

STARTING AN AGRICULTURAL BUSINESS IN SOUTH CAROLINA

Seven Steps to Getting Started



THE CENTER FOR COOPERATIVE
AND ENTERPRISE DEVELOPMENT
SERVING RURAL SOUTH CAROLINA



COOPERATIVE EXTENSION
College of Agriculture, Forestry and Life Sciences

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Starting an Agricultural Business in South Carolina Seven Steps to Getting Started

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BUSINESS NAME, STRUCTURE, AND REGISTRATION

BUSINESS NAME

Your business will be a legal “person” or entity in the eyes of the law. What would you like to name your business? When thinking about this, keep in mind your business name does not have to be the name of the product that you produce, as you may wish to produce other products in the future. Also, you should do your best to make sure that your name is not already in use.

BUSINESS STRUCTURE

How you structure your business can affect what legal, financial, tax, and long-term planning options are available to you. The U.S. Small Business Administration has a website explaining the different business structures (sba.gov)¹. The following chart is from the website.

BUSINESS STRUCTURE AND LIABILITY “PROTECTION”

Keep in mind that no business structure will shield you from liability arising from illegal activities or gross negligence. Also, most banks have personal guarantees (you sign the loan as an individual) on any debt assumed by the business, so you most likely cannot escape debt obligations through a business entity.

¹ 2018, U.S. Small Business Administration, 409 3rd Street, Washington DC, 20416

BUSINESS STRUCTURE	OWNERSHIP	LIABILITY	TAXES
Sole Proprietorship	One person	Unlimited personal liability	Personal tax only
Partnerships	Two or more people	Unlimited personal liability unless structured as a limited partnership	Self-employment tax (except for limited partners) and personal tax
Limited Liability Company (LLC)	One or more people	Owners/Members are not personally liable	Self-employment tax, can elect personal tax or corporate tax
Corporation – C Corp	One or more people	Owners/Stockholders are not personally liable	Corporate tax
Corporation – S Corp	One or more people, but no more than 100, and all must be US citizens	Owners/Stockholders are not personally liable	Personal tax
Corporation – Nonprofit	One or more people	Owners are not personally liable	Tax-exempt, but corporate profits can't be distributed

BUSINESS REGISTRATION: SOUTH CAROLINA

SOLE PROPRIETORS

If you do not file any paperwork, you are automatically considered a sole proprietorship and not required to register with the SC Secretary of State's office. Because sole proprietorships have no legal separation between personal and business liability (a sole proprietor has unlimited liability for the actions of his or her business), most sole proprietors are organized as a single-member Limited Liability Company (LLC).

GENERAL PARTNERSHIPS

Likewise, if you own the business with someone else, you could automatically be considered a general partnership without filing any paperwork with South Carolina. General partnerships are not required to register with the Secretary of State's office before operating a business. Instead, a partnership is automatically formed as soon as two individuals begin doing business together.

The table from the Small Business Administration above states that each partner has unlimited liability for business operations. Also, each partner has unlimited liability exposure for the actions of the other partners. For this reason, most partnerships are organized as a multiple-member Limited Liability Company (LLC). Converting a partnership to a Limited Liability Company is easily done with the help from an attorney and filing the LLC paperwork with the South Carolina Secretary of State.

If you are in a general partnership, it would be wise to draft a **partnership agreement** to spell out the rights and responsibilities of each partner and determine how the partnership will be dissolved. If these items are not spelled out, then South Carolina law will dictate how these things are determined and the partnership immediately ends when one or more partners decides to leave the business or dies. This also demonstrates the need for a **buy-sell agreement**, which is discussed on the next page.

LIMITED LIABILITY COMPANIES S CORPORATIONS AND C CORPORATIONS

The following are the instructions from the South Carolina Secretary of State's office:

Corporations, Limited Liability Companies, Limited Liability Partnerships, and Limited Partnerships that are domestic businesses or foreign businesses that have physical presence in South Carolina must register with the Secretary of State.

*Go to businessfilings.sc.gov/businessfiling. This is the South Carolina Secretary of State's Business Entities Online Application. As a result of registering the business with the Secretary of State, you receive Articles and a Certificate that can be used as evidence that the business is registered in South Carolina. **It is important that you register the business with the Secretary of State before you go to the next step because you will then have assurance that the business name is available for you to use when you register with the IRS and other South Carolina State, County and Municipal organizations.***

Other necessary paperwork for LLCs and Corporations

If you are starting an LLC, you will need an **operating agreement**. Corporations need to have **articles of incorporation** and **by-laws** prepared. There are many templates available, but it is wise to get legal assistance with these papers, as general templates often miss the nuances of state law and the specifics of your industry. If you are forming this business with others, you should also have a **buy-sell agreement** that spells out who can enter the business, what events dictate how a member/partner can leave a business, and how their share of the business will be purchased or distributed upon their leaving the business.

BUSINESS REGISTRATION: FEDERAL GOVERNMENT

FEDERAL (EMPLOYER) IDENTIFICATION NUMBER

An Employer Identification Number (EIN), also known as a federal tax identification number, identifies a business entity. Generally, all businesses need a federal tax identification number. An EIN is a nine-digit number that the Internal Revenue Service assigns to a business. The IRS uses the number to identify taxpayers that are required to file various business tax returns such as those for alcohol, tobacco, or firearms. Employers, sole proprietorships, partnerships, limited liability companies, and corporations (including "S" corporations and not-for-profit organizations) as well as other business entities use EINs.

You can apply for an EIN with form **SS-4: Application for Employer Identification Number**, or online by going to the IRS website: sa.www4.irs.gov/modiein/individual/index.jsp.

FARM REGISTRATION: US DEPARTMENT OF AGRICULTURE FARM SERVICE AGENCY

A farm number is important to participate in federal and state programs (such as grants, loans, conservation programs, and disaster relief). To get a farm number:

1. Find your local Farm Service Agency (FSA): [offices.usda.gov](https://www.usda.gov) and call them to see if they offer this service and schedule an appointment.
2. Bring proof of identity (example: driver's license and social security card).

3. Bring copy of the deed and survey plat (if land is owned) and a copy of the rental agreement (if the land is rented).
4. Bring a copy of your business entity documents: your EIN number, a list of owners and what percent they own of the business, and a certificate of existence from the SC Secretary of State. If you have a corporation, bring your articles of incorporation.
5. Remember to update your acreage reports every year to stay eligible for programs.

NATURAL RESOURCE CONSERVATION SERVICE: US DEPARTMENT OF AGRICULTURE (NRCS)

If you have farmland as part of your business, visit the county NRCS office to see what kind of financial and technical assistance is available. A conservation plan for your farm and its soil and water resources could be valuable for your farm in terms of both money and sustainability. More information can be found under financial and technical assistance on their website: nrcs.usda.gov.

DO I NEED TO REGISTER WITH THE SOUTH CAROLINA DEPARTMENT OF REVENUE?

If you will be collecting sales tax or you are subject to excise and/or use tax, you may need to register with the South Carolina Department of Revenue. According to the South Carolina Department of Revenue:

If the business needs a Retail Sales Tax License, Accommodation Tax License, Use Tax, withholding registration, Business Personal Property Tax registration, Alcohol Beverage Licenses, Corporate tax registration or needs other licenses/registrations available from DOR, it is mandatory that the business register with the South Carolina Dept. of Revenue (SCDOR). For more information about what these licenses and taxes are, go to dor.sc.gov.

Sole Proprietorships that are strictly service companies, such as tax accountants, cleaning, or landscaping services, may not have to register their business with SCDOR. Go to SCDOR at dor.sc.gov and click on Register My Business (with the Dept. of Revenue) under the Business menu.



BUSINESS LICENSING, PERMITS, AND CERTIFICATIONS

YOU WILL NEED A BUSINESS LICENSE IN YOUR SOUTH CAROLINA CITY AND POSSIBLY YOUR COUNTY

There is no state-wide business license in South Carolina. However, nearly all cities and towns in the state require business licenses, and eight counties in South Carolina (Beaufort, Horry, Sumter, Charleston, Jasper, Richland, Dorchester, and Marion) also require business licenses. According to the South Carolina Business One Stop website:

The business will need a business licenses in all the municipalities where business is physically located and conducted. For example, if a business is physically located in the City of Columbia and does business in the Town of Irmo, business licenses will be needed from both Columbia and Irmo. For counties, if the business is physically located in or conducts business in the unincorporated (non-city limit) area of a county, the business will need a County business license if that county requires a business license. For example, if the business has a food truck or is a contractor based in the unincorporated area of Richland County (which requires a business license) and conducts business in the City of Columbia, the business would need a Richland County business license and a City of Columbia business license.

OTHER NECESSARY PERMITS

Today's business environment is heavily regulated. This is not a cause for alarm, but you will be filling out a small hill of paperwork before you can get started. Finding out which forms and permits you need ahead of time will save you time, trouble, and money down the road.

SOUTH CAROLINA DEPARTMENT OF AGRICULTURE AND HEALTH AND ENVIRONMENTAL CONTROL

Two agencies are heavily involved with the regulation of farms and food businesses in South Carolina: The South Carolina Department of Agriculture (SCDA) and the South Carolina Department of Health and Environmental Control (SCDHEC). Go through the lists below and check off the areas where you think you may need permitting or certification. Chances are you will not need as many licenses as it first appears. Many licenses have thresholds that exempt small business and agribusiness. Also, check first with the South Carolina Department of Agriculture on any food safety regulations – the department of agriculture may have their own special certification (versus contacting the Department of Health and Environmental Control).

PERMITS AND CERTIFICATIONS: SOUTH CAROLINA DEPARTMENT OF AGRICULTURE

- ❑ **AGRITOURISM:** Permits (optional) to register your farm as an agritourism site. In South Carolina, a registered agritourism farm is provided with some liability protection. Also, there is a highway road sign program to help increase your farm's visibility.
- ❑ **CERTIFIED ROADSIDE MARKET:** A certified roadside market is included in brochures and websites sponsored by the South Carolina Department of Agriculture. There are certain rules and regulations a certified roadside market must follow.
- ❑ **CERTIFIED SOUTH CAROLINA:** A certification (optional) that your farm products are grown in South Carolina. A logo is provided to you for your own marketing purposes as well. South Carolina seafood may also apply for its own designation.
- ❑ **CONSUMER SERVICES:** If you are a dealer, buyer, or handler of farm commodities, you may need additional permitting. Most of this has to do with paying producers on time and/or having a surety bond in place to protect farmers.
- ❑ **DAIRY:** The milk cooperative usually has its own process to allow you to ship milk through their bulk carriers. The SC department of Agriculture provides a tax credit opportunity for milk producers in South Carolina. There may be other permits needed if you plan to sell your milk directly to consumers, make cheese, or sell products over state lines.
- ❑ **FEED:** Feed production needs to abide by a minimum food safety standard. The department of Agriculture will need to issue a permit if you are making animal feed.
- ❑ **FOOD SAFETY:** The SC Department of Agriculture does some additional food safety inspections for wholesale produce, eggs, honey, and farmers' markets. You may also qualify for an exemption from some food safety rules.

❑ **METROLOGY (WEIGHTS AND MEASURES):**

If you use a scale for commerce, you may need it certified by the Metrology division of the South Carolina department of Agriculture.

- ❑ **OTHER LICENSES:** Testing labs, seed production, and watermelon assessments.

PERMITS AND CERTIFICATIONS: SC DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

- ❑ **RESTAURANT APPLICATION:** For preparing and serving on premises.
- ❑ **SHARED USE KITCHEN APPLICATION:** For small processing operations and food preparation involving multiple businesses.
- ❑ **MOBILE FOOD APPLICATION:** Permits for food trucks and food carts.
- ❑ **SEPTIC SYSTEM CERTIFICATION:** For sites that prepare food, you need to be sure the septic can handle the waste. If you are on a sewer system, you don't need this.
- ❑ **WATER/WELL CERTIFICATION:** Well water needs to be tested to be sure it is safe to drink for food operations. Agricultural water testing (irrigation) may also be required.
- ❑ **RETAIL FOOD ESTABLISHMENT:** For those food businesses NOT associated with farms, farm markets, and roadside stands. Grocery stores, for example.

OTHER SOUTH CAROLINA CONSIDERATIONS

☐ TOURIST ORIENTED DIRECTIONAL SIGNAGE (TODS) PROGRAM: A cooperative effort between the South Carolina Department of Transportation, the South Carolina Department of Agriculture, and the South Carolina Department of Parks, Recreation, and Tourism. Apply to this program to get highway directional signs to qualified agritourism destination from the closest primary route, State route, or U.S. route.

☐ LANDSCAPING PERMIT: Go to scbos.sc.gov for more information on this permit.

☐ MUNICIPALITIES AND COUNTIES: Zoning permits, fire marshal requirements (structures), and business personal property tax (some exemptions for agriculture).

ZONING: Do you live in a residential area? You may need to check with your county zoning department to make sure your property is zoned for agriculture. Sometimes, there are multiple uses listed for property and it is best to ask, especially if there are going to be activities outside of simply farming. Activities such as livestock and further processing might need special considerations.

NEIGHBOR RELATIONS: Will your farming operations effect your neighbors? Will there be animal odors, night time harvesting, or roosters crowing at 5am? Visit with them and talk about what you are doing. It is easier to maintain good neighbor relations than to fix bad neighbor relations. Also, your neighbors could be your future customers.

ORGANIC CERTIFICATION

Clemson University is South Carolina's USDA Accredited Certifying Agent. Clemson University can certify organic operations in the three major categories of certification: crops, livestock, and processing. For more information about organic certification through Clemson, contact: Clemson University Organic Certification Program, Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670. Phone: 864-646-2129 Email: organic@clemson.edu

GAP CERTIFICATION (GOOD AGRICULTURAL PRACTICES)

GAP is a voluntary audit and certification program that verifies that fruits and vegetables were packed, handled, and stored properly before delivery. Some produce buyers require GAP certification. Carolina Farm Stewardship Association offers free consulting in South Carolina on this topic. Contact them online at carolinafarmstewards.org.

BUSINESS BANKING AND INSURANCE



BUSINESS BANKING

Best business practices dictate having a separate bank account for your business income and expenses. This also makes it easier to file your business taxes at the end of the year and shows the IRS that you are attempting to run a legitimate business.

It is also important that you keep personal assets from your business assets. If you have a business structure that provides some liability protection (LLC, S Corporation, C Corporation), co-mingling personal and business assets can void that protection.

TIPS FOR USING YOUR BUSINESS BANK ACCOUNT

- File the paperwork under your business name
- Use your IRS tax identification number (same as your Employer Identification Number/EIN mentioned in the registration section), not your social security number
- Pay yourself from your business bank account after you have deposited the money in the business account. Pay yourself with a check or transfer it to your personal account from your business account.
- It makes it easier if you have your personal account and business account with the same bank. It also may reduce or eliminate your monthly business banking fees.

- Make sure you pay your business bills with your business account. The most common mistake occurs with credit card transactions. Set up a business credit card that is associated with your business bank account rather than using your personal credit card.

OBTAIN BUSINESS INSURANCE

Insurance is a balancing act: you can be under insured and be exposed to too much risk, or you can be over insured (i.e. double covered) and be paying too much in premiums. Some advice for those seeking business insurance: assess your risks, find a good insurance agent, choose the best policy for your business, and keep your policies up to date.

1. ASSESS YOUR RISKS

Before visiting with an insurance agent, educate yourself a bit on insurance policies and what they typically cover. The following modified chart from the Small Business Administration's website² is a good summary of the types of business insurance that are commonly used and what it does.

2. FIND A GOOD INSURANCE AGENT

A good insurance agent can help with risk assessment and find some good options for insurance policies. Some advice for finding a good insurance agent? Get referrals from other, similar businesses (farms), make a list of potential agents, call or visit the agents and ask questions, and check their record for complaints on the South Carolina state insurance website (doi.sc.gov)

² 2018, U.S. Small Business Administration, 409 3rd Street, Washington DC, 20416

3. CHOOSE THE BEST POLICIES FOR YOUR BUSINESS

You may need more than one type of policy, depending on what type of risks you need protection against. This is why it is important to find an agent with expertise in your field of business.

4. REVISIT YOUR AGENTS AND POLICIES

Talk to your agent every year before the renewal deadline (at least a couple of months). At this time, you can see if there are ways to reduce the premiums or increase your coverage at low or no cost.

CROP INSURANCE

In the past, crop insurance focused mainly on insuring crop yield and price for specific commodities (almost any commodity traded on a commodity exchange will have a policy option). There are newer policies that also cover small fruit, vegetables, and gross revenue. Crop insurance is sold separately from other commercial policies and you will need to find a crop insurance agent for these policies. To find a crop insurance agent in your area, go to rma.usda.gov/tools/agent.html and click on the agent locator link.

Note: If you are just starting, there are not a lot of options for crop insurance: you will need multiple past years of yield and/or revenue records on which to base your insurance policy.

CATASTROPHIC COVERAGE

The US Department of Agriculture Farm Service Agency (USDA FSA), the same place where you get your farm number, has two options for catastrophic coverage. These don't pay out very much if you have a disaster, but they are also inexpensive. For commodity crops that have traditional crop insurance, there is Catastrophic Risk Protection (CAT) and there is Non-Insured Crop Disaster Assistance (NAP) for almost everything else.

INSURANCE TYPE	WHO/WHAT IT'S FOR	WHAT IT DOES
General Liability	Any business	Protects against financial loss as result of bodily injury, property damage, etc. Defending lawsuits.
Product Liability	Products for end users	Protects against financial loss as result of defective product.
Professional Liability	Services for end users	Protects against financial loss as result of errors and omissions.
Commercial Property	Business property	Protects against property loss due to fire, wind, terrorism, etc.
Home Based Business	Small, home based businesses	Home owner's insurance rider.
Business Owners Insurance	Many types of businesses	Bundled options of above policies into one policy.



FUNDING YOUR BUSINESS

There are a number of ways to fund your business and some are better than others. Starting a business is risky, so you should plan your borrowings with care. Below are some options.

USING PERSONAL RESERVES

If you have saved up some money for this venture, that is great. Just be sure to set enough aside in case things don't work out exactly as planned.

GETTING A BANK LOAN

Most likely, you will need some sort of operating or start-up money for your business. Now is the time to start thinking about how the banker views your business. Below are the 6 C's of credit and they may make or break your business loan plans.

- CHARACTER:** Who you are (your farm resume) and does the bank trust you with their money?
- CAPABILITY:** How capable are you of running an agricultural enterprise—how likely are you to repay the money from the bank?
- CONDUCT:** What is your past credit history? Have you had problems, do you need to clean up your credit report?
- CAPITAL:** How much equity are you putting down on the deal? The less equity you put down, the higher the risk you appear to the bank.

- COLLATERAL:** What other equity items can the bank attach a lien to? Do you have a car, a house, a retirement account, or other items that the bank can draw upon if you default on your loan payments?
- CAPACITY:** Are your profitability projections believable and will there be sufficient cash flow to make all the bank payments?

GETTING A NON-BANK LOAN

- FARM SERVICE AGENCY (FSA) LOANS:** There are New and Beginning Farmer Loans and a Loan Guarantee Program (makes it easier for a commercial bank to lend funds when up to 95% of the balance of the loan is guaranteed by the government).
- U.S. SMALL BUSINESS ADMINISTRATION:** Makes loans and guarantees (similar to FSA) for non-farm businesses.
- FARM CREDIT (AGSOUTH AND ARBOR ONE):** A lending cooperative owned by farmers. Farm Credit also has New and Beginning Farmer Loan programs.
- LOCAL AND REGIONAL BUSINESS DEVELOPMENT CORPORATIONS** make business loans. Catawba Regional Agribusiness Loan Fund and the South Carolina Community Loan Fund are two examples.

BORROWING FROM FRIENDS AND FAMILY

Just be sure you can pay it back. Otherwise, it may cause some friction with those that care about you the most.

CROWDFUNDING AND START-UP FUNDING WEBSITES

A newer form of raising money for businesses. This usually works best for businesses that effect a lot of people or have a social purpose. Also, proceeds from crowdfunding are taxable income, so set some aside to pay tax.

PRE-SELLING PRODUCTS

By pre-selling your first products, you can raise the cash necessary to produce them. This option is commonly used by Community Supported Agriculture (CSA) businesses. The risks of this method are over-selling and under-delivering.

RISKIER AND COSTLIER IDEAS

Although these are mentioned on business websites, they are not the best ways to borrow money. These methods are riskier, typically charge higher interest rates, and may have other hidden costs and severe income tax ramifications. These sources are mentioned almost as warnings.

401K LOANS: Borrowing from retirement funds are not the best strategy, but there are ways to borrow from yourself and set up a loan to pay yourself back (with interest).

VENDOR FINANCING: Sometimes vendors will front the supplies needed to make a product (so that they can make a sale). In farming, the seed and fertilizer dealers typically offer some sort of “harvest loan” program, where the balance of the material cost is due at harvest time.

FACTORING RECEIVABLES: Some credit card companies and payment processors offer this type of financing. This is where a business receives a loan based on the amount of accounts receivable (money owed by customers to your business) generated throughout the year. This type of financing is typically offered to retail businesses with a large amount of retail transactions.

BORROWING FROM A CREDIT CARD: Could be a way to borrow money for a short period of time. Interest rates and fees for this option can be very high.

VENTURE CAPITAL AND ANGEL INVESTORS: Not many of these options are available for farming operations. In general, these investors are looking for a high rate of return and a piece of the business (as in ownership of your business).



HIRING EMPLOYEES FOR YOUR BUSINESS

FEDERAL GUIDELINES

The Federal government requires all employers to have their employees fill out Form I-9 and Form W-4. The IRS' Publication 15, Circular E, Employer's Tax Guide, explains Federal tax responsibilities as an employer.

FORM I-9, Employment Eligibility Verification. Obtain this form from the Department of Homeland Security/US Citizenship and Immigration at uscis.gov.

FORM W-4, Employee's Withholding Allowance Certificate. Obtain this form from the Internal Revenue Service irs.gov.

Federal employment taxes required are: Federal Income Tax Withholding, Social Security and Medicare Taxes (FICA). These are withheld based on the employee's W-4 form.

Federal Unemployment Tax (FUTA). Collected by the State Unemployment Fund, subject to the same exemptions below in bold. Also, H2A visa workers are not subject to unemployment tax, regardless of payroll amount.

SOUTH CAROLINA GUIDELINES

South Carolina does not have a "state version" of the W-4 withholding certificate. Instead, the federal W-4 form is used for South Carolina withholding. Some additional steps may be necessary:

1. Obtain a Withholding Number from the South Carolina Department of Revenue (SCDOR) dor.sc.gov
2. South Carolina businesses are required to establish an unemployment tax account with DEW. If you think you need to establish an unemployment tax account, obtain an Unemployment Insurance(SUI) number from the South Carolina Department of Employment and Workforce (SCDEW) dew.sc.gov. Your business is liable for quarterly UI tax contributions if it meets any one of the following criteria.
 - a. Pays \$1,500 or more in wages in any calendar quarter or has at least one employee during any 20 weeks in a calendar year.

- b. Acquires all or part of a business that was an employer subject to UI taxes at the time of the acquisition.
 - c. Is liable under the Federal Unemployment Tax Act (FUTA) and has employees in South Carolina.
 - d. Elects to become a liable employer.
 - e. Pays cash wages of \$1,000 or more in any calendar quarter for domestic services.
 - f. Pays \$20,000 or more to individuals employed in agricultural labor during any calendar quarter.
 - g. Employs 10 or more individuals in agricultural labor for a day in any 20 weeks in a calendar year.
3. Report all new hires to the Department of Social Services (DSS) newhire.sc.gov

4. Worker's Compensation: The rule of thumb is that any employer who regularly employs four or more workers full-time or part-time is required to have workers' compensation insurance. There are some exceptions, including agricultural employees. For more information, contact the South Carolina Workers' Compensation Commission wcc.sc.gov

EXEMPTIONS FOR AGRICULTURAL EMPLOYERS

Agricultural employers may be eligible for some labor law exemptions not available to other employers. There are exemptions from overtime pay, for instance. Keep in mind that if you are having employees perform tasks other than agriculture, these exemptions may not be available. Contact Clemson Extension if you have questions about these exemptions.



BUSINESS TAXES AND RECORDKEEPING

FEDERAL TAXES

The Farmers' Tax Guide (IRS Publication 225) is probably the best resource for agribusiness. It can be found at [irs.gov](https://www.irs.gov). If you do not have the patience to read through this publication, then you should find someone to help you with your farm business taxes. This is a specialty field, so be sure to pick someone that is familiar with agricultural taxation. Clemson University runs a tax school for agricultural tax preparers and has a list of those that can help. Two important tax tips are below.

FEDERAL INCOME TAX HOBBY RULES

If you show a loss every year, you could be at risk of an audit. This is especially true if you have other sources of income (like wages) that you are sheltering with farm losses. While the rule is not hard and fast on what the IRS considers a hobby, you need to prove that you have a profit motive for your business. One way is to show a profit in any three out of five years. The IRS calls this the "3-of-5" test. If you pass this test, you should be OK. If you flunk this test, you may need additional proof as to how you run your business with a profit motive.

DISREGARDED ENTITIES

A single member LLC and a partnership taxed as an LLC will often be "disregarded" by the IRS for income tax purposes. What this basically means is that there are no specific tax forms for an LLC separate from the owners: you will fill out your taxes as an individual (if a single member LLC) or as a general partnership (if organized as a multiple member LLC taxed as a partnership).

SOUTH CAROLINA STATE TAXES

Businesses transacting or conducting in South Carolina are required to pay State income taxes. The South Carolina Department of Revenue is where to find information. dor.sc.gov. Fill out your federal tax forms before you fill out the SC tax forms, as most of the information needed for this tax return comes from your federal tax return.

SOUTH CAROLINA LOCAL TAXES

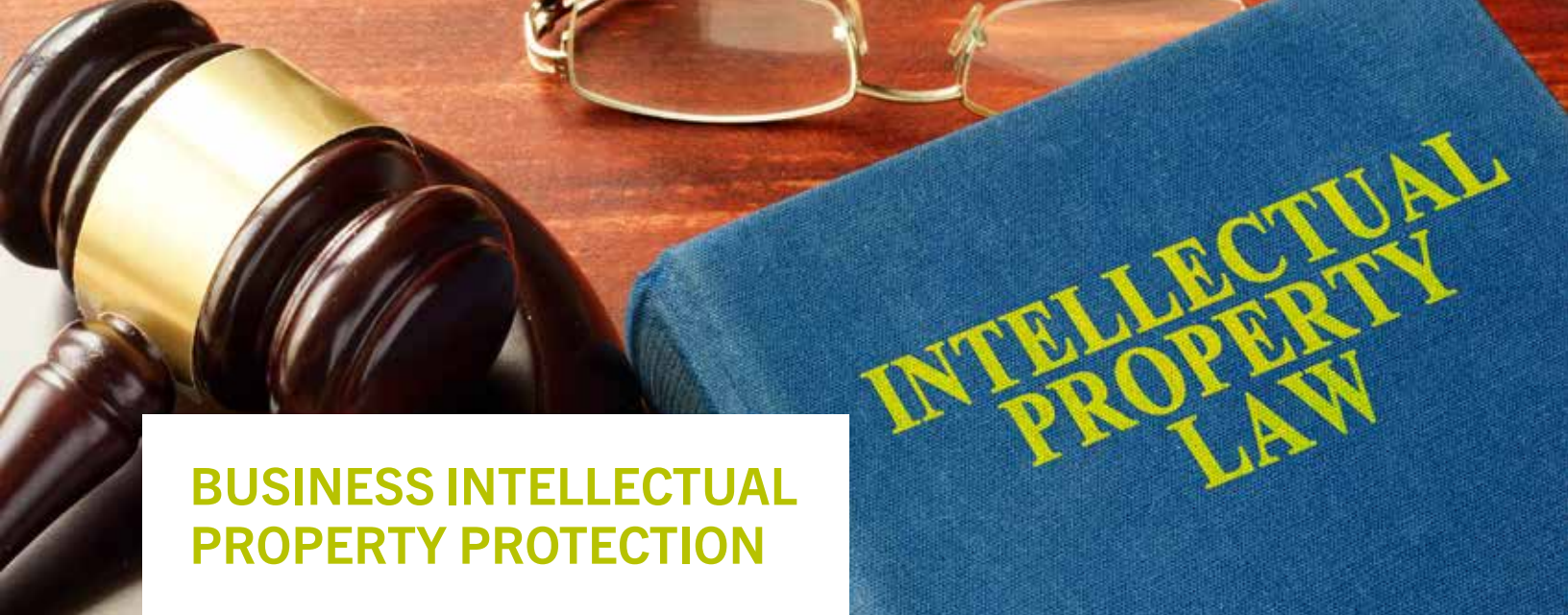
There are different types of local taxes that may need to be collected by your business from customers and remitted to the city or county that the business is located in. These include:

- ❑ **HOSPITALITY TAXES:** Taxes on the sale of prepared or modified foods or beverages, such as with restaurants, bars, grocery store delis, gas stations with hot dogs or Slushie machines, schools, etc.
- ❑ **LOCAL ACCOMMODATIONS TAXES:** Taxes on the rental of accommodations, such as with beach houses, hotels, motels, and campgrounds.
- ❑ **ADMISSIONS TAX:** Admissions tax must be collected by all places of amusement when an admission fee has been charged. The tax is 5% of the paid admissions. If you operate a place of amusement, you must obtain an Admissions Tax License. Every person subject to the tax is required to complete the L-511 Admission Tax Return.
- ❑ **SOUTH CAROLINA AGRICULTURAL TAX EXEMPTION (SCATE):** Some farm purchases may be exempt from South Carolina sales tax. In general, farm inputs, farm machinery, fuel, and some building materials are exempt if they are used directly in farming. To find out more about what purchases are sales tax exempt and to apply for your SCATE card, please visit agriculture.sc.gov/scate and apply online. The SCATE card program is administered by the South Carolina Department of Agriculture.
- ❑ **OTHER LOCAL REQUIREMENTS** that apply to businesses as well. Be sure to check with the city or county in which the business is physically located.

RECORDKEEPING

Yes, you are required to keep financial records to do your taxes. Records also prove that you are a legitimate business. The best records do this and more: they help you manage your business better. Some tips for good recordkeeping:

1. Use a computer, appropriate accounting software, and other professional accounting services to maintain proper records.
2. How you set up your chart of accounts on your computer is very important: there are templates available.
3. Keep your personal and business records separate, just like your bank accounts.
4. If you are bad at record keeping, get somebody to help you. It's cheaper than you think, will save you hours of time, and will result in better records.
5. If you have employees and a payroll, consider an outside payroll service. Like bookkeeping, it's cheaper than you think. An outside payroll company also takes on the IRS reporting and withholding paperwork.



BUSINESS INTELLECTUAL PROPERTY PROTECTION

WEBSITE DOMAIN NAMES

Even if you are not planning on a website in the beginning, it may make sense to purchase the domain names that apply to your business. The cost to buy these domain names is relatively inexpensive, in case you decide on that website (and email) in the future. There are several vendors that offer domain search and purchase services, such as Google, GoDaddy, Domain.com, and Wix.com.

PATENTS, TRADEMARKS, AND COPYRIGHTS

Do you have a truly unique idea? Chances are, with farming and food, it's been tried before or it may be too common to warrant protection. But, you may decide that you need additional intellectual property protection. Below are brief descriptions of the most common intellectual property protection tools.

PATENTS

According to the U.S. Patent and Trademark Office, a patent is an intellectual property right granted to an inventor that prevents others from making, using, or selling the invention throughout the U.S. or importing the invention into the United States. Patents must be registered to gain legal protection. Find more information on the U.S. Patent and Trademark Office website: [uspto.gov](https://www.uspto.gov).

TRADEMARKS AND SERVICE MARKS (TM OR SM)

Also administered through the U.S. Patent and Trademark Office, a trademark (TM) is a word, phrase, symbol or design that identifies the source of the goods of one party and distinguishes them from others. A service mark (SM) is essentially the same as a trademark, but it denotes the source of a service. Registering your trademark is not always necessary to establish your claim. If you have questions or concerns, you should talk to an attorney that specializes in intellectual property. Find more information on the U.S. Patent and Trademark Office website: [uspto.gov](https://www.uspto.gov).

COPYRIGHTS

The U.S. Copyright Office defines copyrights as protecting original works of published or unpublished authorship including literary, dramatic, musical, and artistic works. Copyright protection is given as soon as a work is created, but enforcement of copyright infringement requires registration. If you have questions or concerns, you should talk to an attorney that specializes in intellectual property. Find more information on the U.S. Copyright Office website: [copyright.gov](https://www.copyright.gov)



SOURCES OF INFORMATION

GENERAL SOURCES/ AGGREGATOR WEBSITES

- U.S. Small Business Administration
sba.gov
- U.S. Department of Agriculture
usda.gov
- South Carolina Business One Stop
scbos.sc.gov
- South Carolina Department of Agriculture
agriculture.sc.gov

BUSINESS NAME, STRUCTURE, AND REGISTRATION

- Business Registration: South Carolina Secretary of State
businessfilings.sc.gov/businessfiling
- Business Registration: U.S. Internal Revenue Service
EIN Number
sa.www4.irs.gov/modiein/individual/index.jsp
- Farm Registration: US Department of Agriculture Farm
Service Agency
fsa.usda.gov/state-offices/index
- USDA Natural Resource Conservation Service (NRCS)
nrcs.usda.gov
- South Carolina Department of Revenue Registration (if
needed)
dor.sc.gov

BUSINESS LICENSING, PERMITS, AND CERTIFICATIONS

- Local Permits and Business Licenses: Your location
and/or where you do business
- Municipality site locator
masc.sc/pages/municipalities/directory/default.aspx
- County website locator
sccounties.org/county-government-sites
- South Carolina Department of Agriculture
agriculture.sc.gov
- SC Department of Health and Environmental Control
scdhec.gov
- Local zoning and Municipal Codes
library.municode.com/sc
- Organic Certification
clemson.edu/public/regulatory/organic
- GAP Certification Help: Carolina Farm Stewardship
carolinafarmstewards.org

BUSINESS BANKING AND INSURANCE

- Business Insurance Information
sba.gov
- South Carolina Department of Insurance
doi.sc.gov

- Crop Insurance Agent Locator
rma.usda.gov/tools/agent.html
- USDA Farm Service Agency (catastrophic coverage)
fsa.usda.gov

FUNDING YOUR BUSINESS

- USDA Farm Service Agency (loans and loan guarantees)
fsa.usda.gov/state-offices/index
- US Small Business Administration (loans and loan guarantees, non-farm)
sba.gov
- Commercial Banking: Start with asking your current bank about a business loan
- Farm Credit Administration
fca.gov
- Business Development Corps: Try your local Chamber
uschamber.com

HIRING EMPLOYEES FOR YOUR BUSINESS

- U.S. Internal Revenue Service Publication 15 Employer's Tax Guide
irs.gov/publications/p15
- U.S. Internal Revenue Service Form W-4
irs.gov/forms-pubs/about-form-w4
- U.S. Department of Homeland Security Form I-9
uscis.gov/i-9
- S.C. Department of Revenue (SC Forms)
dor.sc.gov
- S.C. Department of Employment and Workforce (Unemployment)
dew.sc.gov

- S.C. Department of Social Services (for new hires)
newhire.sc.gov
- S.C. Workers Compensation Commission
wcc.sc.gov

BUSINESS TAXES AND RECORDKEEPING

- U.S. Internal Revenue Service: Federal Taxes
irs.gov
- South Carolina Department of Revenue: State Taxes, Sales Taxes
dor.sc.gov
- Local Taxes and Property Taxes (Assessor's office): The location of your business
- South Carolina Agricultural Tax Exemption (SCATE) card program administered by the SC Department of Agriculture
agriculture.sc.gov/scate
- Municipality site locator
masc.sc/pages/municipalities/directory/default.aspx
- County website locator
sccounties.org/county-government-sites
- Recordkeeping, IRS guidelines
irs.gov/businesses/small-business-and-self-employed-tax-center

BUSINESS INTELLECTUAL PROPERTY PROTECTION

- U.S. Patent and Trademark Office (Patents and Trademarks)
uspto.gov
- U.S. Copyright Office (Copyrights)
copyright.gov
- Domain Name Search: Through a web browser or through a domain vendor.



THE CENTER FOR COOPERATIVE AND ENTERPRISE DEVELOPMENT



SERVING RURAL SOUTH CAROLINA



COOPERATIVE EXTENSION
College of Agriculture, Forestry and Life Sciences

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