

Incorporation Packet



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Important Facts

This Incorporation Guide is designed to provide authoritative and accurate information in regard to the subject matter covered, however, neither this nor any other publication can take the place of an attorney on important legal matters.

This Annual Minute package is sold with the understanding that the author, and publisher are not engaged in providing or rendering legal services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Information in this package has been carefully compiled from sources believed to be accurate and reliable, but the accuracy of the information is NOT guaranteed as laws and regulations may change or be subject to differing interpretations.

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As with any legal matter, common sense should determine whether you need the assistance of an attorney rather than rely solely on the information and forms in this package. We strongly urge you to consult with an attorney whenever substantial amounts of money are involved, or for any matter where you don't understand the instructions or how to properly complete and use a form or if you have any doubts about its adequacy to protect you. Why not have your attorney review this package ? We encourage it.

Introduction

A corporation is an artificial, intangible entity or being created by the law. It is a method by which you are united into a new legal entity. For this new legal entity, you select a common name and the purposes that it is to accomplish. As a legal entity separate and apart from you who created it, the corporate existence is not affected by your death, incapacity, or bankruptcy. As a legal entity, a corporation is able to own property and to sue and be sued in its own name in the same manner as a natural person.

In our increasingly litigious society the formation of a corporation to protect one's personal assets is becoming increasingly popular and necessary. While not a panacea in itself a properly run corporation can protect the individual from most litigation.

However in our society anyone can sue anyone else for anything and has no downside risk to pursuing a legal remedy. So while you may have a valid corporate entity it does not automatically protect you from personal litigation. It will be up to you to prove to the court, at your expense, that the corporation is not a fiction, or your alter ego. And that the corporation is in fact a separate entity separate and apart from your activities.

Some liabilities incurred by the corporation in its day to day business are by statute barred from being discharged if the company fails. The most significant are Federal Employment taxes. The trust fund portion of withheld federal, FICA and Medicare taxes become the "responsible parties" liability and are not dischargeable in bankruptcy.

Courts have repeatedly and consistently imposed liability for a corporate debt on its principles (i.e. its directors, officers, and/or shareholders). The courts, in those cases can use either of two doctrines.

1. The "Alter Ego Doctrine" under which the court finds that the corporation is no more than the Alter Ego (other person) of its shareholders, and as such the corporations liabilities should be the shareholders liabilities.
2. The "Piercing the Corporate Veil Doctrine" under which the courts rule that corporation is really a sham, and that it would be perpetrating a fraud to recognize its existence as a separate entity. Under this theory the courts look through the corporate "veil" to its shareholders and holds them liable for the company's debts.

Once you make the decision to form a corporation you must follow the requirements diligently. You will not know when or who might initiate litigation against you. It is important that you consult with an attorney at least once a year to review your corporate minute book and ensure that the corporate records are up-to-date.

The least that you will be required to do is file a statement (and pay an annual fee) with the state agency that regulates corporations as to the Registered Agent for service of process, and have an annual shareholders meeting to review the results and approve the directors of the company for the coming year.

This basic requirement is not time consuming and the small charge an attorney would make for this update is not significant when put in context of the potential damage NOT complying with these requirements.

Most of the forms in this manual, when completed are to be kept with the Corporate Kit, usually a loose leaf three ring binder. The Corporate Kit should be stored in a safe place and treated as one of your most valuable corporate records.

In most cases, the downfall of the small business owner comes after the event. The owner is not able to prove that whatever was done, was done on behalf of the corporation and not for personal reasons. The very fact that there are no records shows that the owner didn't respect the corporations separate entity. The following example provides a real life situation and the consequences of not maintaining corporate records.

Assume that Sue and Anne are the only shareholders of a corporation, and that Sue handles the outside sales. Her car payments are \$ 250 a month. Anne agrees that the corporation will make the car payments in lieu of filing expense reports and mileage reimbursement. This goes on for two years.

Now assume that Anne dies, leaving Sue in charge of the business and sole shareholder. The business fails and debts exceed the assets by \$ 15,000. Creditors are able to sue personally and show that the personal car payments were made by the company - a co-mingling of assets, and a basis for piercing the corporate veil.

If Sue and Anne had held a Board Meeting at which they had passed a resolution and included the resolution in the minutes, the true corporate purpose for the payments would have been clear.

In the absence of such documentation, Sue can only provide self serving declarations which would not be likely to carry much weight in court.

Understand the corporate Entity

A corporation is comprised of three groups of individuals:

1. Officers, Managers and Employees

Appointed by the Board of Directors the officers of the corporation run the day to day operations of the business. They may have delegated power extended by the Board but they have to act within the parameters set by the Board. If they act outside the scope of the guidelines established by the Board they can be held personally liable for the contract.

2. A Board of Directors

The Directors are approved by the shareholders. Their powers are not that much different from an individual shareholder. An individual director does not have the right to bind the corporation, but the directors as a board can bind the corporation.

3. The Shareholders

The shareholders are the owners of the business. They do not play an active role in day to day operations. They do have three major powers:

- a) the right to elect directors
- b) the right to approve or reject major corporate actions proposed by the Board of Directors
- c) the right to inspect corporate books and records

The shareholders do not have the right to bind the corporation to any contract.

A corporation can have one person in all three roles, but it makes it harder, and more important, to maintain and establish a separate identity as the person switches from one role to another.

Directors and shareholders exist only in corporations. It is their existence and actions that differentiate the corporation from other forms of business. There are five types of corporate actions:

- 1) The election of directors
- 2) The appointment of officers
- 3) The setting of corporate policies
- 4) Ordinary business activities
- 5) Extraordinary activities

These actions require at least one and maybe two meetings and notices to shareholders and Directors. This manual will walk you through the forms and notice requirements necessary for compliance with the company's record keeping.

Advantages

1. Limited Liability

Generally a shareholder in a corporation risks only the sum equal to the amount of the investment. Whatever amount they invested in the company is the maximum exposure the investor has in that venture. Liability does not extend to personal assets. Essentially this offers protection against suits and liabilities in excess of your equity in the business. However, you must realize that some courts have held that on occasion the corporation was a 'shell' or a 'sham' and that the owners were liable for the debts of the company.

2. Transferability of Interest

A share or interest in a corporation is represented by stock and can be freely bought, sold or assigned with little effect on the operations of the company.

3. Continuous Life

Unlike a partnership, a corporation is not terminated by the death of a shareholder, or their incapacity. It is customary to regard a corporation as perpetual, and it continues to exist until dissolved, merged, or otherwise terminated, entirely independent of the misfortunes of its shareholders. The ownership of the shares in a company becomes important when evaluating a person's estate and the payment of death taxes.

4. Separate Entity

A corporation is a legal entity in itself and is treated separately from its shareholders.

- A corporation can take, hold, and convey property.
- It can contract in its own name with shareholders, or third parties.
- It can sue and be sue.

5. Financing

Easy to raise capital in larger amounts by issuance of stock or other securities. While this may seem something that only large companies can do from the public, don't overlook family and friends. With a corporate entity a family member, as a minority shareholder has numerous legal rights to protect their investment.

Flexibility because it can issue a number of classes of stock and bonds to suit its needs and investor demands.

6. Corporate Management

Corporations can employ management personnel who are experts in their fields of business.

Persons who manage corporations are not necessarily shareholders.

The management of a corporation is usually vested in a board of directors elected by the shareholders. Increasingly the directors of companies have been held legally accountable by the shareholders for the performance of the company. Directors are normally compensated for the time involved in the company. They should meet on a regular basis during the year and review the financial condition of the company. If there is one director, one shareholder, and one employee this requirement becomes more important. The more documentation that can be presented to prove that the actions were taken as a corporation and not the actions of an individual, the stronger the "corporate shell" becomes.

7. Subchapter S Corporation

The IRS treats this corporate form differently from standard corporations by providing tax relief by transferring the income each year to the stockholders (no more than 35), and taxing them individually. Additionally, earnings withdrawn from the corporation (not wages) are exempt from social security taxes.

- a) All profits (and losses) are transferred through to the shareholders at the end of the year, including all depreciation and investment tax credits. In many respects the Subchapter S Corporation is a cross between a partnership and a corporation.
- b) For many years the Sub Chapter S election was used by many professionals to shelter income from FICA and Medicare taxes. The argument was that the profits from the Sub Chapter S business were dividends and not wages and therefore exempt from the FICA and Medicare taxes. IRS has recently enforced a theory called "reasonable wages". Their argument is that a corporation must have someone in charge, and that a sole shareholder, employee of the business that generates substantial profits must have paid wages – directly or indirectly. We encourage our clients to report wages at a reasonable level when working for their own company to avoid potentially expensive disagreements with the IRS.

In order to elect Sub Chapter S status you must file Form 2553 within 75 days of the start of the new fiscal year. All Sub Chapter S corporations are on a calendar year, and a short year return may have to be filed by a full corporation that is changing to a Sub Chapter S status.

A Sub Chapter S corporation cannot have more than 35 shareholders and if the election is declined at some point the company cannot revert to Sub Chapter S status for 5 years.

Disadvantages

1. Taxation

Tax burdens may be heavier than on individuals operating sole proprietorships because of federal 'double taxation.'

- Corporate taxation rates are up to 46% (combined individual and corporate rates)
- Distributed earnings are taxed to shareholders
- Franchise taxes and some State taxes are additional taxes

Dividends are included in the income of most corporations, (it is not a deduction from the pretax profits) and income in general is taxed at a lower level than that of individuals. (e.g. less than \$ 25,000.00 per year pays only 15 % tax. However, the fiscal year earnings stay in the corporation at the end of the year. Likewise should the company have a loss on the year then the loss is carried forward (or back), it is not transferred to the owners personal income tax.

2. Costs of Incorporation

Because they must meet formal creation requirements.

3. Formal Operating Requirements

Need to comply with administrative and procedural requirements. The annual meetings and legal costs associated with the meetings is an additional expense that a sole proprietor does not have to meet.

All the advantages of being a corporation can be lost if you run your business as if the corporation did not exist. If you do not acknowledge your corporation, others won't either. By failing to handle your corporation correctly, you supply them with ammunition to attack your personal assets – the company's debts, liabilities and obligations become yours. The company's default or failure can wipe you out financially.

It does not have to happen. You can prevent this from happening by taking the time to make sure that what you do in your business is done by and on behalf of your corporation. The best way to limit your own liability is to keep an ongoing record showing that your actions have been duly authorized and approved as actions of the corporation.

4. Continuing Governmental Supervision

Powers of Corporation

1. Inherent power is that power which is necessary for corporate existence, the power to make contracts.
2. Express powers are set out in the charter and by-laws at the time the corporation was organized.
3. Implied powers are those which are necessary to carry out the express powers and purpose of the corporation.

Liabilities of Corporations

1. Crimes

Corporations are liable for crimes that they are capable of committing (anti-trust but not murder)

Punishment generally consists of fines or forfeiture, although recently directors have been faced with prison sentences for crimes of the corporations.

Some company officers have not been protected by the "corporate veil". Examples are in the area of toxic waste dumping, unsafe working conditions, worker safety etc. Generally in the area of public "good". In these instances the fact that the officers of the company were knowledgeable about the deficiencies of the conditions resulted in their indictment. Independent third party shareholders (who were not also officers) of the company were not held to be liable for actions of which they had no knowledge.

2. Torts (Civil Wrongs)

Corporations are liable for the damages resulting from torts committed by their officers, directors, agents, or employees within the course and scope of their corporate duties. (e.g. fraudulent deceit of a customer, or if an employee assaults a complaining customer.

3. Acts of Officers

The corporation is liable for ALL authorized acts.

If the act is not authorized, if the act is of the type customarily delegated to such an officer, the corporation is liable.

Corporations are generally liable on contracts made by their agents within the course and scope of corporate authority.

- Corporations are not obligated to perform illegal contracts.
- Pre-incorporation contracts must be adopted before there is liability.

Corporate Records

1. Stock Certificates

Before a company can commence operations it must have shareholders. The shareholders in consideration of their investment in the company are issued shares. A share register is maintained with the corporate records that indicates, at a minimum, the dates the shares were issued, to whom the shares were issued and the number of shares.

The shares of stock must be issued for there to be a valid corporation. The company must be owned by someone at all times.

If a share certificate is lost, a replacement certificate is issued but a bond can be required that indemnifies the company in the event the lost certificate is presented.

2. Bylaws

The By Laws of the company are the guidelines by which the company imposes on itself as to how its business will be run. Normally a fairly standard set of By Laws are adopted at the organizing meeting. As the officers and Directors of the company become more proficient in the working of the company these By Laws can be amended and changed by a majority vote of the shareholders.

3. Organizing Meeting

The Organizing meeting of the company will set the tone for the company in the coming years. It should be held with all the shareholders, directors and corporate officers present. Normally, corporate meetings require a notice period to the shareholders, before the meeting may begin, however a Waiver of Notification is possible if all the shareholders consent.

A president should be appointed, secretary and treasurer for the company should be appointed. The shareholders should vote on the Chairman and Board of Directors.

The By Laws should be voted to be approved and adopted by the shareholders.

The bank account and financial institution should be ratified and approved by the shareholders initially.

If the shareholders approve, a motion to seek Sub Chapter S status for the corporation should be approved.

If assets are being transferred from a sole proprietor to the corporation such a motion must be approved by the shareholders.

Minutes should be taken of the events at the first meeting and filed in the corporate record book.

4. Annual Meetings

An agenda should be prepared by the Chairman or Company Secretary for the annual meeting. It should include a welcome to the shareholders present and apologies from shareholders or directors that are unable to attend.

The minutes of the previous meeting are read at this stage and if in agreement they are approved by the shareholders.

The annual accounts for the year are presented to the shareholders by the treasurer, or auditors. Questions can be answered from the floor (shareholders) on the results of the operations.

Directors normally retire upon rotation and if eligible will stand for office again. The Directors remuneration is approved by the shareholders for the coming year. The shareholders vote individually for the Directors of whom they approve.

Any new business can be brought up at this point. Acquisitions, sale of assets, change in the direction of the company and changes in the By Laws can be put to the shareholders for their vote of approval.

The company must have a meeting each year for their shareholders and adequate notice must be given to minority shareholders so that they are able to attend.

The reasonable and necessary costs of the meeting are tax deductible. However a first class ticket to the Bahamas for a sole shareholder, Director company officer would be interpreted by the IRS as "lavish and extravagant" and be denied.

Remember to document the meeting and the motions and the votes affirmative or negative by the shareholders as to what was adopted by the shareholders for the company. The annual meeting minutes become an integral part of the company records and are invaluable in proving you ran the company properly.

It may be appropriate for you to include your attorney at the annual meeting to ensure that you have met your state requirements.

Dissolution

1. Dissolution is the termination of the corporation's status as a legal entity. Dissolution does not occur until liquidation is complete.
2. Creditors must be given notice of the dissolution or the corporation will remain liable on its debts.

Summary

A corporation is an artificial being which is created by or under law that operates under a common name through its elected management. It is a legal entity, separate and distinct from its shareholders. The corporation has the authority vested in it by statute and its corporate charter.

To keep your corporation alive, you have to show that it is functioning as a legal entity in accordance with current corporate practices and the laws governing the official business of the corporation.

First steps when you are incorporated

1. Open a business bank account and get a Debit card, or credit card for the business
2. You have the Black Minute book that was supplied when you incorporated
3. In the Black Minute Book you will have various sections
 - a. one is the Stock Register
 - b. one are the Stock Certificates
4. Technically the company is not formed, and a legal entity, with all the privileges and security that provides, until the stock certificates are issued
5. You need to update the Share Register with the names and the certificate number, the date it was issued (generally the incorporation date), and the number of shares
6. When shares are sold, or new shares issued, you will need to update the Register – cancelling the Stock that was sold, or transferred and issuing the new stock certificate to the new shareholder.



Incorporation Questionnaire

BUSIENSS INFORMATION

DATE CORPORATION FILED : ____ / ____ / ____ BBS BRANCH : _____

REQUESTED CORPORATE NAME: _____

TRADE NAME: _____ FORM TYPE: _____

BUSINESS ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE NUMBER: _____ EMAIL: _____

STATE INCORP: _____ COUNTY: _____ BANK NAME: _____

CASH/ACCRUAL/HYBRID: _____ BANK ACCOUNT: _____

ROUTING NUMBER: _____ PEAK NUMBER OF EMPLOYEES: _____

NEW BUSINESS TYPE: _____ BUSINESS ACTIVITY: _____

AGENT

AGENT: _____ AGENT ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

EXECUTIVE TEAM

PRESIDENT: _____ VICE-PRESIDENT: _____

CHAIRMAN: _____

SECRETARY: _____ TREASURER: _____

INCORPORATOR

INCORPORATOR'S NAME: _____

INCORPORATOR'S ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

SOCIAL SECURITY #: _____

SHARES / STOCKHOLDERS

SHARES ISSUED: _____ SHARES AUTHORIZED: _____ at \$1.00 per value

STOCKHOLDER 1: _____ SSN: _____ SHARES 1: _____

STOCKHOLDERS NAME	ADDRESS	SOC. SEC #	# SHARES
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

MEETING MONTH: _____ MEETING DAY: _____ MEETING TIME: _____

DIRECTORS

DIRECTOR	ADDRESS
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

OLD BUSINESS INFORMATION

OLD FEDERAL I.D. NUMBER: _____ PRIOR DATE WHEN APPLIED: _____

OLD NAME YOU WERE OPERATING UNDER: _____

OLD TRADE NAME: _____ ADDRESS: _____

NOTES: _____

FEES

TEXAS \$ 525.00
FLORIDA \$ 500.00

Includes State filing fees, corporate minute book, stock certificates and record book, Incorporation manual.

CALL THE SEC. OF STATE TO VERIFY THAT THE NAME IS AVAILABLE :

In Florida: 904-487-6054 In Texas: 512-463-5555

So Now I am Incorporated

Tax collections

1. Pay as you go – when you are an employee you get a paycheck with the federal and FICA and Medicare taxes withheld – you don't notice it – you only get the net check. Your employer remits those taxes to the government via bank deposits each month and files a quarterly report that reconciles the wages and the taxes paid. At the end of the year annual reconciliation (w2) ties the 4 quarters and your payroll together. Have a look at your last W2. Add the Federal withholding box and the Medicare and FICA boxes. These are the total taxes that you have been paying. Working for a 1099 MISC or K1 from an S Corporation these taxes must be paid through estimated taxes on a voluntary basis.

You should break even – maybe getting a small refund.

2. As the owner of your own company you are now responsible for the payment of your employment taxes. We have recommended that in your personal situation that you elect to be treated as a Sub S Corporation – you will have received a letter from IRS approving your status as a Sub S and a federal identification number and a yellow deposit coupon book.

Being self employed the largest amount of tax is the self-employment tax – 15.3% of your net income was subject to self-employment tax. The election as a Sub S allows us to do tax planning and reduce the amount of taxes that you owe.

The business will generate profits – the profits can now come to you as the shareholder in two ways – one as wages and the second as a return of profits.

The Sub S is a tax entity that flows the income generated by the company to the shareholder as conduit.

The company pays the profits to the shareholder in the form of draws – you will have two bank accounts – one for the company where all the revenues and expenses of the business go through the company account – using the federal ID number that you received for the business.

The second account is your personal bank account – where you pay all personal bills from – groceries, utilities etc

You can transfer funds from the business account to your personal account without worrying about the tax consequences at all. You can pay weekly or monthly or as you need the money and write “draw”, “capital withdrawal” or dividends on the checks.

You now have to pay taxes on the profits of the business

As you are no longer an employee of someone else you are responsible for the payment of your own income taxes. The profits generated from your business will come through to your personal 1040 on a 1120 S K1.

You need to pay estimated taxes based on how much money you expect your business to generate during the year

For example if you think your business will make \$30,000 depending on your filing status you might owe \$3,500 in taxes. People who's taxes are not paid through W2 wages have to make estimated tax payments 4 times a year using a 1040ES – January 15 April 15 July 15 and Sept 15

You mail your check along with the voucher to IRS. You send in ¼ of the amount of taxes that you believe that you will owe for the year.

In addition to the estimated taxes someone has to actually run your business – and that is generally the 100% shareholder.

IRS requires that someone run the business – and so you will need to get a W2 at the end of the year for at least \$7,000 – or more if you want.

There are benefits – one is unemployment benefits and two, social security credits for working and you will be eligible for Medicare benefits etc.

You have two options for the wages – you can have us, through Payroll Solution Services Inc do the paperwork and deal with the government agencies, or you can do it your self.

You will need to deposit the withholding and FICA and Medicare taxes with your bank using the coupon and file state and federal unemployment forms during the quarter in which you take the money. You will file the 941's and the state forms the following month.

Minimal Social Security Benefits

You need to have 40 quarters of social security earnings to be fully insured under Social Security. You don't have to work for 4 x 3 months in a year but you have to earn about \$1000 per quarter or \$4000 a year to qualify.

Salaries

While IRS challenges regular C corporations about the salary packages of executives, it is generally because they are excess compensation arrangements. The reverse is true for S Corporations. The S Corporation is a standalone legal entity. It can't have a life of its own, it doesn't – it needs an employee, someone to operate the business.

Mileage records

You need to keep accurate records on your business mileage. But you don't have to do it all year. If you maintain records for 4 months the courts have determined that that can be reasonably extrapolated to the full year. So, chose 4 months where you do drive a lot. Remember you cannot generally claim mileage from your home to first appointment – this is known as commuting mileage. But if you have created a home office and you leave your office for an appointment then the mileage becomes deductible. Keep records – I cannot stress that often enough.

Corporate officer obligations

Your major obligation is for payment of the payroll taxes withheld from employees. Your unsecured creditors in the event of the company failing will most likely not be successful in pursuing you personally. But if you have withheld taxes from employee checks IRS will hold officers personally liable for these taxes and these are not dischargeable in personal bankruptcy. In addition even employees who have signing authority on the checks can be liable for the withheld taxes if they are not remitted to IRS.

Deposit book and tax deposit times

You will have received a Yellow Coupon book from IRS when you got your federal identification number. You will use this coupon book to deposit with your bank the withheld taxes on payrolls. Depending on the size of your payroll you will make these deposits monthly or quarterly. In addition you will owe FUTA (Federal Unemployment Taxes) and SUTA (state unemployment taxes) on wages paid by the company. IRS offers electronic payment of these taxes through EFTPS or let PSS Payroll Services handle all payroll issues for a turn key fee.

Home office deductible expenses

If you are working from your house you can deduct as ordinary and necessary business expenses the following:

- Cell phone used for business use
- 2nd phone line installed at the house
- High speed internet access used for business email and internet research
- Utilities for that portion of the house that the business exclusively uses
- Computer used for business purposes

You would have signed

SS4 – Application for Federal Identification Number – this would have come in a letter about 10 –14 days after you applied. We can apply for these numbers on line with IRS and have them issued within 24 hours generally.

2553 – Application to be treated as A Sub S – this has to be signed by all shareholders. You will receive a copy of this letter in 4 –6 weeks. If we are doing your tax returns you will need to give us a copy of this letter to demonstrate that you are an S Corporation. Put the original of this letter with the Company Manual

Articles of Incorporation - Sign the two sets and put with your corporate minute book.

1244 Stock Election - Should your company fail, this election allows you to take your initial shareholding investment as an ordinary tax deduction and not limited to \$3000.

Opening Bank account resolution – allows the company to open a new bank account

What happens next?

Make sure that the assets that you want to protect are titled in the correct entity. If you have a company car and the state title shows you personally, the company cannot make the loan payments. Likewise any real property (real estate) that you hold personally can't have mortgages paid by the company.

Sub Chapter S income and wages

Corporations electing Sub Chapter S treatment by filing form 2553 when they are formed or by the 90th day of each new tax year, get favorable treatment as it relates to Social Security (6.2%) and Medicare (1.45%) taxes.

The profits that the company generates are distributed to the shareholders essentially as “dividends” on schedule K-1 and reported on the individual shareholders Schedule E. This income is taxed at ordinary income tax rates and escapes the Self Employment tax reported on Schedule SE by those persons filing a Schedule C business return. Essentially saving 15.3% in taxes.

However IRS is concerned that this can lead to abuse. There have been a number of IRS court cases recently where taxpayers that have not reported any wages from the corporation have been assessed additional taxes and penalties and had the income from the corporation re-characterized as wages rather than “dividend” income.

We have previously been recommending that a minimum of \$7,000 a year base salary for each shareholder be taken as taxable wages. If the company is making more than \$30,000 in K1 distributions to a shareholder this amount should be readjusted.

IRS takes this position as it relates to the allocation of wages, especially if the corporation has one shareholder, but only one full time employee (the owner) running the business. IRS argues that as the only person in the business that

person should be compensated – if a manager had to be hired to do the same job then wages would be paid to that independent non-owner.

The challenge is to come up with an allocation between wages subject to self-employment tax and distributions that are not subject to the taxes.

Taking no wages from the company is no longer an option and leaves the taxpayer seriously exposed to additional penalties and interest.

	K1 Dist.	Wages	Total taxes	Tax rate
Income	\$ 50,000.00	\$ -	\$ 50,000.00	
Payroll taxes	\$ -	\$ -		
Income taxes	\$ 9,000.00		\$ 9,000.00	18.00%
Total income	\$ 35,000.00	\$ 15,000.00	\$ 50,000.00	
Payroll taxes	\$ -	\$ 2,295.00	\$ 2,295.00	
Income taxes	\$ 6,300.00	\$ 2,700.00	\$ 9,000.00	18.00%
Total income	\$ -	\$ 50,000.00	\$ 50,000.00	
Payroll taxes	\$ -	\$ 7,650.00	\$ 7,650.00	
Income taxes	\$ -	\$ 9,000.00	\$ 16,650.00	33.30%

<u>Comparison of tax scenarios</u>				
		Income Levels - 2005		
	\$10,000.00	\$20,000.00	\$30,000.00	\$60,000.00
SINGLE				
1040 Sch C	(\$1,483.00)	(\$4,296.00)	(\$8,649.00)	(\$17,804.00)
1120S K1	(\$231.00)	(\$1,601.00)	(\$3,926.00)	(\$10,824.00)
Savings from S Corp	\$1,252.00	\$2,695.00	\$4,723.00	\$6,980.00
HEAD OF HOUSEHOLD (with 1 child)				
1040 Sch C	\$1,093.00	(\$1,133.00)	(\$7,016.00)	(\$14,460.00)
1120S K1	\$0.00	(\$113.00)	(\$2,293.00)	(\$7,368.00)
Savings from S Corp	(\$1,093.00)	\$1,020.00	\$4,723.00	\$7,092.00
MARRIED FILING JOINT (0 children)				
1040 Sch C	(\$1,240.00)	(\$3,409.00)	(\$7,385.00)	(\$14,167.00)
1120S K1	\$0.00	(\$618.00)	(\$2,662.00)	(\$6,537.00)
Savings from S Corp	\$1,240.00	\$2,791.00	\$4,723.00	\$7,630.00
Red - amount of tax owed				
Black - refund				

State of incorporation issues

You may have business associates tell you about their Nevada Corporation or they Delaware Corporation. Both states have pro business legislation that is beneficial the companies with many shareholders and complex business arrangements. For the vast majority of small businesses the benefits are not significant. In addition there is a legal theory known as "nexus". If you have a business based in Florida – and do all your business in Florida, the fact that you have a Nevada or Delaware corporation, does NOT negate the requirement to be authorized to do business in Florida. So in addition to your Nevada Corporation you will have to file as a "foreign corporation" and pay and file annual returns to Florida. Check with your tax professional before deciding on a state to incorporate in. If you are a Texas Corporation and do business in Oklahoma you may be required to file an annual tax return with Oklahoma if you travel into the state. The rules are similar to sales tax.

Annual requirements to file

Each state has a requirement to file an annual return. Some states require payment of franchise taxes (similar to corporate income taxes) each year to maintain their good standing.

Accounting Records

It is to your benefit to do monthly accounts. A simple spreadsheet that tracks your month expenses is all that you need.

Expense reports

On a regular basis, weekly or monthly you need to bill your company for out of pocket expenses. Out of pocket expenses are costs that the company has not paid but that you have incurred in performance of the company's objectives. This is the time to be reimbursed for tips, taxis, travel and entertainment expenses. You can also get reimbursed for the percentage of the house that you are using for business. Don't rent the premises or in Florida you will be liable for the commercial sales tax of 6%. This is also the time that you should account for and be paid for use of your personal vehicle on company business. The reimbursement rate changes each year so check to make sure that you are using the right mileage rate. A sample report is attached.

Annual meetings.

In order to prevent litigators piercing the "corporate veil" you need to run your company professionally. To that end maintaining records, keeping personal and business expenses segregated (not commingling) and holding annual meetings will help assist in maintaining that the corporate shield that you have created will endure. The Annual Meeting can be accomplished in a number of ways. We have the forms necessary for compliance with the Annual Meeting requirement.

First things first

- a) You have to open a bank account. One of the forms that you signed with your original packet of material was an Authorization to open a bank account. Use this form and the letter from IRS along with the federal ID number and state Articles of Incorporation certificate to give to the bank for to open your bank account. Some banks may require an occupation license issued by the local county of city to prove your business intentions as well. You have to deposit all revenues in this account. Don't write personal checks for mortgages or utilities from this business account. You can however make transfers and draws from this account to your personal account.
- b) Your company is not official until the shares are issued. You need to complete the stock certificate that came with your Company Manual. The company President and Secretary (they may be the same) need to sign the stock certificates and be given to the new shareholders. If there are changes in shareholding you will need to cancel the issued stock certificate and issue another one. You can use the corporate seal to stamp the stock certificates.

What is this going to cost me?

- 1) Annual state filing fees - some states just require a filing and no tax. Florida charges \$150 a year for its Annual Franchise Report.
- 2) Federal 1120S will cost about \$500 a year to prepare and file
- 3) Annual minutes \$125 a year

Turnkey Payroll Solution

Annual wages	\$ 7,000.00	\$ 12,000.00	\$ 20,000.00
Matching FICA	\$ 434.00	\$ 744.00	\$ 1,240.00
Matching Medicare	\$ 101.50	\$ 174.00	\$ 290.00
SUTA	\$ 189.00	\$ 324.00	\$ 540.00
FUTA	\$ 56.00	\$ 96.00	\$ 160.00
Withholding 10%	\$ 700.00	\$ 1,200.00	\$ 2,000.00
Mthly fee	\$ 20.00	\$ 20.00	\$ 20.00
Qtrly fee	\$ 25.00	\$ 25.00	\$ 25.00
Amt we would deduct:			
Mthly	\$ 143.38	\$ 231.50	\$ 372.50
Qtrly	\$ 395.13	\$ 659.50	\$ 1,082.50
Your W2 would show			
Wages	\$ 7,000.00	\$ 12,000.00	\$ 20,000.00
Withholding	\$ 700.00	\$ 1,200.00	\$ 2,000.00
FICA	\$ 434.00	\$ 744.00	\$ 1,240.00
Medicare	\$ 101.50	\$ 174.00	\$ 290.00

Borrowing Money

If you are going to lend money to, or borrow money from the corporation, you must formalize the transaction and sign a note for the amount of money borrowed. The interest rate must be competitive with market rates at the time and payment may be made "upon demand."

The format below is an example of the type of note that needs to be signed to confirm the loan.

TIME NOTE

FOR VALUE RECEIVED, the undersigned jointly and severally promises to pay to the order of _____ the sum of \$ _____ dollars payable with interest thereon at the rate of _____ % annum on the unpaid balance.

The entire sum of principal and accrued interest shall be fully payable on _____.

In the event of default the undersigned agree to pay all reasonable attorney fees and costs of collection.

Signed under seal this _____.

Borrower

Payroll Authorization Form

Yes please sign me up for the turnkey payroll processing option

COMPANY NAME: _____

FEDERAL ID NUMBER: _____

BUSINESS ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

EMAIL: _____

PHONE NUMBER: _____

FAX: _____

Salary: \$ 7,000 \$12,000 \$20,000 Percent of Profit (_____%)
(choose one)

Deduct payroll : Monthly Quarterly
(choose one)

BANK NAME: _____

ACCOUNT NUMBER: _____

ROUTING NUMBER: _____

EMPLOYEE NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

SOCIAL SECURITY NUMBER: _____

Email to psspaysroll@bbstax.com

Comprehensive pricing is available from Payroll Solution Services Inc. based on number of checks and frequency of payroll.

Company Name														
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	
Start Balance	-													
Beginning Inventory	-													
Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	
Loans/cr card deposits														
Interest														
Transfers														
Other nontaxable deposits			-	-	-	-	-	-	-	-	-	-	-	
Total deposits	-	-	-	-	-	-	-	-	-	-	-	-	-	
Expenses														
Inventory purchases														
Officer salaries														
Salaries														
Repairs														
Bad debts														
Rent														
Taxes														
Property taxes														
Licenses														
Interest														
Charitable donations														
Advertising														
Pension														
Employee benefit														
Accounting														
Bank charges														
Commissions														
Contract labor														
Credit collection costs														
Delivery / freight														
Dues														
Equipment rental														
Gas														
Gifts														
Insurance - vehicle														
Insurance - health														
Insurance - w orkers comp														
Insurance - property														
Insurance - other														
Janitorial														
Laundry														
Legal														
Meals														
Misc														
Office expenses														
Outside services														
Parking fees														
Permits														
Postage														
Printing														
Professional fees														
Security														
Small tools														
Supplies														
Telephone - cell phone														
Telephone - land line														
Tolls														
Travel														
Uniforms														
Utilities														
Vehicle Purchased														
Total expenses	-	-	-	-	-	-	-	-	-	-	-	-	-	



LLC Form

BUSINESS INFORMATION

DATE: _____ BRANCH: _____ DATE PARTNERSHIP FILED: _____

NAME OF PARTNERSHIP: _____

TRADE NAME: _____

STATE FORMED IN: _____ COUNTY: _____

BANK NAME: _____ CASH/ACCRUAL/HYBRID: _____

BANK ACCOUNT: _____ ROUTING NUMBER: _____

PEAK # OF EMPLOYEES: _____ NEW BUSINESS TYPE: _____

PRINCIPAL BUSINESS ACTIVITY: _____

DETAILED PRINCIPAL LINE OF BUSINESS: _____

AGENT

AGENT: _____ FORM TYPE: _____

AGENT ADDRESS: _____

AGENT CITY: _____ AGENT STATE: _____ AGENT ZIP: _____

EXECUTIVE TEAM

CHAIRPERSON: _____ PRESIDENT: _____

PRESIDENT SSN: _____ VICE-PRESIDENT: _____

TREASURER: _____ SECRETARY: _____

STOCKHOLDERS

STOCKHOLDER 1: _____

ADDRESS, CITY, STATE, ZIP: _____

SSN: _____ SHARES 1: _____

STOCKHOLDER 2: _____

ADDRESS, CITY, STATE, ZIP: _____

SSN: _____ SHARES 1: _____

STOCKHOLDER 3: _____

ADDRESS, CITY, STATE, ZIP: _____

SSN: _____ SHARES 1: _____

STOCKHOLDER 4: _____

ADDRESS, CITY, STATE, ZIP: _____

SSN: _____ SHARES 1: _____

STOCKHOLDER 5: _____

ADDRESS, CITY, STATE, ZIP: _____

SSN: _____ SHARES 1: _____

SHARES ISSUED: _____ SHARES AUTHORIZED: _____ at \$1.00 par value

MEETING MONTH: _____ MEETING DAY: _____ MEETING TIME: _____

BUSINESS ADDRESS: _____

BUS PHONE: _____ EMAIL: _____ CELL: _____

DIRECTORS

DIRECTOR: _____ DIRECTOR: _____

ADDRESS: _____ ADDRESS: _____

DIRECTOR: _____ DIRECTOR: _____

ADDRESS: _____ ADDRESS: _____

INCORPORATORS

INCORPORATOR: _____ INCORP ADDRESS: _____

INCORP SSN: _____ INCORP CITY: _____

OLD BUSINESS INFORMATION

APPLIED FOR EIN BEFORE: _____ PREVIOUS EIN: _____

PRIOR LEGAL NAME: _____ TRADE NAME: _____

PRIOR DATE WHEN APPLIED: _____ CITY & STATE: NOTES: _____

PAYMENT DETAILS

CREDIT CARD #: _____ EXP DATE: _____

NAME ON CARD: _____

CARD BILLING ADDRESS: _____

Credit Card Payment

Better Business Services, Inc. Optional Payment Methods

BETTER BUSINESS SERVICES, INC.
 TAXLOGIC
 SUMMERLAND COVE RENTAL
(indicate applicable company above)

AUTHORIZATION AGREEMENT FOR DIRECT DEPOSIT/DIRECT DEBIT

EMPLOYEE/CLIENT _____ SOCIAL SECURITY NUMBER/FEDERAL ID NUMBER _____

I (we) authorize the above named company to credit/debit my (our) account with the depository named below. If the company erroneously deposits funds into my (our) account, I authorize the above BBS entity to initiate the necessary debit entries, not to exceed the total of the original amount credited for the current pay period.

DEPOSITORY NAME	<input type="checkbox"/> BANK <input type="checkbox"/> SAVINGS AND LOAN <input type="checkbox"/> CREDIT UNION <input type="checkbox"/> OTHER	CITY	STATE	ZIP CODE
TRANSIT/ABA NUMBER	<input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS <input type="checkbox"/> ACCOUNT <input type="checkbox"/> ACCOUNT	ACCOUNT NUMBER		

This authorization will remain in effect until the above BBS entity has received written notification from me (or either of us) that is to be terminated in such time and manner for the company to act on it.

NAME(S) _____

ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____ TELEPHONE _____

SIGNATURE _____ DATE _____

————— Please Attach Copy of Voided Check —————

Monthly Fee \$ _____ Policy Cost \$ _____

This is a one time charge.
 This is a recurring monthly charge.
 This is a recurring annual charge.

(Please complete in full)

USE THIS SECTION FOR CREDIT CARD AUTHORIZATION ONLY

CREDIT CARD NUMBER _____	EXPIRATION DATE _____	3 OR 4 DIGIT VERIFICATION CODE _____
--------------------------	-----------------------	--------------------------------------

IMPRINTED DATA ONLY ABOVE THIS LINE ——— DO NOT CIRCLE EXPIRATION DATE

NAME ON CARD _____	<table border="1" style="width: 100%; text-align: center;"> <tr> <th rowspan="2" style="font-size: x-small;">EXPIRATION AND VALID DATES CHECKED</th> <th colspan="3" style="font-size: x-small;">AUTHORIZATION NUMBER</th> <th colspan="3" style="font-size: x-small;">DATE</th> </tr> <tr> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> </tr> <tr> <td style="font-size: x-small;">CASHIER</td> <td style="font-size: x-small;">DEPT.</td> <td style="font-size: x-small;">DESCRIPTION</td> <td style="font-size: x-small;">MONTH</td> <td style="font-size: x-small;">DAY</td> <td style="font-size: x-small;">YEAR</td> <td style="font-size: x-small;">AMOUNT</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </table>	EXPIRATION AND VALID DATES CHECKED	AUTHORIZATION NUMBER			DATE									CASHIER	DEPT.	DESCRIPTION	MONTH	DAY	YEAR	AMOUNT																												
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CASHIER	DEPT.	DESCRIPTION	MONTH	DAY	YEAR	AMOUNT																																											
NAME ON CARD _____																																																	
CARD BILLING ADDRESS _____																																																	
CARD CITY, STATE ZIP _____																																																	

CARDMEMBER SIGN HERE <u> X </u>							
Cardmember acknowledges receipt of goods and/or services in the amount of the TOTAL shown hereon and agrees to perform the obligations set forth in the Cardmember's agreement with the Issuer.	<table border="1" style="width: 100%; font-size: x-small;"> <tr><td>SUB TOTAL</td><td> </td></tr> <tr><td>TAX</td><td> </td></tr> <tr><td>TOTAL</td><td> </td></tr> </table>	SUB TOTAL		TAX		TOTAL	
SUB TOTAL							
TAX							
TOTAL							

Fax completed form to (800)760 6837 or email to your point of contact.

• Credit card charge will appear on your statement from Better Business Services Inc or TaxLogic •

Form BBS038 09/2010

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SS4

Use Form SS-4 to apply for an employer identification number (EIN). An EIN is a nine-digit number assigned to corporations for tax filing and reporting purposes.

You can obtain the form here: <https://www.irs.gov/pub/irs-pdf/fss4.pdf>

Form 2553

Use Form 2553 in order to elect Sub Chapter S status you must file within 75 days of the start of the new fiscal year. This form has to be signed by all shareholders. You will receive a copy of this letter in 4 –6 weeks.

You can obtain the from here: <https://www.irs.gov/pub/irs-pdf/f2553.pdf>