

Top Ten Questions to Ask Yourself When Incorporating Your Business

You've spent time and effort building your company, and it makes sense to protect those assets by incorporating your small business. This doesn't need to be a daunting task. However, failing to incorporate properly or incorporate at all carries substantial risk. Without it, you have no legal protection, and no legitimate claim to your name or credibility.

This point is key for CPA Larry Patterson who helps 60-70 small businesses incorporate each year. "It's those who incorporated solo without doing proper research, or used an incomplete incorporating solution, that wind up with gaping holes in their filings, and a long, expensive trip backtracking the paper trail," he says. "You may want to incorporate quickly, but take the time to do it right the first time."

With this in mind, Intuit's Director of Legal Affairs, Deborah Sweeney compiled this list of the top ten most important questions to consider before beginning the incorporation process.

1. What is my corporate or business name?

Make sure your name is legally available. A corporate name is not the same as a trademark, even though many people use them interchangeably. When a corporation is filed, the name may not have as broad protections as under trademark law. Trademark laws vary from the federal to state level, and even from state to state which means that selecting a name for your business can require multiple filings. If you want to build a brand, you can't trespass on someone else's trademark, and both the corporate name and trademark must be available or you could end up with an expensive lawsuit.

2. How am I going to protect my personal assets?

Do enough research to identify and understand the different ways you can protect your assets. In addition, beyond the initial incorporation, having a strategic plan to manage your assets establishes accurate, thorough accounting and tax practices up front.

3. What state should I incorporate in?

Since each state makes its own laws, you'll want to be aware of the laws and tax implications both in the state you incorporate in, and the states in which you're doing business.

4. What type of entity do I want to be?

Think about how you want to organize your business. Your choice will depend on your business size, the number of employees, members, and shareholders, and

how you want to be taxed. Check out www.mycorporation.com/comparison.html for a detailed description of business structures.

5. How do I want to be taxed?

This also depends on the size, structure, business, and direction of your corporation. Determining and understanding the right entity for your small business, enables you to establish long-term accounting goals.

6. Who are my members or shareholders?

Fill these roles with business savvy professionals whose integrity, ethics, and goals complement your own.

7. How am I going to issue stock or membership interests?

The structure you chose affects whether you issue stock or membership interests. Patterson uses MyCorporation to provide stock and membership certificates. “My clients all have copies of their stock certificates or membership certificates in their MyCorp binders, but I’ve had new clients who couldn’t even find their checks. Managing this when you incorporate or form an LLC saves multiple hassles later.”

8. What preparations should I make to handle my business license(s)?

Once you begin your business, you are responsible for maintaining the integrity of your business entity. “Where do you want to do business? With whom and how will you manage the transactions?” asks Patterson. “It’s important to obtain and maintain your business licenses from the inception of their company.

9. Do I have a business plan for my investors?

Develop, maintain, and update a plan you can show to potential investors. Keep an accurate record of your complete accounting plan and practices to endorse your credibility.

10. How am I going to save money on taxes?

Choose the right entity for your small business, and develop long-term relationships with experts who understand your business and can direct you toward the best accounting practices.

“Many small companies, especially start-ups, tend to think they can incorporate on their own,” explains Patterson. “It’s ironic, because they wouldn’t do their own taxes, but they think they can manage the incorporating paperwork.”

Patterson recommends Intuit’s MyCorporation as a comprehensive, economic alternative to going it alone. MyCorporation provides online document filing services for customers who need to form a corporation or limited liability company.

“The process of filing with MyCorporation compels my clients to consider this list of questions,” says Patterson. “While MyCorporation doesn’t offer legal advice, it raises the questions small businesses need ask their CPAs and lawyers.”

“Using MyCorporation enables CPAs, lawyers, and small businesses to focus on their areas of expertise,” says Ms. Sweeney. “The attorneys know their clients more intricately than the customer service team at MyCorporation, but they don’t need to bill their hours for filing when they are better spent consulting.”