

Incorporation Basics for Business Owners

For the typical business owner, determining whether they should incorporate their business can be a difficult proposition, especially if they do not have a familiarity with the pros and cons and steps necessary to take their business from a sole proprietor structure to a corporate structure.

The following guide is intended to be a basic tool to understand the questions and issues that need to be addressed as part of any determination.

This guide is intended to raise general questions and provide an overview of the incorporation process and is not intended to constitute legal or tax advice. Any decisions you make about incorporating or not incorporating need to be made with your professional advisors.

| Should I incorporate my business? | Advantages | Disadvantages |
|-----------------------------------|---|---|
| | <ul style="list-style-type: none"> • Protect your personal assets against unlimited liability arising from your business operation. • Enhance the legitimacy of your business operations (Corp., Ltd. Inc. etc.). • Potentially more favorable tax treatment (small business tax deduction for Canadian controlled private corporations.). If you are Indigenous speak with an advisor that understands taxation of Status Indians (on and off-reserve). • Potential for tax deferral of income. • Depending on how the sale of your business is structured a large portion of any capital gain may be tax free (for Canadian controlled private corporations). | <ul style="list-style-type: none"> • Cost to incorporate. • Increased paper work, administration costs and complexity. • Can no longer apply business losses against your personal income (losses are trapped in the corporation). |

| How do I make a decision? | Speak to your accountant: | Speak to a lawyer: |
|---------------------------|---|--|
| | <ul style="list-style-type: none"> Your accountant will review the financial position of your business and help you assess whether incorporation makes sense from a financial perspective. | <ul style="list-style-type: none"> A lawyer can provide additional details about the benefits of incorporation and how such benefits may apply to your particular business. |

| Which jurisdiction should I choose? | Jurisdictions: | Making a strategic choice: |
|-------------------------------------|---|--|
| | <ul style="list-style-type: none"> Provincial/Territorial Federal | <ul style="list-style-type: none"> Generally Provincial/Territorial statutes governing corporations are very similar If you are operating in more than one Province/Territory, or are operating internationally, a Federal incorporation may have better recognition (legitimacy) and provide additional protections (company name rights). A Federal corporation may have more filing requirements than a Provincial or Territorial corporation. |

| How do I select a business name? | Naming your corporation: | |
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| | <ul style="list-style-type: none"> • Your corporation can have numbered name which will be provided on incorporation. • If you do not want a numbered name a name search will need to be conducted to ensure there is not another corporation with an identical name. • You may already have business name you are already using; a name search can be conducted in this name. • There are specific laws governing what can and what cannot be in the name of a corporation. • You can have a corporate name and a separate business name. You should discuss protecting your corporate/business name with your lawyer. | |

| How do I get this done? | Incorporating: | Structuring your corporation: |
|-------------------------|---|--|
| | <ul style="list-style-type: none"> • To set up your corporation you will need to prepare articles of incorporation for filing with the applicable Federal, Provincial or Territorial Ministry. | <ul style="list-style-type: none"> • The corporation will need at least one director. Will you be the only director? • The corporation should have officers (President, Secretary, Treasurer, etc.). • You will need to know what classes of shares the |

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| | | <p>corporation will issue (you will need to determine this with your accountant).</p> <ul style="list-style-type: none"> • Will you be the only shareholder? If not you may need a unanimous shareholders agreement. • You will need to select a financial year end for the corporation. • You will need a registered corporate address (this address will be public). • You will need operating by-laws for the corporation (typically your lawyer will work with you to prepare this). |

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| <p>I want to incorporate, what are my next steps?</p> | | |
| | <ul style="list-style-type: none"> • Speak with your accountant. | <ul style="list-style-type: none"> • Contact a lawyer that practices corporate law to work with you and your accountant to complete the incorporation process. |

Please note that the Government of Canada and each Province and Territory will have resources online available to individuals who want to know about the incorporation process. We encourage you to take advantage of these resources. The following are links to the applicable sites for the Government of Canada, Province of Ontario, Nunavut and Northwest Territories (these links are active as of the writing of this guide):

| Jurisdiction: | |
|-----------------------|--|
| Canada | Innovation, Science and Economic Development Canada: https://www.ic.gc.ca/eic/site/icgc.nsf/eng/home |
| Ontario | Ministry of Government Services: https://www.ontario.ca/page/start-dissolve-and-change-corporation |
| Nunavut | Legal Registries (Corporate Registries division): http://nunavutlegalregistries.ca/ |
| Northwest Territories | Corporate Registries: https://www.justice.gov.nt.ca/en/nwt-corporations/ |

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