

# **CORPORATE & LLC (Taxed as a Corporation) GUIDELINES**

## ***CORPORATE and LLC IDENTITY***

In order to keep your corporation or LLC a separate entity, as set forth by the filing the articles of incorporation (or Articles of Organization) with the state, all business transactions must be made as a corporation or LLC and not as an individual. Corporate or LLC checks and credit cards must be used for business transactions only. Any expenses incurred by the business and paid for by an employee or any other person should be reimbursed by a company check only after proper documentation is given to the company for use in complying with IRS record keeping requirements. Personal expenses paid out of your business account are highly discouraged. Checks should be written to the corporation or LLC and not to you personally to avoid the appearance of mixing personal and business funds. All corporate or LLC asset titles must be in the company's name. When an officer signs an agreement in his or hers corporate capacity, the signature should appear as "Acme, Inc., by Bill Johnson, President", not as simply "Bill Johnson".

Corporate officers are to be paid a reasonable salary by the corporation. For an LLC taxed as a corporation this also applies. There is no one amount that is defined as reasonable but is generally an amount that is considered reasonable for your particular industry.

Distributions (S Corporations) are to be paid in proportion to the number of shares held by any given shareholder. Random distributions imply that there is more than one class of stock which could terminate the S election. For example \$2.00 per share or \$253.00 per share or whatever is agreed upon. It is recommended that distribution be done on a regular basis.

If you borrow money from your company, your loan must be documented and signed with stated interest and payment due dates in a formal note. This is an area where you need to be cautious.

## ***TREATMENT OF BUSINESS VEHICLE EXPENSES***

Treatment of vehicle expenses depends on whether the vehicles are owned by the corporation or personally by shareholders or employees. In either case documentation of odometer readings for business and total miles, place of travel, and business purpose (if not obvious) must be kept for a legitimate business deduction.

For vehicles owned by employees a deduction is allowed the corporation by reimbursing the employee for business miles at no more than the federal mileage rate. This is an accountable plan deductible by the corporation and not taxed to the employee. The employee must produce valid documentation to the corporation to be deductible by the corporation. The mileage rate for 2016 is currently 54¢ per mile and changes at least yearly.

For a vehicle owned by the corporation the employee can reimburse the corporation based on the personal mileage percentage and the IRS lease value table plus gas paid by the corporation before the end of the year. If a reimbursement is not made then the personal value must be added to the employees W2 and it will generate employment taxes for both employee and employer.

A company plan that pays employees a flat amount or pays employee's vehicle expenses other than through a mileage deduction is a non accountable plan. An employee with a non accountable plan must itemize and deduct the mileage on form 2106 which is usually less advantageous to the employee.

To determine whether it is better to be reimbursed for your mileage or for the company to own the vehicles go to [www.mckaytax.com](http://www.mckaytax.com) and go to “Tools” and “download vehicle scenarios”.

### ***MEALS, INCIDENTALS, LODGING***

Meals and incidentals are deductible by Corporations by reimbursing employees the documented cost of the meals and incidentals or the amount of the federal meal and incidentals pre Diem rate. Corporations cannot deduct meal or other expenses that have been paid for by a shareholder employee. Lodging expenses are reimbursable only with documentation and a per Diem cannot be used.

### ***FRINGE BENEFIT TAX STRATEGIES***

Even though you may be a single member Corporation or LLC the following fringe benefits still apply to you and your company. Employer provided business cell phone is a working condition fringe benefit. Group life insurance up to 50,000 is tax deductible and not taxable to the employee. Holiday hams or turkeys are considered De Minimis fringe benefits and not taxable to employees as are occasional employee parties or sports tickets.

### ***PRORATED BUSINESS EXPENSES***

Some business expenses are not pure business or pure personal and should be reimbursed or paid as such. For example phone, internet, or other expenses could be reimbursed to the employee based on a reasonable percentage of business use. Or the corporation could pay the business part of the bill and the employee could pay the personal part.

### ***REIMBURSEMENT FOR BUSINESS USE OF THE HOME***

A Corporation can get the deduction for renting from an employee but the employee cannot deduct the office in home expenses against the income per the tax code so this cancels out any benefit. To make this deduction work the business use of the home must be reimbursed to the employee through a reimbursement policy before the end of the year. The business use of the home office must be for the convenience of the employer, used regularly, and exclusively, and an accountable plan reimbursement policy must be put in writing in minute book or similar record to be formally recognized. See attached form 8829 spreadsheet used for reimbursement amount calculation.

### ***SHAREHOLDER HEALTH INSURANCE S CORPORATIONS***

A 100% deduction of health insurance for shareholders is available using the following guidelines. The health plan must be in the name of the corporation. The payments for the insurance must be added to the employee’s wages as a taxable benefit each time it is paid. The full deduction is then an adjustment to income on the 1040. The bottom line is that the benefit is considered wages and deductible by the corporation and then deducted on the 1040. The employee is liable for Federal and State withholding taxes but not FICA or Medicare.

### ***BUSINESS FINANCIAL RECORD KEEPING***

IRS requires an invoice or receipt for any transaction over \$25.00 to satisfy record keeping requirements. A canceled check does not satisfy the requirements.

Even though the statute of limitations for a federal audit is 3 years, the IRS can go back 7 years and sometimes 10 years. The American Institute of Certified Public Accountants recommend the following guidelines.

#### **Financial Records**

Customer records - invoices, credit memos

#### **How Long To Keep**

7 years

Employment records - W2, W3, 941, 940, Unemployment, State forms, etc.	Permanently
Employee file - I-9	3 yrs +1 yr. after leaving
Employee file - W4, application, time cards, other employee records	11 years
Accounting records	6 years
Vendor bills - receipts for merchandise and services	7 years
Bank records - canceled checks, bank statements, loan payment doc's	7 years
Bills for fixed assets - autos, trucks, equipment, furniture.	7 years after disposal
Insurance policies - contracts, riders, and any other documentation.	Permanently
Corporate records - minutes, stock records, Proxies, etc.	Permanently
Annual financial statements - year end P&L, balance sheet.	Permanently
Federal and state tax returns - All tax forms <i>plus</i> any correspondence.	Permanently

### ***EMPLOYMENT & VENDOR REQUIREMENTS***

Employees: A. A file containing a completed **W4** and Form **I-9**  
 B. Send or fax a copy of a completed W4 within 10 days of hire or rehire  
 date to: Fax - 801-526-4391 or 801-334-5006  
 Mail - Utah New Hire Registry, PO Box 45247  
 Salt Lake City, UT 84145-0247

Company: A. ***Federal withholding and FICA deposit*** the 15th of the following month that liability reaches \$2,500. This schedule is for companies with less than \$50,000 tax liability the previous year and is the most common.  
 Example - June liability deposited by July 15.  
 B. ***Federal Unemployment deposit*** the 30th of the following month that liability reaches \$500. (Same schedule as above)  
 C. ***State unemployment taxes, state withholding taxes and workman's compensation insurance*** are due quarterly but no deposits are required.

Vendors / Subcontractors Any person or company, other than your employees, who renders services for your company should have either a form **W-9** on file. This information is required for 1099 reporting requirements.

### ***What is the difference between an employee and a subcontractor?***

Even though the determination by the IRS can be very subjective as to whether a worker is an employee or a subcontractor there are certain factors that solidify the determination that a person is an employee.

#### ***The person in question is an employee if:***

- or/and The employer controls the person as far as when to work and how to do the work.
- or/and The employer furnishes the work place, supplies and tools for completing the job.
- or/and The employer pays that person by the hour and not the contracted job.

### ***CORPORATE RECORD KEEPING (Does not apply to LLCs)***

You didn't go into business to fill out forms and in a small family corporation it seems silly to record records of meetings and everyday business decisions. But it makes no difference if the corporation is as large as AT&T or your small business corporation. All officer or director actions must be authorized and recorded in writing. The price you pay for corporate tax benefits and liability protection is the paperwork.

All corporations should have annual shareholder meetings on the day specified in your by-laws. This requires a seven day written notification of time, date, and location. Keep minutes of these meetings in your corporate book. All important matters of business must be recorded in your minutes.

A board of directors meeting must be held at least annually. This requires a seven day written notification of time, date, and location. Business that should, if necessary, be acted upon in Directors Meeting are:

- a. Elect corporate officers.
- b. Declare dividends or distributions.
- c. Authorize contracts, loans, leases.
- d. Ratify acts of the prior year.
- e. Change of officers or directors salaries.
- f. Change the capital stock structure or number of shares.
- g. Issuance of stock.
- h. Change in bank account.
- i. Change in bylaws.
- j. Real estate transactions.
- k. Long term obligations, including loans or leases.
- l. Sale or mortgage of company property.
- m. Acquisition of important property.
- n. Establishment of date, time, and place of corporate meeting.
- o. Any transaction, regardless of size, with a shareholder, officer or director.
- p. Any agreement or change in an agreement regarding the transfer of corporate securities.
- q. Approval of corporate lawyers and accountants.
- r. Getting into a new line of business.
- s. Any action which is in doubt.
- t. Any action that affects the worth of the corporation and / or impacts the value of the stock.

Keep incorporation papers, shareholder meetings minutes, board of directors meeting minutes, and the stock register **forever**.

Most of the forms listed below should be included in your corporate book and may help your corporation in keeping records.

- Notice of annual meeting of stockholders.
- Wavier of notice of annual meeting of stockholders.
- Minutes of annual meeting of stockholders.
- Proxy for annual meeting of stockholders.
- Notice of special meeting of stockholders.
- Wavier of notice of special meeting of stockholders.
- Minutes of special meeting of stockholders.
- Notice of annual meeting of directors.
- Wavier of notice of annual meeting of directors.
- Minutes of annual meeting of directors.
- Notice of special meeting of directors.
- Wavier of notice of special meeting of directors.
- Minutes of special meeting of directors.