

Erratum

Guide to Federal Incorporation

References to 15 shareholders in the preface on page i, in Chapter 4.4 and 4.5 on page 16, and in Chapter 5.3 page 20, is incorrect, the number should be 50.

- ▶ In Chapter 2, page 5, the references to "Forms 1, 3 and 6" should be to "Forms 1 and 2".
- ▶ In Chapter 2.1, page 7, the instructions should read as follows:

Form 2, Item 1

Restate your name request in Form 2, Item 1.

- ▶ In Chapter 2.2, page 7, the references to "Forms 1 and 3" in the first line under the heading "Locate your Registered Office" should be to "Forms 1 and 2".
- ▶
- ▶ In Chapter 2.5, page 9, the references to "Forms 1 and 6" in the first line under the heading "Choose your Directors" should be to "Forms 1 and 2".



Corporations Canada

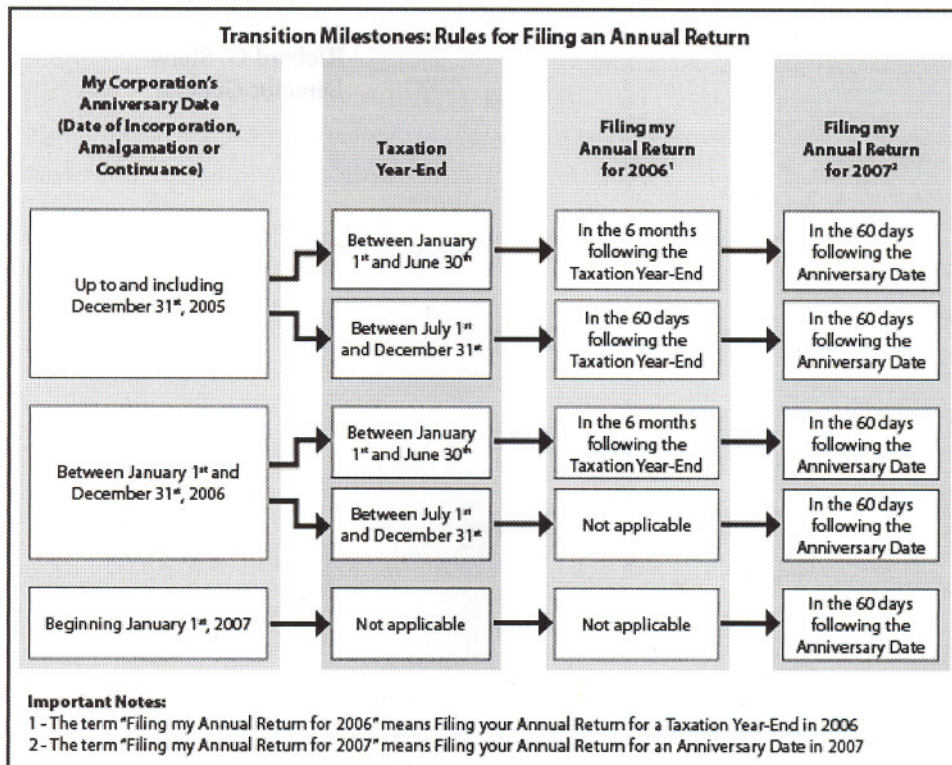
9th Floor, 9ième étage
 Jean Edmonds Towers S. Tour Jean Edmonds sud
 365 Laurier Ave. West 365, ave Laurier ouest
 Ottawa, Ontario K1A 0C8 Ottawa (Ontario) K1A 0C8

May 2, 2006

**NOTICE FROM THE DIRECTOR:
 HOW CHANGES TO THE FILING REQUIREMENTS FOR
 ANNUAL RETURNS AFFECT YOUR BUSINESS**

On July 1, 2006, amendments to the *Canada Business Corporations Regulations, 2001* changing the requirements for corporations filing Annual Returns (Form 22) will come into force. The basis for filing will change from the Taxation Year-End to the Anniversary Date. In order to ensure a smooth transition, as well as regulatory compliance for your corporation, we suggest you take the time to review this notice to find out more about how these changes will directly impact the time frames for filing your corporation's Annual Return.

The diagram below illustrates important transition rules that pertain to you and your corporation. Begin by choosing the appropriate date or time span in the left-hand column that includes your corporation's Anniversary Date (i.e., Date of Incorporation, Amalgamation or Continuance). From there, move towards the right to find your Taxation Year-End (TYE), as well as the filing time frame for your 2006 Annual Return and the filing time frame for your 2007 and subsequent Annual Returns. It is important to remember that the information you provide in your Annual Return represents your corporation's situation on the Taxation Year-End or the Anniversary Date, as appropriate.



If you need to confirm your corporation's Anniversary Date, this information is generally found at the bottom, right-hand corner of the Certificate of Incorporation, Amalgamation or Continuance. However, if you are still unable to locate your corporation's Anniversary Date, please visit our website at www.corporationscanada.ic.gc.ca and click on "Search for a Federal Corporation" in the left-hand menu of the homepage and enter your corporation number or name in the appropriate box.

You can also use the Annual Return Filing Calculator on the Corporations Canada website to help you to determine the filing timeframe for your Annual Return. To access the Calculator, simply click "Online Filing" on the Corporations Canada website homepage and then "Annual Return Filing Calculator".

If you have any questions about the new regulations or would like to find out more about the Annual Return filing date changes, please visit the Corporations Canada website or contact:

Corporations Canada
Jean Edmonds Towers South
9th Floor
365 Laurier Avenue West
Ottawa, ON K1A 0C8
General Information: (613) 941-9042
Toll-Free: (866) 333-5556
Email: corporationscanada@ic.gc.ca
Website: www.corporationscanada.ic.gc.ca

Richard G. Shaw
Director General



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Guide to Federal Incorporation

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Guide to Federal Incorporation

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Preface

The purpose of this guide is to give the reader a general overview of federal corporate law under the *Canada Business Corporations Act* (CBCA). It provides the basic knowledge and tools that business owners and operators need to incorporate and operate a small or medium-sized private company under the federal corporate law.

The guide provides useful hints to help you meet CBCA requirements for federal incorporation and provides instructions on how to incorporate on-line. It assumes that you are past the initial business concept stage and that you have made or are in the process of making a decision to incorporate.

The guide focusses on general incorporation issues for small businesses under the CBCA. (Note that banking, insurance, and loan and trust companies, as well as non-profit corporations, are incorporated under different statutes in Canada.) Much of the discussion in this guide applies only to companies with fewer than 15 shareholders, since most small businesses, at least at the beginning, have fewer than 15 shareholders anyway. It does not describe matters relating only to publicly held corporations or only to situation-specific provisions such as takeover bids or management proxy solicitations. Instead, the focus here is — and stays — on the information you need to incorporate and run your small business under federal jurisdiction.

While this guide is aimed at the small, one-owner corporation, some information that a corporation with several shareholders/directors will want to consider is included. As you review the material, you may find that some sections contain more information than you feel you need at the start. We suggest you hold onto the guide; as your business develops, you may want to refer to these sections at a later time.

The answers to frequently asked questions and a glossary of terms are included for your reference.

Helpful suggestions or sources for more information appear in boxes accompanying the text throughout the guide. Key CBCA provisions are cited in the text. A complete copy of the CBCA is available electronically. (www.laws.justice.gc.ca/en/C-44/index.html)

Instructions on how to contact our corporate specialists, as well as other federal government resources for small and medium-sized enterprises (SMEs), are included in the *Contacts section*. In addition, Corporations Canada has prepared information kits with instructions on how to incorporate your company and maintain or change its status under the CBCA. A list of titles and where to obtain them is included in the *Contacts section*.

A caution: This guide is not legal advice. It does not discuss all of the other federal and provincial/territorial laws that impose obligations on CBCA corporations and their operators, nor does it attempt to deal exhaustively with the CBCA. It does, however, provide the basic knowledge and tools that an SME operator needs for incorporating and operating a private company under the CBCA.

Chapter 1 - Why Should I Incorporate?

"I am starting a new business. Should I incorporate?" This is one of the most frequently asked questions by entrepreneurs. The answer usually is "It depends."

Factors to consider are the benefits of incorporating (rather than operating your business as a sole proprietorship or partnership) and the implications that incorporating may have on your business. Then you will have to choose between either federal or provincial/territorial incorporation.

Your choice really depends on the circumstances facing you at a particular time, and these may change over time. Therefore, even if you are not ready to incorporate now, you should bookmark this guide for later reference as your circumstances change.

The federal business law in Canada is the *Canada Business Corporations Act* (CBCA). When the CBCA was first made law in 1975, it introduced the notion of "incorporation as of right." In other words, when you properly complete the application form set out in the CBCA (known as the articles of incorporation), provide certain information (acceptable business name, directors and address of registered office) and pay the appropriate fee, you will be issued a certificate of incorporation. Federal incorporation services are available through the Internet under the Corporations Canada On-line Filing Centre (www.corporationscanada.ic.gc.ca). This makes federal incorporation a very simple and less expensive process.

Chapter 1.1

Benefits of Incorporating

Separate Legal Entity

The act of incorporation gives life to a legal entity known as the corporation, commonly referred to as a "company" (throughout this guide, the terms "corporation" and "company" are used interchangeably). A corporation has the same rights and obligations under Canadian law as a natural person. A corporation can acquire assets, go into debt, enter into contracts, sue or be sued, and even in some situations be found guilty of committing a crime. A company's money and other assets belong to the company and not to the shareholders. (*CBCA section 15*)

Once incorporated, the company's separate legal status, property, rights and liabilities continue to exist until the company is dissolved, even if one or more of its shareholders or directors sell their shares, die or leave the company.

Limited Liability

The act of incorporation limits the liability of a company's owners or shareholders. As a general rule, shareholders of a company are not liable for the company's debts. If the company goes bankrupt, then a shareholder will not lose more than his or her investment (unless the shareholder has provided personal guarantees for the company's debts). A creditor cannot sue shareholders for liabilities (debts) incurred by the corporation, even though shareholders are owners of the corporation. (*CBCA section 45*)

Note, however, that if a shareholder has another relationship with the corporation, for example, as a director, then he or she in certain circumstances may be liable for the debts or liabilities of the corporation in that capacity.

The CBCA, as well as many other federal and provincial/territorial statutes, imposes various duties on directors. In general, these duties or liabilities are imposed where the legislature has decided that a certain act or failure to act is of sufficient importance to warrant going beyond the general rule of limited liability (see Section 4.2, Duties and Liabilities of Management, of this guide).

Lower Corporate Tax Rates

A corporation is taxed separately from its owners and generally at a lower tax rate. For example, active private companies in Ontario pay a combined flat tax of less than half that of an individual in the highest tax bracket on the first \$200 000 of taxable income.

Once dividends are paid out to the shareholders of a company, those dividends are taxable in the hands of the shareholders at the shareholders' personal tax rate. The corporate structure does permit some measure of tax deferral, since you decide when to pay out the company's earnings by way of dividend. Until you do so, this money is taxed only at the lower corporate rate, not at the personal rate.

Note that losses from the business cannot be written off against other personal income the owners or shareholders may have.

For more information on the tax benefits and implications of incorporation, consult the Canada Revenue Agency (CRA) Canadian Small Businesses Guide. It covers such matters as business and professional income, and payroll deductions. For the CRA office nearest you, consult the Blue Pages of your telephone directory or visit the CRA on-line (www.cra-arc.gc.ca). Your accountant or lawyer will also be able to provide you with comprehensive tax advice.

Greater Access to Capital

Raising capital is often easier for corporations than for other forms of business. For example, corporations are entitled to issue bonds or share certificates to those who invest money in the company. Other forms of business must rely solely on their own money and loans for capital. Reliance on these latter means of financing often limits a business's ability to expand.

Corporations often are able to borrow capital at a much lower rate than other forms of business. This is probably because financial institutions and other sources of financing perceive loans to corporations as being less risky investments.

While the reasons are not wholly clear, many financial institutions believe corporations (as opposed to partnerships or sole proprietorships) are better loan risks, and therefore feel more comfortable providing capital to corporations. They are supported in this view by studies showing that incorporated businesses are more successful than unincorporated ones.

For more information on how SMEs can finance their business venture, check out Industry Canada's [Sources of Financing](http://www.strategis.ic.gc.ca/epic/internet/insof-sdf.nsf/en/Home) (www.strategis.ic.gc.ca/epic/internet/insof-sdf.nsf/en/Home)

Continuous Existence

Unlike a partnership or sole proprietorship, a corporation does not cease to exist upon the death of its owner(s). Even if every shareholder and director were to die, the corporation would still live on, and ownership would transfer to the shareholders' heirs. This assurance of continuous existence gives a business greater stability, allowing it to carry out planning over a longer term and to obtain more favourable financing terms.

Chapter 1.2

Implications of Incorporating

Higher Start-Up Costs

Start-up costs are higher if you choose to incorporate rather than carry on business as a sole proprietorship or partnership. These start-up costs are directly related to the process of setting up the corporation, as well as any professional fees for legal and accounting services. While it is not necessary to obtain legal advice to incorporate, it would certainly be worthwhile to do so if you are considering setting up with a complex share structure.

On the other hand, the higher start-up costs may be offset by the lower financing and tax rates that corporations often enjoy. Moreover, obtaining financing may be easier because lenders are generally more accustomed to dealing with corporations than with other forms of business.

Increased Paperburden

Carrying on business as a corporation may increase the number of filings you are required to make. For instance, the CBCA requires that you file each year an annual return (Form 22) and also inform Corporations Canada of any changes in your board of directors and/or location of your registered office (Forms 3 and 6). You will also be required to file separate

income tax returns for yourself and your company, which may lead to an increase in your ongoing professional costs. Your company is also required to maintain certain corporate records (see Section 4.1, Corporate Records, of this guide).

The most convenient way to file forms required by Corporations Canada is via the Internet, through the Corporations Canada On-line Filing Centre. (www.corporationscanada.ic.gc.ca) This method has many advantages: it is less expensive (the incorporation and annual return filing fees are lower when paid on-line than when paid through any other means); it is convenient (you can file from the office or home 24 hours a day, seven days a week); and it is fast (you receive immediate acknowledgment of your filing, and there is usually same-day or next-day processing). And there's no need to worry about on-line payments using your American Express®, MasterCard® or Visa® — the Strategis Secure On-Line Electronic Commerce System ensures that all transactions are processed with complete security.

Further, you will likely be required to register your company in any province or territory where you carry on business. Registration is different from incorporation. While a company may be incorporated only once, it may be registered in any number of jurisdictions to carry on business. You should contact the local corporate law administration office in each province or territory in which you plan to carry on business to determine what filing requirements you will have to fulfil.

Required: Directors, Officers and Shareholders

Although a corporation is a distinct legal entity, it does not have a physical presence. It must act through people. There are three main types of persons who may have an interest in a particular corporation and through whom it acts:

- directors
- officers
- shareholders

Individuals may hold more than one position in a company. For example, the same person may be a shareholder, a director and an officer, or even the sole shareholder, director and officer.

The directors are responsible for supervising the management of the company's business. Your company's articles of incorporation will specify the number or minimum and maximum numbers of directors. You must have at least one director. (*CBCA sections 6, 102, 105*)

Officers may hold positions in the company such as president, chief executive officer, secretary and chief financial officer. They are appointed by the board of directors. The duties of the company's officers are normally found in its by-laws. In general, the directors assign the officers the responsibility to manage and execute the day-to-day business of the corporation. (*CBCA section 121*)

Shareholders, who own the company, make decisions by passing resolutions, usually at meetings (see Section 5.3, Shareholders' Meetings, of this guide). One of the most important decisions that shareholders make is the election of directors.

If you are considering a business venture involving more than one individual (fellow shareholders), think about obtaining legal advice on entering into a shareholder agreement. Shareholder agreements can be useful in establishing the rules by which the shareholders make decisions and, most importantly, in resolving disputes among themselves. While this subject is beyond the scope of this guide, Section 5.4, Shareholder Agreements, reviews these documents in very general terms.

Chapter 1.3

Benefits of Incorporating Federally

In Canada, you have the choice of 13 provincial and territorial jurisdictions and one federal jurisdiction of incorporation. While company law statutes in Canada are quite similar, incorporation under the CBCA does offer certain distinct advantages.

Heightened Name Protection

One of the reasons most often given by our clients for choosing federal incorporation is the heightened name protection provided to federal corporations, seen as an important element of the right to carry on business throughout Canada. While every incorporating jurisdiction in Canada screens potential corporate names (see Section 2.1, Choose a Name, of this guide), the level of scrutiny varies from province to province and from territory to territory. At Corporations Canada, we apply the most stringent of tests before granting the right to use a particular name. What does this stringency mean to you, the client? It is a guarantee that once your corporation obtains its name, that name has a protected status second only to trade-mark (http://www.strategis.gc.ca/sc_mrksv/cipo) protection.

A related benefit is the constitutional right of a CBCA company to carry on business anywhere in Canada. "Carrying on business" includes the right to do so under your own name. All corporations, including CBCA corporations, may be required by a province or territory to register to carry on business within its borders, and to register its name for exclusive use within that province or territory. If you are incorporated under one province's or territory's legislation and later wish to expand your business to another, a company name similar to yours may already be in use in that other province or territory. Only with CBCA incorporation can you be assured of being able to operate under your corporation's own name throughout Canada, both now and later.

Location Flexibility

Incorporation under the CBCA offers flexibility not available under other jurisdictions. For instance, the CBCA does not set restrictions regarding the province or territory where your head office is located, your corporate records are maintained and your annual general meetings are held. You can even hold your meetings electronically or outside of Canada if you wish.

High-Quality Service

Corporations Canada takes great pride in its customer service standards. Turnaround times for various services such as incorporation are a matter of public record, as are Corporations Canada's results in reaching such standards.

As a service provider in a competitive market, Corporations Canada is always pursuing ways to make itself more accessible and convenient to clients. For example, it now offers clients an on-line service that allows you to send documents, pay fees, and receive documents and acknowledgments back from the Director under the CBCA, via the Internet.

Resource for Small Businesses

Industry Canada views SMEs as the key to jobs and economic growth in our country.

Dealing with a complex piece of legislation, like the CBCA or any of the provincial/territorial incorporation statutes, can be daunting to many individuals. Incurring professional fees to help deal with them can often be beyond the reach of people starting out in a business venture.

Corporations Canada therefore has invested much time and effort in developing materials, such as this guide, designed to help the small businessperson through the steps involved in starting and operating a corporation. (*See the Contacts section for a list of these materials.*) Do-it-yourself information kits on most aspects of the CBCA, as well as policy statements and guidelines clarifying the position of the Director under the CBCA on various matters, are also available.

New materials are continually being prepared in consultation with clients. In addition, a great deal of research and analysis is being done with respect to developing new services, policies and legislative or regulatory amendments.

Regardless of your location in Canada, incorporation under the CBCA is available to you. With federal incorporation comes excellence in customer service, a focus on accessibility and, of course, the status of being a federal corporation. We are your jurisdiction of choice.

Chapter 2 - Submitting Articles of Incorporation

Once you have decided to incorporate, there are some simple steps you must take to set up your company. Federal corporations are formed by filing articles of incorporation with Corporations Canada. In filling out these basic forms, you will need to make some decisions on the name of the business, location of registered office, who will serve as directors, etc.

One form must accompany the articles of incorporation:

Form 2 — Information Regarding the Registered Office and the Board of Directors

To incorporate under the CBCA, you must complete Form 2, bearing original signatures of the incorporator(s) (you may use copies of the form itself). If Form 2 and Articles of Incorporation are filed through Corporations Canada's Online Filing Centre or are sent by fax, original signatures of the incorporator(s) are not necessary. However, signed copies of the original documents must be retained in the records of the corporation. (*CBCA sections 258.1; CBCA Regulations 10, 11 and 12*)

Deliver them to Corporations Canada at the address listed in the *Contacts section*. Corporations Canada will keep the documents on file and return a copy to you with your certificate of incorporation. It will also assign your company a corporation number, which will appear on the certificate of incorporation. Your business is incorporated as of the date of your certificate of incorporation.

Free information kits on the incorporation process, which include blank copies of the required forms, are available from Corporations Canada through our website or in paper copy from our head office (*see the Contacts section*).

To better assist you in completing these forms, the following information is presented in the same sequence as the various items appear in Forms 1, 3 and 6.

Chapter 2.1

Choose a Name (Forms 1 and 2)

Form 1, Item 1

Every corporation needs a name. In order to protect the public and avoid confusion, this name must be distinct from the names of all other corporations. All Canadian jurisdictions regulate corporate names to ensure that the public is not misled by confusingly similar corporate names. The degree of scrutiny differs from one jurisdiction to another. Corporations Canada applies the most rigorous of standards for name granting in Canada.

Corporations Canada has prepared a brochure, *Choosing a Name*, and the *Name Granting Guidelines*, reference documents containing greater detail to help you choose a name for your corporation (*see the Contacts section*).

What's in a Name?

A corporate name generally contains three elements:

- a distinctive element (perhaps a surname or other unique term)
- a descriptive element (e.g. Manufacturing, Consulting, Trading)
- a mandatory legal element (e.g. Corp., Inc., Ltd.).

Name Request

In order to see if your name of choice is available for registration under the CBCA for your exclusive use anywhere in Canada, you must obtain a Canada-biased name search called a Newly Upgraded Automated Name Search (NUANS®) report. A NUANS® report may be obtained in two ways:

1. You can now order a federal NUANS® report on-line at the NUANS® website (www.nuans.com) from the NUANS® Real-Time system or from the Corporations Canada On-line Filing Centre (www.corporationscanada.ic.gc.ca). The fee is \$20 payable by credit card (American Express®, MasterCard® or Visa®). The system provides direct access to the NUANS® search service but does not provide the professional assistance and recommendations often available from a registered NUANS® search house. Because of this, you will have to ensure that you understand the regulations and policies which have to be met before the name will be approved by Corporations Canada. Your NUANS® report that is generated may be rejected if the proposed name does not meet the requirements of the CBCA name regulations. A Corporations Canada publication, Name Granting Guidelines, features more information about the requirements for corporate names. This brochure, as well as other relevant information, can be accessed at the Corporations Canada's website in the "Choosing a Name" section.
2. A NUANS® report may also be requested from a private company known as a search house. A search house is an independent, private sector business that can provide advice on the availability of your corporate name choice. You can find a list of these firms at the NUANS® website, (www.nuans.com) or in the Yellow Pages of your telephone directory under "Searches or Records". There is a fee for this service.

Note that a NUANS® Report has a life of 90 days from the date it is requested.

Is the Name Acceptable?

You or your search house will then submit the results of the NUANS® search, along with your articles of incorporation, to Corporations Canada for review to determine if the name requested is available. Various tests are used, as explained in detail in the **Name Granting Guidelines**. Some of these tests are described below:

- Does the proposed name contain any words or phrases that are prohibited?
Examples: "Parliament Hill," "RCMP," "Cooperative," "Air Canada," "United Nations."
- Is the proposed name obscene?
- Is the proposed name too general?
- Is it only a geographical name such as North West Inc., or only an individual's name such as Joe Smith Inc.?
- Is the proposed name so similar to the trade-mark or official name of another corporation that both names appear to refer to the same business? Or is it similar that it appears to be related to the other business?
- Does the proposed corporation have a foreign affiliate with a similar name?
If so, it may be necessary to provide written consent of the foreign affiliate and add an element to your proposed name to distinguish it, such as ABBA Consulting Canada Inc.

If Your Name Is Refused

Clients at times have been surprised by a refusal to grant a name, particularly if the NUANS® report appears to indicate that there are no similar names already in existence. Corporations Canada sometimes must reject a proposed corporate name simply because it has insufficient background information on which to base a name granting decision. If the name you have chosen is rejected, your articles of incorporation will be returned to you, along with a request for you to explain the name more fully. To help clients propose acceptable company names, Corporations Canada has developed a Corporate Name Information Form. The additional information you provide in this form when requested to do so is often enough to persuade Corporations Canada of the uniqueness of your chosen name. If not, you will then have to choose an alternate name and obtain a new NUANS® report, at additional expense.

Pre-Approval of Name

Should you wish to ensure the availability of the corporate name you have chosen, in advance of filing your articles of incorporation (thus saving the filing fee), you can simply forward your NUANS® report to Corporations Canada requesting a *name decision letter*. If your name choice is accepted, the letter you receive in reply will point out that the selected name is reserved for the life of the NUANS® report, i.e., for 90 days from the date the report was requested. You may then proceed with preparing your articles of incorporation. On the other hand, if the name you have chosen is not accepted, you will be spared the effort and expense of compiling and submitting the articles of incorporation fruitlessly.

Number Name

It is not always necessary to order and file a NUANS® report. You may instead ask Corporations Canada to assign a number for your corporation (e.g. 1234567 Canada Ltd.) at the time your articles of incorporation are processed. Many SMEs and holding companies choose this option when a corporate name is not important, thus ensuring faster processing and saving the expense of ordering a NUANS® report.

Another possibility is to apply for a number name now and later submit a NUANS® report along with articles of amendment for a change in name, together with the appropriate fee. Some of our clients choose this option when they want to be incorporated quickly, and realize there may be a delay in finding a suitable name.

Form 2, Item 1

Restate your name request in Form 2, item 1. If Corporations Canada approves your name choice, it will assign a corporation number to be inserted in item 2 on both forms. For now, you will leave item 2 blank. (*CBCA sections 10–12; CBCA Regulations 12–28*)

Chapter 2.2

Locate Your Registered Office (Forms 1 and 3)

Form 1, Item 2

A CBCA company must have a registered office within Canada. The purpose of the registered office is to establish a location where official forms and notices can be delivered to the company. A post office box may not be used as a registered office address.

Name the province or territory in Canada where the registered office is to be located. Do not set out a specific civic address in Form 1. If your company changes addresses later on, within the province or territory, you will have to submit a Form 3 indicating the change of address, for which no filing fee is required. (A change in the province or territory is done by filing Articles of Amendment and applicable filing fee.)

Form 2, Items 2 and 3

Copy the location information from Form 1, item 2.

Provide the civic address of your registered office in Form 2, item 2 and the mailing address (Form 2, item 3) if different from that of registered office.

Chapter 2.3

Describe Your Shares (Form 1)

Form 1, Item 3

An incorporated business can issue shares, which represent ownership interest in the corporation and give the holder a say in how the company is being run through the rights attached to the shares. You must specify in your articles of incorporation how many classes of shares and the maximum number (usually unlimited) for each class your company is authorized to issue. Unless you otherwise specify here, one share entitles the holder to vote at shareholders' meetings.

Shares are property, much like a car or house. The shares and the rights that go with them (you may often hear the phrase "rights that are attached to the shares") can be transferred (sold), provided that the transfer is made in accordance with any conditions or restrictions that apply to the particular shares, discussed further below.

Under the CBCA any "person" may hold shares in any company. In addition to an individual, the definition of "person" includes legal entities that are not individuals, such as trusts, mutual funds and other corporations.

Classes of Shares

Shares in general have three inherent rights:

- the right to vote
- the right to receive dividends (if any have been declared by the board of directors)
- the right to receive the property of the corporation remaining after its dissolution.

The CBCA permits a company to distribute these three rights among more than one class (type) of shares. They can be distributed in any combination, so long as all three rights are being assigned. In other words, looking at all of the share classes together, each of these three fundamental rights is assigned to at least one class but not necessarily to all.

There is no limit on the number of classes of shares you set out in the articles of incorporation. Classes may be assigned names such as preferred or common, or they may simply be alphabetized such as Class A, Class B, etc. Articles of incorporation with more than one class of shares often provide for unlimited common and preferred shares. The common shares have the right to vote, the right to receive dividends behind the preferred shareholders, and the right to share in the property upon dissolution. The preferred shares have no voting rights but are given the right to receive dividends and to share in the property on dissolution ahead of the common shares. If there is no difference between the shares (i.e. only one class is described in the articles), they are usually referred to as common shares.

These differences in rights can be useful if you have investors with different objectives. Often voting shares are issued to the person(s) actually running the company (control shares), while special or preferred shares may be issued to partners or investors who are not involved in running the business but who have invested money in the company with the expectation of profit and income (investment shares). Thus, the common shareholder (having votes) runs the company (with the power to elect directors, approve all major activities, etc.) but may be entitled to dividends only after the preferred shareholder (the investor) is paid dividends.

(CBCA sections 6, 24, 26, 42, 43, 140; CBCA Regulations — Form 1)

In most new corporations, it is probably not necessary to create different classes of shares on incorporation. If the company is a success and it is determined later that a more complex share structure is needed, professional advice should be sought to make sure that the best structure has been chosen and that the changes to your articles (called "articles of amendment") are properly prepared.

Chapter 2.4

Set Out Restrictions on Share Transfer (Form 1)

Form 1, Item 4

When you are incorporating your company, you must decide whether or not to place restrictions on the transfer of your company's shares. Restrictions on the transfer of shares permit the shareholders and directors to control who holds shares in your company, because they limit the ability of shareholders to resell their shares. But the main reason to place these in your articles is to ensure that your company is a private company and so will not have to comply with the registration and prospectus filings requirements and other related procedures set out in the CBCA and provincial/territorial securities law.

Restrictions on share transfer are one of three restrictions required for a company to be a private company. The remaining two are discussed in Section 2.7, Other Provisions: Private Company Restrictions/Other Clauses, of this guide.

The most common share transfer restriction provides that shares cannot be transferred by a shareholder without the prior consent, by way of resolution, of the board of directors or of a majority of the shareholders.

You should note that you have to make reference to these restrictions on the share certificates issued to shareholders in your company. *(CBCA sections 6, 49)*

Chapter 2.5

Choose Your Directors (Forms 1 and 6)

Form 1, Item 5

Set out the number of directors of the corporation. We recommend you specify a minimum and maximum number of directors, as a range provides more flexibility than a fixed number and may avoid the expense of having to submit articles of amendment should you decide later to change the fixed number.

Form 2, Item 4

You must let the public and the Director under the CBCA know the identity and residential addresses of the directors of the company. Corporations Canada will review your Form 2 to ensure that your company has one or more directors and that more than 25 percent of the directors are ordinarily resident in Canada. If the corporation has less than four directors, then at least one must be a resident Canadian. Corporations in sectors subject to ownership restriction (like airlines and telecommunications) or corporations in certain cultural sectors (like book retailing, video, film distribution) must have a majority of resident Canadian directors. The number of directors listed in Form 2, item 4, must be within the range indicated in Form 1, item 5.

Chapter 2.6

Set Any Restrictions on Activities (Form 1)

Form 1, Item 6

Set out the restrictions, if any, on the company's business activities. Most companies do not provide any restriction and simply write "none" in the space provided.

Chapter 2.7

Other Provisions: Private Company Restrictions/Other Clauses (Form 1)

Form 1, Item 7

In addition to the restrictions on share transfers noted in Form 1, item 4, many companies adopt the two remaining "private company restrictions." They are inserted in the articles of incorporation to ensure that your company is a private company, and so will not have to comply with the registration and prospectus filings requirements and other related procedures set out in the CBCA and provincial/territorial securities law.

Most small businesses are private companies, and virtually all start out that way. Therefore, private company restrictions should appear in the original articles of incorporation of almost every small business.

To be a private company, you must restrict the number of shareholders in your company to 50 or fewer (not including employees). This is done by adding a clause to this effect in your articles of incorporation.

To be a private company, you cannot offer shares to the public. You must add a clause to this effect also in your articles of incorporation.

Note that although share transfer restrictions are set out in a separate item in your articles of incorporation, all three types of restrictions must appear for your company to qualify as a private company.

If you later decide to offer shares publicly, these restrictions will have to be removed by submitting articles of amendment and paying the appropriate filing fee. However, you will have the comfort of knowing that all previous share issuances were valid, since there was no need to comply with registration and prospectus requirements under securities law.

Chapter 2.8

Sign Your Articles of Incorporation (Forms 1 and 2)

Articles of incorporation are signed by the incorporator(s), who is (are) competent, at least 18 years of age and not in a status of bankrupt. Incorporators may — but need not — be directors or shareholders of the company after it is organized. In addition to signature(s), Form 1 requires the names and addresses of all incorporators. Form 2 requires only one signature, along with the date and position of the informant. Once you are incorporated, Forms 3 and 6 and your annual return (Form 22) can be signed by your lawyer, accountant or anyone who has the relevant knowledge of your corporation and who is authorized to sign these documents by your company's directors. (*CBCA subsection 262.1(2)*)

All forms must be submitted to Corporations Canada, either by traditional means or electronically. Each form must bear original signatures, unless submitted electronically, in which case the paper copy, manually signed, is to be maintained in the records of the corporation.
(*CBCA sections 5–9*)

Chapter 2.9

Remit the Filing Fee

The filing fee must be submitted to Corporations Canada along with the required forms. It may be paid by cash, American Express®, MasterCard®, Visa®, or by cheque made payable to the Receiver General for Canada in the amount of the applicable filing fee. Filing fees are lower when paid on-line (by American Express®, MasterCard® or Visa® only) than when paid through any other means. In the spring of 2001, the fees were reduced to \$200 when submitted on-line and \$250 for all other means. When payment is made through the Corporations Canada On-line Filing Centre, (www.corporationscanada.ic.gc.ca) the Strategis Secure On-Line Electronic Commerce System ensures that on-line credit card payments are processed with complete security. (*CBCA Regulations — Schedule II*)

Chapter 3 - Organizing Your Company

Your newly formed corporation should hold its first meeting of directors (called an organizational meeting) shortly after incorporation. The orders of business of an organizational meeting are usually to appoint officers, issue shares, make by-laws, appoint an auditor until the first meeting of shareholders and make banking arrangements. (*CBCA section 104*)

The CBCA does not specifically require an organizational meeting of shareholders. Rather, the statute requires only that the first annual meeting of shareholders be called within 18 months following incorporation. After the first meeting, the directors must call an annual meeting not later than 15 months after its last meeting and not more than 6 months after its financial year end. (*CBCA subsection 133(1)*)

In practice, many corporations hold a meeting of shareholders soon after incorporation, often immediately following the directors' organizational meeting. In such a case, shareholders will elect directors, confirm the corporation's by-laws, and (often) waive the audit requirement and name the corporation's accountant.

Rather than hold an actual meeting, many small companies conduct this initial business through written resolution instead. If so, the resolution must be signed by all of the voting shareholders of the company. (*CBCA sections 133, 142*)

Chapter 3.1

Elect Directors

The first director(s) of the corporation is (are) named in Form 2 —Information Regarding the Registered Office and the Board of Directors, which is filed with your articles of incorporation. These directors hold office from the date the certificate of incorporation is issued by Corporations Canada until the first meeting of shareholders, at which time the shareholders will elect directors to replace the first directors.

Directors elected must not object to their election if they are present at the meeting. If they are not present at the meeting, they must either act as a director or consent in writing to their election before the election or within 10 days thereafter.

The people elected to the board of directors at the first directors' and shareholders' meeting may be the same people listed in Form 2, which was submitted with your articles of incorporation. If new individuals are elected to the board, your company must file a Form 6 indicating the change of directors within 15 days following that election.

The company's directors are responsible for the overall supervision of the affairs of the corporation. They approve the company's financial statements; make, amend and repeal by-laws; authorize the issuance of shares; and call and conduct directors' and shareholders' meetings. The directors in turn usually appoint officers, who are responsible for the day-to-day operations. In a small, private corporation, one individual may act as sole shareholder, director and officer.

For certain company activities, shareholders must give their approval. For others, the directors (and officers, if the directors have authorized them) can make important decisions in a corporation without shareholder approval. In this sense, shareholders rely on directors and officers (together referred to as the "management") of their corporation to operate the company's day-to-day activities in a way that protects the shareholders' investment.

At the first meeting of shareholders and at each following annual general meeting at which an election is required (depending on the length or term of office the shareholders choose), shareholders elect directors. These directors will hold office for a term expiring no later than the close of the third annual general meeting of shareholders after such election. If no term is stated, the directors hold office until the next annual general meeting of shareholders. Once a director's term has expired, subject to what you have put in your company's by-laws, that individual can be re-elected as a director. (*CBCA sections 2, 102, 103, 106, 113*)

Who Can Be a Director?

A director must be:

- at least 18 years old
- of sound mind (mentally competent)
- an individual (a corporation cannot be a director)
- not in a status of bankrupt.

In addition, at least 25% of the directors of a corporation must be individuals who are ordinarily resident in Canada. If the corporation has less than four directors, then at least one must be a resident Canadian. Corporations in sectors subject to ownership restrictions (like airlines and telecommunication) or corporations in certain cultural sectors (like book retailing, video film distribution) must have a majority of resident Canadian directors. You should keep this in mind when electing directors, and also when filling vacancies. There is no requirement for a director to hold shares in the corporation, nor is there any restriction against their holding shares.
(CBCA sections 2, 105)

Fill Your Board of Directors

Your company must have at least one director. In your articles of incorporation (Form 1, item 5), you will have specified the number of directors your company is to have, either a fixed number or a range (say, from one to ten).

It sometimes happens that because of death, resignation or disqualification of a director or directors, there is a vacancy on the board of directors. If this occurs, provided that the number of directors elected constitutes a quorum (the minimum number of directors required to be present at a meeting, as specified in your company's by-laws), the board may exercise all powers of directors. Also, the directors remaining on the board may fill the vacancy or vacancies on the board.

The directors may also wish to increase their number or change the minimum number of directors. To do so, they will need approval of the shareholders to amend the articles of incorporation. Alternatively, they may appoint additional directors between annual general meetings, if this provision is made in item 7 of the articles of incorporation.

Shareholders may decide that, for any variety of reasons, they want to remove a director they had previously elected. This is a simple procedure: it generally requires the approval of a majority of the votes represented at a meeting of shareholders called for the purpose of removing the director. (CBCA sections 2, 106, 108, 109, 111)

If the composition of your board of directors changes, either through the filling of a vacancy or the removal of a director, your company must file Form 6 — Changes Regarding Directors within 15 days following that change.

Chapter 3.2

Appoint Officers

Once elected, one of the first activities undertaken by directors is the appointment of officers of the corporation. The officers designated can be president, secretary or any other office you wish. These officers take responsibility for the day-to-day operations of the company.

The CBCA does not impose any restrictions on who can be an officer of your corporation, other than to require officers to be individuals. Officers may or may not be shareholders, and they may or may not also be directors of the corporation. There is no reason why the same individual cannot act as a director, officer and shareholder simultaneously. In fact, for many small businesses, one individual is the sole director, officer and shareholder. (CBCA sections 2, 121)

Chapter 3.3

Appoint Auditors

At the organizational meeting, directors can also appoint the company's first auditor(s), who will hold office until the first shareholders' meeting; thereafter the shareholders appoint the auditors. Once the shareholders meet, however, the shareholders may choose to waive the audit requirement, provided that all voting and non-voting shareholders agree. Most companies will retain the services of an accountant to prepare the financial statements.

A company must keep up-to-date financial statements. Copies do not have to be filed with the Director under the CBCA unless the corporation distributes its shares to the public (that is, it is listed on a securities exchange). (CBCA sections 104, 160–163; CBCA Regulation 49)

All financial statements must be prepared in accordance with Generally Accepted Accounting Principles, as set out in the CICA [Canadian Institute of Chartered Accountants] Handbook — Accounting and modified from time to time. Copies of your financial statements must be given to the shareholders at least 21 days before your company's annual general meeting each year. (CBCA sections 155, 157, 158, 159; CBCA Regulations 44, 46)

Chapter 3.4

Issue Shares

One of the first corporate activities undertaken by a company following incorporation is the issuance of shares. Persons become shareholders when a company "issues" shares in that person's name, or records a transfer of previously owned shares to a person. Generally, unless you provide differently in your articles of incorporation or by-laws, shares can be issued whenever, to whomever and for whatever value the board of directors of your company decides.

Issuing shares is not complicated. Directors can decide to issue shares by majority vote. The directors' decision (called a resolution) to issue the shares must be recorded in the company's minute books. A share cannot be issued until full consideration (payment) for that share is actually received by the corporation. This consideration is generally in the form of money, although it can also be in the nature of services or property given to the company. The consideration paid for the shares, in whatever form has been agreed to by the directors, is the individual's investment in the corporation.

Once a share has been issued, the shareholder is entitled to a share certificate. This certificate must state the corporation's name, as set out in the articles of incorporation. It also must set out the name of the shareholder and the number and class of shares it represents. Finally, if your articles of incorporation contain restrictions on the transfer of shares in your company (as do most small companies; see Section 2.7 , Other Provisions: Private Company Restrictions/Other Clauses, of this guide), there must be a reference to these restrictions on the share certificate itself.

Shares are issued without nominal or share value. No monetary value is set out on the certificate.
(CBCA sections 6, 25, 26, 49, 50)

Chapter 3.5

Make By-Laws

You may also want to make some by-laws for the internal operations of your company. By-laws are basically an agreement between the company and its shareholders, setting out the rules by which the corporation will function. For example, you may wish your company to have some rules that are not dealt with in the CBCA. For some rules, even if they are covered in the CBCA, you may wish to modify them.

For example, the CBCA permits corporations to specify in their by-laws that directors can attend director meetings and that shareholders can attend shareholder meetings and even vote by telephone or electronically. The by-laws permit private companies to specify less than 21 days for notice of an annual meeting.

For another example, the CBCA provides that the location of shareholders' meetings can be set by the directors, unless the by-laws set out a different rule. One possibility is that shareholders' meetings will always be held at the registered office of the corporation.

By-laws can also modify other powers given to the directors of the company under the CBCA. For example, instead of the directors having the sole authority to issue shares, the by-laws could make all share issuances subject to shareholder approval.

By-laws can also deal with matters such as the appointment, qualification and duties of the officers of the company. Details could spell out who sets the salaries for directors and officers, the procedure for calling directors' and shareholders' meetings, and what minimum number of people have to be present at meetings to establish quorum for business to be legally transacted. Other topics often found in by-laws include the date of the corporation's financial year-end, banking arrangements, indemnification provisions, and salary or other remuneration of directors and officers. Some companies also adopt a particular set of rules of conduct for directors' and shareholders' meetings, such as Robert's Rules of Order.

Unless your by-laws provide differently, the directors have the power to make, repeal and amend by-laws. All by-laws and by-law changes (including repeal) require shareholder approval. This approval must be received at the first regular meeting of the shareholders after the by-law has been passed by the directors. Even though a by-law does not receive approval until that meeting, the effective date of the by-law is the date of original passing by the directors. For a company with only one shareholder/director/officer, meetings are not necessary, and these approvals may be done through written resolution only. (CBCA sections 25, 103, 104, 114, 121, 125, 132, 139–141).

Chapter 4 - Complying with the CBCA

Once your company is set up and properly organized, there are a few simple steps to take each year to ensure that your company stays in compliance with the CBCA.

This section deals only with filings under the CBCA. You will also have to make other filings on behalf of your corporation, for example, to the Canada Revenue Agency. In addition, companies must comply with registration requirements in the province(s)/territory(ies) in which they carry on business activities. These registrations often are required within a few weeks after incorporation. You should communicate with the appropriate provincial/territorial authority in this regard.

Chapter 4.1

Corporate Records

Your company is required to keep certain corporate records at the registered office of the corporation or elsewhere in Canada as set out in your by-laws. These records may be examined by the shareholders and creditors, such as suppliers, of the company on request. These records are:

- articles, by-laws and a copy of any unanimous shareholder agreements
- minutes of meetings and resolutions of shareholders
- copies of Form 2 - Information Regarding the Registered Office and the Board of Directors, Form 3 - Change of Registered Office Address and/or Form 6 — Changes Regarding Directors that have been filed
- a share register showing the names and addresses of all shareholders and details of shares held.

(CBCA sections 20–22, 50)

Although you are not required to maintain a minute book under the CBCA, you will often hear this term. Corporate records are commonly maintained in a single book referred to as the minute book of the corporation. These are available at legal stationers and search houses.

Chapter 4.2

Duties and Liabilities of Management

Because of the scope of the authority that is given to directors and officers, the law imposes a wide range of duties and liabilities on the managers of a corporation. These duties arise under the CBCA, other federal and provincial/territorial statutes and, historically, through court decisions. In general, these duties reflect the position of trust that management holds in relation to the company and its owners, the shareholders.

Among the most important of the duties set out in the CBCA is the duty of care. This duty requires directors and officers to act honestly, in good faith and in the best interests of the company. They must exercise at least the level of care and diligence that a reasonable person would exercise in comparable circumstances. This duty makes it clear that directors and officers must act in the interests of the company, as opposed to their own personal interest.

Directors and officers may not avoid liability because they did not know what the company was doing. In other words, there is a positive obligation on each director and officer to be informed of what is going on within the scope of his or her authority, and to make sure that what is being done is legal and in the best interests of the company. In doing so, the CBCA permits directors to rely on the reports of experts, such as financial statements or legal opinions, in certain circumstances. Nor are directors liable if they exercise the same degree of care, diligence and skill that a reasonable prudent person would have exercised in comparable circumstances.

The CBCA also seeks to avoid conflicts between the interests of the company and those of the directors or officers. For instance, directors and officers are required to disclose in writing any personal interest they may have in a contract with the corporation. Failure to disclose could be grounds for a court to set aside the contract upon application by the company or a shareholder. The CBCA also imposes certain specific liabilities; for instance, directors are personally liable for up to six months' worth of unpaid wages to employees of the company and for any unpaid source deductions.

Because of the extent of liability imposed on the directors and officers of your company, you may want to consider some means of protection. For instance, your corporation may purchase insurance for directors and officers against any liability

for which they become responsible when acting as a director or officer. The company may also indemnify (i.e. compensate for loss; promise to pay for any costs incurred by a person in certain circumstances) its directors and officers for costs they have to pay, except where the director or officer has failed to act honestly and in the company's best interests. The corporation may even advance funds to directors to help them pay defence costs as they are incurred, though these costs must be paid back to the corporation if the director is not successful in defending himself or herself. (*CBCA sections 118–124*)

Directors must at all times remain free to assess what is in the best interests of the company and to act on this assessment. For this reason, directors cannot prepare an agreement among themselves in advance on how they will act in a given future situation.

However, all of the shareholders of the company may enter into a unanimous shareholder agreement that transfers some or all of the directors' responsibilities and powers to the shareholders. If power is transferred away from a director, that director cannot be responsible for not exercising that power. (Unanimous shareholder agreements are discussed in more detail in Section 5.4, Shareholder Agreements, of this guide.)

Chapter 4.3

Meetings of Your Board of Directors

Since directors are responsible for overseeing the operations of the company, there are many occasions when a directors' meeting may be necessary. After the initial organizational meeting, boards of directors of most companies meet on a regular basis, such as monthly, quarterly or even annually, depending on the needs of your company, to oversee the operations of the business. Directors may also need to meet to conduct special business. For example, directors' meetings are required to replace retired directors or officers, make by-laws, issue shares or recommend a significant change in the way the corporation conducts its business. Directors must also meet to call the annual general meeting of shareholders and to approve financial statements. Immediately after the annual general meeting of shareholders, the directors just elected meet to appoint officers for the coming year.

Meetings of the board can be held whenever and wherever the board wants, unless the by-laws or articles of your company say differently. A quorum of the directors must be present and at least 25% of them must be resident in Canada. (*CBCA sections 103, 104, 110, 114, 117*)

The CBCA permits directors to conduct business by using signed resolutions instead of holding actual meetings. This can be very useful in a small business having only a few directors (or even one). Meetings can also be held entirely by telephone or electronically, or attended by one or more directors by telephone or electronically if the by-laws permit and so long as all participants in the meeting can communicate fully.

Chapter 4.4

Annual General Meetings of Shareholders

Annual general meetings are meetings of the shareholders of the corporation, which must be held each year during the company's existence. The directors of a company must call the first annual general meeting within 18 months of its date of incorporation, and some corporations hold this meeting following the organizational meeting of directors. After the first meeting, the corporation must hold a general meeting within 15 months of its previous annual general meeting and within 6 months of its financial year end.

At the annual general meeting of shareholders, provided a quorum is present, the shareholders appoint auditors, elect directors, review financial statements and raise any other business they wish to address.

The annual general meeting should be held at the place in Canada where the registered office is situated or in a place outside Canada specified in your company's by-laws, or such other place as the directors determine. Your company must send notice of the time and place of the meeting to shareholders entitled to vote not more than 60 and not less than 21 days before the date of the meeting. For example, if the meeting is to take place on May 20, the notice should not be sent sooner than March 31 nor later than April 30. This notice can be provided electronically to shareholder who consent to receiving it electronically and who designate a system for receiving it and if the by-laws or articles do not provide otherwise. (*CBCA Part XX.I*) Unless the articles of incorporation otherwise provide, each share of the company entitles the holder of the share to one vote.

Section 136 of the CBCA permits shareholders to waive notice of meetings (attendance is generally deemed to be waiver of notice). This is useful for companies having only one or two shareholders. Furthermore, if all of the shareholders of a corporation entitled to vote sign a written resolution dealing with items usually covered at the meeting, no meeting is necessary.

A shareholder entitled to vote has the right to appoint a proxy holder to attend and vote at any shareholders' meeting on behalf of that shareholder. For a company having 15 or more shareholders, special rules apply. For example, management would have to send a form of proxy and management proxy circular along with notice of a meeting, but these rules are beyond the scope of this guide (see Section 5.3, Shareholders' Meetings, of this guide for more information on shareholders' meetings in private companies). (*CBCA sections 132, 133, 135, 136, 139, 140; CBCA Regulations 32–36*)

Chapter 4.5

Common Filing Requirements

The table below illustrates the CBCA filings you will, or may, be required to make. Note that the list does not address many possible changes to your articles nor requirements specific to public companies.

Annual Return

Every corporation must submit an annual return to Corporations Canada using Form 22 — Annual Return, either by traditional means or electronically through the Corporations Canada On-line Filing Centre (www.corporationscanada.ic.gc.ca).

The annual return contains information such as:

- the corporation's taxation year-end date
- changes in directors' or registered office address
- whether the corporation has 15 or more shareholders.

Annual returns must be filed within six months of the taxation year-end of your company.

An annual return filing fee must be submitted to Corporations Canada along with your annual return. It may be paid by cash, American Express®, MasterCard®, Visa® or cheque made payable to the Receiver General for Canada in the amount of the applicable filing fee. The annual return filing fees are lower when paid on-line (by American Express®, MasterCard® or Visa® only) than when paid through any other means. Fees are now \$20 when submitted on-line and \$40 for all other means. When payment is made through the Corporations Canada On-line Filing Centre, the Strategis Secure On-Line Electronic Commerce System ensures that on-line credit card payments are processed with complete security. (*CBCA section 263; CBCA Regulations — Schedule II*)

Common Filing Requirements

Event or Occurrence	Action Required	Form	CBCA Reference
The company changes the civic address of its registered office within the province or territory in Canada where its head office is located	Notify the Director under the CBCA within 15 days after the change (no fee required)	Form 3	s. 19
The company changes the civic address of its registered office outside the province or territory in Canada where its head office is located	Submit articles of amendment and notify the Director under the CBCA within 15 days after the change (fee of \$200)	Forms 3 and 4 (articles of amendment)	ss. 19 and 173(1)(b)
The company changes directors, within the minimum and maximum numbers provided in Form 1	Notify the Director under the CBCA within 15 days after the change (no fee required)	Form 6	ss. 106, 113
The company changes directors and changes the minimum and/or maximum numbers provided in Form 1	Submit articles of amendment and notify the Director under the CBCA within 15 days after the change (fee of \$200)	Forms 4 and 6 (articles of amendment)	ss. 106, 112, 113, 173(1)(m)
There is a change in the names or residential addresses of the company's directors	Notify the Director under the CBCA within 15 days after the change (no fee required)	Form 6	s. 113
Annually	File an annual return with the Director under the CBCA within six months of its taxation year-end (fee of \$20 when paid on-line through the Corporations Canada On-line Filing Centre (www.corporationscanada.ic.gc.ca); fee of \$40 when paid by any other means)	Form 22	s. 263; Section 5, Schedule 5 of the Regulations

Note: Fees may be paid by cash, American Express®, MasterCard®, Visa® or cheque made payable to the Receiver General for Canada.

A complete list of current fees is available from Corporations Canada website (www.corporationscanada.ic.gc.ca) — see *the Contacts Section*.

Certificate of Compliance

You may be required at some point in time to provide to a supplier, banker, etc. a certificate of compliance for your company. A certificate of compliance is issued by the Director under the CBCA at the request of the company or another interested party. It states that the company in question has paid all fees, sent all forms required under the CBCA, and existed as of a specific date.

The need for a certificate of compliance usually arises in the context of a financing transaction such as a loan. Another example is when someone is making a substantial equity investment and wants assurance that your corporation has not been dissolved.

Administrative Dissolution and Revival

It is important to comply with the filing requirements set out in this section, especially the annual return.

In the case of repeated or persistent non-compliance with the Act or non-payment of fees, the Director under the CBCA could dissolve your corporation, which would end its existence. This may happen, for example, if your company fails to file its annual return.

Notices from Corporations Canada pertaining to non-compliance under the CBCA are sent to the address on record. If a response is not received, perhaps because the notices cannot be delivered due to the corporation's failure to submit the correct address in Form 2, the Director under the CBCA could proceed with a dissolution, even though the corporation does not want to be dissolved.

Corporations Canada will make several attempts to have the company correct any filing deficiencies by sending out notices of non-compliance (provided, of course, that it has the correct mailing address on file). If the company still does not comply (for example, by filing the outstanding form(s) after notice has been sent), the Director under the CBCA will issue a certificate of dissolution, and the corporation will cease to exist.

For a corporation to become re-activated, it will have to go through a procedure known as revival. It will have to remedy the non-compliance, file articles of revival and remit the prescribed fee for revival. (*CBCA sections 209, 212–214*)

An information kit detailing all the required steps for a revival is available from Corporations Canada (*see the Contacts section*).

There are additional circumstances under which the Director under the CBCA has the power to dissolve corporations. Alternatively, the Director under the CBCA may seek compliance through civil court action for specific acts of non-compliance.

Chapter 5 - Shareholders

A person who owns shares in a corporation is called a shareholder. Generally speaking and unless the articles of incorporation provide otherwise (Form 1, item 3), each share in the corporation entitles the holder to one vote. The larger the number of shares held, the larger the number of votes a shareholder generally can exercise.

An active company must have at least one class of shares and at least one shareholder. Shareholders have limited liability in the corporation, and generally are not liable for the company's debts. On the other hand, shareholders generally do not actively run the corporation.

In many small businesses, the shareholders, directors and officers are the same people. A shareholder who is also a director or officer does assume certain liabilities, as described in Section 4.2, Duties and Liabilities of Management, of this guide.

The CBCA provides shareholders with access to certain information about the corporation. For example, shareholders are entitled to inspect (and copy) the corporate records, and are entitled to receive the company's financial statements at least 21 days before each annual general meeting. Shareholders elect directors, approve by-laws and by-law changes, appoint the auditor of the corporation (or waive the audit requirement) and approve certain major or fundamental changes to the corporation, its structure and business. These changes include matters such as a sale of all or substantially all of the assets of the business, a change of name, and articles of amendment altering share rights or creating new classes of shares. (*CBCA sections 21, 106, 155, 159, 162, 163, 173*)

Chapter 5.1

Becoming and Ceasing to Be a Shareholder

A person becomes a shareholder by acquiring shares from the company or an existing shareholder. The basic ways of becoming a shareholder are:

- purchasing shares that have not previously been issued by the company (referred to as "buying shares from treasury"), either on incorporation or later
- buying shares in the company from an existing shareholder (in accordance with the terms set out in your articles) and having the company register the transfer.

A person ceases to be a shareholder once his or her shares are sold either to a third party or back to the company (all in accordance with the articles of your corporation), or when the company is dissolved. (*CBCA sections 25, 48, 49, 76, 213*)

Chapter 5.2

Shareholder Resolutions

Broadly speaking, shareholders exercise most of their influence over how the corporation is run at shareholders' meetings through resolutions.

Note that the term "resolution" can take on different meanings depending on the context:

- a written record of decisions taken in lieu of an organizational meeting;
- a decision made at an annual or special meeting based on the required number of votes in favour by shareholders entitled to vote;
- a document signed by all shareholders in lieu of a meeting of shareholders.

There are two main types of shareholder resolutions:

- **Ordinary resolutions:** require a simple majority (50 percent plus 1) of votes cast by shareholders. Examples are decisions shareholders take on a regular basis, such as electing directors and appointing auditors.

- **Special resolutions:** must have the approval of two thirds of the votes cast. Examples are unusual activities such as changing the corporation name, selling all or substantially all the company's assets or changing the primary line of business (i.e. important questions that affect the company as a whole).

(CBCA sections 2, 142)

Chapter 5.3

Shareholders' Meetings

Shareholders usually exercise their influence over how the corporation is run at shareholders' meetings (see also Section 4.4, Annual General Meetings of Shareholders, of this guide). The CBCA and your company's articles and by-laws set out rules about meetings, including minimum notice periods and who can attend and vote. In order for the decisions (resolutions) taken at the meeting to be binding, these detailed requirements must be met. Specific additional rules apply for companies with 15 or more shareholders, which are not dealt with in this guide.

In a small business, the same one or two people may be acting as directors, officers and shareholders, and meetings will not necessarily occur. One- or two-person companies often prefer to use written resolutions rather than hold a formal meeting. If every shareholder signs a written record setting out the terms of the necessary resolutions, then a shareholders' meeting need not be held.

A shareholder's ability to attend and vote at a meeting depends on the rights attached to the class of shares that person is holding. As a general rule, shareholders entitled to vote at a meeting are entitled to attend the meeting. (While the CBCA provides holders of non-voting shares the right to attend certain meetings and vote on certain fundamental issues, a discussion of these issues is beyond the scope of this guide.) (CBCA sections 132–135, 140)

Calling a Shareholders' Meeting

Directors have the duty to call meetings of voting shareholders and, in special circumstances, of all shareholders. Shareholders who own 5 percent of the issued voting shares of a company can require the directors to call a meeting of shareholders. Shareholders' meetings are normally called by the directors of the corporation. The board is required by the CBCA to call an annual general meeting within 15 months of the preceding one. (CBCA sections 133, 143)

In practice, many companies tend to hold annual meetings around the same time each year, and usually within six months of the company's fiscal year-end.

Directors must send out the notice of meetings to shareholders within the time frame set out in the CBCA or as modified by your by-laws. A shareholder can waive notice of a meeting. Attendance at the meeting is considered waiver of notice, unless the shareholder attends the meeting to complain about improper notice.

The notice for a special meeting (see next section) not only must state the time and place of the meeting, but also must provide the shareholders with enough information to know in advance what they will be asked to consider and vote on at the meeting. (CBCA sections 2, 132–136)

Shareholders' Meeting Requirements

A quorum of shareholders must be present or represented at the meeting, or no business can be conducted that is binding on the company. A quorum is the minimum number of votes required to be represented at the meeting, which is a majority, unless your by-laws provide a lower or higher quorum. (CBCA sections 139–141)

The company must keep a written record of the meeting. The record usually includes information such as where and when the meeting was held, who attended and the results of any voting. These records are commonly referred to as minutes and are kept in the corporation's minute book. (CBCA sections 20, 21, 142)

If all shareholders sign a written resolution setting out the terms of their resolutions instead of holding a meeting, these also should be kept in your minute book.

Under the CBCA, there are two specific types of shareholders' meetings:

- **Annual general meetings:** Under the CBCA, your company must hold an annual general meeting within 18 months of its incorporation, and thereafter within 15 months of the previous annual general meeting. At an annual general meeting, the following four items must be on the agenda:
 - consideration of the financial statements
 - appointment of the auditor (unless all shareholders have agreed not to appoint an auditor)
 - election of directors
 - any other business matters that come up.

Although the term "any other business" is quite vague, directors cannot deliberately leave an item off the agenda (which would have the effect of preventing shareholders from preparing for the discussion) and then bring the matter up as "other business." Rather, this is the place on the agenda for shareholders to raise and discuss matters of concern to them.

- **Special meetings:** Meetings of the shareholders may also be called to deal with specific questions or issues, such as whether to approve a fundamental change (e.g. change of name) that the directors of the company are proposing. Generally, the directors will call a special meeting of the shareholders when they want to take a particular activity or deal with a special issue requiring shareholder approval, such as amendments to articles.

(CBCA Section 133)

As a very general rule of thumb, ordinary resolutions are required at annual general meetings, and special resolutions are required at special meetings.

It is often convenient to combine special meetings with annual general meetings. Under the CBCA, this process is allowed, but notice of the meeting must clearly indicate that there will be special business to consider. *(CBCA sections 2, 132–136, 139, 140–142)*

Chapter 5.4

Shareholder Agreements

A shareholder agreement is an agreement entered into by some, and usually all, of the shareholders of a corporation. The agreement must be in writing, and must be signed by the shareholders who are a party to it. While shareholder agreements are specific to each company and its shareholders, most of these documents deal with the same basic issues.

The relationship among shareholders in a small company tends to be very much like a partnership, with each person having a say in the significant business decisions the company will be making. Obviously, a shareholder agreement is not necessary in a one-person corporation. However, you may consider entering into a shareholder agreement if you have more than one shareholder, or when you want to bring in other investors as your business grows.

Management of the Company and Relations Among Shareholders

Under the CBCA, in the absence of a shareholder agreement, the board of directors has control over the management of the company. Because directors are elected by ordinary resolution of the shareholders, if one of them has more than 50 percent of the votes, that shareholder alone can decide who will sit on the board. In a small corporation, minority shareholders (those with a small stake in the company) may not feel adequately protected by a board of directors elected by a majority shareholder and may want to negotiate a shareholder agreement to more closely protect their investment in the company.

A very common shareholder agreement provision for a small company gives all the shareholders the right to sit on the board of directors, or nominate a representative for that purpose. Each shareholder agrees in the document to vote his or her shares in such a way that each one is represented on the board, thus ensuring all shareholders an equal measure of control.

Shareholder agreements may also provide that certain significant decisions require a higher level of shareholder approval than is set out in the CBCA. For example, an agreement might provide that a decision to sell the business must be approved unanimously by all shareholders, whereas the CBCA requires only a special resolution (approval by two thirds of shareholders).

Shareholder agreements may set rules directing how the future obligations of the company will be shared or divided. Say each shareholder invested a minimal amount to get the business going, looking to bank loans or other credit for growth. The shareholders may agree that, when other means of raising funds are not available, each shareholder will contribute more funds to the company on a pro rata basis. This means simply that the extent of a shareholder's obligation to fund the corporation would be determined by the extent of that shareholder's ownership interest (the percentage of shares held) in the company. So, three equal partners starting a company (with equal shares held by each) might sign a shareholder agreement that each will be responsible to fund one third of any future obligations of the company through the purchase of more shares.

Other rules often found in shareholder agreements govern the future purchase of shares in a company when no funding is needed. In such a case, the shareholders could agree to maintain the same percentage of holdings among themselves. Three equal partners could agree that no shares in the corporation will be issued without the consent of all shareholders/directors. In the absence of such a provision, two shareholders/directors could issue shares by an ordinary or special resolution (because they control two thirds of the votes) to themselves without including or requiring the permission of the third shareholder/director.

Restrictions or Prohibitions on Share Transfer

Restrictions on share transfer are used to enable shareholders to control who will become a shareholder in their company.

By placing such restrictions in a shareholder agreement instead of in your articles of incorporation, shareholders can remove or alter them without the company having to file articles of amendment. Note that these are separate from the restrictions placed in your articles of incorporation as part of the private company restrictions (see Section 2.4, Set Out Restrictions on Share Transfer, of this guide).

Of course, the most effective way to ensure ownership control is a provision prohibiting share transfers entirely, or for a certain period of time (such as five years). Because this is such an extreme measure, however, it is rarely seen.

Another provision is the right of first refusal, which basically states that any shareholder who wants to sell his or her shares must first offer those shares to the other shareholders of the company before selling them to an outside party.

Shareholder agreements may also set out rules for the transfer of shares when certain events occur, such as the death, resignation, dismissal, personal bankruptcy or divorce of a shareholder. The restrictions can include detailed plans governing when a shareholder can or must sell his or her shares, or what happens to those shares after the individual shareholder has left. The shareholder agreement, for example, may require that the shares be transferred to the remaining shareholders or to the corporation, often at fair market value. These provisions are complex, and usually set out mechanisms for the transfer, including notice and how the transfer price will be funded. Operators of small businesses who enter into agreements with this sort of exit provision sometimes purchase life insurance to fund the payment obligations of the party who will be purchasing the shares.

Other shareholder agreement provisions may include non-competition clauses, confidentiality agreements, dispute resolution mechanisms and details respecting how the shareholder agreement itself is to be amended or terminated.

Shareholder agreements are voluntary. If you choose to have one, the shareholder agreement should reflect the particular needs of your company and its shareholders. While undoubtedly the best advice is to keep your agreement as simple as possible, we strongly suggest that you consult your professional advisors before signing any shareholder agreement.

Special Agreements

The CBCA also deals specifically with two particular types of shareholder agreements:

- **Pooling agreements:** The CBCA provides that shareholders may, in a written agreement between two or more shareholders, agree on how their respective shares will be voted on any particular matter. Shareholders could enter into an agreement solely for the purpose of determining, for instance, how they will vote their shares to elect directors. Shareholders may also decide to include a pooling provision in a larger shareholder agreement. (*CBCA subsection 146(1)*)
- **Unanimous shareholder agreements** The CBCA also permits all of the shareholders of the company, in a written agreement, to transfer all or some of the powers of the directors to the shareholders. Where there is only one shareholder, that person may sign a written declaration that has the same effect as a unanimous shareholder agreement. The wording must be very precise: an agreement signed by all of the shareholders does not fit the definition of a unanimous shareholder agreement if it does not deal with the transfer of powers, and the responsibilities that go along with them, from the directors to the shareholders. (*CBCA subsection 146(2)*)

Frequently Asked Questions

Who can form a corporation?

One or more competent individuals who are 18 years of age or older and who are not in a status of bankrupt may form a corporation under the *Canada Business Corporations Act* (CBCA). Similarly, one or more companies or "bodies corporate" may incorporate a company. These persons are called incorporators. An incorporator (individual or corporation) may form a corporation whose shareholders, officers and directors are other persons, or may serve as the sole director, officer and shareholder of the company. An incorporator is also responsible for organizational procedures, such as filing the articles of incorporation and designating the first directors.

A company can be incorporated under the laws of only one jurisdiction. You must decide whether to incorporate federally under the CBCA, or under the laws of a province or territory instead of the CBCA. Requirements vary, and you should contact the jurisdiction under which you wish to incorporate for precise details. This guide contains information specific to the CBCA, the federal legislation governing incorporation.

What kinds of businesses can incorporate under the CBCA?

Almost any type of business may incorporate under the CBCA. However, banking, insurance, and loan and trust companies, as well as non-profit corporations, are incorporated under different statutes.

There are no restrictions such as minimum company size on the businesses that may incorporate under the CBCA. While all provinces and territories have similar legislation for companies operating within their borders, only the CBCA is national in scope.

Many small businesses incorporating under the CBCA have the intention (either now or sometime in the future) of operating in more than one province or territory. They choose to incorporate under the CBCA now in order to simplify their business relations later if they decide to expand operations or grow larger.

Should I incorporate?

This depends on your particular situation. The most common forms of business organization are the sole proprietorship, partnership and corporation. Each of these forms of business has its own advantages and disadvantages, and the most appropriate form for you as a small business owner will depend on your particular circumstances. Some of the benefits of incorporating are set out in Section 1.1, Benefits of Incorporating, of this guide. This guide focusses on incorporation for small businesses under the CBCA.

Do I need to hire a lawyer to incorporate?

No. A lawyer may provide valuable advice, but is not a requirement for incorporation.

If I decide to incorporate, what next?

Federal corporations are formed when you file articles of incorporation with Corporations Canada, and a certificate of incorporation is issued. Blank forms are available on the Corporations Canada's website (www.corporationscanada.ic.gc.ca) or may be obtained by contacting Corporations Canada's Client Services Unit. (See *Contacts section*)

So long as the forms are filed properly and the appropriate fee is paid, the Director under the CBCA will issue a certificate of incorporation.

How long does it take to get incorporated?

Corporations Canada operates during normal business hours five days a week. We can usually issue your incorporation papers within five business days, when they are delivered to our office by post. Faster service is usually available when you deliver your documents by hand. When you file on-line through the Corporations Canada On-line Filing Centre (www.corporationscanada.ic.gc.ca), we can offer very expedient (same-day or next-day) service.

How much does it cost to incorporate?

Filing fees for articles of incorporation under the CBCA are lower when paid on-line than when paid through any other means. Fees are now \$200 when submitted on-line (www.corporationscanada.ic.gc.ca) and \$250 for all other means. In addition, unless your company is going to request a numbered name, you will have to file a NUANS® name search report (see Section 2.1, Choose a Name, of this guide), which may be ordered on-line or from an independent search house. Of course, if you obtain legal advice when completing your articles of incorporation, there will be professional fees in addition to your filing fee.

Do I have to get a corporate seal?

A corporation under the CBCA is not required to have a seal. If you wish to have a corporate seal for your corporation, you may purchase one from a legal stationery store or commercial supplier.

If I incorporate federally, do I have to register or file anything with the provinces or territories?

Yes. Whether you incorporate federally or provincially/territorially, you will likely be required to register your business in any province or territory where you carry on business. Although Industry Canada is working with provincial and territorial officials to decrease this burden, each province and territory right now has individual requirements for registering corporations from outside its borders. You should contact the local corporate law administration office in each province or territory in which you plan to carry on business to determine which obligations may be placed on your corporation.

Where can I get more information about incorporating?

The *Contacts section* contains mailing addresses, phone numbers and other contact information of knowledgeable corporate specialists in our offices who can respond to your specific requests, as well as of other federal government resources for small businesses.

What are the advantages of incorporating on-line?

Filing on-line through the Corporations Canada On-line Filing Centre (www.corporationscanada.ic.gc.ca) has many advantages: it is less expensive (the incorporation and annual return filing fees are lower when paid on-line than when paid through any other means); it is convenient (you can file from the office or home 24 hours a day, seven days a week); and it is fast (you receive immediate acknowledgment of your filing, and there is usually same-day or next-day processing).

Is it safe to pay fees on-line?

Yes. There's no need to worry about on-line payments using your American Express®, MasterCard® or Visa® — the *Strategis* Secure On-Line Electronic Commerce System ensures that all transactions are processed with complete security.

How do I file articles of incorporation for a CBCA corporation on-line?

Go to the Corporations Canada On-line Filing Centre. (www.corporationscanada.ic.gc.ca) Register with the *Strategis* Secure Server Facilities to access the On-line Filing Home Page, then choose Articles of Incorporation from the list of menu choices available. Select one of the four incorporation options available: a numbered corporation; a corporation with a pre-approved name; a corporation for which name approval is sought and a NUANS® report attached; or a numbered name corporation that has been pre-reserved. Then follow the user-friendly instructions provided.

Do on-line documents have to be signed?

When documents are filed in electronic format, an original signature is not required. However, originally signed copies of all documents must be maintained in the records of the corporation.

What is a trade-mark?

A trade-mark is a word, a symbol, a design (or a combination of these features), used to distinguish the wares or services of one person or organization from those of others in the marketplace. Trade-marks come to represent not only actual wares and services, but the reputation of the producer. As such, they are considered valuable intellectual property. A registered trade-mark can be protected through legal proceedings from misuse and imitation.

There are three basic categories of trade-marks:

1. *Ordinary marks* are words or symbols (or a combination of these features), that distinguish the wares or services of a specific firm or individual. Suppose you opened a courier business which you called "Giddy-up." You could register the words as a trade-mark (assuming all legal requirements were met) for the service you offer.
2. *Certification marks* identify wares or services which meet a defined standard. They are owned by one person but licensed to others to identify wares or services which meet a defined standard. Examples are: the Woolmark design owned by Woolmark Americas, Ltd., for use on clothing and other wares and the logo of the Association of Professional Engineers.
3. *Distinguishing guise* identifies the shaping of wares or their containers, or is a mode of wrapping or packaging wares. If you manufactured candy moulded to look like butterflies, you might want to register the butterfly shape as a trade-mark under "distinguishing guise."

For more information visit the Canadian Intellectual Property Office's website.

www.strategis.gc.ca/sc_mrksv/cipo/welcome/welcom-e.html

Glossary of Terms

Annual Return: Form 22 under the CBCA. This form is not to be confused with annual financial statements or annual reports.

Articles of Incorporation: Form 1 under the CBCA. To incorporate under the CBCA, you must correctly complete Form 1, together with Form 3 and Form 6, all bearing original signatures, except when sent electronically (see Chapter 2, Submitting Articles of Incorporation, of this guide) and deliver them to Corporations Canada at the address listed in the *Contacts section*. Corporations Canada will keep the documents on file and return a copy to you with your certificate of incorporation. The articles, when filed, create your corporation, and set out important matters such as the number of directors and types of shares a corporation will have. This form (as are all forms referred to in this guide) is available on Corporations Canada's website (www.corporationscanada.ic.gc.ca) or by mail (see the *Contacts section*).

By-Laws: Basically, the agreement between the company and its shareholders setting out the internal rules by which the corporation will function. These often deal with matters such as meetings of directors and shareholders.

Corporations Canada (formerly the Corporations Directorate): The branch of Industry Canada that administers the CBCA, and the office with which all filings, such as articles of incorporation, are made.

Director: An individual elected by the shareholder(s) to supervise the management of a corporation. Together, all directors of a company are referred to as the "board of directors." All federal corporations are required to have one or more directors, a majority of whom must be ordinarily resident in Canada.

Director Appointed Under the CBCA: The individual appointed by the federal Minister of Industry under the provisions of the CBCA to independently administer the statute. This individual is referred to as the "Director under the CBCA."

Dissolution: The act of ending the existence of a corporation, under certain circumstances, by filing the required documents with Corporations Canada. Your company could also be dissolved by the Director under the CBCA for failure to comply with the legislation (see "Administrative Dissolution and Revival" in Section 4.5, Common Filing Requirements, of this guide).

Dividend: The share of profit payable to shareholders on their shares.

Federal Incorporation: Incorporation under the CBCA rather than under a provincial or territorial statute.

Incorporation: The act of establishing a corporation by filing the required documents.

Indemnity: Compensation for loss; a promise to pay for costs incurred by a person in certain circumstances.

Officer: An individual appointed by the director(s) of a corporation to manage the day-to-day business of a company, such as president, vice president, secretary, treasurer, etc. The position of officer is distinct from that of director (***see above***), although one individual in a small corporation very often occupies both positions.

Private Company: In general, a company that does not sell its shares to the public (i.e. is not listed on a stock exchange). The transfer (sale) of shares in the company is restricted in some way, such as by the requirement that the directors or shareholders have to approve in advance any transfer of shares.

Quorum: The stated minimum number of people entitled to attend a meeting who must be present for business to be conducted. Company by-laws may specify the minimum number of directors who must be present at a meeting of the board of directors or the minimum number of shareholders who must be present at a shareholders' meeting; if not, the CBCA sets out quorums.

Resolution: A statement of a decision reached either by directors or by shareholders of a company. A resolution may be written if all parties agree and sign it, or may be made orally in a meeting on the basis of a number of votes cast and then recorded in the minutes. An ordinary resolution is one passed by a majority of the votes cast, while a special resolution is one passed by a majority of not less than two thirds of the votes cast.

Share: A measure of ownership of a corporation. Some people refer to the share certificate as a stock. Shares are distinguished from securities, which are any type of investment instrument, including shares.

Shareholder: An owner in a corporation; a person holding shares in a corporation. Because many activities, such as electing directors, must be done or approved by shareholders, an active corporation must have at least one shareholder.

Contacts

The following free information kits and documents are available from Corporations Canada:

Canada Business Corporations Act

- Incorporation Kit
- Amalgamation Kit
- Amendment Kit
- Continuance (Import) Kit
- Continuance (Export) Kit
- Dissolution Kit
- Exemption Kits
- Name Granting Guidelines (see also the brochure Choosing a Name)
- Name Policy Compendium

To obtain the above kits or documents, write to or call:

Client Services Unit

Corporations Canada
Industry Canada
9th Floor, Jean Edmonds Towers South
365 Laurier Avenue West
Ottawa ON K1A 0C8
Tel.: (613) 941-9042
Fax: (613) 941-0601

For information on other materials available regarding incorporation under the CBCA, including fees, please call Corporations Canada, General Enquiries at:

Tel.: (613) 941-9042 (Ottawa region)
Toll-free: 1-866-333-5556

Or contact one of our regional offices:

- British Columbia (Vancouver) - Tel.: (604) 666-9875
- Quebec (Montréal) - Tel.: (514) 496-1797
- Ontario (Toronto) - Tel.: (416) 954-2714

Other Federal Government Resources of Interest to Small Businesses

Aboriginal Business Canada (ABC)

Aboriginal Business Canada targets small businesses in particular and is increasing its emphasis on supporting proposals that involve the expansion of domestic and export markets, Aboriginal tourism, technology adoption and enhancement, and youth entrepreneurship. Both financial and non-financial assistance are available.

Tel.: (613) 954-4064

website: www.strategis.ic.gc.ca/epic/internet/inabc-eac.nsf/en/home

Business Development Bank of Canada (BDC)

The Business Development Bank of Canada's network of 84 branch offices across Canada promotes the creation and development of small businesses through specialized financing for commercially viable enterprises. The has also initiated a number of business counselling, training and mentoring services to meet the needs of small business at each stage of your business's development.

Toll-free: 1-888-INFO-BDC (1-888-463-6232)

Canada Business Service Centres (CBSCs)

Canada Business Service Centres have been established in each province and territory to provide small businesses with a single access point for quick, accurate and comprehensive information on federal, provincial/territorial and municipal government programs, services and regulations. Information officers can either provide you with the required information or direct you to the best source.

	Telephone	Toll-free
Alberta	(780) 422-7722	1-800-272-9675
British Columbia	(604) 775-5525	1-800-667-2272
Manitoba	(204) 984-2272	1-800-665-2019
New Brunswick	(506) 444-6140	1-800-668-1010
Newfoundland	(709) 772-6022	1-800-668-1010
Northwest Territories	(867) 873-7958	1-800-661-0599
Nova Scotia	(902) 426-8604	1-800-668-1010
Nunavut	(867) 979-6813	1-877-499-5199
Ontario	(416) 775-3456	1-800-567-2345
Prince Edward Island	(902) 368-0771	1-800-668-1010
Quebec	(514) 496-INFO	1-800-322-INFO
Saskatchewan	(306) 956-2323	1-800-667-4374
Yukon Territory	(867) 633-6257	1-800-661-0543

website: www.canadabusiness.gc.ca/gol/cbec/site.nsf

Community Futures Development Corporations (CFDCs)

Community Futures Development Corporation services can provide you with:

- counselling and advisory services to help with the establishment, expansion, competitiveness and stabilization of your business
- financial assistance in the form of loans, loan guarantees or equity investments to help you in the creation or maintenance of long-term employment in your community.

Tel.: (403) 495-4164

Toll-free: 1-888-338-9378

website: www.communityfutures.ca

Regional Development Agencies

The federal government has set up four regional development agencies to address the regional needs of small businesses. The agencies complement the work of the government's financial institutions and do the kind of local level economic development, mentoring and program distribution work for which private sector financial institutions are not equipped.

Each agency works with other federal departments, with provincial/territorial and municipal governments, and with the private sector to provide you with access to capital, markets, information and skills development. The agencies also provide assistance with the development of innovations and technologies and, in some cases, with tourism.

Atlantic Canada Opportunities Agency (ACOA)

Tel.: (506) 851-2271

Toll-free: 1-800-561-7862

website: www.acoa.ca

Canada Economic Development for Quebec Regions

Tel.: (514) 283-6412

website: www.dec-ced.gc.ca

Federal Economic Development Initiative in Northern Ontario (FedNor)

Tel.: (705) 671-0711

Toll-free: 1-800-461-4079

website: www.fednor.ic.gc.ca

Western Economic Diversification Canada (WD)

Tel.: (780) 495-4164

Toll-free: 1-888-338-9378

website: www.wd.gc.ca

Canada Small Business Financing Program

The Canada Small Business Financing Program can assist new and existing small businesses with annual gross revenues not exceeding \$5 million (excluding farming and charitable or religious enterprises) in obtaining term loans and capital leases of up to \$250 000 to help finance fixed asset needs. The loans are made directly by a qualified lender (chartered banks, caisses populaires, most credit unions etc.) and the leases are issued by participating lessors. If the application is granted, the federal government will guarantee 85 percent of the lender's losses in the event of default.

Tel.: (613) 954-5540

Fax: (613) 952-0290

website: www.strategis.ic.gc.ca/epic/internet/incsbfp-pfpec.nsf/en/Home

Strategis

Strategis is Canada's business and consumer site. It can provide you with easy, direct access to Industry Canada's extensive expertise and information resources. The information on Strategis will help you make critical decisions about opportunities for growth, explore new markets, find partners, form alliances, find and develop new technologies or processes, or assess the risks of new ventures.

website: www.strategis.gc.ca

Women's Enterprise Initiative (WEI)

Women's Enterprise Centres have been established in Alberta, British Columbia, Manitoba and Saskatchewan with funding from Western Economic Diversification Canada to provide loan financing and support to women entrepreneurs.

Tel.: (780) 495-4164

Toll-free: 1-888-338-9378

Small Business Tax Requirements and Services

Business Number and Integrated Services

The Business Number (BN), which has been mandatory since January 1, 1997, is a new number system that replaces the multiple numbers you formerly used to deal with the federal government. It gives you a unique identifier that remains unchanged, no matter how many or what types of accounts you have. To register a new business, or for more information on the other services below, call:

Toll-free: 1-800-959-5525

Goods and Services Tax (GST)

The Canada Revenue Agency (CRA) has implemented a number of initiatives to simplify your payment of the GST:

- GST Electronic Filing and Remitting Program

The CRA has implemented a new electronic option to file your GST return and to remit payments using Electronic Data Interchange technology.

Tel.: (613) 952-8746

website: www.cra-arc.gc.ca/eservices/payments/business/menu-e.html

- GST Simplified Accounting Method — Quick Method

This is a simplified accounting option to help small businesses calculate the GST they owe, without having to track the GST they pay or to claim GST input tax credits. Businesses with worldwide annual taxable sales (including zero-rated sales) of \$200 000 or less, including GST and annual taxable sales of all associated businesses, can use this method, with some exceptions.

Scientific Research and Experimental Development (SR&ED) Investment Tax Credit

An investment tax credit is available for small businesses engaged in scientific research and experimental development. If you have never filed a claim for the SR&ED investment tax credit, the CRA has a service to help you. The service also makes you aware of the incentives to file, including the new 18-month filing deadline.

Simplified Returns and Claims

Incorporated businesses are required to submit a T2 corporate tax return. If your business has gross revenues of \$500 000 or less and no taxable income, you can submit a T2 Short return. This two-page return reduces the time it takes to complete the form.

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