



Legal Guide: *Incorporate in Ontario, Canada*

A Beginners Step-by-Step Guide for
Business Owners, Beginners, and
Non-Lawyers

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1. Introduction

Almost everyone at some point has an idea to start their own business. Starting your own business can be one the most rewarding experiences. However, without careful planning you will most certainly have great difficulty. Whether your plan is to run a part-time business out of your home to help you earn extra income or your plan is to start the next Fortune-500 company, you must address some legal matters to start your business and keep it running smoothly.

Many people prefer to carry on business as a corporation.

A corporation is a legal entity separate in law from its owners. Under the law the corporation is entitled to enter into contracts in its own name. The corporation will file its own tax return.



2. Shares

The corporation is owned by “shareholders” through their ownership of “shares” of the corporation. A corporation can have different types of shares, the most common being “common shares”. There can also be several types of “common shares” such as “Class A Common” and “Class B Common”.

Shares of a particular class can have certain rights and privileges attached to them. The three most common attributes are: (i) voting rights (voting or non-voting), (ii) dividend rights (the right to receive a portion of the profits), and (iii) wind-up/dissolution rights (the right to a share of the distribution of the assets of the corporation in the event that the corporation is ever wound up or dissolved).

If there is more than one class, each class must have a unique combination of rights and privileges. For example, one class may have voting rights while the other class may have no voting rights (non-voting).

For example, a common arrangement of shares for a corporation may be:

- Class A Voting Common
- Class B Non-Voting Common

More complex arrangements include other types of share class known as “Preference shares” or “Special shares” that include additional more complex rights and privileges than the three common attributes described above.

3. Property of the Corporation

When a corporation is created, the shareholders do not own the business or the property belonging to the corporation. The business and the property are owned by the corporation and the corporation in turn is owned by the



shareholders. In addition, the rights and liabilities of the corporation are not also the rights and liabilities of the shareholders.

4. Management of the Corporation

A corporation is managed by people who are called the “directors”. The day-to-day operations of the corporation are carried out by people called the “officers” which can include a “president”, “secretary”, or “treasurer”. It is possible, and very common in small corporations that the same person can be a shareholder, director, and officer at the same time.

The shareholders can enter into a “[shareholders’ agreement](#)” among themselves outlining how the corporation is to be operated.

5. Distribution of Profits by way of Dividends

Profits of the corporation are distributed to the shareholders by way of “dividends” being paid to the shareholders. Generally, the amount of the dividend paid to a particular shareholder depends on the number of shares held by the shareholder.

6. Advantages of a Corporation

1. Limited liability of shareholders. People are more willing to invest money in a corporation when they know that they don’t have to worry about being personally liable for the debts of the corporation. This concept is called “limited liability” for the shareholders. The shareholders’ liability is limited to the value of the assets (or money) that they have transferred (or paid) to the corporation in exchange for shares in the corporation. The amount that the shareholders paid for their shares is all that they will lose. (However, directors and officers can be liable in certain circumstances.)
2. Separate taxation of the corporation from its owners. Possible lower taxation rate.

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3. Estate and tax planning vehicles can be used to permit an “estate freeze”. The use of a “discretionary family trust” can permit income splitting among different family members. The shares of the corporation can be set up such that one share type have voting control of the corporation (usually held by you and your spouse) and another share type obtains all increases in the value of the corporation (usually held by your children).
4. The corporation can sue and be sued in the corporation name.
5. More prestige with the public in doing business using a corporation.
6. Perpetual existence of the corporation. The corporation can continue after the death of a shareholder or withdrawal of the shareholder by the sale of his/her shares.

7. Disadvantages of a Corporation

1. Higher initial startup formalities and cost. A corporation requires articles of incorporation be filed, a head office designated, notice naming director(s) and officer(s), a record book (called a “minute book”) must be maintained which contains among other information details of meetings of shareholders and directors.
2. Requires annual maintenance by accountant and lawyer. A corporate tax return must be filed and the “minute book” must be updated.
3. Losses incurred during the startup years cannot be used to offset income of the owner from other sources of income.

8. Incorporate Online Now

A new corporation in Ontario, Canada is created by the filing of a document called “Articles of Incorporation” with the Ontario government. The articles of incorporation contain certain information about the company such as the



name, address, number of directors, name and address of the initial directors, any restrictions on the business that the corporation may carry on, the type of shares that can be issued, the attributes of those shares, and any restrictions on transferring of shares.

You can quickly and easily incorporate a company online by [clicking here](#). The corporation that will be incorporated as an Ontario based corporation will have the following characteristics:

1. There is no restriction on the business that the Corporation may carry on.

This means that the company can carry on any business that it wishes to carry on. However, please note that the online form cannot be used for the following types of businesses which are restricted and have special requirements: professional corporation for the practice of a doctor, dentist, chiropractor, lawyer, accountant, architect, insurance broker, real estate brokerage, charity, charitable foundation, not-for-profit corporation, non-profit corporation, or co-operative -- for these types of businesses you will need to consult with a lawyer for special assistance.

2. The minimum number of Directors is one (1), with a maximum of ten (10).
3. The Corporation can issue shares without nominal or par value for two classes of shares as follows:

(a) Class "A" shares are Voting Common Shares;

(b) Class "B" shares are Non-Voting Common Shares;

The owners of the Class "A" shares will be allowed to "vote" at meetings of the shareholders including who will be chosen as director(s) of the corporation.

The owners of the Class "B" shares will **not** be allowed to "vote" at meetings of shareholders and cannot vote on who will be chosen as a



director. (Note: A person who is a Class “B” shareholder can still be elected by the Class “A” shareholders to be a director). Generally a Class “B” shareholder will be someone who you do not want to have a say in the decisions of the corporation.

More than one person can own shares of a particular class. Also it is not necessary to have anyone own any Class “B” shares. However, keep in mind that if you issue a dividend to a particular class of shares, every shareholder who owns shares of that class must also receive a dividend based on the number of shares they own. As such, if you have more than one shareholder, it may be advantageous to have one person own Class “A” and another person own Class “B” if you want flexibility in paying dividends, however you must also consider then that Class “B” shareholders do not get a vote at shareholder meetings (in such a case the Class “A” shareholder may want to consider electing the class “B” shareholder as a director).

At a minimum someone must own at least one (1) Class “A” share since only Class “A” shareholders are entitled to vote.

4. The Corporation is a Private Issuer as deemed by National Instrument 45-106. Essentially, this means that the corporation is a privately owned corporation as opposed to a public corporation. A public corporation typically trades its shares on a stock exchange and is subject to more complex rules and procedures.
5. No share transfers can be made without the consent of the Board of Directors or a Unanimous Shareholders Agreement.
6. Share ownership is restricted to less than 50 individuals, unless specified in law.
7. No shares will be available for sale to the public at the time of the Corporation’s formation. This means that as long as the company is a private company you cannot advertise for investors or shareholders at any time (unless the company becomes a public company and complies with securities laws and regulations).



- 8. The holders of Class “A” Common Shares and Class “B” Common Shares shall be entitled to receive a dividend, when and as specified by the Board of Directors of the Corporation.

To start the incorporation process, [click here](#) then follow the instructions below when filling out the online form.

In completing the online form, follow the following guidelines and instructions:

Section in online form:	Subsection	Additional Notes:
Corporate Name	Named or Numbered Corporation	A name of a corporation in Ontario can be a word name (e.g.: “ABC Computers Ltd.” or consists of numbers that are assigned by the Ontario government (e.g.: “123456 Ontario Ltd.”).
	NUANS Search Report	If you choose a name, a search (called a NUANS name search) must be conducted to verify that the name is available. If you have not previously conducted a NUANS search select “No”.
	Corporate Name and Alternate Corporate Name	Enter your 1 st and 2 nd choice of the name of the corporation. A corporation’s name consists of 3 parts (e.g.: Apple Computer Inc.) as follows: (a) distinct element. The distinct element separates your company from others in a unique way. The distinct element can consist of a made

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Section in online form:	Subsection	Additional Notes:
		<p>up word, a word that doesn't describe your business but merely distinguishes it. Samples include: Apple, Nike, McDonalds (none of these names describe the business, but are used to distinguish themselves from other similar businesses). Sometimes people use initials, or a made up word.</p> <p>(b) descriptive element. The descriptive element describes the nature of the business: e.g.: Computers, Apparel, Restaurants.</p> <p>(c) legal element. The legal element specifies that the entity is a corporation, e.g.: Corporation, Incorporated, Limited Inc., Corp., Ltd. There is no legal difference for each of these choices. As such choose one that sounds best with the distinct element and descriptive element.</p> <p>Try not to use a name that sounds similar to any existing names. For example, using "Koka Coola Drink Corporation" sounds too similar to "Coco-Cola". "Apple-juice Computers Inc." sounds too similar to "Apple Computer Inc." If you choose a name that sounds too similar (or more specifically the sound of the name is confusingly similar to an existing name then it will be rejected or you</p>

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Section in online form:	Subsection	Additional Notes:
		may have the name challenged at a later date by the owner of the pre-existing similar sounding name).
Contact Person		<p>Enter in the contact information of the person who is authorizing the incorporation.</p> <p>Generally, provide the information for one person and under “title” enter “Incorporator”.</p>
Corporate Address		Enter the address where the head office of the corporation will be located. If you plan on leasing an office but have not finalized the lease, then you may wish to enter your home address or an alternative address where you can receive mail and official government notices. This address will be made available on the public registry for corporations.
Initial Directors		<p>Enter the name and address of each person who will be elected as a “director” of the corporation.</p> <p>A director becomes a member of the Board of the Directors and has the responsibility of making decisions for the corporation.</p> <p>At least 1/4 of the members of the Board of Directors must be resident Canadians. All Directors must be individuals of at least 18 years of age,</p>

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Section in online form:	Subsection	Additional Notes:
		not bankrupt, and not have been deemed by law to be incapable of managing property.
Initial Shareholders		<p>If you know who are going to be the shareholders (the “owners”) of the corporation, complete this section now.</p> <p>You will need to have at least one (1) shareholder.</p> <p>For each shareholder you will need to provide the following information:</p> <ul style="list-style-type: none">a. First Nameb. Middle Name (optional)c. Last Named. the number of shares that the person will owne. the type of shares (Class A Voting Common or Class B Non Voting Common)

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Section in online form:	Subsection	Additional Notes:
Initial Officers		<p>Officers are individuals who are appointed to carry out certain tasks. Officers commonly have titles such as:</p> <p>President, Secretary, Treasurer, Vice-President, CEO, CFO, Chairperson</p> <p>A person can hold multiple titles.</p> <p>Generally, 3 positions are usually held: President, Secretary, Treasurer.</p> <p>Although not required, often in a small business the officers are the same people as the directors.</p>
Special Instructions		<p>If you have any special instructions you wish to provide, fill it in this box.</p>
Required Incorporation Fees		<p>Indicate the time period when you require the corporation:</p> <p>Standard Service (4-7 business days)</p> <p>Rush Service (1-3 business days)</p>

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Section in online form:	Subsection	Additional Notes:
Optional Products and Services	LawDepot Advantage	It is recommended that you select the “LawDepot Advantage” option which will include a Minute Book (this is an official binder that will contain the official corporation’s documents, plus the certain records that are kept for a corporation.
	Corporate Seal	Unless you have a reason to obtain a corporate seal (e.g.: you will be purchasing real estate in the name of the corporation), then in general, a corporate seal is not required.
	Share Certificates	It is recommended that you purchase a Package of 10 shares which should be sufficient for most needs.

Once the corporation has been officially created, you will receive an official government document called “Certificate of Incorporation” and “Articles of Incorporation”.

9. Next Steps

Here are a few steps you may want to take next as you start your business:

- **Open a business bank account.** Bring a copy of the “Certificate of Incorporation” and “Articles of Incorporation” to the bank.
- **Get accounting software.** One popular program is [QuickBooks](#); consider *QuickBooks Pro* or *QuickBooks Pro & Payroll*.
- **Talk to an accountant / bookkeeper.** A bookkeeper can help you with maintaining your accounting records, and an accountant can

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help you with more complex tax matters such as preparing the corporate income tax return.

- **Lease office space.** Talk to your lawyer before you sign anything.
- **Create corporate identity.** Get a graphics designer to create your [corporate logo and identity](#). Order business cards.

10. Other Useful Resources Online

Downloadable Legal Forms:

- [Incorporate in Ontario](#)
- [Business Name Search](#)
- [Business Plan](#)
- [Sales, Loans & Transactions forms](#) – IOU's, Loan Agreement, ...
- [Business Agreements](#) – Employee / Services / Consulting forms.

Sales & Marketing:

- [Custom Logo Designs](#) – Create a custom corporate logo and identity.
- [Register a website address](#) – Market your company online.
- [VoIP Office Phone Systems](#) – Local / 1-800 / 1-8** #, voicemail, fax.