



## Closing a Child Care Business in North Dakota

This document provides information and general guidance on items that need to be addressed when closing a business. It is not an all-inclusive list and should not be considered a substitute for obtaining legal, accounting, or tax advice specific to your business.

- **Decision to close.** Sole proprietors can decide on their own, but any type of partnership or limited liability company requires the co-owners to agree. Follow your articles of organization and document with a written agreement. If your business is a corporation, the board of directors would need to draft and approve a resolution to dissolve the business, then hold a meeting where minutes are documented and shareholders vote on it.
- **Collect money owed to you**
- **Notify and pay employees.** Employees must be paid all final wages no later than the regular payday the wages would be due. (N.D. Cent. Code § 34-14)
- **Notify creditors and pay outstanding debts**
  - If you owe on a commercial loan, talk to your lender right away
  - Notify your landlord within the required time stated in your lease
  - Notify any equipment lessors of your intent to close
  - Pay your vendors
- **Notify Families**
- **Cancel registrations, permits, licenses, and business names.** Cancel any you no longer need, including your trade name.
  - For information on cancelling a North Dakota trade name, visit <https://sos.nd.gov/business/businessservices/trade-name-franchise-name/north-dakota-trade-name-faqs>.
  - For information regarding your Employer Identification Number (EIN), visit <https://www.irs.gov/businesses/small-businesses-self-employed/canceling-an-ein-closing-youraccount>.
- **Resolve tax obligations.** Handle final returns for income tax and sales tax. Follow this IRS checklist. (<https://www.irs.gov/businesses/small-businesses-selfemployed/closing-a-business-checklist>)
- **Close your business bank accounts** only after all transactions and scheduled payments have come through and have posted.
  - **File dissolution documents.** Failure to legally dissolve an LLC or corporation with the Secretary of State will expose you to continued taxes and filing requirements.
  - **Maintain records.** Common guidelines advise keeping records for 3-7 years.

To help find free counseling assistance

- Small Business Administration's [counseling tool](https://www.sba.gov/tools/local-assistance) (<https://www.sba.gov/tools/local-assistance>) can connect you with guidance
- **SCORE Mentors** – [www.score.org](http://www.score.org)
- **N.D. Small Business Development Centers (NDSBDC)** – [www.ndsbdc.org](http://www.ndsbdc.org)

## Tax Issues for Family Child Care Programs

- Claim all your family child care business income and expenses for the last year you were in business. When you calculate your Time-Space % for your final year, adjust the number of hours in the year on [Form 8829 Expenses for Business Use of Your Home](#) if you closed down before the end of the year. You can only claim house expenses for the months you were in business.
- If you have been depreciating items used in your business, you normally will only get a half year's worth of depreciation in the year you go out of business, no matter what month you close down. The exception is for depreciation on your home and home improvements. For these items you claim the last year of depreciation based on the month you close down. If before you go out of business you replace items you have been depreciating (carpet, vinyl or wood floors, furniture, appliances, etc.) you will be entitled to deduct all of the remaining unclaimed depreciation on these items on your last business tax forms. For example, if you replace the carpeting in your playroom before you go out of business, and it's in the fourth year of depreciation, you can deduct the fourth-seventh years of depreciation. If you wait until after you go out of business to replace such items, you will not be able to deduct any of the remaining unclaimed depreciation.
- After going out of business, the only thing you need to remember about taxes is that you will owe some taxes when you sell your home. Whether you sell your home immediately after going out of business, or years later, you will owe taxes on the depreciation you claimed on your home since May 1997. You will owe this tax whether or not you actually claimed depreciation on your home. Therefore, when you do start to make plans to sell your home, contact a tax professional to help you deal with the tax consequences of this action. You don't have to announce to the IRS (or your state department of revenue) that you are going out of business. You simply don't file any of the business tax forms (Form 8829, Schedule C, Form 4562, etc.) in the year after you go out of business.

## Non-Tax Issues

- Contact:
  - Child Care Licensing Specialist
  - Child Care Aware so they can update their records
  - Insurance agent for home, auto and business liability  
Save a copy of your insurance policy until the youngest child in your program (at the time you closed your business) reaches age 21. Before then, it may be possible for a child to sue you for an injury that occurred while in your care.
- Notify parents, in writing, that you are closing your business.
- Keep copies of this notice for your records. If your contract requires you to give parents a two-week notice, do so.

Sources:

[www.sba.gov/nd](http://www.sba.gov/nd)

Tom Copeland, [www.tomecopeland.com](http://www.tomecopeland.com)

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