



# Protecting the Biz

SAFEGUARDING MUSTS



Most businesses should incorporate or seek some kind of entity status in order to limit the owner's personal liability, says **Jim Irving**, shareholder of law firm Bean, Kinney & Korman of Arlington, who represents businesses around the Beltway.

"A corporation is like a car," says Irving. "You can't just put gas in the tank. You need to pay attention to what your

corporate structure requires. You have to check the oil, check the tires, make sure it's being maintained in accordance with the owner's manual—the owner's manual being your corporate documents."

Irving believes this process can be simplified if a methodology is put in place, and guides his clients through a program that ensures it. The four areas where disease can bubble up:

"If you don't maintain the corporate formalities such as company meetings, etc., then a creditor may be able to persuade the judge that the corporation is just an alter ego for the owner, that the personal assets of the owner should be available to pay the debt," says Irving.

The second, "A tax audit," says Irving. "The first thing they want is your minute book. If records are not maintained properly, you are likely to have problems with the tax man."

Third, "If you sell your business, any purchaser's due diligence will include making a determination [of whether or not] you have properly maintained the corporate entity," says Irving. "If you haven't, it is likely to affect [your] ability to make the sale or [the] price of the sale."

And the fourth problem area is cases in which the corporate actor (officer or director) of the company may face liability for taking actions improperly. Irving says, "If the officer or director does something that is in violation of the standards, he or she may face personal liability for that."



## THE GLUE OF A COMPANY

The structure of a business provides the guidelines to carry it, and allows for officers to avoid legal troubles.

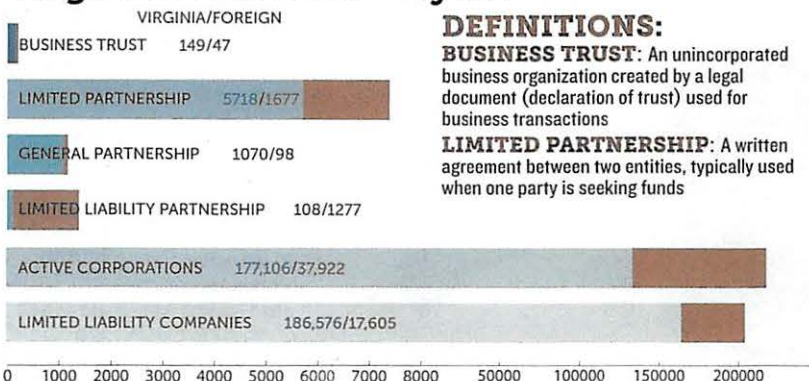
**KEEP THE FORMALITIES.** It is essential that a company hold meetings in order to show that the business being conducted is more than for the sake of the owner's interests.

**WRITE IT DOWN.** When the tax man comes knocking, s/he will need to know what money went where, and the only way to prove your business is on the up-and-up is to keep track of your finances.

**TRACK YOURSELF.** If a company isn't maintained properly no one else will want to buy your problems. Make sure all paperwork, finances, contracts, etc., are in order.

**WATCH THE ANTICS.** For an officer of a company, s/he must be cautious that her or his interests and actions do not violate the company's standards.

## Virginia's Business Players



### DEFINITIONS:

**BUSINESS TRUST:** An unincorporated business organization created by a legal document (declaration of trust) used for business transactions

**LIMITED PARTNERSHIP:** A written agreement between two entities, typically used when one party is seeking funds

**GENERAL PARTNERSHIP:** An agreement between two or more people where the owners are personally liable for any legal and financial obligations of the company

**LIMITED LIABILITY PARTNERSHIP:** A business structure allowable to those in certain industries depending on state law, where some or all of the partners have limited liability in the company and are not responsible for other partners' actions

**LIMITED LIABILITY COMPANIES:** A business structure allowing for one or more people to form a company where members are not personally responsible for the debts and liabilities of the company