



*California*  
**BUSINESS  
FORMATIONS** | APC  
CORPORATIONS, LLC'S AND PARTNERSHIPS

# GUIDE TO INCORPORATING YOUR SMALL BUSINESS

Have you ever wondered when is it the right time to incorporate? You are not alone! Many new or existing business owners are wondering the same thing. Whether you own an existing business, such as a sole proprietorship or limited liability company, or are just starting out, deciding whether to form your own corporation is a huge decision. Well, California Business Formations, is here to help!

## SECTION ONE: Is it Time to Incorporate?

Here are some of the most common reasons for incorporating. We encourage you to complete this guide according to the details of your own business. The more checkmarks you have on this guide, the bigger benefit there will likely be to your business by incorporating. Make sure to read the second section because this will provide helpful information for how to incorporate your business properly.

### **1. Tax Planning: Business Owners commonly save in taxes by Incorporating.**

**Based on: your business's current or anticipated gross revenue and net profit.**

The biggest reason most business owners incorporate their business is to save on their annual taxes. If your business is producing over \$75,000 a year in gross revenue, or is profiting at or above \$25,000 a year, incorporating your business could save you a significant amount in taxes according to most CPAs. The more your current revenue is, the bigger the benefit will likely be. However, by waiting too long, and the later in the year you incorporate, the less the benefit will be. Your individual tax advisor can provide you with a better idea for the exact benefit your business would enjoy by incorporating.

Prior Year Gross Revenue \$ \_\_\_\_\_ Current Projected Gross Revenue \$ \_\_\_\_\_  
Prior Year Net Profit \$ \_\_\_\_\_ Current Projected Net Profit \$ \_\_\_\_\_

☐ *My Business will meet or exceed the \$75,000 in gross revenue or \$25,000 in net profit.*

### **2. Increased Personal Protection from Liability.**

**Based on: your area of work, equipment used, and employment practices.**

Most business owners do not like the idea of being personally responsible for what their business does. As a sole proprietor, you have no liability protection from your business at all. However, in most cases, owners of Corporations are protected from their business's creditors. If you are exposed to higher levels of liability or risk, incorporating could help protect you from being personally responsible in the event your business is found liable for something.

This is even more important if your business carries higher levels of risk. Your business is generally considered "higher risk" if it:

- (i) Is involved in the medical or financial industries (medical practices, care facilities, financial advisors, and insurance brokers),
- (ii) Is involved in the construction business (including all contractors),
- (iii) Involves making physical contact with your clients or customers,

- (iv) Constructs, builds, or uses equipment of high value, and
- (v) Uses employees that travel outside of your office on your behalf.

○ *I would like protection from my business that carries normal or higher levels of risk.*

### **3. Planning for a Business Partnership.**

**Based on: your intention to bring a new partner into your business.**

If you are going to bring a partner into your business, this is impossible with a sole proprietorship. If you don't use a formal business entity, such as a Corporation, your business will convert into what is called a "General Partnership" which will result in you being 100% personally responsible for everything your partner does. This is a very undesirable business form for most partnerships. If you incorporate, you can clearly define roles, responsibilities, and may have liability protection from what your partner does.

○ *I plan on bringing a partner into my business and would like a clear structure for this relationship.*

### **4. Needing to Raise Funds Outside of Commercial Lending.**

**Based on: the financial needs of your business.**

Commercial lending is a great way to receive funding for your business. However, commercial lending may not always be enough or always available. An alternative is selling stock in your business to outside investors or active partners (think of Shark Tank!). Corporations can also issue special kinds of stock to these investors that eliminates or reduces the control the outside investor receives in exchange for their stock. In this way, you are not giving away control in your business when raising funds with this method.

○ *I currently need, or anticipate needing additional funding.*

### **5. Wanting to Build the Business's Succession Plan for my Absence or its Sale.**

**Based on: knowing that I won't live or want to work in my businesses forever.**

Sole Proprietorships can be good for quickly starting a business... but one of its core weaknesses is that it will not survive its owner and cannot be transferred to anyone. Unfortunately, a sole proprietorship will cease to exist upon the sole proprietor's death because it is not a recognizable business entity separate from the owner. It is also difficult to appoint even a temporary manager to step in for the business owner if he or she were to become injured. However, a corporation has many options for its eventual or temporary successor - such as a family member or key employee - and can

also be included in the business owner's estate plan to be transferred to desired recipients. All of this requires preplanning through something called a Business "Succession Plan".

○ *I want to build an emergency plan for my business if I am unable to manage my company due to some unforeseen event.*

○ *I would like to start planning for my successor to take over the business or purchase it from me.*

## **6. Needing A More Complex Management Structure**

**Based on:** your need to grow our business and its structure.

A corporation has three main roles involved in the business: Shareholders, Directors, and Officers. Shareholders own the business but are not involved in its management.

Directors develop broad corporate policies and supervise the corporation's Officers. The Officers are responsible for implementing the Board of Director's policies and report directly to the board on a yearly basis. The Officers are also responsible for directly running the company, hiring employees, and supervising the various levels of management. The hierarchy in a Corporation can be very useful and helpful for expanding businesses that need their business form and structure to grow with them.

○ *I would like to increase the structure of my rapidly growing business.*

## **7. Purchasing a Business or its Assets.**

**Based on:** the future purchase of another business.

When you are purchasing a company or its property, one great option to help insulate yourself from the existing liabilities of the company that you are purchasing is to purchase the business with your own corporation. In this way, your corporation is the purchaser and not yourself individually. While mergers and acquisitions are complex, this basic idea is incredibly important when acquiring a business or its property.

○ *I am currently purchasing a business or its property or plan to do so in the near future.*

## SECTION 2: Steps to Incorporate Your Business

If you found yourself checking off some of the items above, you may be thinking:

*“I want to incorporate! Now what?”*

We recommend working with a licensed business attorney to get this done for you. At California Business Formations, our business attorneys have the skill and expertise needed to quickly and correctly establish your Corporation.

We also offer special Business Owner Strategy Sessions to help you strategize this transition for your business. The above guide is only a general list of common key factors for most business owners. But this is not exhaustive by any means. Only your own attorney can properly advise you as to whether incorporating your business is right for you.

You can schedule your own Business Owner Strategy Session by calling 951.594.9456

### **To incorporate your business, you will need to do the following:**

1. Choose a name for your business and verify that the name is not already in use.
2. Once you have picked your name, make sure to reserve it with the Secretary of State.
3. Complete and file the Articles of Incorporation with the Secretary of State.
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5. The Initial Incorporator needs to appoint initial Directors.
6. After appointing initial Directors, hold and document an organizational meeting between the Directors where they will elect officers, approve of drafted Corporate Bylaws, and various other initial actions.
7. Obtain a new Federal Employer Identification Number and open your Corporation's bank accounts.
8. Decide whether you will be make the Sub-Chapter “S” Election. If so, file form 2553 with the IRS. Then file the needed documentation with the Department of Business Oversight.
9. Transfer the company name, permits and licenses and other assets to the Corporation. Insure any state administrative agencies that your business is governed by have properly approved of the Corporation and of license transfers or reassignments (if needed).
10. Make sure you update your lease (if applicable) and franchise agreement (if you are part of a franchise)

11. Update your insurance policies and estate planning documents. Make sure to comply with any rules from the administrative agency that governs your profession.
12. Issue stock to the Corporation's Shareholders and document how they will be purchasing the stock from the Corporation.
13. Submit your initial report, called the Statement of Information within 90 days to the Secretary of State.

**If you have any questions about incorporating, we would be happy to meet with you. You can reach us by phone at 951.594.9456 or via e-mail at [Info@CABusinessFormations.com](mailto:Info@CABusinessFormations.com)**

Thank you and we look forward to seeing you soon!  
California Business Formations, APC  
951.594.9456

*Contact us today so that we can discuss your unique needs!*