

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: 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.
 - Address for submission: 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://www.dos.ny.gov/forms/corporations/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 DOS: https://www.dos.ny.gov/corps/faq_copies.page.asp

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 in 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.

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 (to get EIN immediately): <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>
 - File IRS Form SS-4 (can take up to two weeks to get an EIN): <https://www.irs.gov/pub/irs-pdf/fss4.pdf>

File Federal and State Elections (For S Corps Only)

- To make the federal election, file IRS Form 2553: <https://www.irs.gov/pub/irs-pdf/f2553.pdf>
- To qualify for New York 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
 - Get consent to the New York S election from all of the corporation's shareholders
- 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.