

## Professional Corporation – PC Document Checklist

The business entity information on the Business Knowledge Center website is intended to provide you with background organizational information on the structure of various business entity types. To ensure legal and accounting compliance, you should review and verify your specific organizational documentation with your lawyer and your accountant.

One of the Entity Structure choices you may choose for your business is a Professional Corporation or PC. Creating a Corporation requires the submittal of a series of documents to the Secretary of State's office in the State you choose to form your business.

The State will charge a filing fee for processing the incorporation application and reviewing the required organizational documents. Filing fees will vary by State and will typically fall in the \$150.00 - \$500.00 range.

Professional Corporations are a unique corporate structure which is comprised of Shareholders that are licensed members of a specific group of professionals. Typically, all Officers of the Corporation other than the Treasurer and the Secretary and at least half of the Board of Directors must be licensed to practice in the specific profession of the Corporation.

When you set up a Corporation, you create a separate legal person in the eyes of the law. The Corporation will have a birth certificate in the form of a Certificate of Incorporation.

It will have its own Federal Tax Identification Number. In most cases, a Professional Corporation will file a Federal Tax Return IRS Form - 1120. The Corporation will be responsible for paying federal income taxes on its taxable income. If the Corporation distributes any profits to the Shareholders, they will need to include these dividends in their personal income and pay an income tax based on their personal tax rate.

The Shareholders of a Professional Corporation can also elect to be treated for tax purposes as a pass-through entity. In this event, the Corporation would become an S-Corporation for tax purposes and would file a Federal Tax Return IRS Form – 1120-S.

Assurance should be made that the Corporation has professional liability insurance in force and each individual shareholder should carry appropriate insurance policies such as malpractice and errors and omissions insurance.

## Reasons why business owners choose a Professional Corporation Entity Structure:

**Limited Business Liability** – Owners do not have personal liability for business entity liabilities. Owners are personally liable to the extent they have invested in the business and any other business-related obligation(s) they have personally guaranteed. Some states (like Oregon) will hold all Shareholders accountable for the malpractice of one of the Shareholders. Check the State Law in the State you choose to create the Professional Corporation for related professional malpractice liability regulations.

**Unlimited Business Life** – Professional Corporations have unlimited business life. If a business owner(s) become sick, disabled or dies, the Corporation does not cease to exist.

**Unlimited Number of Business Owners** – Professional Corporations can have an unlimited number of Shareholders. Different classes of stock with unique ownership rights can be created.

**Ease of Ownership Transfer** – Ownership in a Professional Corporation can be transferred by the sale of Shares of Stock held by the owner which legally represents their ownership interest in the business. In most cases, a Shareholders Agreement exists limiting the transfer to qualified and licensed professionals that must be approved by the majority of existing Shareholders.

**Capital Formation** – Additional equity capital can be raised by selling more Shares of Stock to an existing owner(s) or an incremental owner(s).

**Tax Deductible Expenses** – Reasonable business operating expenses including salaries and employee benefits expenses are tax deductible to the Corporation.

## Important Documents

(Check off after you have filed, recorded, copied and stored each item)

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### Articles of Incorporation

Document filed with the Secretary of State to create a Corporation. The Articles list the name, address, and principal place of business. They typically must state the intent to be a professional services corporation. The Articles define the business purpose of the Corporation, the number of Shares of Stock authorized, the name and addresses of the initial Board of Directors elected by the Shareholders, the name of the Registered Agent who will accept official mail and legal papers on the Corporation's behalf.

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### Business Name Reservation Form

Reserves a unique name for the business while you complete the incorporation process.

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### By Laws

Document that supplements the Articles of Incorporation that will define how the Directors and Officers will organize and manage the day-to-day business activities. The By Laws should address how conflicts between the Shareholders will be resolved. It should establish protocols for dealing with departing owners as well as incoming new owners and how profits and losses will be divided.

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### Certificate of Incorporation

A Certificate issued by the Secretary of State after all required organizational documentation have been submitted, reviewed, and approved and the related filing fees have been paid. It serves as the effective birth certificate for the Corporation.

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### Annual Report

A document required to be filed by the Corporation annually with the Secretary of State. This report is required to maintain approval to do business in the State. The report updates information on the business's address, the names and addresses of the Directors, and the contact information for the Registered Agent. A processing fee is required to be paid.

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### Certificate of Authority

A Certificate issued by the Secretary of State to a Corporation organized in another State authorizing it to do business in the State.

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### Certificate of Existence/Good Standing

A Certificate issued by the Secretary of State as proof the Corporation is currently in good standing and authorized to do business in the State.

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### Corporation Shareholder Records

Records need to be maintained listing the specific Shares of Stock in the Corporation authorized, issued and outstanding. Stock Certificates should be numbered and specify the Corporation Name, the Shareholder's Name, the Date of the Sale, and the Signature of the Board Member who authorized the sale of the Share(s). The Shareholder records should enable a reconciliation between the number of Shares of Stock authorized, issued, and presently outstanding.

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### **Board of Directors and Shareholder Meetings Records**

Minutes should be recorded for all meetings of the Board of Directors and the Shareholders. These meetings effectively document the Corporation's business management decisions. The minutes should record who was in attendance and indicate if enough voting Shareholders were present to vote on and make binding all significant governance decisions on behalf of the Corporation. State law typically requires at least an Annual Meeting of the Shareholders.

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### **Board of Directors' Meetings – Resolutions**

Board Resolutions document decisions and show specifically how Directors voted on matters affecting the Corporation. It is a good idea to create Board Resolutions for key business management decisions like; approving the sale of additional Shares of Stock, taking out a business loan, electing new Directors or appointing new Officers, acquiring another business, signing a lease, or approving a major new contract with a supplier or a customer.

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### **Federal Tax Return – IRS Form -1120 or 1120-S**

The Tax Return for a Professional Corporation is IRS Form 1120. Shareholders will receive an IRS Form 1099 if the Corporation distributes any after tax profits. Dividend distributions must be included in the individual Shareholder's personal income tax return as taxable income.

The Shareholders can vote to be treated as a pass-through corporate entity for Federal income tax purposes. In this scenario, the Professional Corporation would become an S-Corporation for tax purposes and would be required to file IRS Form - 1120-S for reporting taxable income. The responsibility to pay taxes on the income generated by the S-Corporation would be distributed to the individual Shareholders based on their ownership interest in the Corporation. Shareholders will receive IRS Form – K-1 evidencing their taxable income distribution information.

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### **Registered Agent**

Person or business entity named in the Articles of Incorporation to receive notices or service of process.