

PRELIMINARY CONSIDERATIONS FOR
A NEW CORPORATION

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Corporations are a desirable form of doing business in the U.S.A., since corporations have perpetual existence, limited liability of the shareholders, free transferability of shares, and centralization of management. If you would like to incorporate your own business, you will need to decide at least the following:

- 1) Corporate Name;
- 2) California business address (P.O. Box is permitted for the business address);
- 3) California agent for service of process (must be a California resident or a professional service of process company; cannot be at a P.O. Box);
- 4) Director(s);
-One (1) Director is enough if there is only one (1) shareholder;
-Two (2) Directors are required if there are only two (2) shareholders, but three(3) directors are recommended in the event the two might not agree.
- 5) Officers (must have at least these officers, although one person can hold more than one office. Directors can also be officers):
-President
-Secretary
-Chief Financial Officer
- 6) Shareholder(s);
- 7) Initial Capitalization;
- 8) Date of Fiscal Year End.

California corporations are permitted to do any type of business so long as it is not in banking or insurance. The Articles of Incorporation must be filed with the California Secretary of State along with the required filing fee which lists the name of the corporation, number of authorized shares, name and address of the agent for service of process.

The Directors and Officers do not have to be California residents. Since the officers of the corporation are considered statutory employees of the corporation, they could be required to file both California and U.S. federal income tax returns. Special tax benefits are enjoyed if the corporation is an "S" corporation, since the "S" corporation only pays a minimum state income tax and minimizes double taxation (income taxes paid by both the corporation and the shareholder). It is possible for the corporation to apply to be an "S" corporation if the shareholders are: 1) U.S. citizens; or 2) have permanent resident (green card) visas or a U.S. resident who resides in the U.S. at least 182 days of every year; or 3) are an Limited Liability Company or a U.S. partnership with a U.S. tax identification number.

The corporation must apply for its own U.S. tax identification number. The California corporation must file annual federal and California income tax returns. All California corporations are required to pay a minimum annual corporation tax of \$800 per year (it is possible for this to be reduced to \$600 per year if the corporation's annual sales are less than \$1 million). The California corporation must pay all employment withholding and other applicable employment taxes for its employees.

Corporations must observe the legal formalities of a corporation, including written minutes of meetings of the shareholders and the board of directors, as well as filing an annual Statement by Domestic Stock Corporation which lists the names and addresses of the corporation and all directors, officers, the agent for service of process. The Corporation should apply for business licenses in all cities in which it is doing business, as well as a resale permit if it will be engaged in retail sales.

If the corporation has employees, there are many employment and tax laws which must be followed. All employers are required to comply with numerous state and federal laws which regulate employment conditions, such as the Fair Labor Standards Act (minimum wage and overtime pay); Civil Rights Act (race, sex, discrimination in employment); Age Discrimination in Employment Act; California Labor Code, California OSHA (safety), etc.

All employers are generally required to withhold federal and state income tax, unemployment taxes, social security and other taxes from an employee's taxable wages. Deposits of such withholding taxes must generally be made weekly, or monthly, or quarterly, depending on the amount of the deposit and the type of taxes, along with the Federal Tax Deposit Form 501. Telephonic wire transfer deposits are now possible, and will soon be required for some employers. Failure to pay these employment taxes is subject to substantial penalties.

If the corporation is considering opening an office or doing business in any state other than California, the corporation should qualify or register to do business in the other state. The corporation will then also have to file annual tax returns in each of the other states in which it is qualified to do business.