

Professional Corporation Formation Fact Sheet

A corporation shields the personal assets of its shareholders from liability for business debts. Professional corporations (PCs) can only be formed by certain licensed professionals, a list of which can be found at: www.op.nysed.gov/prof/. PCs can be formed as C corporations or S corporations. A C corporation pays tax on its own income and distributes profits to shareholders, who then pay tax on the income received from the corporation. S corporations are pass-through entities: the profits and losses of the business pass through to its owners, who report them on their personal tax returns. Visit <http://www.op.nysed.gov/corp/pcorpdomestic.htm> for more Guidelines for Professional Service Corporations.

Below is a general overview of the process to set up a PC in New York State:

Obtain a Certificate of Authority from the NYS Education Department

- The PC must be made up of licensed professionals and can only provide one professional service.
- Submit a **signed** copy of the Certificate of Incorporation (COI) with a check or money order made payable to the NYS Education Department for \$90.00.
 - Mail to: The New York State Education Department, Office of the Professions, P.C. Unit, 89 Washington Avenue, Albany, NY 12234
- If the Education Department is satisfied with the information provided, it will send the COI filer a Certificate of Authority that authorizes the PC to practice the stated profession.

TIP: Check the availability of your business name **before** filing the COI by searching here:
http://www.dos.ny.gov/corps/bus_entity_search.html

File the Certificate of Incorporation with the NYS Department of State (DOS)

- Business name must include one of the following words or its abbreviation: Corporation, Incorporated, or Limited.
- Be sure to attach the Certificate of Authority when filing the Certificate of Incorporation.
- How to file:
 - By mail or in person to the address on the form at <https://dos.ny.gov/system/files/documents/2022/06/1523-f.pdf>
 - By fax to the Division of Corporations at (518) 474-1418
 - Filing fee for COI: \$125
 - Submit a Certified Copy of the COI to the Education Department within 30 days of filing it with DOS.

NOTE: Follow these instructions to request a Certified Copy of the COI from the DOS:
<https://dos.ny.gov/copies-corporation-or-business-entity-documents>

Issue Stock/Enter into Shareholder Agreements

- Although not legally required in most states, small corporations may issue paper stock certificates
- Enter each shareholder's name and contact information into the corporation's stock transfer ledger.
 - A PC may only issue stock to persons who are (or who within 30 days of receiving shares will be) licensed to practice the profession which the PC is authorized to practice.
- You may also draft a shareholder agreement to detail the rights and responsibilities of shareholders. This agreement can include information about pricing of shares, transfer of shares, voting rights, and decision-making procedures, for instance.

TIP: Keep all of your corporation's important papers (including minutes of director and shareholder meetings and stock certificates and stubs) in the corporate records book held at the corporation's principal office.

Obtain an EIN

- EIN stands for Employer Identification Number. You don't need employees to get an EIN; it's just a number the government uses to identify your business, much like your social security number is used to identify you.
- An EIN will allow you to open a business bank account and apply for business licenses, among other things.
- How to get an EIN:
 - Apply online and get an EIN immediately at: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>
 - Mail or Fax IRS Form SS-4 (can take four to five weeks to get an EIN): <https://www.irs.gov/pub/irs-pdf/fss4.pdf>
 - Mail to: Internal Revenue Service, Attn: EIN Operation, Cincinnati, OH 45999
 - Fax to : 855-641-6935

File Federal and State Elections (For S Corps Only)

- To elect federal S corporation status, file IRS Form 2553: <https://www.irs.gov/pub/irs-pdf/f2553.pdf>
- To qualify for New York State S corporation treatment, your corporation must:
 - Be a federal S corporation
 - Be a general business corporation taxable under Article 9-A of the NYS Tax Code
 - Obtain consent from all of the shareholders to for New York State S corporation election
- To make the New York State election, file Form CT-6: https://www.tax.ny.gov/pdf/current_forms/ct/ct6_fill_in.pdf

This resource is provided for informational purposes only and does not cover all of the issues that could arise when setting up a professional corporation. For more information, contact an attorney.