

North Carolina Law Life

Corporate Status: On Notice

By: Donna Ray Chmura. This was posted Monday, March 29th, 2010

Businesses and their lawyers across North Carolina are buzzing over reports being sent by the North Carolina Secretary of State's office to corporations and limited liability companies who are late filing annual reports.

In my 15 years of practice, I've never seen reports go out like this. Companies with one or more missing annual reports are getting letters warning them that their companies will be administratively dissolved if they don't file the missing reports and fees within sixty 60 days. While this is indeed the law of the state, typically the Secretary of State didn't send notices until the company was five years late.

Apparently the Secretary of State has conducted an internal audit, and has contacted every company that is in violation of the statute. The notices are not always right, so you need to check your company's situation directly with the Secretary of State's web <u>site</u>.

Here are some guidelines to help you in determining if your entity owes an annual report for certain situations.

- LLCs that are formed between January 1 and April 15th of a given year will owe an annual report (and fee) on April 15 of their first year. Many LLCs believe they don't owe an annual report at all for the first year, so when they file in their second year of operation, the report is counted for the first year, putting the company one behind.
- We have noticed that accountants routinely file annual reports for their corporate clients, but sometimes do not prepare them for LLCs. It is important to ask your CPA what is going on.
- Business Corporations are required to file an annual report at the end of their first fiscal year, even if it is a short year. Many corporations do not file until the end of their second year. This report is counted toward the first year by the Secretary of State, and the company is behind on its annual reports.
- Often a company will file its report, but forget a piece of information or a signature. The filing fee will be kept, but the document will be rejected and sent back with an explanatory letter. If these reports are not corrected and re-submitted, the company will be behind on its annual report.

These notices have been sent to the company's <u>registered agent</u>. If your registered agent is your <u>attorney</u>, you will receive the notice and instructions on how to fix the problem. If you serve as your own registered agent,

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make sure you file your missing reports and fees within 60 days, or you will not have a valid entity and could lose your limitation of liability.
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