

**Info sheet >>>**

## STEP-BY-STEP INCORPORATION GUIDE

*What you need to know to form a business.*

# CORPORATIONS

This resource will help entrepreneurs understand the steps required to legally incorporate and operate in New York State. Not all business structures that are available under the New York Business Corporations Law are included; only the most common ones are within our Step-By-Step Incorporation Guide Info sheets.

### CORPORATIONS DEFINED

Corporations are entities with a distinct and separate identity from the original incorporators, and all owners (known as shareholders), have limited liability. You can designate your Corporation as either C, S, or B.

C-CORPORATIONS	S-CORPORATIONS	B-CORPORATIONS
<ul style="list-style-type: none"> <li>Subject to double-taxation</li> <li>C-Corp pays tax on all business income, and</li> <li>Profits given to shareholders are taxed as their personal income</li> </ul>	<ul style="list-style-type: none"> <li>“Pass-through” entities, meaning the owners pay a personal income tax, but</li> <li>The business itself does not pay taxes</li> </ul>	<ul style="list-style-type: none"> <li>Like C/S corps but also have one or more “specific public benefit” purposes</li> <li>i.e. promotion of social and environmental goals</li> </ul>

### STEP-BY-STEP >>>

**1.**

#### Verify availability of and secure a business name.

- This can be done through a free search here: [https://www.dos.ny.gov/corps/bus\\_entity\\_search.html](https://www.dos.ny.gov/corps/bus_entity_search.html)

**2.**

#### File a Certificate of Incorporation with the NYS Department of State.

- Filing fee: \$125**
- A sample certificate can be found here: <https://www.dos.ny.gov/forms/corporations/1239-f-l.pdf>
  - This certificate is not applicable for B-Corp filing (see below)*
- In the Certificate of Incorporation, you will have to identify how many shares of stock you will have.
- Once the Department of State receives and processes the Certificate of Incorporation, the new corporation will receive a receipt.

#### **An important note >>>**

*Many corporations choose to file their Certificate of Incorporation in Delaware, a jurisdiction with favorable corporate laws, and one that some investors prefer. If your business is small and only operates in one or two states, the additional costs of incorporating in DE may outweigh the benefits. (cost of a registered agent, paying franchise taxes etc.). The decision is unique to each business.*

**3.**

#### By shareholder vote, select Director and Corporate Officers and adopt Corporate Bylaws

**DISCLAIMER:** This info sheet is not intended to provide legal advice and is not a substitute for advice from an attorney, nor does it give rise to an attorney-client relationship. It should be used for educational and informational purposes only. The Rural Law Initiative makes every effort to provide complete and up-to-date legal information. However, legal advice must be tailored to your specific circumstances and laws are always changing. Accordingly, we make no warranties about the accuracy of the information contained herein, and disclaim liability for damages resulting from reliance on these materials.

**STEP-BY-STEP continued>>>****4.****Obtain an Employer Identification Number (EIN).**

- Must file **Form SS-4** found <https://www.irs.gov/pub/irs-pdf/fss4.pdf> OR complete the **online application** found <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>.

**An important note >>>**

*An EIN is required if hiring employees, opening a business bank account and making purchases on behalf of the business.*

**5.****Open a separate business bank account and maintain separate corporate records to ensure proper record keeping.**

- It is crucial to maintain a separation between business and personal accounts.
- Co-mingling of assets will lead to piercing the corporate veil, absolving any limited liability protections.

**6.****If you have employees, register for Unemployment Insurance Tax and Employee Withholding Tax**

- <https://labor.ny.gov/ui/employer.shtm>

**7.****If you are selling taxable goods or services, you will need to obtain a Certificate of Authority**

- To find proper form visit: [https://www.tax.ny.gov/bus/multi/register\\_license.htm](https://www.tax.ny.gov/bus/multi/register_license.htm)

**8.****Obtain other relevant insurance: Worker's Compensation, General Liability, etc.****9.****File a biennial statement with NYS Dept. of State**

- **Filing Fee: \$9 fee**
- More info: [https://www.dos.ny.gov/corps/bus\\_llc\\_faq\\_statements.asp#whatisastatement](https://www.dos.ny.gov/corps/bus_llc_faq_statements.asp#whatisastatement)

**S-CORPORATION****10.****To elect S-Corp status, you must complete and sign Form 2553 with the IRS.**

- Here is the form: <https://www.irs.gov/pub/irs-pdf/f2553.pdf>
- For more info on S-Corp.'s in NY, go here: [https://www.tax.ny.gov/bus/ct/s\\_corporations\\_post.htm](https://www.tax.ny.gov/bus/ct/s_corporations_post.htm)

**An important note >>>**

*Form must be submitted within 2 months and 15 days after the start of the corporation's first tax year.*

**B-CORPORATION****11.****To incorporate as a B-Corporation:**

- Filer's Certificate of Incorporation must state that "The Corporation is a benefit corporation under Article 17 of the Business Corporation Law," and must declare what the corporation's specific benefit purposes are.
- A sample Certificate of Incorporation for B-Corps can be found here: <https://www.dos.ny.gov/forms/corporations/2007-f.pdf>

**Done!**

The production of this info-sheet was sponsored by the generous support of the following sponsors:



**COMMUNITY**  
FOUNDATION



**Committed to the future of rural communities.**

Part of this programming was made possible by funding from the USDA, which is an equal opportunity provider, and employer.