

AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

Legal Basics: Starting a Brewery 101

BY JULIE K. O'NEILL • APRIL 2, 2018

Breweries are sprouting up all over, just like we hope spring is!

If you are contemplating joining the craze, here are a few tips to keep in mind:

- Get your limited liability entity set up properly at the start. Do you want it to be a C corporation? S corporation? Limited liability company? Various factors including tax treatment and your long-term plans will affect this decision. The C corporation may involve some double taxation, but did you know that under certain circumstances you might be able to pay zero tax on a sale of the company down the road if the company is set up as a C corporation?
- Make sure that equity ownership in your brewery is documented properly. You don't want to let your co-founder own half the company unless his ownership is tied to continued provision of services. What if your pal has a change of heart after 6 months and leaves for Timbuktu? The company needs to be able to take back that equity if your pal flakes out on you (or gets hit by a bus).
- Make sure you have enough funding. Building out a brewery is expensive. You may need to raise funds by selling equity in the company, selling convertible or non-convertible notes, or getting a bank loan. Raising money from friends and family can work, but be sure to comply with federal and state securities laws.
- Put a good operating agreement or stockholders' agreement in place, to make sure that you don't end up with co-owners you weren't looking for and to maintain control of your board.
- Protect your intellectual property. File to register your trademarks and make sure that any employee creating website content, brew recipes, or any other intellectual property has signed a proper assignment of that work.
- Get your licensing in place. No beer can flow without that!

If you follow these tips, you may soon see your brewery "spring" to life!

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