



# PROFIT SOURCERY

## What Is 'Trading' and Should I Register A Business? (Advanced)

A concern many sellers have is understanding if selling on an ecommerce market is classed as a hobby or a 'trading activity'. There's an important difference between the two, so in this guide we'll explore what is considered a 'trading activity'. Then, once we've established what a trading activity is, we'll direct you to other sources of information where you can find out where to register your business (if necessary).

We've sought assistance from [Broomfield Alexander](#), the biggest independent accountancy firm in Wales, to offer some clarity on trading and who you should get in touch with.

## Introduction

Ever since income tax was introduced, deciding whether activities are trading or non-trading has been a contentious issue and a point of disagreement with HM Revenue & Customs (“HMRC”). In the current climate with HMRC increasingly looking to raise revenue from all possible angles and charging hefty penalties for non-compliance, it is more important than ever to ensure hobby ‘trades’ are not subject to tax, and appropriate action is taken when a hobby develops into a more substantial trading activity.

### Am I trading? – The Badges of Trade

For an activity to be considered to be a taxable trade, it must be carried on commercially with a view to realising a profit. Whilst, on first glance, this would seem to suggest hobbies are not subject to tax, HMRC look at a number of key markers (the ‘Badges of Trade’) established by Case Law to guide them when deciding if an activity is a trade and therefore taxable.

The Badges of Trade are as follows:-

<b><i>The number of transactions</i></b>	Have there been systematic and repeated transactions?
<b><i>The nature of the asset</i></b>	Could the asset sold only be turned into an advantage by sale, or did it yield an income or give ‘pride of possession’?
<b><i>Changes to the asset sold</i></b>	Have changes been made to repair, modify or improve an asset to make it more easily saleable, or saleable at a greater profit?
<b><i>The way the sale is carried out</i></b>	Was the sale of the asset typical of a trading organisation, or was it sold to raise cash for an emergency?
<b><i>The source of finance</i></b>	Was money borrowed to buy the asset, and could the funds only be repaid by selling the asset?
<b><i>Time between purchase and sale</i></b>	Were the assets purchased with a view to be resold shortly after purchase, or to be held indefinitely?
<b><i>Method of acquisition</i></b>	Was the asset sold acquired by inheritance, or as a gift?

If you have answered yes to any of the above, you should either, be prudent and assume you are trading, or, if still undecided you should seek specialist tax advice.

Each case is considered on its own merits and whilst some Badges may suggest a trade is carried on whilst others do not, they are considered together on balance. If there is any doubt whether a hobby or activity you are undertaking could be viewed as a trade, specialist tax advice should be sought.

## I Am Trading – Who Do I Have To Notify And When?

When an individual starts to trade, they must notify HMRC by the 5 October following the end of the tax year in which the trade commenced. For example, if a person started to trade between 6 April 2014 and 5 April 2015, they would need to register with HMRC by 5 October 2015.

Registering a new business with HMRC can be done online. The process involves registering for both Income Tax and Class 2 National Insurance Contributions as well as setting up a HMRC online account. Alternatively, you can instruct a tax advisor to assist you with the process. As soon as an individual has registered, they shall be required to prepare and submit annual self assessment tax returns detailing the business profits and calculating the income tax and National Insurance liabilities. Tax Returns and tax liabilities are due by 31 January following the end of the tax year. For example, a tax Return for the year ended 5 April 2015 shall become due on 31 January 2016.

## I Am Trading – Shall I Become A Company?

Self employed individuals are taxed on the profits made by the business activity irrespective of the amount of money they withdraw from the business. Depending on the extent of the business profits and the individual's other income, the profits are subject to both income tax at the rates of 20%, 40% and 45% and Class 4 National Insurance Contributions at the rates of 9% and 2%. Class 2 National Insurance Contributions are currently payable at the rate of £2.75/week.

Many businesses wishing to retain cash within the business for future investment and/or mitigate income tax liabilities typically operate through a limited company. A limited company is a separate legal entity that conducts the business activity in its own right. A company is subject to corporation tax at the rate of 20% on the profit it achieves.

The directors and shareholders of the company are subject to Income tax and National Insurance Contributions on the funds they extract from the business. This can be particularly attractive to shareholders withdrawing funds by way of a dividend because they are deemed to be received net of a 10% tax credit, are subject to lower income tax rates and are not subject to National Insurance Contributions. This effectively means the dividends received are subject to tax at 0%, 25% and 30.6%.

Operating through a limited company does have additional administrative burdens. In particular, the company will be required to prepare and file annual accounts and returns with Companies House, it will be required to file a corporation tax Return with HMRC and may be required to register as an Employer. If you wish to explore the advantages and disadvantages of running the business either as a self employed individual, or through a company, professional tax advice should be sought.

## Should I Contact HM Revenue & Customs Before I Start Selling on Amazon?

The business information you provide to Amazon cannot be changed. Therefore it is highly recommend by us that you speak with HM Revenue & Customs before you setup your account if you have any doubts. That way you will not need to set up a new seller account if required by HM Revenue & Customs.

Within the “Business & Contact Information” you provide to Amazon during your account set up you will need to decide the business information you use (see below).

### Business and Contact Information [Learn more](#)

#### Are you a private person or a business?

**Seller Category**  
How your business is legally classified

- Private person
- Business (incl. Partnerships)
- UK Sole Proprietor

**NOTE:** This selection cannot be changed later. It is critical that you make the right choice here in order to complete the process successfully.

#### How shall Amazon contact you?

Country:

House number or building

Street

City/Town:

County

Postcode:

Phone number:  [Add an extension](#)

#### How shall the customer contact you?

Display name:  [Check Availability](#)

[Go to set-up summary](#)

[Skip Step](#)

[Save and Continue](#)

*If you would like to know more information about the ‘Business & Contact Information’ you need to provide, please see our ‘Setting Up Your Amazon Account’ guide.*

## Where Can You Find More Information?

For more information on the various business legal structures within the UK, you can follow this [link](#). The link will help you decide whether you want (or need) to register a company or whether you would like to register as a sole trader (proprietor).

*Sole trader is the easiest and most popular form of business structure to register as if you are looking to trade online. Again, it's highly recommended to contact HM Revenue & Customs who will provide the necessary information you need to help you make a decision.*

If you want to know more information about registering a company please click [here](#). By following the link you'll be redirected to the Companies House who can provide you with all the help you need to create your own business.

If you would like more information on registering as a sole proprietor, click [here](#). Through the link you'll be able to register online for self-assessment and find other links to help you.