

6 Steps to Incorporating Your Business

From choosing a name to deciding on an entity, there are several steps to take when incorporating your business.



Incorporating establishes the business as its own institution and also provides many benefits to the business owner.

If you are considering incorporating your business, it simply means you are creating an entity that is legally separate from you.

A corporation can own property and sign contracts, it can be sold and carry on without your involvement, and if it goes bankrupt, you are not held personally liable.

While every state handles the process a bit differently, there are six basic steps you should keep in mind.

Step 1: Choose a business name

One of the most exciting parts of starting a business is picking the name. The main legal requirement is that you cannot use a name that is already taken. Your state will have a corporation search service to check the availability on any name you may want to use.

In this era of search engine technology, you also want to consider whether a good online domain name is available for the name you choose. You can use a web hosting service like Go Daddy to check availability.

You also should consider whether you want to use a trademark or logo to identify your company. You will need to search the [United States Patent and Trademark](#) Office to ensure that your trademark idea is unique.

Step 2: Pick a location

While you do not necessarily need to rush out to rent office space, your business does require an address that is appropriate. Since many state and local governments restrict where a business can be located, it must also adhere to codes and regulations.

Low-cost options for a business address are abundant. Virtual offices and shared workspaces run by companies like [WeWork](#) are growing in popularity. You could look to sublet an office space, or you can even open your business from a rented Post Office box.

Of course, if you are launching a larger business with several employees, an actual commercial workspace may be a high priority.

Step 3: Decide on a corporate entity

There are two forms of corporate entities that you can choose from:

Limited Liability Companies (LLCs)

Many small businesses start out as LLCs. An LLC is a hybrid between a partnership and a corporation. The LLC is owned and can be managed by its members, all of whom hold stakes that, when totaled, add up to 100% of the company.

An LLC is created when you file articles of organization with your state government. These are forms that identify the members, managers, and a registered agent for service of process.

While most LLCs do not require a formal operating agreement, it is commonly recommended that an LLC with any significant number of members should consult an attorney to do so.

The operating agreement should cover information pertaining to the relationship and responsibilities among the members; the structure between members and managers; how much capital was invested by each member; percentages of ownership; and dispute resolution planning.

Corporations (Inc.)

Your other option is to form a traditional corporation, either as an S corporation (S corp) or a C corporation (C corp). There are several key differences between S and C corporations.

C corporations are usually large, publicly traded businesses. A C corporation is owned by its shareholders and managed by its board of directors, with officers in C-Suite positions running the company on a day-to-day basis. C corporations are subject to double taxation: once when profits are realized and again when those profits are passed onto the shareholders. Shares of C corporations are also bought and sold on the stock market.

S corporations are typically intended for smaller businesses. S corps can elect to either have the business taxed regularly, or have the business labeled as a pass-through entity. With the second option, the owners pay the business's taxes on their own personal tax returns. An S corporation is also generally managed and run by its owner or owners.

The next step is to file articles of incorporation. Depending on state requirements, these forms will include an explanation of the shareholder structure and identification of initial directors.

An initial shareholder meeting is then typically held to address formalities, such as stock and bylaws. While adopting bylaws is optional for LLCs, most corporations require them. Bylaws will address items like meeting times, voting rights, corporate officers, approval of contracts, and signing of checks.

Step 4: Obtain a tax ID number

Similar to the way the IRS keeps track of people with a Social Security Number, it keeps track of businesses with an Employer Identification Number ([EIN](#)). Application for an EIN can be done online, via the [IRS website](#). An EIN is still required even if a corporate entity doesn't have additional employees.

Step 5: Manage the money

Once your corporation has an official name and EIN, the next step is to set up a corporate bank account for business expenses.

A corporate bank account establishes the legitimacy and independence of the business and provides evidence of the legal separation between the owner and the business. It also provides the benefit of the corporate shield and its related liability protection and generates ease with taxes and accounting.

Once your corporate banking is established, you and your accountant will discuss the method of taxation that is appropriate for your business. As discussed in Step 3, most LLCs and S corps are candidates for pass-through taxation, while C corps are typically subject to double taxation.

Step 6: State finalization and securing permits and licenses

Legal regulations depend upon a variety of factors, such as the type of business in question and its geographic location.

For example, larger corporations have to file with the state after their initial meeting with the board of directors. If stock is being sold, there are federal securities regulations to address.

Typical permits and licenses may include:

- Licenses and permits for the business (i.e. food handler permits)
- Professional licenses for individual practitioners
- Sales tax ID numbers

Specific information pertaining to these requirements can be found via your state's Department of Corporations website or small business division.