

COPYRIGHT, LEGAL AND MANAGEMENT

WORKBOOK 7

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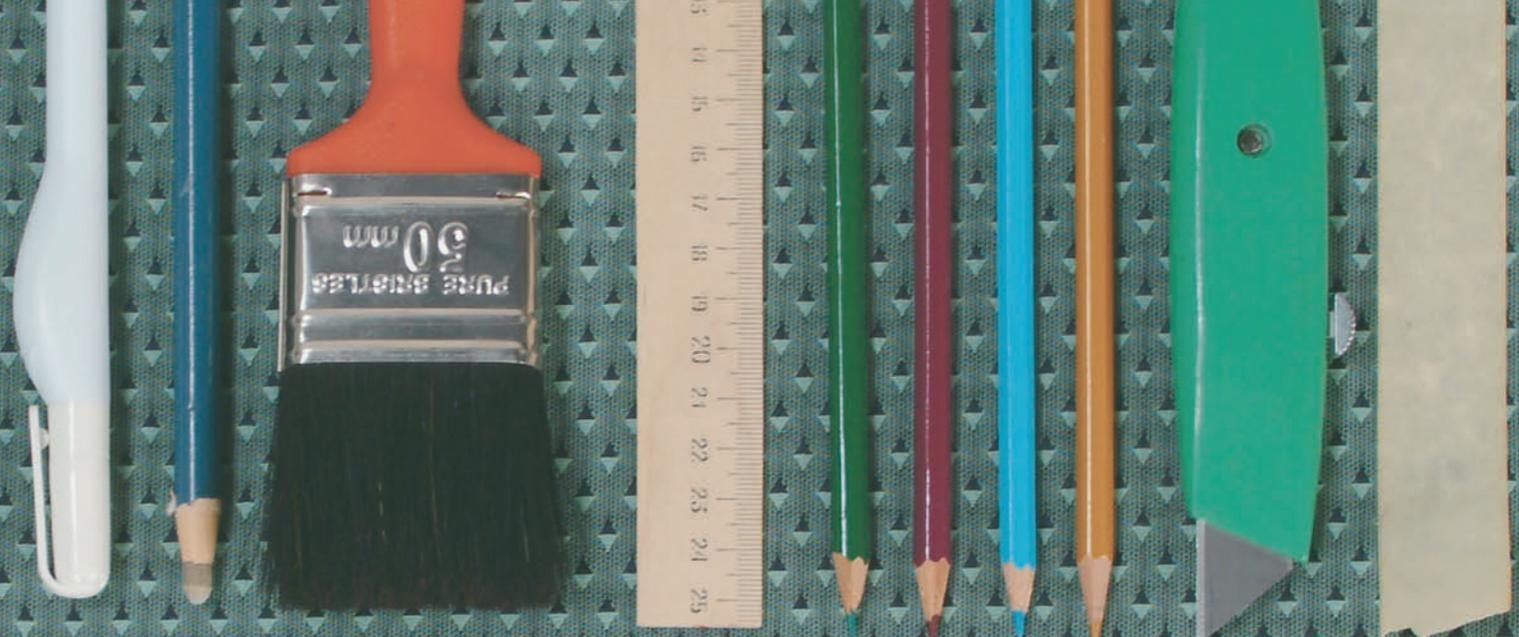
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-  Chapters that are essential to this workbook.
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provide typical reference examples only.

LEGAL
AND
BUSINESS
ISSUES



WHAT IS IT?

Legal issues affect almost every part of life:

What does the law entitle you to do?

What does the law say you cannot do?

What do you do to protect yourself and your interests?

What can you do when things go wrong?

Business matters are important for you to understand when you are working in the music industry.

What is your business status: employed or self employed?

You need to know how to deal with your tax status if you have any self employed income.

WHY DO I NEED TO KNOW ABOUT THIS?

When you work for yourself you have to take responsibility for the things that employers would usually look after, such as keeping accounts and sorting out contracts. In this chapter we will look at the main legal and business issues that are likely to affect you in your work in the music business, as follows:

Trading entities (how you will trade in business)

Business Premises

Raising finance

Keeping Basic accounts

Legal requirements

Insurance

YOU MUST HAND IN YOUR WORK BY

TO

**HOW LONG**

should this assignment take?

Every person works at his / her own pace.

As a guide, this should take you 2 hours to read and research and another 2 hours to write your answers and discuss them with your tutor.

**HOW**

will I be assessed?

Your tutor will assess your work. He / she will give you feedback on how you have done. If your work needs further work to be passed, then you will be given the chance to do further work to bring it "up to scratch". For more details, please refer to your MOLP's own guidance.

**WHAT**

do I do now?

Read the **TASKS** below.Then read the **NOTES AND GUIDANCE** section.Carry out the **TASKS**.

TASKS

- 1 Write down the three main ways of trading in business, with a simple explanation..

Type of business	Simple explanation
1)	
2)	
3)	

- 2 Fill in the gaps, using the words below.

jointly and severally liable

tax

limited liability

accounts

national insurance

As a sole trader, you will have to keep

and pay your own

and

In a partnership, each member would be

for any debts.

The main legal benefit of a limited company is

- 3 Answer the following questions.

I can search for company information by going to www.companieshouse.gov.uk on the internet.

True / False

You can limit your personal liability by forming a limited company.

True / False

Self employed people pay two types of National Insurance contributions.

True / False

- 4 Answer these questions about tax:

What is income tax payable on?

Search the inland revenue website and find the section on Class 4 National Insurance contributions.

Write the website address here:

If you are self employed, how much per week are Class 2 National Insurance contributions?

Can you apply for exemption if you earn under a certain amount?

£

5 Answer these questions about the difference between PAYE and being self employed:

What does PAYE stand for?

If you are self employed, when do you pay your tax?

What tax code are self employed people under?

6 Answer these questions about deductions:

Give three examples of a deductible expense

What kind of information should you keep in your financial records?

What are allowances?

NOTES AND GUIDANCE

TRADING IN BUSINESS

Before you make a business plan or look for finance for your business, you should decide how you're going to operate. The options are:

SOLE TRADER (also referred to as the **PROPRIETOR**)
PARTNERSHIPS
LIMITED COMPANIES

Let's look at what each of these options offers.

SOLE TRADER (SELF EMPLOYED)

This just means being your own boss, and making your own decisions about how you organise your business. You will have to keep accounts and pay your own tax and national insurance (NI) contributions; this is different from the PAYE system which applies if you work for someone else, where tax and NI are taken out of your wages before you get them. You should notify your local tax office as soon as you start trading, or, if you have an accountant, get them to do it for you.

You might indicate on business stationery that you are the proprietor or sole trader, and you should always check the legal requirements if you are trading from home or rented accommodation. (See Premises)

Things to consider about sole trading

As a sole trader you will be personally responsible for any business debts you run up, and if you are unable to pay your debts, creditors might be entitled to seize and sell your personal possessions - such as your car, house, furniture and musical equipment - to meet outstanding debts.

Remember that even as a sole trader, if you earn money by working with other people you could be considered a partnership in legal terms.

Working freelance

Freelance means working for yourself – in other words, being a sole trader.

However, many musicians and DJ's have another normal job as well as their music job, so they are a combination of things!

For their freelance work, they will have to prepare an annual tax return which declares their earnings. But if they have a normal daytime job working for someone else, the chances are that the tax relating to their work will be paid directly by the employer.

PARTNERSHIPS

Partnerships are set up every day in the music business. Musicians, DJs, producers, managers and many others perform together, record together and earn income together without any real thought that they are business partners. Many never understand the liabilities they may be held to. An example might be a group of musicians who work together on an amateur, semi-pro or professional basis. Any money they earn would be accountable for tax purposes and each member would be 'jointly and severally liable' for any debts.

A partnership has similarities to sole trading (in terms of the personal liability) and you should give think very carefully before trading in partnership with a person you do not know well.

➤ WORKBOOK 7 – COPYRIGHT, LEGAL AND MANAGEMENT – CHAPTER 4

LIMITED COMPANIES

The decision to form a limited company will depend on what business you have in mind and how you want to run it. Trading as a private limited company is totally different to trading as a partnership or on your own.

In a limited company, you become an employee of your own company. The company structure may include a Company Secretary, Directors and Shareholders, but it is only necessary to have either two directors or one director and one company secretary to set up a company.

The main legal benefit of a limited company is limited liability. For example, should a company fall into difficulties, creditors can only claim against that the company owns. The personal assets of its employees will be unaffected, unless a personal guarantee has been given by them.

For example, some lenders insist on 'personal guarantees' when financing a limited company with little or no trading history..

Limited companies can be formed with the help of an accountant, and a cost effective way is to buy a ready made company 'off the shelf'. This involves paying an agency a fee for the necessary documentation and proper registration of a business that has not yet traded, but is already formed.

Things to consider about limited companies:

The business will have to be registered with Companies House as a legal requirement
Annual returns will have to be made (updating information on the business itself)
Audited annual accounts will have to be made (only if the company is above a certain size)
A different method of calculating tax will apply (this will not have the same benefits as partnerships or sole-traders)
As an employee, you would pay tax as you earn (PAYE)
Shareholders and company directors will make most decisions about business matters.

If you form a limited company, the directors are employees and are taxed on a PAYE basis on any salaries or bonus paid to them. The company will pay corporation tax on its annual profits retained in the business after deducting capital allowances.

Take expert advice when considering the formation of a limited company. You can get plenty of information on this matter from local business links and books listed in the reading list.



Finding a company name
If you want to see if another limited company exists with the same name, search for it on www.companieshouse.gov.uk

You can also buy information about that company, such as details of their accounts and directors.

Liabilities

If you are running a business, you may be potentially liable for all sorts of things that you haven't even considered. For example :

You own a recording studio and a customer falls over a piece of equipment and breaks their leg – you could be threatened with legal action.

You've borrowed some equipment from a friend and it gets stolen – and you have no insurance.

You share your PA system with other bands at a gig and someone gets an electric shock due to a fault.

Even when you don't think you are acting formally, you can still be liable – you need to consider this.

NATIONAL INSURANCE, INCOME TAX AND VAT

NATIONAL INSURANCE

Self employed people pay two separate forms of National Insurance Contributions (NIC)

Class 2

Can be paid monthly by Direct Debit, or quarterly at a rate of £2.10 per week (2003-04) This covers basic state pension and other benefits, but not unemployment benefit. You can apply for exemption if your net earnings in a tax year are not expected to exceed £4095.

Class 4

contributions are calculated as a percentage of annual profits and are payable with income tax following the end of your financial year at the rate of 8% on business profits above £4615 up to £30940 (tax year 2003-04).

If you employ people you may need to deduct NIC and income tax from their gross wages under the PAYE scheme. You will also have to pay additional employers contributions. Contact your local Contributions Agency Office for further details.

INCOME TAX

Income Tax is payable on business profits before your drawings (wages) are taken out. You are allowed to deduct allowable business expenses, the current personal allowances and capital allowances set by the Inland Revenue.

Car expenses, telephone bills and other items that are partly used for business, and for private use, have to be apportioned (in other words, the costs need to be split between private and business use). The ratio can be agreed with your tax office. For details about current personal and capital allowances, contact your local tax office.

You will also need a copy of booklet CWL1 to let the Inland Revenue know you are starting your business.

VAT (Value Added Tax)

VAT registration is compulsory if your 'taxable supplies' exceed a certain figure (around £58,000 per annum) The rate at which you pay and charge VAT is currently set at 17.5% in the UK, although some supplies are zero rated.

You cannot reclaim any VAT you have paid on purchases or expenses unless you register for VAT.

Once you have registered, VAT must be charged (except on goods and services not subject to VAT) and paid quarterly to Customs and Excise less any VAT you have paid on business purchases and expenses in the same period.

Customs and Excise operate a couple of current schemes such as the flat fee scheme which offers a reduced VAT rate you would pay to them if your supplies are generally charged to others and your purchases are low.

For further information, contact your local Customs & Excise office.

Business Premises

Many businesses are actually run from home. The benefits include convenience and a saving on the cost of renting other premises. The down-side includes distractions in the home, the difficulty of switching off between business and your personal life, and the scope of being able to display your products.

Making a decision to move into commercial property needs thought and planning. You would have to sign a lease or rent agreement in most cases and would have to rely on enough business income to meet the payments.

Rent & Lease agreements

Commercial workspace is often let on the basis of a formal agreement. The contract will usually have a variety of conditions that range from repair clauses to annual rent increases. You should always consider the cost of good legal advice against costly disputes with a landlord!

It is worth researching and planning a budget with the help of an accountant, solicitor or professional adviser before making a commitment.

➤ For more on business premises, see
WORKBOOK 8 – BUSINESS AND MONEY
– CHAPTER 2

GENERAL TAX ISSUES

Tax laws are complicated and often the subject of review in terms of music industry income. It is advised that you employ an accountant or firm who specialise in music industry financial affairs, if you are generating revenues from music. The advice and service is vital when touring abroad or generating large sums of international income.

PAYE and SELF EMPLOYED

PAYE

This is called 'Pay as You Earn' (PAYE). Your employer deducts income tax and National Insurance at source and pays the Inland Revenue direct. You are left with the remainder. (If you formed a limited company, you would become an employee of your own company and pay yourself this way). This is called Schedule E tax code. Most people pay their tax this way.

SELF EMPLOYED

If you are registered as Self Employed, you receive the gross income and account to the Inland Revenue against profit and loss on income generated in a financial year (often running from April to April). In other words, you don't pay tax immediately on your income, you work out your profit and loss every year and pay your tax in big lumps to the Inland Revenue. This is called Schedule D tax code.

TIP

Save a reasonable reserve to pay tax bills that may arrive up to two years into your business start-point. There is a great tendency for musicians to spend income as it arrives in the belief that the next pay cheque is always around the corner. You will find many well know artists who are a testament to this very same comment, some are still working hard to pay tax debts a decade old!

FULL AND PART TIME

There is a huge difference between being an employee and being self employed. If you want to be a full time musician or DJ, then you generally have no option but to go self-employed. A lot of part time musicians, DJs and performers have regular day jobs, which they combine with music work in the evenings and weekends. In this case, they would pay tax through the PAYE system for their regular job, but they would have to declare the extra income in their tax return.

➤ See WORKBOOK 8 – BUSINESS AND MONEY – CHAPTER 2 (Preparing for Self Employment) for more information on this.

DEDUCTIONS AND ALLOWANCES

Allowances are the amounts you are allowed to earn before being taxed and are set by the government each budget. Expenses can be deducted from your overall profits before tax is calculated. These are items or services paid for (and receipts kept) without which you would not be able to carry out your work. A good accountant will advise you as to what constitutes a "deductible" expense, but the obvious include:

Travel and accommodation expenses relating to your work (hotels, trains, planes, van hires etc.)

Instrument maintenance (equipment servicing, spares, strings, and so on)

Telephone/fax/e-mail costs incurred when arranging work

Advertising and hire charges

Personnel hired for recordings and tours

Other services such as commissions, legal and accountancy charges.

Equipment purchase (including Instruments) and vehicles are classed as 'capital allowances' that can be carried over and used partially over several years if you wish.

National Insurance contributions are payable on a weekly stamp basis (see previous section on National Insurance). You are advised to pay the maximum contribution allowed as soon as possible.

KEEPING RECORDS

Keeping records of accounts can be as simple as a small book purchased in the high street with amounts received on the left hand side of a page and expenditures on the right hand side, together with an envelope or box containing payslips, bills and receipts filed by date.

You will need to keep records of all tour income and expenditure, so try to start the process as soon as possible.

➤ WORKBOOK 8 – BUSINESS AND MONEY – CHAPTER 5 for more information on book keeping and accounts.

WANT TO KNOW MORE?

LINKS

New Deal for Musicians has no responsibility for or control of the following sites. The inclusion of any site does not necessarily imply New Deal for Musicians approval of the site. To access any of the sites please click on the link or search using keywords from the name of the link.

www.dfes.gov.uk/ukonlinecentres/ Find Internet access that's close to you.

Also look at weblinks in the previous chapters, for example at the list of development and support agencies in chapter 1 for more links, plus the links in workbooks 1 and 2.

INFORMATION ON BUSINESS AND LEGAL ISSUES

- www.businesslink.gov.uk**
Advice on a full range of business issues, including choosing the right legal structure (partnership, company etc.), tax, premises etc. Start at this site before you look at the others!
 - www.startups.co.uk**
Lots of information about business issues, from finance to premises to liabilities and business structure.
 - www.companieshouse.gov.uk**
Everything you need to know about registering and trading as a company, includes forms and guidance booklets. You can also search here for company names and limited details about companies which are trading.
 - www.adviceguide.org.uk**
Citizens Advice Bureaux website – Welsh and Scottish links are available from this site. Aimed at advising normal people about everyday issues, such as money, housing and legal rights, it also contains some information about self employment. You can speak to your local Citizens Advice Bureau free of charge.
 - www.hmrc.gov.uk**
HM Revenue and Customs is the new government department which has taken over from the duties of the Inland Revenue and Customs and Excise departments. Information on setting up in business, tax, national insurance and VAT. Includes on-line forms. Also includes information on a range of issues such as tax credits, PAYE and Stamp Duty.
 - www.princes-trust.org.uk**
Princes Trust offer financial help and practical advice in starting up a business for 18-30s (England and Wales) and 18-25 (Scotland).
- A WORD OF WARNING...**
Remember that different laws and legal systems apply in different countries. When you're researching on the Internet, make sure that you are looking at appropriate advice for, say, the law relating to England and Wales. US sites refer to US law. Scotland has its own legal system although there are many similarities with the English legal system.

TIP

Internet trading names

A topic in itself, but remember to check out available domain names (www. addresses which are available for you to buy) before looking at available company names or deciding on a trading name. You can do this by looking searching for 'domain names' with a search engine.

- www.hse.gov.uk**
Health and Safety Executive – information on health and safety in business.
- www.shell-livewire.org**
Shell livewire helps young people 18-30 with business start ups.

BOOKS AND MAGAZINES

See those previously recommended in other chapters and in workbook 8.

Many guides and information packs are available through suggested websites listed above.

Most banks also publish guides to self employment which discuss various issues raised in this chapter.

- Law for the Small Business: An Essential Guide to All the Legal and Financial Requirements**
Patricia Clayton
Publisher : Kogan Page
ISBN : 0749441496
- The Complete Small Business Guide: Sources of Information for New and Small Businesses**
Colin Barrow
Publisher : Capstone Publishing Ltd
ISBN : 1841120790
- The "Which?" Guide to Starting Your Own Business: How to Make a Success of Going It Alone**
Anthony Bailey
Publisher : Which? Books
ISBN : 0852029306
- Starting a Business for Dummies**
C. Barrow
Publisher : John Wiley and Sons Ltd
ISBN : 0764570188

MORE TASKS

- 1 Some company directors have to give a 'personal guarantee' to investors. What is this?
- 2 You're operating as a sole trader – a freelance entertainer. Write down the topics you need to research, under the following categories of potential legal and business issues you have to be aware of. Discuss your answers with your tutor.

Registering my business	
What I might be liable for	
Getting paid	
Paying tax and national insurance	
Claiming benefits	

- 3 What licence might you need to trade as a busker or street entertainer?
- 4 What is public liability insurance and how can you get it?
- 5 What can you do if a venue refuses to pay you under the terms you agreed?
- 6 Do you need a work permit to do a gig in Spain with your band?
- 7 Questions about tax and national insurance
 - 1) How much are Class 2 national insurance contributions per week?
 - 2) If you don't earn much self employed income, do you have to pay tax?
 - 3) If you don't earn much self employed income, do you have to pay national insurance?
- 8 Look at a copy of a self assessment tax return – is this just for self employed people?

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NEW DEAL FOR MUSICIANS

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Sound Advice

MU Musicians' Union

MPG Music Producers Guild

AIM Association of Independent Music

PRS Performing Right Society

MCPS Mechanical - Copyright Protection Society

MMF Music Managers Forum

BPI British Phonographic Industry

MPA Music Publishers Association

PPL / VPL Phonographic Performance Limited / Video Performance Limited

MIA Music Industries Association

PAMRA Performing Artists' Media Rights Association

BBC Radio 1

British Music Rights

British Academy of Composers and Songwriters

