

PEAK LEGAL CHECKUP

One of the main reasons that businesses fail is because they don't seek legal help at critical development stages. Businesses can benefit greatly from advice that is tailored to their specific needs. Peak Law Group has developed several innovative ways to provide tailored advice, including the *Peak Legal Checkup*.

What is a Peak Legal Checkup?

A Peak Legal Checkup is a quick overview to determine if your business is performing the fundamental functions it needs to avoid potential legal, regulatory or financial pitfalls in key areas. By completing the Peak Legal Checkup and assessing your strengths and weaknesses, we can determine if there are areas in which help may be needed.

What is the process?

Please contact us for a complimentary initial consultation to help you review and complete the following Peak Legal Checkup Questionnaire. We will then recommend legal services (as needed) and provide a proposal for legal fees. You are then free to engage our firm or not – it's up to you.

PEAK LEGAL CHECKUP QUESTIONNAIRE

Name: _____
 Business Name: _____
 Phone Number: _____
 Email Address: _____
 Date: _____

CATEGORIES		
I	CORPORATE RECORDS, FILINGS AND REGISTRATIONS	
1	Have you formed a business entity (such as a corporation or a limited liability company) to help protect your owners against personal liability for the obligations of the business?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	Have you consulted a tax advisor (such as a Certified Public Accountant) for advice about your choice of business entity and relevant financial and tax matters?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
3	If you do business under a name that is different than the name of your business entity, have you submitted an "Assumed Business Name" or "Doing Business As" registration in compliance with state law?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	If you are doing business in states other than the state in which you formed your business entity, have you registered as a foreign business in those states?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	For your type of organization, are you maintaining the appropriate books and records in the right form?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
6	Do you have procedures for data backup and offsite storage of records?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
7	Do you have policy regarding email documentation and confidentiality?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
8	Have you sought advice about whether or not your website should include a privacy policy and terms of use?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A

9	Do you have a policy for document retention and periodic destruction?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
10	Do you have the appropriate federal, state and local licenses and permits to operate your business?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
II	CONTRACTS	
1	Have your standard contracts been reviewed by an attorney?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	Do your standard contracts limit your liability?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
3	Do your standard contracts address warranties appropriately?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	Is your business having difficulty collecting payment from customers?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	If you lease commercial space, have your leases been reviewed by an attorney?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
6	For software licensing, does your agreement protect your intellectual property adequately?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
7	Does your software license comply with Uniform Commercial Code requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
8	Does your software license address warranty issues?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A

III	INTELLECTUAL PROPERTY AND INTANGIBLE ASSETS	
1	Are your trademarks and service marks adequately protected? Have the trademarks been registered in the United States and in other countries where goods and services are sold?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	Do you have any state trademark registrations for your trademarks? (Note: This is not the same thing as an “Assumed Business Name” or “Doing Business As” registration.)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
3	Have your employees been trained to properly use trademarks?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	Are you taking steps to assure your trade secrets remain secret?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	Is originally authored material generated by you being filed for copyright protection?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
6	Has a copyright notice been placed on all material protected by the copyright laws? Labels? Advertisements? Operating manuals? Designs on packaging?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
7	Are inventions, processes, machines, manufactures, and compositions of matter being protected by patent?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
8	Have you secured your trade name and marks as domain names?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
9	Do your employment agreements specify that inventions by employees and any rights they may have in copyrighted work prepared for the business will inure to the company?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
10	Do your employment agreements protect your intellectual property, confidential information and trade secrets?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A

IV	EMPLOYMENT MATTERS	
1	Have you determined which of your employees are “employees” and which are “independent contractors”?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	Have your employment agreements been reviewed by an attorney?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
3	Do you have an independent contractor agreement with each independent contractor?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	Do your employment agreements and independent contractor agreements include enforceable non-compete provisions?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	Do you have a comprehensive employee handbook with appropriate policies, procedures, and professional behavioral expectations?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
6	Do you require medical examinations and drug testing as a condition of employment?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
7	Do you examine evidence as to a person’s citizenship prior to employment and retain a copy of the Form I-9 evidencing such examination?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
8	Do your compensation and benefits comply with workers’ compensation, Family Medical Leave Act (FMLA), minimum wage, Employee Retirement Income Security Act (ERISA) and Consolidated Omnibus Budget Reconciliation Act (COBRA) requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
9	Are your company policies in line with Title IV, Age Discrimination, Equal Pay, Civil Rights, Americans with Disabilities Act (ADA) and state requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
10	Do you have procedure for hearing employee grievances?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A

11	Have all signs required by state and federal law been posted?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
12	Do you regularly examine workplace conditions to make sure that they comply with applicable standards under the OSHA, and maintain records of occupational injuries and illnesses, as required by the OSHA.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
V	TAXES AND WITHHOLDING	
1	Has the business obtained an Employer Identification Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	Have you determined if your employees are “employees” or “independent contractors”?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
3	Are the withholding requirements being met for Federal Insurance Contributions Act (FICA), Self-Employment Contributions, Social Security, and Federal Unemployment Tax Act (FUTA)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	Have you issued Form 1099s to each of your independent contractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	If a corporation, have you elected Subchapter S status for both federal and state taxing authorities, if appropriate?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
6	Have you determined your tax liability for local taxes on real property, personal property, net profits, wage and other taxes?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
VI	INSURANCE AND RISK MANAGEMENT	
1	Are key employees, directors and officers insured with life insurance (i.e. key man insurance)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	For corporations, are directors and officers insured for liability (i.e. D&O insurance)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure

		<input type="checkbox"/> N/A
3	Does the company have general liability insurance?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	For professionals, do you have malpractice or errors and omissions insurance?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	Do the company's owners have a Buy-Sell Agreement or Shareholders Agreement between them to handle the contingencies of disability, death, divorce and transfers of ownership interests?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
VII	FRANCHISING AND ALTERNATIVES	
1	Have you ever considered franchising your business?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
2	Have you received inquiries from your customers or others about whether or not you offer franchises?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
3	Do you: <ul style="list-style-type: none"> • license to others the right to use your trademarks; • receive initial or ongoing fees from licensees or charge licensees more than a bona fide wholesale price for goods or services; and • control, assist or approve of licensees' training, operations or marketing? If so, do you comply with relevant franchise laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
4	Does your Franchise Disclosure Document meet all the requirements established in the Federal Trade Commission Franchise Rule and the NASAA State Franchise Registration and Disclosure Guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
5	Do you have current franchise registration or exemption in states that so require and in which you offer franchises?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
6	Are your disclosure documents being provided to prospective franchisees within the required timing requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
7	Are you familiar with and complying with state franchise relationship laws in states that govern issues such a franchise terminations, transfers, renewals, dispute resolution and	<input type="checkbox"/> Yes <input type="checkbox"/> No

	governing law?	<input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
8	Do you and your representatives and sales agents avoid making oral or written financial performance representations to prospective franchisees other than those substantiated in Item 19 of your Franchise Disclosure Document?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A
9	Are franchise advertisements in compliance with FTC and state regulations? Have they been submitted to and approved by state administrators in relevant franchise registration states?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/> N/A

IMPORTANT DISCLAIMER: This questionnaire (in whole or part) is not an exhaustive list of legal issues applicable to any business. Its purpose is strictly educational. It is not intended to be construed as legal advice, or a substitute for legal advice, and should not be relied on without consulting a licensed attorney competent in the specific legal matters referenced in the questionnaire. The federal, state, and local laws and regulations on which this information was originally created are subject to change without notice. No warranty, whether express or implied, is made as to the frequency or timeliness of any corrections or updates to the information provided herein.

Please contact Peak Law Group to schedule a complimentary initial in-person or telephone consultation!

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