI Dept. of Financial Institutions County Reg. of Deeds WI Secretary of State WI Secretary of State | (608) 261-9555 www.wdfi.org List of County Reg. of Deeds in WI: www.wrdaonline.org/ListOfOffices (608) 266-5653 http://www.sos.state.wi.us |
| <input type="checkbox"/> | Federal Employer ID Number (EIN) | IRS | (800) 829-4933 www.irs.ustreas.gov |
| <input type="checkbox"/> | Independent Contractor Law | IRS (when calling the IRS, the contractor must inform IRS the EIN is required by WI Worker's Compensation Law) | (877) 829-5500 Self-Employed vs. Independent Contractor: www.irs.gov/businesses/small/article/0,,id=115041,00.html Independent Contractors vs. Employees: http://www.irs.gov/businesses/small/article/0,,id=99921,00.html Self Employed: http://www.irs.gov/businesses/small/article/0,,id=115045,00.html |
| <input type="checkbox"/> | WI Business Tax Registration -WI employer identification number -Seller's permit -Local exposition tax -Consumers use tax permit -Use tax certificate -Alcohol Beverage -Retail Alcohol Beverage -Cigarette and Tobacco Products -Dry Cleaning Facility | WI Dept. of Revenue | (608) 266-2776 www.dor.state.wi.us/html/business.html |
| <input type="checkbox"/> | Health Inspection (sale of food or lodging) | WI Dept. of Health Services WI Dept. of Public Health | http://dhs.wisconsin.gov/ http://dhs.wisconsin.gov/localhealth/ |
| <input type="checkbox"/> | Licensing, Permits or Certificates Regulatory Issues | Wisconsin Business AnswerLine Business License Wizard | (800) 940-7232 www.wisconsin.gov/state/app/wizard/LoadIntro |
| <input type="checkbox"/> | Safety and Buildings Fire Department (local) | WI Dept. of Commerce, Safety & Building Division | (608) 266-3151 www.commerce.state.wi.us/SB |
| <input type="checkbox"/> | Safety Requirements (OSHA) | OSHA (Occupational Safety & Health Administration) | (312) 353-2220 (Regional Office) (608) 226-5240 (Free Consultation) State Lab's Clinical Lab 888-494-4324. Environmental Health 800-442-4618. Wisconsin Occupat. Health Lab 800-446-0403. WSLH Proficiency Testing is 800-462-5261 http://www.slh.wisc.edu/wiscon/ |
| <input type="checkbox"/> | Zoning (including working from home) | City/Town/Village Zoning Department | See Government Pages in telephone directory |

*Employment is regulated by both federal and state laws.
The following sections briefly summarize the major legal requirements.*

Regulations for Employers

| | What | Who | Where |
|--------------------------|---|---|--|
| <input type="checkbox"/> | Labor Law Posters (required) | WI Dept. of Workforce Development | (608) 266-6861 or (800) 362-7253 (DOC-Sale) www.dwd.state.wi.us/dwd/posters.htm |
| <input type="checkbox"/> | Americans With Disabilities Act (ADA) Requirements | U.S. Dept. of Justice | (800) 514-0301 (ADA publications) www.usdoj.gov/crt/ada/adahom1.htm |
| <input type="checkbox"/> | Immigration Law / I-9 Form | U.S. Citizenship and Immigration Services | (800) 375-5283 http://www.uscis.gov/portal/site/uscis |
| <input type="checkbox"/> | Unemployment Insurance | WI Dept. of Workforce Development | (608) 266-3100 www.dwd.state.wi.us/ui |
| <input type="checkbox"/> | Worker's Compensation | WI Dept. of Workforce Development | (608) 266-1340 www.dwd.state.wi.us/wc |
| <input type="checkbox"/> | Payroll Taxes | IRS WI Dept. of Revenue | (800) 829-1040 http://www.irs.gov/businesses/small/article/0,,id=98862,00.html (608) 266-2776 http://www.revenue.wi.gov/html/business.html |
| <input type="checkbox"/> | Estimated Taxes | IRS WI Dept. of Revenue | http://www.irs.gov/businesses/small/article/0,,id=110413,00.html https://ww2.revenue.wi.gov/PaymentInquiry/application |
| <input type="checkbox"/> | Labor Standards Law Equal Rights & Opportunities | WI Dept. of Workforce Development | (608) 266-266-6860 (Equal Rights) http://www.dwd.state.wi.us/er (608) 266-3345 (Labor Standards) http://dwd.wisconsin.gov/er/labor_standards_bureau |
| <input type="checkbox"/> | Social Security Estimated Tax (FICA) | SSA | 800-772-6270 www.SSA.gov |
| <input type="checkbox"/> | Employee Benefits INSURANCE, PENSION, AND PROFIT SHARING WI Health Insurance | U.S. Dept of Labor U.S. Dept of Labor WI Insurance Commissioner | http://www.dol.gov/ebsa/compliance_assistance.html http://www.dol.gov/ebsa/ http://oci.wi.gov/pub_list/pi-206.htm |

BASIC BUSINESS REGULATIONS

1 - BUSINESS ENTITY REGISTRATION

Businesses operating as Corporations, Not-for-Profit corporations, Cooperatives, Limited Partnerships, Limited Liability Companies, Limited Liability Partnerships, Common Law Trusts, Foreign (out-of-state) entities of the same types licensed to transact business in Wisconsin, Veterans and certain types of religious organizations must register with Wisconsin Department of Financial Institutions: <http://www.wdfi.org> (608) 261-9555

Sole Proprietorships, General Partnerships may register with the WI Secretary of State, if you so choose. This registration does not give name protection beyond that of common law. It does make it easier to avoid duplication. Your business name can be a very important marketing consideration; therefore, you may want to register it with your County Register of Deeds or with the WI Secretary of State: www.sos.state.wi.us

2 – FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN)

EIN is a nine-digit number that the IRS assigns to business entities. The IRS uses this number to identify taxpayers that are required to file various business tax returns. EINs are used by employers, sole proprietors, corporations, partnerships, non-profit organizations, trusts and estates, government agencies, certain individuals and other business entities.

A new business is not required to have an EIN if it has no employees and is organized as a sole proprietorship or Limited Liability Company with one member. **However, getting an EIN in these cases may be wise because chances are a business may be asked for its EIN in the course of doing business with other businesses or the government and it prevents the owner's Social Security Number from being used as the company's identification number.** If the business changes to a partnership or corporation, or if it hires employees, then an EIN is required. www.irs.gov/businesses/small/article/0,,id=98350,00.html

In addition, independent contractors are required by Wisconsin Worker's Compensation Law to obtain an EIN. (A social security number cannot be substituted). When requesting an EIN from the IRS, you must inform them that you are required by Wisconsin Worker's Compensation law to obtain an EIN.

If you have employees, you are responsible for several federal, state, and local taxes. You must withhold certain taxes from your employees pay checks. Employment taxes include federal income tax withholding, Social Security and Medicare taxes (FICA) and Federal Unemployment Tax Act (FUTA) 800-829-4933 or visit www.irs.gov/businesses

3 – INDEPENDENT CONTRACTORS

The State of Wisconsin presumes that any worker is an employee unless an employer can prove otherwise. This is an area often misunderstood by small businesses. In addition, independent contractors are required by Wisconsin Worker's Compensation Law to obtain a Federal I. D. number (FEIN). (A social security number cannot be substituted). When requesting a Federal Employer Identification Number (FEIN) from the IRS, you must inform the IRS that you are required by Wisconsin Worker's Compensation law to obtain a FEIN.

Federal IRS Info: www.irs.gov/businesses/small/article/0,,id=99921,00.html

Wisconsin Revenue Info: www.dor.state.wi.us/html/business.html

4 - WISCONSIN BUSINESS TAX REGISTRATION CERTIFICATE

-WISCONSIN EMPLOYER IDENTIFICATION NUMBER

A Wisconsin employer identification number is required for employers who pay wages subject to withholding of Wisconsin income tax or other persons with a withholding requirement. Apply for this number on the **Business Tax Registration (BTR101) form** available from the Wisconsin Department of Revenue at 608-266-2776 or at <https://ww2.revenue.wi.gov/GenericFile/application?interview=1232807>

-WISCONSIN SELLER'S PERMIT/SALES TAX

A seller's permit is required for every individual, partnership, corporation, or other organization making retail sales, leases, or rentals of tangible personal property or taxable services in Wisconsin, unless all sales are exempt from sales or use tax. Apply for a Seller's Permit Number on the **Business Tax Registration (BTR101) form** available from the Wisconsin Department of Revenue at 608-266-2776 or at <https://ww2.revenue.wi.gov/GenericFile/application?interview=1232807>

Sales to customers outside of Wisconsin may be subject to tax. This is an issue especially, though not exclusively, for mail order and/or internet based businesses. Check with the Wisconsin Department of Revenue or see Department of Revenue Publication 201: www.revenue.wi.gov/pubs/pb201.pdf

-OTHER TAX PERMITS/CERTIFICATES ARE ALSO ON THIS FORM

5 - HEALTH INSPECTION

Any business involving the sale of food or lodging will generally require an inspection by the Wisconsin Department of Health Services, Public Health. Inspections are either conducted through the state or local county Health Department. <http://dhs.wisconsin.gov/localhealth>

6 - LICENSE, PERMIT OR CERTIFICATE

Some professions require a license: i.e. real estate sales agent, beautician, etc. State of Wisconsin requires some businesses hold certificates or permits to do business: i.e. currency exchanges, nurseries, etc. Go to Business Wizard at www.wisconsin.gov/state/app/wizard/LoadIntro

7 - SAFETY AND BUILDINGS

Employers must inform workers about toxic substances, infectious agents and pesticides in the work place. Local municipalities also require a building permit. Any major remodeling will require that plans be submitted for approval to the Wisconsin Department of Commerce, Safety and Building Division, (608) 266-3151. www.commerce.wi.gov/SB

FIRE DEPARTMENT INSPECTION

Businesses having regular entry and use of the facilities by the public, as well as housing flammable materials will generally need a fire department inspection. Call your local fire department.

8 – SAFETY REQUIREMENTS - OSHA – OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

There are federal regulations and standards for work place safety. For free consultation on occupational health or industrial hygiene regulations call (800) 947-0553 or call (608) 224-6215 <http://www.slh.wisc.edu/wiscon/> OSHA Regional Office (608) 441-5388 www.osha.gov

9- ZONING

A business operated in any building must be zoned for business use in the geographic location. An office in the home may need to be in a "commercial" zone if the home office receives clients or regular shipments. Be aware of signage regulations, street traffic, and parking. Call your city, town or village zoning office.

10- LABOR LAW POSTERS

Employers are required to post various posters to inform workers of their rights under labor regulations. Each regulating agency contacted should be asked about posting. Requirements include the posting on non-discrimination and safety law notices. www.dwd.state.wi.us/dwd/posters.htm

11- AMERICANS WITH DISABILITIES ACT (ADA)

All public businesses must meet accessibility guidelines for both employees and customers. www.ada.gov www.dwd.state.wi.us

12- IMMIGRATION LAW I-9 FORM

U.S. Citizenship and Immigration Services require that employers take steps to insure that employees (citizen/non-citizen) are eligible to work. You are required to have new employees fill out an I-9 form. Employers need to check employee documents for appropriate proof of eligibility and residency within three business days of their start date (and keep copies).

www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=91919c7755cb9010VgnVCM10000045f3d6a1RCRD&vgnnextchannel=91919c7755cb9010VgnVCM10000045f3d6a1RCRD

13 - UNEMPLOYMENT INSURANCE (UNEMPLOYMENT COMPENSATION)

A company is required to pay unemployment insurance if you have employees to whom you pay \$1,500 in wages in any calendar quarter or any calendar year; if one or more persons is employed full or part-time for some part of a day in each of 20 or more weeks in a calendar year; if you are engaged in agriculture and you employ 10 or more persons on the same day who perform farm labor in 20 or more weeks during a calendar year or the payroll for this work is at least \$20,000 in any calendar quarter; if you employ persons working in domestic service if the wages are \$1,000 or more in any calendar quarter; and if you are a nonprofit organization classified by the IRS and have four or more employees working on the same day for 20 weeks within a calendar year. 608-261-6700 <http://www.dwd.state.wi.us/ui201/phone201.htm>

14 - WORKER'S COMPENSATION INSURANCE

Most Wisconsin employers must carry a special insurance to cover liability due to work-related employee injury or illness. This coverage is obtained through a private commercial insurer. Check with a commercial insurance agency that deals with business accounts for coverage. Employer liability occurs when wages of \$500 or more are paid in a quarter, or three or more people are employed. Independent contractors are required by Wisconsin Worker's Compensation Law to obtain a Federal I.D. number. Always ask an independent contractor for their EIN number before employing their services. (608) 266-1340.

15 - PAYROLL TAXES

There are two types of payroll taxes; those withheld from employees' pay (which includes wages, bonuses, tips, cash and non-cash benefits), and taxes paid by the employer. Withholding from employee pay is required for Social Security (FICA) taxes and for federal and state personal income taxes. Employers need a federal tax I.D. number and employees need to fill out W-4 and WT-4 forms. Federal and state unemployment compensation coverage for employees must be contributed by most employers. This is done in the form of a percentage of payroll tax. NOTE: Employers must withhold FICA and income tax from employee paychecks.

The amount deducted will be forwarded to the government on an annual, quarterly, monthly, or weekly basis depending on amounts involved. A penalty may be imposed if the funds are not paid to the Internal Revenue Service. A person is liable if the failure to collect funds or the diversion of funds was "willful" and the individual was a "responsible party" during the reporting period. The individual owner or others may be held personally liable for the penalty. (800)829-4933. www.irs.gov/businesses/small/article/0,,id=98862,00.html

16 – ESTIMATED TAXES

Generally sole proprietors, partners and shareholders of an S corporation pay tax on net profit by making regular payments of estimated tax during the year. If you expect to owe taxes of \$1,000 or more (including Social Security and Medicare) when you file your return, you generally have to make estimated quarterly tax payments. Use Form 1040-ES, *Estimated Tax for Individuals*, and 1-ES, *Estimated Tax for Individuals, Estates and Trusts*. Federal IRS Info: <http://www.irs.gov/businesses/small/article/0,,id=110413,00.html>
Wisconsin Revenue Info: <https://ww2.revenue.wi.gov/PaymentInquiry/application>

17 - LABOR STANDARDS LAW

Both federal and state laws cover a variety of issues relating to the pay and treatment of employees. The following is a partial listing of areas covered by regulations: Minimum Wage, Family & Medical Leave Act, Overtime Pay, Sexual Harassment, Employment of Children, and Prevailing Wage Requirements. Wage & Hour (608) 266-3345 www.dwd.state.wi.us/er/labor_standards_bureau

EQUAL RIGHTS AND OPPORTUNITY

It is illegal to discriminate against job seekers and current employees on the basis of sex (including pregnancy), age (40 and over), race, color, national origin, ancestry, religion, handicap, sexual orientation, marital status, and, in most cases, arrest or conviction record. (608)266-6860. www.dwd.state.wi.us/dwd/employers.htm

18 - SOCIAL SECURITY ESTIMATED TAX 800-772-6270 www.ssa.gov

19 - EMPLOYEE BENEFITS: INSURANCE, PENSION, AND PROFIT SHARING

Employers who pay voluntary benefits are subject to regulations aimed at protecting workers from mismanagement of funds and discrimination. If you provide voluntary benefits, consult an attorney about Employee Retirement Income Security Act (ERISA), Section 89 regs. and other laws. www.dol.gov/ebsa/compliance_assistance.html

State of Wisconsin Health Insurance: http://oci.wi.gov/pub_list/pi-206.htm

This publication is provided to you by the Wisconsin Small Business Development Center (SBDC), which is partially funded by the U.S. Small Business Administration. SBA's funding is not an endorsement of any products, opinions, or services. All SBA-funded programs are extended to the public on a non-discriminatory basis. © Revised 04/2009, Board of Regents, University of Wisconsin System.