

LEGAL FAQs

FOR NEW AND GROWING SMALL BUSINESSES

Do I need to register a DBA?

You need to register an assumed name if you use a business name other than your legal name. Register with the county clerk where your business operates. For LLCs or corporations, register the DBA with the Department of State. If you use your legal name or your entity's legal name, no DBA is needed.

When do I need to obtain an Employer Identification Number (EIN) and how?

Apply for an EIN through the IRS website if you hire employees, want privacy as a sole proprietor, need to open a bank account, or form a legal entity like an LLC or C-Corp. The application is free.

Is it beneficial to register my LLC in Delaware to avoid the NY publication requirement?

Not necessarily. If you do business in New York, registering in Delaware still requires you to register as a foreign entity in New York, incurring the same fees.

What are the filing fees for different business structures?

Sole proprietorship/Partnership, \$110-\$120 for a business certificate (DBA). LLC, at least \$200, plus certified copy fees and publication fees. Corporation, \$125, plus certified copy fees.

What is the publication requirement for an LLC?

Visit your county clerk to be assigned two newspapers. Pay the newspapers to publish your entity formation notice. Once published, send affidavits and a certificate to the Department of State.

What happens if I do not comply with the publication requirement?

Non-compliance may affect your ability to qualify for loans or bring suits in state court until you meet the requirement.



ABOUT US

The VOLS Microenterprise Project helps existing and aspiring small business owners access high-quality free legal services. We advise on entity selection and formation, creating and maintaining governance documents, drafting and evaluating contracts, compliance with employment law, protecting intellectual property, cybersecurity and other matters that impact a small business.

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How can I register an S-Corp?

An S-Corp is a tax status, not a legal entity. Form a corporation, then elect S-Corp status by filing Form 2553 with the IRS. If you have an LLC, you may also choose to be treated like an S-Corp, but keep in mind it will bring administrative costs up since you may need to work with an accountant to ensure you are filing properly. S-Corp status requires US citizenship or legal permanent residency.

Can I register a C-Corp or LLC if I want to start a professional practice, like psychotherapy?

No. You must form a Professional Corporation or a Professional Limited Liability Company which entails obtaining consent from the New York Education Department before filing with the Department of State.

How do I report income and pay taxes for my business?

Single-member LLCs, and partnerships report income on personal tax returns using Form 1040 Schedule C. Corporations file corporate taxes and shareholders report any dividends received on their personal tax returns.

Do I need to pay sales taxes? How?

It depends on the goods or services you sell. Check with the NY Department of Taxation and Finance. If required, create an online account, and obtain a Certificate of Authority. Pay sales taxes quarterly.

What do I need to do if registered my business entity in another state and now want to do business in NY?

Register as a foreign company in New York, following the same process as forming a local entity. Submit a certificate from your originating state with your application by mail, which can take a few weeks.