

DELAWARE INCORPORATION QUESTIONNAIRE

Formation of the Corporation

In order to prepare the incorporation documents, we will need the following information:

Corporate Name:

States in which the Company will do business or have an office:

Type of corporation: a. Profit _____ c. Non-profit _____
 b. C corp _____ d. S corp _____

Directors and their residential addresses:

Phone: _____

Phone: _____

Phone: _____

Phone: _____

Officers and their residential addresses:

President:

Phone: _____

Vice President:
(optional)

Phone: _____

Secretary:

Phone: _____

Assistant Secretary:
(optional)

Phone: _____

Treasurer:

Phone: _____

*** Please also provide the officer's social security number who will be signing the application for employer identification number for filing with the Internal Revenue Service.**

Registered Agent:

Corporation Service Company

Principal Office:
(P.O. Boxes are not
acceptable)

Phone: _____

The Company's purpose: _____

Fiscal Year (December 31, if S Corporation): _____

Number of shares to be authorized: _____

Par value of the shares: _____

Initial stockholders and their addresses:

<u>Name and Soc.Sec. No.</u>	<u>Number of Shares</u>	<u>Consideration</u>
1. _____ _____ _____	_____	_____
2. _____ _____ _____	_____	_____
3. _____ _____ _____	_____	_____

Certain Considerations of Incorporation

Capitalization of Corporation

If there are any assets other than cash to be put into the corporation, such as equipment, intellectual property and contracts, please let us know, as there are important tax considerations to be discussed as part of the initial capitalization. The failure to plan and document this properly cannot be subsequently corrected.

S Corporation Status

An S Corporation and its shareholders enjoy tax treatment similar to that of a partnership and its partners. Essentially, each shareholder separately accounts for his or her distributive share of corporate items of income and loss and the corporation itself is not taxed for its earnings and profits (thus avoiding the double taxation of a C Corporation). In order to obtain and maintain S Corporation status, the company must adhere to the following:

There can be no more than 100 shareholders.

Shareholders must be individuals, estates or certain defined trusts.

No shareholder may be a nonresident alien.

There may be no more than one class of stock (but there may be both voting and non-voting common stock).

Fees and Franchise Taxes for a Delaware Corporation

Delaware state and county incorporation fees: approximately \$250.00

Registered Agent Fee: approximately \$260.00 annually

Qualification in Massachusetts: \$400.00 (the filing fee for annual reports is \$125.00)

Franchise Tax: Varies (the filing fee for Annual Franchise Tax Report is \$20.00)

The annual franchise tax is the lesser of the following two calculations, with a minimum of \$30.00 and a maximum of \$150,000 in a full taxable year:

1. Based on the number of authorized shares:

0 - 3,000 shares	=	\$30.00
3,001 - 5,000 shares	=	\$50.00
5,001 - 10,000 shares	=	\$90.00
Each additional 10,000 shares or part thereof	=	\$50.00

2. Based on gross assets:

- a.
$$\frac{\text{Total gross assets}}{\# \text{ outstanding shares}} = \text{PV (par value)}$$
- b. # authorized shares X PV = C (capitalization)
(If PV is less than the designated par value, use the designated par value for this calculation)
- c. If C is 1,000,000 or greater, round up to the next even million, divide that number by 1,000,000 and multiply by \$200.

If C is less than 1,000,000, the tax is computed ratably, at \$200 per \$1,000,000.

Example 1: Assume 1,000,000 shares, \$.01 par value, are authorized and 500,000 are issued, and the company has gross assets of \$100,000. Computed by method (2) (which yields the lesser result), the tax would be \$200.

Example 2: Assume 10,000,000 shares, \$.01 par value, are authorized and 1,000,000 are issued, and the company has gross assets of \$1,000,000. Computed by method (2) (which yields the lesser result), the tax would be \$2,000.

Other considerations

Stockholders Agreement

The shareholders of a closely held S corporation have several incentives to enter a Stockholders Agreement. First, an S corporation can lose its status as such if stock is transferred to an ineligible stockholder. Second, placing restrictions on the transfer of stock can prevent unwanted shareholders from becoming involved with the company. Third, an agreement can direct the disposition of shares in the event of death, disability or retirement of a shareholder. Finally, an agreement can help ensure continuity of control of the company. A C corporation should also consider adopting a stockholders agreement.

Possible provisions of a Stockholders' Agreement include:

Right of first refusal in favor of the company and/or other stockholders.

Restrictions on the transfer of stock to competitors.

Voting for specified directors.

Requirement that the company distribute to each shareholder at least an amount equal to the tax incurred by each shareholder by reason of its owning stock in an S Corporation.

Stock Option/Stock Issuance Plan

These plans enable the company to reward directors, officers, employees, consultants and advisors for their services with the company's stock. Under our form plan, incentive stock options and non-qualified options may be granted, awards of stock may be made and opportunities to make direct purchases of stock may be authorized.

Invention, Confidentiality and Noncompete Agreement

This agreement is typically used by high-technology companies. It helps to protect the company's ownership rights in intellectual property and to inhibit competition by current and former employees.

Bill of Sale and Transfer of Assets

This agreement may be needed to transfer ownership of technology to the company.