

FREQUENTLY ASKED QUESTIONS

FAQs Corporations S-Corporations LLCs

This is a quick guide for informational purpose only.



See Our FAQ for Info About:

- What are the benefits of incorporation?
- What are the drawbacks of incorporation?
- What is the difference between a C-Corp and an S-Corp?
- What is an LLC?





FREQUENTLY ASKED QUESTIONS

1. What are the benefits of incorporation?

The main reason to incorporate (or form an LLC) is to minimize your personal liability. Once your business is incorporated (either by forming an LLC or Corporation), it exists as a separate business entity. Essentially, you put a wall separating your personal assets from anything in the business. Of course, there are other benefits too. Here are the top reasons to incorporate:

- Minimize your personal liability and protect your personal assets
- Get more flexibility when it comes to taxes (talk to your CPA or tax advisor for specific advice on your personal situation)
- Boost the credibility of your small business
- Add a layer of privacy (don't use your personal name and home address to represent your business)
- Start building your business credit
- Protect your business name and brand at the state level

2. What are the drawbacks of incorporation?

The only real “drawback” of incorporating is that you’ll need to operate your business at a higher administrative level than you’re used to as a sole proprietorship. In addition, incorporating as a C Corporation can result in higher taxes for some small business scenarios due to double taxation. With a C Corporation, the business needs to pay taxes on any profits, and then owners are also taxed when any profits are distributed to them. Obviously, if you’re looking to put your small business profits into your own pocket, you may end up paying a lot in taxes. However, as the following question shows, there are ways to avoid double taxation, while still getting some of the benefits of incorporation.

3. What’s the difference between a C Corp and an S Corp?

As mentioned above, the C Corporation’s tax structure isn’t optimal for many small businesses, since business owners often are taxed twice on the profits. However, Corporations can elect for “S Corporation” tax treatment. Often called a “pass-through” entity, an S Corporation doesn’t file its own taxes. Rather, profits and losses of the business are passed through and reported on the business owner’s personal tax return. To qualify for S Corporation tax treatment, you’ll need to fill out Form 2553 with the IRS. You’ll need to do this no more than 75 days from the date of incorporation, or no more than 75 days from the start of the current tax year. Be aware that not every business can qualify to be an S Corporation. For example, an S Corporation cannot have more than 100 shareholders and shareholders must be U.S. citizens or residents.

4. What’s an LLC?

An LLC (Limited Liability Company) is a hybrid of a sole proprietorship/partnership and corporation. This structure is very popular among small businesses, and for good reason. The LLC limits the personal liability of the owners, but doesn’t require much of the heavy formality and paperwork of the corporation. This makes it a great choice for business owners that want liability protection, but don’t want to deal with exhaustive meeting minutes, addendum filings, or other paperwork you’d need to file as a corporation. You can structure your LLC to be taxed as an S Corporation (as described above) where company profits flow through to the owners and are taxed at the personal income rate.





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5. What's a non-profit corporation?

A nonprofit is created for charitable, educational or other purposes (actually there are five recognized purposes: charitable, religious, scientific, educational, and literary). Nonprofits cannot benefit the owners: all money above operating costs must be used to further the goals of the nonprofit. This allows nonprofits to operate tax-free. Approval is needed at both at the State and Federal (IRS) level. Just like with other corporations or LLCs, a nonprofit corporation offers a corporate shield that helps protect the personal assets of the nonprofit's stakeholders. In most cases, as long as the legal structure remains correct, stakeholders of nonprofit corporations are immune from individual liability.

6. Where should I incorporate?

You often hear of companies incorporating in Delaware, Wyoming, or Nevada. That's because Delaware offers flexible, pro-business statutes, while Wyoming and Nevada feature low filing fees, as well as no state corporate income, franchise, and personal income taxes. However, as a general rule of thumb, if your business will have fewer than FIVE shareholders, you should incorporate in the state where you actually live or where your business has a physical presence (such as an office). When you incorporate in a different state from your physical presence, you'll need to deal with added fees and paperwork since you're considered "operating out of state." And for most small businesses, the added hassle and fees just aren't worth it.



7. When is the best time to incorporate?

In most cases, it's best to incorporate or form an LLC as soon as possible. After all, the main benefit is liability protection and by waiting to incorporate, you can be exposing yourself to liability. Keep in mind that your corporation's 'start date' is not retroactive. This typically means filing two business income tax returns for the year. For example, if your corporation was formed on June 1, you'll need to file as a sole proprietor (or whatever your previous entity may have been) from Jan. 1- May 31 and then file as a Corp. from June 1-Dec. 31.

8. How can I incorporate?

There are three common methods for incorporating or forming an LLC. Each has its pros and cons depending on your needs:

- Do-it-yourself: DIY is the lowest cost method, but you'll need to do everything yourself. This is the best option if you're more interested in saving money than time. With this route, you need to be able to deal with lots of details and arbitrary rules.
- Online legal filing service: This option is slightly more expensive than DIY. An online legal filing service will complete and file the documentation for you. Like any legal document, the articles of incorporation and application are full of tedious details. A professional service can make sure that your application is done right and processed smoothly.
- Lawyer: This is the most expensive option, but may be necessary in certain situations. For example, if you have complex requirements for how your stock should be allocated or you are working with millions of dollars, then you should turn to expert advice. And whichever method you choose, you may want to speak with a tax professional to determine what business structure will be the best for your particular circumstances.



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9. Once I form a corporation or LLC, is my name automatically protected in all 50 states?

No. Your name is not automatically protected in all 50 states upon the formation of your Corporation or LLC in one state; you are merely preventing another from filing under the same state as a corporation or LLC in that same state. What you are inquiring about is trademark protection. You're not actually required by law to register a trademark. Use of a name instantly gives you common law rights as an owner, even without formal registration. However, you should consider trademarking your name for proper legal protection — after all, you've spent untold hours deliberating on the ideal name, and you'll be spending even more cultivating brand recognition. Trademarks registered with the USPTO (US Patent and Trademark Office) enjoy significantly stronger protection than "common law" (unregistered) marks. If you would like further information about Trademarking your company name or brand, simply contact a Corpnet.com representative, and we can assist you with your entire Trademark filing needs.

10. Once I have formed my Corporation or LLC, Do I need to do anything else to keep my LLC/Corporation in good standing?

Yes. Your work isn't entirely done after you submit that initial paperwork. For both the LLC and Corporation, you'll need to file an Annual Report (requirements vary by state). In addition, you'll have to stay on top of any major changes (for example, did you authorize more shares? Did a board member leave?) by filing Articles of Amendment.



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