



SETTING UP YOUR SELF-PUBLISHING BUSINESS

Starting Out on the Right Foot

Helen Sedwick

Many self-publishing writers are surprised to discover they are starting a business. In fact, they may even be disappointed. Their dream was to share their creative work with the world, not get caught up in the mind-numbing details of bookkeeping and sales taxes.

Let me assure you; other than choosing your imprint name (which is a creative process), you can set up your business in an afternoon. And the time you spend will more than pay for itself at tax time.

Here are the steps (and the websites).

Email: Helen@helensedwick.com
Website and Blog: www.helensedwick.com

DO YOU NEED TO INCORPORATE?

Highly unlikely. Running a business as a corporation or other entity shields the owner's personal assets from business liabilities, but it won't help an author. Your greatest risks (infringement, defamation, and invasion of privacy) are based on your conduct as an *individual*, so a corporate shield won't help. Forming and maintaining a corporation or other entity costs hundreds of dollars each year. That money is better spent buying insurance, which I discuss later. However, if you are making net income (revenues less expenses) of \$5000 or more a year from self-publishing, then it might be worth setting up an entity for tax reasons. Check with a tax professional.

DO YOU NEED A BUSINESS NAME?

No, but I recommend it. Your business name, commonly known as a DBA (doing business as), will be your imprint name and the “publisher” of your book. An imprint name makes it less obvious that your book is self-published. Plus, it helps establish your self-publishing venture as a business, which helps at tax time.

HOW DO YOU DETERMINE IF A NAME IS AVAILABLE?

Before you decide on an imprint name, make sure you are not infringing on someone else's trademark. **Start by searching the database at the U.S. Patent and Trademark Office (USPTO).**

<http://www.uspto.gov/trademarks/process/search/>

If you find a registered trademark that is the same or similar to your dream name, do not despair. Most of the time, you may use a name similar to an existing trademark if you do not “*create a likelihood of confusion in the mind of the consumer as to the source of the product.*” What does that mean?

I searched the trademark “Goody Two Shoes” and found one “live” registration by MaxWax Inc., for a “hair removal service using wax.” If you named your imprint Goody Two Shoes, you are

unlikely to be infringing on MaxWax's trademark because your products and services are so different.

Search your state's trademark database. As of this writing, the California Secretary of State's office will search up to two names by phone and more by mail. In most states, you can search online.



To find unregistered trademarks, search the Internet. If you find a company using your dream name as a trademark, apply the *likelihood of confusion* test. If they are selling auto parts, then using the same or a similar name for a imprint is not likely to cause confusion or be considered trademark infringement. However, do not use a well-known or strong trademark such as McDonald's, Sears, or Exxon, even if you would be using it on a noncompeting product. Owners of strong marks have the right to challenge any similar trademark that may "dilute" the value of their trademark, regardless of the product or service.

Search domain names. Try various spellings and misspellings. If the domain name for your imprint name is not available, try adding other words such as *press* or *publications*. I use

www.Godaddy.com to search and buy domain names, but there are many other sites.

Search your county's DBA listings. Many counties have online databases. The DBA Store will help you search.

<https://www.dbastore.com/homeTemplate.cfm?uid=&ReferenceLinkId=1>

By law in most states, you cannot use a DBA already in use in your county whether or not your businesses are different. I don't believe those laws are enforced in many counties.

HOW TO CLAIM AN IMPRINT NAME?

File a Fictitious Business Name Statement (FBN Statement) with the county where your business is located. Some people will call this a DBA filing.

An Internet search of "Fictitious Business Name" and the name of your county will pull up services that handle recording and publication for a small fee. The cost is typically less than \$100. Doing it yourself won't save much money. I have used the DBA Store.

<https://www.dbastore.com/homeTemplate.cfm?uid=&ReferenceLinkId=1>

If you get a check made out to your imprint name, you will have trouble cashing it unless you show your bank a recorded FBN Statement. With an FBN Statement, you may also set up bank accounts and obtain credit cards in the imprint name, which simplifies keeping track of self-publishing expenses and income.

SHOULD I REGISTER MY IMPRINT NAME AS A TRADEMARK?

Trademark registration is not required; you will own a common-law trademark as soon as you offer your books for sale under your imprint name. Federal registration has advantages, but it is disproportionately expensive unless you sell at least 1000 books. State trademark registration is rarely worth the price.

WHAT ABOUT A DOMAIN NAME?

Once you decide on an imprint name, buy the domain name. Most hosting providers offer packages that include a small website, email, and forwarding (so you can direct your various domain addresses to one website).

Private registration. If you register a domain, your name, address, phone number, and email are searchable on <http://www.whois.net/>. Disclosing your name won't matter for your author website, but purchase Private Registration for your imprint website to reduce the chances people will see you are both writer and publisher.

SSL Certificates. If you will be taking credit cards and transacting business on your website, then purchase an SSL certificate, which will ensure data is encrypted.



FEDERAL EMPLOYEE IDENTIFICATION NUMBER (EIN)

Obtain a separate Federal Employer Identification Number (EIN) for your self-publishing business, even if it is a sole proprietorship and you never have employees. An EIN is equivalent to a Social Security

Number for your business. If you have a separate EIN, then you won't have to give Amazon and other sellers your Social Security Number. They will accept your EIN instead. You may obtain an EIN whether or not you operate under a DBA or imprint name.

Be sure you go directly to the IRS website to apply for your EIN:

<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Apply-for-an-Employer-Identification-Number-%28EIN%29-Online>

Sham sites that look like the IRS site are popping up every day. They ask for your Social Security Number, mother's maiden name, birthday—all the tools for stealing your identity. Scary stuff.

RESALE OR SELLER'S CERTIFICATE

Unless you live in a state that does not charge sales tax, you are required to obtain a resale certificate, sometimes called a seller's permit. A resale certificate is different from your EIN, your ISBNs, your business license number, or any other number. Welcome to the number-filled world of small business!

In California, you apply online with the State Board of Equalization. <http://www.boe.ca.gov/info/reg.htm> Each state has an equivalent agency.

I recommend the resale certificate be in the name of your imprint and that you use your new EIN to separate your business activities from your personal ones.

Once you provide your resale certificate or certificate number to CreateSpace, Lightning Source, or other POD provider, you won't have to pay sales tax on books *you intend to resell*. When you resell the books to your customers at book fairs and through your website, you are obligated to pay sales tax, although you may charge it to buyers. Sales tax rules are ridiculously complex. For more information, check out my book, *Self-Publisher's Legal Handbook*.



BUSINESS LICENSES

Many cities and counties require businesses to obtain a business license. You'll have to do your own research on this item. Search for "business license" and the city, town, county, and state where your business is located. Often, a city or state website will have a section to help you with this process. The Small Business Administration website has a helpful link:

<http://www.sba.gov/licenses-and-permits>

BANK ACCOUNTS

To keep finances straight, I recommend you open a separate bank account and get credit and debit cards in your company name. You will need your FBN Statement.

INSURANCE

Liability insurance. When you publish a book, post on your blog, or comment on the Internet, you are exposing yourself to a new set of risks, such as copyright infringement and defamation. Your homeowner's insurance and umbrella coverage may provide some coverage for defamation claims arising from your negligence, meaning you took reasonable measures to make truthful statements. Your homeowner's insurance, however, might not cover business

pursuits, in which case you may have to purchase a separate *business liability insurance package*. Ask your insurance agent.

These policies are unlikely to help if you *knowingly* make a false and defamatory statement. You'll be on your own.

Property insurance. If you will be stocking inventory at your home, check with your renters or homeowners insurance agent about how much inventory is covered by your existing policy. If you are storing thousands of copies at your home or a storage facility, it may be worth paying for optional coverage for losses from fire, theft, and other typical risks.

RECORDKEEPING

Decent records are critical for protecting your rights, getting what you have bargained for, and saving money at tax time. When it comes to tax audits, more people are penalized for losing receipts than for cheating. Don't be one of them.

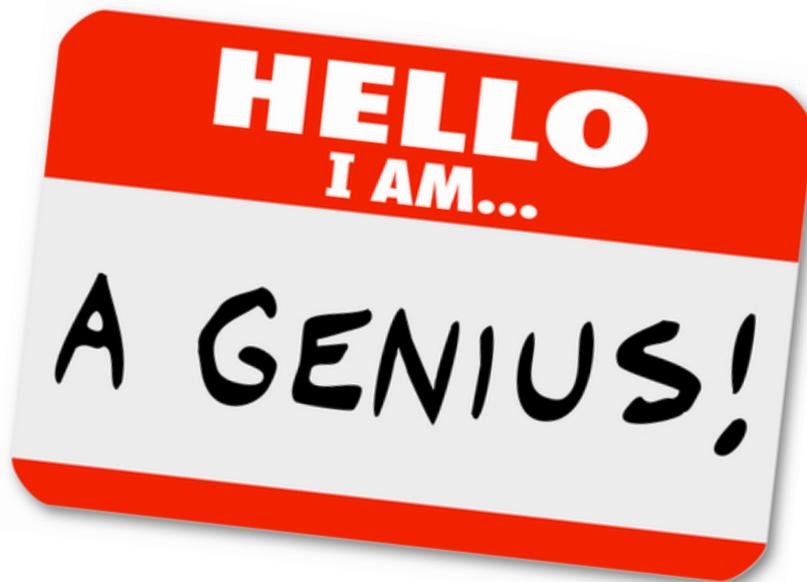
Retain copies of all agreements with your freelancers, publishing companies, webhosts, advertising/social media companies, and POD providers as well as related correspondence, especially if it contains assurances, explanations, and offers. Keep receipts and licenses for images, fonts, lyrics, and other content. Most online contracts and licenses have a print-friendly version, but if not, print out the webpage showing the terms or save a screenshot. Note the date the webpage or contract was saved.

If you ever get hit with a lawyer letter demanding \$2,000 for the unauthorized use of an image, think how good it will feel to whip out the paid-up license and send it off to that pesky lawyer.

With decent business records it will be easier to demonstrate to the IRS that self-publishing is a business and not a hobby. As a business, *you may use your self-publishing deductions to offset other income*, which is a nice surprise to many self-publishing authors. You will lose that benefit if the IRS decides your venture is a hobby.

You may have heard the old rule that a business is considered a hobby unless it shows a profit during three out of five years. In practice, the hobby rule is not as strict as the three-out-of-five-year rule. If you demonstrate you have a *serious intent to operate a business at a profit*, the IRS will generally give you some slack, at least for a couple years. To demonstrate this intent--

- follow the steps to set up your business, particularly obtaining an EIN, seller's certificate, and business license,
- maintain separate financial records and bank accounts,
- report your business income and expenses on a Schedule C with your tax returns,
- advertise and otherwise actively promote your books,
- join professional organizations and network,
- attend writing-related conferences, and better yet, speak at them, and
- most importantly, for the IRS and your own well-being, keep working on your next writing project.



WANT TO KNOW MORE?

Have questions? Send me an email. Your questions help me help you and other writers. Writing and publishing a book is a significant investment. Writers should not be losing money (and sleep) by hiring the wrong self-publishing company or getting sued for copyright infringement.

My book *Self-Publisher's Legal Handbook* is full of advice about setting up your business, hiring freelancers, protecting your copyright, and saving on taxes. Buy it online and at your local bookstore.

I am also available to talk to your writing group or conference. I look forward to hearing from you.

Helen Sedwick

