

POST-CREATION CHECKLIST FOR GEORGIA BUSINESS ENTITIES

Published by the Georgia State Bar Journal – April 2004

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The business has been created. Organizational documents have been signed. The remaining requirements on a new business may appear to be a mindless set of complex rules, restrictions, limitations, exclusions and limitations on exclusions. This checklist is intended to provide some order to that maze. The list is by no means exhaustive, but it does cover the major considerations for most new businesses. Copies of a more detailed checklist and other helpful business information can be found at www.scrogginlaw.com .

This checklist is designed to aid clients in completing the various post-creation requirements that generally apply to corporations, LLCs, partnerships and LLPs created under Georgia law. The list assumes the entity is transacting business in Georgia, has its principal place of business in Georgia, is a for-profit entity, and has only U.S. citizens as owners. The list does not deal with state or federal securities laws or the Georgia Close Corporation statutes (O.C.G.A. Title 14, Chapter 2, Article 9). The list is not intended to cover every rule or requirement. Tax and state laws change constantly. This outline reflects the laws as they existed at the end of 2003. Always consult with legal, business and tax advisors before taking any action in reliance of this outline.

The checklist provides supporting citations to the Official Code of Georgia ("O.C.G.A.") and Internal Revenue Code ("IRC"). Copies of the Georgia statutes can be found by going to www.georgia.gov and typing "Code" in the search command. Copies of the IRC can be found at http://uscode.house.gov/title_26.htm.

Caution: Any document which you send to a government agency should be sent using a method which assures that you have a return receipt (e.g., certified mail, next day delivery). If the absence of a receipt, there is no proof that the form was properly filed.

I. **IMMEDIATE POST-CREATION MATTERS.** After the business's creation:

A. **IMMEDIATE FEDERAL TAX MATTERS**

1. **Federal Tax Number.** Virtually all other tax forms require the business's Federal Employer Identification Number (commonly referred to as "FEIN" or "EI #"). It is roughly equivalent to an individual's social security number. There are a number of ways to apply for a FEIN (using IRS form SS-4):

File one copy of IRS form SS-4 with:

EIN Operation
Holtsville, NY 00501

Or by Facsimile to 631-687-3891 or 631-447-8960

Or apply on-line at www.irs.gov

Or have an officer of the business call 770-455-2360 or 866-816-2065

(after filling out the SS-4)

- a. Most filings will result in a 10-14 day delay. To speed up this process, a request for a federal identification number can be made by telephone by an officer of the business. If this approach is made, the SS-4 should be prepared and the officer should call the IRS at 770-455-2360 or 866-816-2065. The new FEIN is given to the officer over the phone. Getting the IRS on the line can be a frustrating task.
- b. Your federal identification number is used on most federal and state tax filings

- c. and is required to establish an account with any financial institution.
- c. The SS-4 also contains a number of questions about the new business's activities, such as the first date the business is expected to have employees. For any questions for which you do not know the answer (e.g., tax year), do not leave it blank. Instead, put "*To be Determined.*" Some entries must be completed (e.g., address).
- d. Because most LLCs are intended to be taxed as a partnership, note on the SS4 that the LLC is to be treated as a partnership, unless there is only one member. A single member LLC is normally treated as a sole proprietorship for federal and state tax purposes.
2. **S Corporation.** If the entity is a corporation, make a decision about whether to be an S corporation (formerly referred to as a "Sub-Chapter-S corporation").
If S corporation status is elected, file one copy of IRS form 2553 with:
Internal Revenue Service Center
Ogden, Utah 84201
Or by Facsimile to: 801-620-7116 (preferred approach)
- a. Make sure the form is properly filled out. An improperly filled out or incomplete form may be returned and the filing deadline may be missed
- b. To be effective for the current tax year, the election must be filed by the 15th day of the 3rd month after the corporation's tax year begins (IRC Section 1362(b)(1)).
- c. If the corporation is formed at a time other than the first day of the month, the Treasury Regulations provide for a 75 day period to make the election (Temporary Regulations section 18.1362-1(b)).
- d. A number of restrictions must be met to qualify as an S corporation (e.g., many trusts cannot be an S corporation shareholders). (IRC section 1361 et. seq.).
3. **Tax Year.** Select the business entity's tax year. (IRC section 441). Generally, once the tax year is selected, it can only be changed with IRS permission. (IRC section 442).
- a. The tax year is selected on the entity's first income tax return. The business should decide what tax year it will use. Corporate income tax return is generally due 2½ months after the end of chosen tax year. LLC and LLP income tax returns are due 3½ months after the end of the chosen tax year.
- b. S corporations, LLCs, partnerships and personal service corporations are generally required to use a calendar year, although some limited exceptions apply. (IRC sections 441(i), 1378 and 444).
4. **Accounting Method.** Select the tax accounting method for the entity. (IRC section 446). Generally, once the tax accounting method is selected, it can only be changed with IRS permission. (IRC section 446(e)).
- a. Generally, the business must report its income to the IRS using the method regularly used in keeping its books. For most businesses the choice is between the cash and accrual method.
- b. The Internal Revenue Code may restrict the client's choice of an accounting method used for tax purposes. For example, a business entity having gross revenues of more than \$5,000,000 may be required to use the accrual method (IRC section 448(c)(1)).

Caution: The Internal Revenue Code contains numerous limitations and restrictions on available accounting methods and the manner in which deductions can be taken. Consult with your tax accountant.

- B. **IMMEDIATE GEORGIA FILING.** The Georgia Secretary of State has a First Stop Business Information Center which can provide valuable information to a new business owner. Copies can be obtained by going to www.sos.state.ga.us/firststop or by calling 404-656-7061.

1. **Corporate First Annual Registration.** A corporate annual registration must be filed with the Georgia Secretary of State within 90 days of the creation of any corporation (O.C.G.A. section 14-2-1622.). Similar requirements do not exist for LLCs (O.C.G.A. section 14-11-1103) and LLPs (O.C.G.A. section 14-9-206.5). If the corporation is formed after October 1st, the annual registration is due by April 1st of the following year. File the annual registration with \$30.00 with:

Georgia Secretary of State
Business Services and Regulation
Suite 315, West Tower
2 Martin Luther King, Jr. Drive
Atlanta, Georgia 30334-1530
(404)656-2817

Or File On-Line at <http://www.ganet.org/sosonline/> (preferred approach)

2. **Georgia Net Worth tax Return.** All new corporations (both S and C corporations) are required to file a Georgia Net Worth Tax (form 600) by the 15th day of the 3rd month after incorporation. After the initial filing, the return is a part of the annual income tax return.

3. **Department of Revenue - Tax Registrations.** There are a number of filings that must be made for state purposes. These registrations can be made online at: <http://www2.state.ga.us/departments/dor/forms> The Georgia Department of Revenue has adopted a uniform registration packet to be used in registering for the various state tax numbers. The form is available at:

Department of Revenue
Centralized Taxpayer Registration Unit
P.O. Box 49512
Atlanta, Georgia 30359-1512
(404)417-4490 or 404-656-7061 or (outside Atlanta) 800-656-4558

Or see:

- a. **Sales Tax Registration.** If the business is subject to sales tax withholding (see the instructions to Georgia form CRF-002 and O.C.G.A. section 48-8-1 et seq), the entity must apply for a certificate of registration (O.C.G.A. section 48-8-59) using Georgia form CRF-002.
- b. **Withholding Tax Number.** If the business is expected to have employees, the entity should apply for a Georgia withholding tax identification number using Georgia form CRF-002. This number is used to report the withholding of state income taxes for employees.
- c. **Other State Tax Numbers.** The Taxpayer Registration packet from the Georgia Department of Revenue also contains the applications for other Georgia filings, such as motor carrier applications and tobacco license application filings. These forms are also available online at www.gatax.org.

4. **Department of Labor.** If a business is expected to have any employees, it should file Georgia form DOL-1A to obtain a Georgia Department of Labor number ("DOL number"). This form is in addition to the withholding tax number obtained from the Georgia Department of Revenue. The DOL number is used on all filings of Georgia state unemployment tax returns(form DOL-4N). To obtain copies of the form see: www.dol.state.ga.us.

4. **Business License.** Apply for local business or occupation licensees. The license fees are generally due each January first. Contact both county and city governments to determine what local licenses are required.

Caution: Unless the business is subject to the applicable taxes(e.g., professionals are not generally subject to sales taxes), do not apply for a Georgia tax number. If you make a non-applicable tax registration, expect to hear from the respective governmental authorities if you subsequently fail to file the appropriate tax returns.

Caution: Be very careful in completing the forms. If you have any questions, consult with your tax advisors before filing the forms.

C. **DOCUMENT THE TRANSACTIONS CREATING THE ENTITY.** As soon as possible after the business is created, the transactions which created the business should be documented, including:

1. **Property Transfers.** If property and/or cash are contributed to the new business, the transfer should be properly documented. It is particularly important to document the transfer if it is intended to be a loan or a lease of property to the business.
2. **Loan Assumptions.** If the business is going to assume any obligation of an owner or any other party (e.g., a debt secured by property being conveyed to the new entity), the assumption should be documented and, if necessary, approved by the lender.
3. **Ownership.** Document the ownership interests of each owner. Unlike corporations, owners of LLCs and LLPs do not generally have stock certificates issued to them. In the absence of written documentation, it may be assumed that all owners have an equal interest in the business.

D. **OPENING A BANK ACCOUNT.** As soon as possible after you create the business you will want to open a bank account. In order to open the account your will generally need:

1. Your federal tax identification number (see above).
2. A copies of the documents filed with the secretary of state to create the business (e.g., articles of incorporation for corporations, articles of organizations for LLCs)
3. A resolution of the members of a LLC or directors of a corporation authorizing the opening of the account and naming the persons authorized to sign checks. Most banks will provide this form to you.

E. **MANAGING THE RELATIONSHIP OF THE OWNERS.** The initial documents which are filed with the Secretary of State's office are the bare bones of the business's legal structure.

1. Normally, LLCs adopt an "Operating Agreement" which includes:
 - a. The rights and obligations of the members,
 - b. Provisions for income allocations,
 - c. Provisions for voting limitations,
 - d. Restrictions on the rights of members to sell their ownership interests,
 - e. Limitations on how a member is able to leave the LLC.
2. Similar terms are normally adopted in a Partnership Agreement for LLPs and other partnerships
3. A Shareholder's Agreement may govern the rights and limitations placed on each shareholder of a corporation.
4. If owners are going to work in the business, they should document the terms of their employment. For example, assume a LLC is created by equal contributions of two members. One member will operate the business, while the other remains inactive. The members should document if and how the working member will be compensated, before the inactive member.

Caution: Owners are strongly encouraged to adopt these agreements as a part of the initial

creation of the business. There are both legal and tax nuances that can have devastating impacts if the documents are not properly drafted. Consult with your tax and legal advisor.

- F. **TRANSFER OF AN EXISTING BUSINESS.** If you are creating a new business entity to hold an existing business, you should make sure to transfer to the new entity the assets, leases, debts and other aspects of the business.

Caution: If the liabilities transferred to the new business entity exceed the basis of the assets being transferred, you may incur taxable income. Consult with your tax advisor before making the transfer.

II. ONGOING STATE AND FEDERAL TAX FILINGS. Among the ongoing State and Federal Filings:

- A. **Federal Tax Filings.** A business has a number of ongoing federal tax filings. The following list is not exhaustive, but does provide a list of the typical taxes and returns. Consult with your tax accountant.

1. **Income Tax Returns.** All active businesses are required to file an annual income tax return.
 - a. Regular corporations file IRS form 1120 or, for small corporations, form 1120-A. An S corporation files IRS form 1120-S. LLCs and LLPs file form 1065.
 - b. Corporate income tax returns are due by the 15th day of the 3rd month after the end of the business's taxable year end (i.e., March 15th for calendar year corporations). LLC and LLP income tax returns are by the 15th day of the 4th month after the end of the business's taxable year end (generally April 15th).
 - c. Extensions can be granted by filing IRS form 7004. The extension delays only the due date of the return. Payment of any unpaid tax liability must be made with the filing of the extension.
2. **Estimated Corporate Income Tax Returns.** A regular corporation having more than \$500 in income tax liability must estimate its income tax and pay that tax in equal quarterly installments over the corporation's tax year (IRC section 6655). Keep a copy in your records. The IRS provides a form, Form 1120-W, to compute the estimated corporate income taxes. The form is not filed with the IRS. Each quarterly payment should be deposited at a national financial institution (e.g.: national bank or savings and loan) with IRS form 8109. Failure to prepay sufficient corporate income taxes can result in the corporation incurring substantial penalties and interest.

Note: If the business is a “flow-through” entity like an S Corporation, LLC or LLP, it does not generally pay entity level taxes. Instead, the entity’s taxable income is allocated directly to the owners, who have the responsibility to pay estimated taxes, or assure that their W-2 withholding makes payment of estimated taxes unnecessary.

3. **Payroll Tax Forms.** A business faces a number of employee reporting and tax filing requirements. More information about these filing requirements can be found at www.irs.gov. The filings include:
 - a. **Employee Completed Forms.** When an employee is hired, he or she is required to fill out the following forms:
 - (1) **W-4.** Each employee of the business is required to file out a W-4 prior to the first day of employment. The W-4 contains the information necessary to determine the proper federal income tax withholding for each employee. If the employee claims excessive exemptions, the IRS

- (2) has authority to deny the stated exemptions by notifying the employer.
INS form I-9, Employment Verification Form. Prior to starting employment each new employee must fill out this form which demonstrates that he or she is qualified to work in this country.
- (3) Georgia Form G-4. The Georgia equivalent of the W-4 is the G-4 and determines the state income taxes to be withheld.
- b. Form 941. Form 941, Employer's Quarterly Federal Tax Return, is filed quarterly and provides information on a business's withholding of its employee's income taxes and social security taxes and the business's payment of social security taxes.
- (1) The amount of income taxes withheld from an employee's paycheck depends upon the statement made by the employee on his or her W-4.
- (2) Form 941 should be filed each quarter. The frequency of deposits of the taxes covered by form 941 depends upon the amount of the unpaid tax liability.
- (3) Withholding tables and form 941 are normally sent to the business as a part of IRS Circular E, which is sent to the business after filing for a FEIN.
- c. Form 940. Form 940, Employer's Annual Federal Employment Tax Return, is filed annually and computes the business's federal unemployment taxes. Use IRS form 940-EZ if all employees are employed in only one state. The return is generally due by January 31st of each year. If all taxes were deposited on time, the filing date is extended by 10 days.
- d. Penalties. Failure to file payroll tax returns or pay the applicable tax as required can result in the imposition of substantial penalties. For example, the parties responsible for withholding the above payroll taxes may be personally responsible for the unpaid tax. See IRC section 6672 which imposes a 100% "penalty" on "responsible parties" who do not withhold and pay the tax.

Recommendation: Consider hiring a payroll reporting service to handle your state and federal payroll tax filings. The cost is worth avoiding the headaches of missing a payment or filing deadline.

4. Tax Payments. Corporate income tax payments (including estimated income tax payments) and payroll taxes for all businesses are generally required to be deposited at a national financial institution such as a national bank. (IRC section 6302(c)). The taxes should normally not be paid with the filing of the tax return.
- a. Tax payments are paid to a national institution together with the IRS form 8109 deposit card. The 8109 deposit cards are sent automatically to the business after filing for an FEIN.
- b. Payroll taxes are required to be deposited with a national financial institution when the cumulative taxes exceed set limits. See IRS Circular E.
5. Information Returns. In addition to the above tax returns, the following informational returns may also need to be prepared by the business. Failure to properly file these informational returns can result in the incurring of substantial penalties. If you are unable to promptly file an information return with the IRS, apply for an extension using IRS form 8809.
- a. W-2s. W-2s are the forms showing the state and federal payroll taxes and income taxes withheld from an employee's wages. In addition, the W-2 may

also contain information on other compensation and benefits provided to employees.

- (1) The business is required to provide a W-2 to each employee on or before the earlier of 30 days after written request from a terminated employee or January 31st of each year.
 - (2) The business is required to file a copy of all the W-2s with form W-3 with the Social Security Administration by the last day of February of each year.
- b. 1099s. IRS form 1099 is an informational return reporting payments made by the business. See last pages of IRS Circular E for a description of the payments which must be reported with a 1099.
 - (1) The returns must be mailed to payees by January 31st of each year.
 - (2) All the business's 1099s must be filed with form 1096 with the IRS by February 28th of each year.

B. **Georgia Tax Filings**. A Georgia business may be subject to a number of state and local filings, including:

- 1. Corporation Net Worth Taxes. Georgia corporations are required to file a net worth tax return annually. The tax applies to both C and S corporations. The net worth tax is a progressive tax rate based upon the net worth of the corporation. The tax ranges from \$10-5,000. The net worth tax is due whether or not the corporation has any taxable income. (O.C.G.A. section 48-13-70 et. seq.)
- 2. Business Income Taxes. Georgia business entities are required to file an income tax return annually.
 - a. A regular corporation is taxed on its Georgia taxable income at a flat rate of 6%. (O.C.G.A. section 48-7-21).
 - b. S corporations are exempt from Georgia corporate income taxes. (O.C.G.A. section 48-7-21(b)(8)(B)). If the corporation has out of state residents as shareholders, the S corporation election is denied, unless the out of state shareholders pay the Georgia income tax on their portion of the corporate income. (O.C.G.A. section 48-7-21(b)(8)(B)). Use Georgia form 600 S-CA.
 - c. LLCs and LLP file returns, but the taxable income or losses of the entity are allocated to the members.
 - d. S corporations, LLCs and LLPs may be required to withhold the Georgia income taxes on non-Georgia owners. (O.C.G.A. section 48-7-129).
- 3. Annual Registration. All Georgia corporations (O.C.G.A. section 14-2-1622), LLCs (O.C.G.A. 14-11-203, and LLPs (O.C.G.A. section 14-9-206.5) are required to file a registration each year with the Secretary of State between January 1st and April 1st of each year. The registration provides basic information about the business.

File the form, together with \$30, with:

Georgia Secretary of State
Business Services and Regulation
Suite 315, West Tower
2 Martin Luther King, Jr. Drive
Atlanta, Georgia 30334-1530
(404)656-2817

Or File On-Line at <http://www.ganet.org/sosonline/> (preferred approach)

Caution: If the registration is not filed and/or the fee is not paid, the entity may be involuntary

dissolved by the Georgia Secretary of State. (e.g., corporations pursuant to O.C.G.A. section 14-2-1420, LLCs pursuant to O.C.G.A. section 14-11-603). LLPs do not have a similar dissolution provisions (O.C.G.A. section 14-9-206.7 was repealed), although the failure to file an annual registration for 3 consecutive years, may allow other partnerships to reserve the LLP's name (O.C.G.A. section 14-9-206.7).

4. Other State Tax Returns.

- a. Sales Taxes. In general, Georgia sales tax returns are required to be filed by applicable taxpayers each month. On the first return the taxpayer must elect either the cash or accrual basis of accounting. Depending upon the local sales tax options, the sales tax rates generally range from 3% to 7%. Failure to collect the sales tax, to keep accurate books and records or make the required filings can subject the taxpayer to significant penalties, including criminal penalties.
- b. Payroll Taxes. The following tax returns must be filed with Georgia authorities and the taxes paid as noted. Copies of these returns can be obtained by calling the Withholding and Estimated Tax Section of the Georgia Department of Revenue at 404-656-4181.
 - (1) DOL-4. Form DOL-4, Employer's Quarterly Tax and Wage Report, is filed quarterly, reporting the state unemployment taxes due. Call the Georgia Department of Labor at 404-656-3061 or 404-656-5590 for more information. The state unemployment tax is a percentage of the first \$7,000 of each employee's wages. The percentage is set by a number of factors, including the employer's unemployment record. Payment is made with the filing of the return. You may want to review the Employer's Handbook (DOL -224)available from the Georgia Department of Labor at www.dol.state.ga.us.
 - (2) G-1. Form G-1, State of Georgia Employer's Quarterly Return of Income Tax Withheld, is filed quarterly and reports the state income taxes withheld from the employees' wages. The amount of the state income tax withheld on an employee's wages is determined by the employee's G-4. Payment of the withheld tax is made with the filing of the return. See the instructions to determine when payments are due.
 - (3) G-3. Form G-3, State of Georgia Employer's Withholding Tax Annual Reconciliation, is filed annually by February 28th. One copy of each employee's federal W-2 should be attached to the return.

5. Personal Property Tax Returns. Georgia's city and county governments impose personal property taxes on the assets of your business. Contact your local city and county governments to determine what taxes may be due.

C. State and Federal Employment Related Filings and Notices. There are a number of state filing and notice requirements, including:

1. Worker's Compensation. Georgia law may require the business to obtain workers' compensation insurance for its employees. (O.C.G.A. section 34-9-1, et seq).The insurance is obtained from a commercial insurance company. The cost of the insurance is dependent upon the number of employees and the type of work of each employee.Call the State Board of Worker's Compensation at 404-656-2048 or see: www.state.ga.us/sbwc if you need any more information.
2. Reporting New Hires. Georgia requires employers to report the hiring of new employees

to the Georgia Department of Labor. More information and on-line reporting are available through the Georgia Department of Labor. See: www.dol.state.ga.us or call 404-525-2985.

3. **Termination Notice.** If an employee is terminated, the employer is required (O.C.G.A. section 34-8-190(c)) to provide a separation notice to the employee using Georgia Department of Labor form DOL-800. A fine of up to \$1,000 can be imposed for failing to comply with the notice requirement. The form is available at www.dol.state.ga.us
 4. **Hiring Aliens.** There are a number of pre-employment obligations that must be satisfied before hiring a non-US citizen. See www.dol.state.ga.us and www.uscis.gov.
 5. **COBRA.** If an employee loses his or her health care coverage (e.g., because of termination of employment), the employer may be required to give the employee notice of his or her right to continue the coverage.
- D. **Filing in Other States.** If the entity is doing business in other states, it may be required to file tax returns similar to the state of Georgia returns in those other states.
1. Contact your tax accountant to determine the appropriate taxes.
 2. Copies of applicable returns can be found at www.taxadmin.org/fta/link/forms.html

III. OTHER POST-CREATION MATTERS. In addition to the above requirements, the following are some of the post-creation decisions that the business's organizers should review.

- A. **Maintaining the Entity's Existence.** A corporation, LLC and LLP have a legal existence which is separate from the legal existence of its owners. As a separate legal entity, the entity is responsible for its own actions and liabilities. In general, owners cannot be held liable for the entity's liabilities. However, if the entity has not been operated as a separate legal entity, its "liability shield" can be pierced and the owners could be held liable for the entity's debts. Some of the things you can do to reduce this liability, include (this list is not intended to be exhaustive):
1. **Annual Registration.** Always file your annual registrations (see above).
 2. **Annual Shareholders' Meetings.** O.C.G.A. section 14-2-701(a) requires Georgia corporations to hold annual meetings of their shareholders. Minutes of the meeting should be placed in the corporate minute book. Although there is no similar requirement for LLCs and LLPs, documenting the decisions of the members is always advisable.
 3. **Annual Board of Directors' Meetings.** Although not specifically required by the Georgia statutes, the corporation's directors should hold meetings at least annually. Minutes of the meeting should be placed in the corporate minute book. Although there is no similar requirement for LLCs and LLPs, documenting the decisions of the members is always advisable.
 4. **Minute Book.** To authenticate the activities of the corporation and other business entities, all major decisions of the entity (ex: leases, loans, debts, bonuses, profit sharing plan contributions, employee benefits) should be approved by a meeting of the managers or directors, and in some cases the owners. A consent resolution can be used in lieu of an actual meeting (O.C.G.A. sections 14-2-704 and 14-2-821).
 - a. The consents and minutes should be placed in the entity's minute book.
 - b. If you provide a certified corporate resolution to anyone, a copy of the certificate should also be placed in the minute book.
 - c. Record all stock transactions in the stock record book which is normally a part

of the corporate minute book.

5. **Treatment of Entity Assets.** As a separate legal entity, the assets of the entity do not belong to the owners, officers or directors. The owners, officers and directors should deal with the entity's assets with the same reserve they would show a third party. Never operate the business checking account as a personal bank account. Do not pay personal expenses from the business accounts.
6. **Treatment as a Separate Entity.** O.C.G.A. section 14-5-4 provides that "the existence of a corporation claiming a charter under color of law cannot be collaterally attacked by persons who have dealt with it as a corporation. Such persons are estopped from denying its corporate existence." Therefore, it is important to hold your corporation out to the public as a corporation. Similar approaches should be used for LLCs and LLPs.
 - a. Make sure that your letterhead, business cards and other materials clearly reflect that the type of business entity. For example, a corporation is required to use one of the following words in its name (O.C.G.A. section 14-2-401): "Company," "Co.," "Corporation," "Incorporated," "Inc.," "Limited," or "Ltd." These words should appear on all business communications and contracts.

If the company wishes to do business under another name, it should apply for a trademark. See the discussion later in this outline. If the corporation uses a trademark, corporate legal documents should list the entity as: "[NAME OF THE CORPORATION], doing business as [TRADENAME]," or "[NAME OF THE CORPORATION] d/b/a [TRADENAME]."

- b. For example, the proper way to sign corporate documents is:

[NAME OF CORPORATION]

By: _____

Title: _____

Attest: _____

Corporate Secretary

(CORPORATE SEAL)

- c. If an officer signs any document, the officer should make sure that the position in the company is listed behind or below the signature.

- B. **Document Transactions.** Transactions by the entity (especially with owners and employees) should be properly documented in the business's records. Normal transactions may include the following documents:
 1. Loans by shareholders and others - resolutions authorizing the loans, notes, security agreements, UCC filings, mortgages and other collateral documents
 2. Assignments to the business - resolutions, assignments, assumption agreements, permission of lessors or others holding title
 3. Transfers of assets to the business - bill of sale, deeds, assignments
 4. Leasing of assets to the business - lease agreements
 5. Employment - resolutions, employment agreements, fringe benefit plans
- C. **Trademarks.** Determine whether the business should seek a trademark for its products and services.

1. A federal trademark may provide protection across the United States. You may want to search the existing records of the Patent and Trademark office at: www.uspto.gov

2. A trademark can be obtained solely for Georgia. (O.C.G.A. section 10-1-440, et seq.). Call the Georgia Secretary of State's office at (404) 656-2861.

- D. **Tradename Filings**. If the business is going to operate by a tradename other than its legal name, it should register that name in each county where it plans to do business under the assumed name and in the county in which it has its principal business activity and business domicile, if the county is not the county of principal business activity (See: O.C.G.A. section 10-1-490, et seq). Call the clerk of the county's Superior Court for copies of the required forms.

Note: A tradename filing does not provide you the exclusive right to the name. If you want to protect your business's name, consider filing a state or federal trademark.

- E. **Bookkeeping**. Decide in the early stage of the operation of your business the manner in which you will maintain your bookkeeping. You may want to hire a part time bookkeeper and/or use a software program to maintain your records.

1. Quickbooks by Quicken is an excellent bookkeeping tool. See: www.quicken.com/small_business
2. Timeslips has an excellent billing program for professionals. See: www.timeslips.com

- F. **Record Keeping**. Maintaining accurate records is paramount if the business is to operate efficiently. Moreover, in the event of an IRS audit, sloppy records can result in adverse rulings. Consult with your attorney and accountant on how long records should be kept before being destroyed.

- G. **Financial Statements**. O.C.G.A. Section 14-2-1620 requires a corporation to annually prepare a balance sheet and income statement, and, upon written request, provide the financial statements to any shareholder.

- H. **Other Reports**. O.C.G.A. Section 14-2-1621 requires a corporation to notify the shareholders if the corporation indemnifies or advances expenses to a director with or before the next shareholders' meeting.

- I. **Property and Casualty Insurance**. Make sure you have in place the proper property and casualty insurance to protect you and your business from litigation or claims. For example:

1. If you are using your personal vehicle in your business, make sure your coverages include business use of the vehicle.
2. The use of your home as a business office may not be covered by your existing homeowner's insurance.

- J. **Employee Matters**. Lawsuits by employees are becoming common in the business community. To reduce the risk of successful employee actions and misunderstandings:

1. Adopt written company policies for dealing with discrimination and harassment.
2. Document any warnings to or from an adverse review of an employee.
3. Keep complete records for each employee.
4. Adopt a well drafted employee manual. Consult with your attorney.
5. Review whether or not to require employees to sign employment agreements. Consult with your attorney.
6. Document any agreements with any employee (e.g., bonus arrangements).

- K. **Workplace Notices**. Both state and federal laws require that certain employment posters be

prominently displayed at a workplace. A list of the forms can be found at www.dol.state.ga.us

- L. Foreign Qualifications. If the business anticipates doing business in other states, it or its counsel should determine whether the business must be qualified in those states.

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HELPFUL WEBSITES

- * www.irs.gov/businesses and www.sbaonline.sba.gov - excellent sources of information on a new businesses
- * www.georgia.gov - the official website of the State of Georgia
- * <http://quickfacts.census.gov/qfd/states/13000.html> - census information on Georgia
- * <http://www.sos.state.ga.us/elections/directory.htm> - official directory of Georgia and federal governmental officers
- * <http://www.bookkeepinghelp.com/Payroll/Georgia.asp> - a master list of Georgia bookkeeping and payroll services
- * <http://www.gaworkerscomp.com> - information about Georgia Workers' Compensation rules

Quarterly Tax Returns (general rules)	
<u>Tax Return</u>	<u>Normal Due Date</u>
Federal Payroll Tax Return - Form 941	One Month After End of Calendar Quarter
C Corporation Estimated Income Tax Return	15 th Day After the End of the Calendar Quarter
Georgia Payroll Tax Return - Form G-7	One Month After End of Calendar Quarter
Georgia Quarterly Tax and Wage Report	One Month After End of Calendar Quarter

Annual Tax Returns (general rules)	
<u>Tax Return</u>	<u>Normal Due Date</u>
Federal Unemployment Return - Form 940	By January 31 st
Federal Wage and Tax Statements - Form W-2 and W-3	By February 28 th (Electronic Filing: March 31 st)
Partnership Federal Income Tax Return - Form 1065	By April 15th (can be extended)
S Corporation Return - Form 1120S	By April 15th (can be extended)
C Corporation Return - Form 1120	By the 15 th Day of the 4 th Month After Year End (can be extended)
Federal Information Returns (e.g., 1098s, 1099s)	By February 28 th (Electronic Filing: March 31 st)
Personal Property Tax Return	Generally by March 1 st or April 1 st
Georgia Income Tax Returns	See Federal Filing Dates
Annual Return to Georgia Secretary of State	By April 1 st (can be done online)

Tax Returns Delivered to Payees	
<u>Document</u>	<u>Normal Due Date</u>
Federal Information Returns (e.g., 1098s, 1099s)	January 31 st
Wage Statements (W-2)	January 31 st

NOTE THESE ARE THE GENERAL RULES - WHICH ARE SUBJECT TO CHANGE. ALWAYS CONSULT WITH YOUR TAX ADVISOR BEFORE RELYING UPON THESE DATES OR FILING REQUIREMENTS

IMPORTANT PHONE NUMBERS AND WEBSITES		
Organization	Phone #	Website
Internal Revenue Service * Federal Tax ID# * Forms	770-455-2360 800-829-3676	www.irs.gov
Federal Department of Labor	404-562-2444	www.dol.gov
Social Security Administration	800-772-1213	www.ssa.gov
Securities and Exchange Commission	404-842-7600	www.sec.gov
Small Business Administration	800-827-5722	www.sbaonline.sba.gov
Immigration and Naturalization Service	800-375-5283	www.ins.usdoj.gov
Patent and Trademark Office	Not Applicable	www.uspto.gov
State of Georgia Website	Not Applicable	www.state.ga.us
Georgia Department of Revenue * Income Taxes * Forms * Sales & Use Tax	404-656-4165 404-656-4095 404-656-4293 404-656-4071	www.gatax.org
Georgia Secretary of State * Good Standing * Fist Stop Booklet (for new businesses) * Trademarks * Securities	404-656-2817 404-656-2817 404-656-7061 404-656-2861 404-656-4910 or 656-3920	www.sos.state.ga.us
Georgia Department of Labor	404-656-3061	www.dol.state.ga.us
Board of Workers' Compensation	404-656-2048	www.state.ga.us/sbwc
Tax Forms for Other States	Not Applicable	www.taxadmin.org/fta/link/forms.html
State and Local Governments on the Web	Not Applicable	www.statelocalgov.net/index.cfm
CT Corporation	404-888-6488	www.ctadvantage.com
Paychex (payroll services)	678-354-7776	www.paychex.com
ADP (payroll services)	800-225-5237	www.adp.com
Quicken Business Software		www.quicken.com/small_business