

Many new business owners are unaware of the requirements they must fulfill in order to keep their corporation or limited liability company (LLC) compliant with the state of formation. Incorporating a business or forming an LLC offers business owners the protection of limited liability, meaning the owners are typically not held responsible for the debts of the company. However, just having a corporation or LLC does not mean that the owners' personal assets are continually protected. Business owners must comply with specific requirements in order to remain protected under that corporate or LLC status. Otherwise, their limited liability may be lost, which is known as "piercing the corporate veil." Small business owners should understand the direness of this situation and work to maintain the limited liability the corporation or LLC affords them.

All states impose certain requirements on corporations and LLCs formed there. One such requirement is the filing of an annual statement (a biennial statement in some states). These statements are the state's way of keeping updated information on corporations and LLCs. Most states also impose a filing fee on these statements. Not filing annual statements and paying the necessary fees in a timely manner can result in the corporation or LLC being in "bad standing" with the state. Being in bad standing in a state can eventually lead to administrative dissolution of the corporation or LLC. Therefore keeping your corporation or LLC in good standing at the state level is important.

## **Corporate Requirements**

Additionally, corporations are subject to a number of other ongoing requirements and formalities. History has dictated that such requirements must be satisfied in order to protect the corporate status. These formalities include, but are not limited to:

- Hold initial meeting of directors. After the formation of the corporation is complete, the corporation should hold an initial meeting of directors, also called an organizational meeting. At this meeting, the bylaws are adopted, officers are elected, and stock is issued to all shareholders.
- Adopt bylaws after incorporating. Each corporation must adopt bylaws, which is a document that outlines how the internal affairs of the corporation will be executed. The bylaws are the second most important document behind the articles of incorporation. As mentioned above, the bylaws should be adopted at the initial meeting of directors.
- Conduct business on the corporation's behalf. Officers and directors should visibly be acting on behalf of, and in the best interest of the corporation. This is very important when it comes to officers or directors entering into contracts for the corporation.
- Hold annual meetings of directors and shareholders. One requirement of all corporations is that they hold annual meetings of both directors and shareholders. It is also important that the minutes of these meetings be kept with the corporate records. If items of business are determined by unanimous consent in lieu of holding a meeting, which is popular with many closely-held corporations, the unanimous consent documents should be kept with the corporate records.
- Keep documentation of corporate activity. In addition to keeping minutes of all director and shareholder meetings, it is important for corporations to maintain a stock ledger that records all shares of stock issued to shareholders and the contributed amount each share represents. Also, be sure to keep contracts into which the corporation enters, including leases or major business contracts.
- Keep documentation of corporate financial activity. Corporations should record all disbursements, payments received, invoices issued (accounts receivable), and invoices received (accounts payable), and keep those records for a period of 7 years. Corporations should also keep balance sheets and profit and loss statements for each year. Additionally, it's important to document any loans taken by the corporation, as well as the repayment terms.

It is important to remember that a corporation is a legal entity that exists separately from its owner. Owners therefore have a duty to maintain that separation. By failing to conduct these requirements, business owners risk losing the protection towards their personal assets. For example, if the basic corporate requirements aren't followed, and your corporation is sued, the plaintiff may try to name you personally in the lawsuit by claiming you (as a shareholder) are liable because you have not created a distinct separation between the corporation and yourself.

While any one of the items listed above on their own may not be enough to pierce the corporate veil, multiple items could lead to such an outcome. Additionally, the items mentioned below have caused courts to rule that the corporate veil has been pierced.

- Commingling of the owner's personal assets with the assets of the business.
- A shareholder or shareholders engaging in illegal, and/or fraudulent, and/or negligent acts (which can also result in the shareholders being convicted of criminal acts and possibly sent to jail).
- Inadequate capitalization of the business.

## **LLC Recommendations**

While LLCs do not have the formal ongoing requirements that corporations have, it is recommended that LLCs undertake many of the same steps. Common recommendations for LLCs include:

- Hold an organizational meeting. After the formation of the LLC is complete, the members or managers should hold a formal meeting to adopt an operating agreement and issue membership interest to members.
- Adopt an operating agreement. As with the corporate bylaws, the operating agreement for an LLC is an important document that outlines the internal governance of the LLC.
- Keep documentation of the LLC's activity. It is typically considered beneficial to keep record of any changes in membership interest and also to keep record of all major business decisions of the LLC, such as contracts and leases.
- Keep documentation of financial activity. LLCs should maintain the same financial information outlined above for corporations.
- Hold annual meetings of members. Holding and documenting the business conducted at annual meetings of the members or managers helps LLCs keep updated ongoing records of decisions made by the owners.

BizFilings can assist you in keeping your corporation or LLC compliant with requirements in any state. BizComply is a web-based application that outlines critical compliance events, notifies you before these events need to happen, provides access to important forms, and houses your company's important information in one convenient location. If you are an owner of multiple businesses, you can keep track of each business through a single account. Additionally, if your business is qualified in other states, BizComply will help you manage the compliance requirements for each of those states. [Click here](#) to learn more about this product.

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