

# Step by Step Guide for Starting a Corporation in New York

## Step 1: Name the Corporation

New York law requires that a corporation name contains one of the following words: Incorporated, Corporation or Limited, or one of the following abbreviations: Inc., Corp., or Ltd.

There are [Restricted or Prohibited Words and Phrases](#) that the corporation name CANNOT include.

- Check whether a corporation name is available at [Corporation & Business Entity Database](#).
- OPTIONAL: You may reserve a name for 60 days by filing an [Application for Reservation of Name](#) and paying a \$20 fee. The reservation may be extended for two additional 60-day periods for a fee of \$20 for each extension.
- If the corporation intends to use its name as a trademark, service mark, domain name, or trade name, consider also running a trademark search to see if the name is currently registered by another business. Federal trademark searches can be conducted for free online through the [United States Patent and Trademark Office](#).

## Step 2: File the Certificate of Incorporation

Complete and file the [Certificate of Incorporation](#) with the Department of State.

- Instructions can be found [here](#).
- Expedited filing is available for an additional fee.

The completed Certificate of Incorporation, together with the filing fee of \$125 (check for updated pricing), should be forwarded to:

- New York Department of State, Division of Corporations, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231.

Alternatively, the Certificate of Incorporation can be filed [online](#).

## Step 3: Draft Bylaws

Bylaws are internal corporate documents that set forth the basic ground rules for operating the corporation. They are NOT filed with the state. However, New York Business Corporation Law requires corporations to adopt bylaws.

#### **Step 4: Hold an Organizational Meeting and Elect Directors and Officers**

An organizational meeting is the first meeting you will hold after forming your corporation. The incorporator(s) will elect the director(s) to hold office until the first annual shareholders' meeting. New York law requires that a corporation have at least one director. All directors must be at least 18 years of age. The certificate of incorporation or bylaws may include other requirements. The incorporators shall adopt the draft bylaws at the meeting.

#### **Step 5: Obtain Applicable Business Licenses and Permits**

The corporation may need to apply for permits and licenses depending on the type of activities and where it is conducting business. Use New York City's [Step-by-Step Guide](#) to determine which licenses and permits you need; or contact New York's Business Permits Assistance Program at 518-474-8275.

#### **Step 6: Obtain an Employer Identification Number (EIN)**

An EIN is a nine-digit number that the government uses to identify your business. If you hire employees, you are required to obtain an EIN to report wages. Watch out for websites that charge you to apply for an EIN. You can apply for free on the Internal Revenue Service (IRS) website.

Note that once an EIN is assigned to an entity, it cannot be reused by another entity. If you change your entity form, create a new corporation after a statutory merger, become a subsidiary of another corporation, or receive a new charter from the Secretary of State, your corporation will need a new EIN.

#### **Step 7: Comply with Applicable Tax Obligations**

**Franchise Tax:** New York State requires corporations to pay an annual franchise tax, even if the corporation does not conduct business or loses money, by completing a [Form CT-3](#). Franchise tax requirements begin the date the corporation is formed and continue until the corporation is legally dissolved. If you prepare your tax documents yourself, use an approved e-file tax software to file, and have access to the Internet, you [must file your corporation tax returns online](#).

**Sales Tax:** If the corporation will make certain sales or provide certain services in New York, register with the NY State Department of Taxation and Finance, and obtain a Certificate of Authority before doing business. You must register online at [New York Business Express](#).

- Not sure whether you need to register? See [Do I Need to Register for Sales Tax?](#) and [How to Register for New York State Sales Tax](#).

MTA surcharge: If you do business in the Metropolitan Commuter Transportation District (MCTD), you may be subject to the MTA surcharge. Corporations subject to the surcharge must file [Form CT-3M](#). Register with the [NYS Tax Department](#).

**STILL NEED HELP?** Questions concerning New York State taxes should be directed to the New York State Department of Taxation and Finance, Taxpayer Assistance Bureau, W.A. Harriman Campus, Albany, NY 12227. You may contact New York's Business Tax Information Center at (518) 485-2639.

## **Step 8: Comply with Employment Laws**

*If your business has employees*

Register as an employer through [New York Business Express](#).

Provide workers' compensation insurance and disability benefits coverage to protect injured workers.

- NYS Workers' Compensation Law requires that a business produce proof of workers' compensation and/or disability benefits coverage to a state or municipal agency when it seeks to obtain a license, permit or contract.
- Some businesses are NOT required to carry workers' compensation and/or disability benefits insurance. If exemptions apply to your corporation, you can request from the Workers' Compensation Board the [attestation of exemption](#) stating that your business does not require coverage.

Provide employees with [unemployment insurance coverage](#)

Other employer obligations may apply to your business, for example, withholding federal, state and local taxes from your employees and periodically sending those taxes to the IRS and NY Department of Taxation and Finance. For more information, see: [Hiring Employees; Publication NYS-50: Employer's Guide to Unemployment Insurance, Wage Reporting and Withholding Tax](#)

## **Step 9: Filing Biennial Statement**

Corporations are required to file a [Biennial Statement](#) with the Department of State every two years. The Statement must contain: (i) the name and business address of its chief executive officer, (ii) the street address of its principal executive office, and (iii) the address to which the New York Secretary of State shall forward copies of process accepted on behalf of the corporation. The statement is due in the calendar month in which the corporation's original Certificate of Incorporation was filed with the Department of State.

Most corporations file their Biennial Statement online using the Department of State's [e-Statement Filing Service](#). The fee for filing a Biennial Statement for a business corporation is \$9.

### **Step 10: Other Considerations**

- If you plan to do business using a different name than your business legal name, you must apply for an assumed name (dba) with the NY Department of State.
- Put agreements in writing to prevent disputes.
- Consider applying for the [Minority/Women-Owned Business Enterprise Certification](#) (MWBE), if eligible. Getting this certification allows your business to become more visible to prospective buyers, including City agencies and private contractors seeking to purchase goods and services.
- Consider obtaining business insurance to cover expenses from business risks.
- Consider protecting your businesses' brand and creations with a trademark or copyright.
- If you intend to conduct business in another state, make sure you meet the requirements and file appropriate forms to qualify to do business in another state.

**This resource is provided for informational purposes only and does not cover all the issues that could arise when setting up a corporation. For more information, contact an attorney. For pro bono legal services, you may contact VOLS at (347) 521-5729; or send an email to [microenterprise@volsprobono.org](mailto:microenterprise@volsprobono.org).**