

# Owner's Manual for Your New Massachusetts Corporation

Version 2006-1

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# Table of Contents

Chapter 1 - Introduction

Chapter 2 - Registration of Your Business

A. Federal Employer Identification Number

Form SS-4 - Application for Employer Identification Number

B. Massachusetts Web-file for business - registering with Massachusetts  
Department of Revenue

C. Massachusetts Division of Unemployment Assistance

D. S Corporation Election

Form 2553 - Election by a Small Business Corporation

E. DBA - doing business as

Chapter 3 - Accounting for the Corporation's Activity

A. Separate Legal Person (Entity)

B. QuickBooks/QuickBooks Online

Chapter 4 - Reporting Requirements

A. Federal Income Taxes and Massachusetts Corporate Excise Taxes

B. Annual Report

C. Financial Statements

D. Payroll Tax Returns

E. Sales/Use/Meals Taxes

F. Local Personal Property Taxes

# Table of Contents ( continued )

## Chapter 5 - Employee or Outside Contractor

Form W-4

Form W-9

Form I-9

## Chapter 6 - Payroll Services - Do You Need One ?

## Chapter 7 - Checklist of Filing Due Dates

## Chapter 8 - [www.TALCPA.com](http://www.TALCPA.com) - Our Website

## Chapter 9 - Thomas A. Lawler, C.P.A., P.C. - What do we offer ?

## Chapter 10 - Appendix

### Annual Returns

Form 1120S

Form 355S

Annual Report for Domestic and Foreign Corporations

Form of List

Form W-2

Form 1099-Misc

Form 940

### Quarterly Returns

Form WR-1

Form 941

Form M-941

Form ST-9 (Sales Taxes)

### IRS Publications

IRS Publication 583 Starting a Business and Keeping Records

### DOR Publications

Summary of Business Electronic Filing and Payment Requirements

## **Chapter 1 - Introduction**

Over the past many years, we have had the pleasure of working with hundreds of small business owners - many of them right from the start of their business lives. Some of these companies were run by people with substantial small business experience, but many of these entrepreneurs were doing this for the first time. All of them needed a place to start. Unfortunately, there is no school that teaches the fundamentals of starting a business.

Each business is unique and so each owner must learn the mix of what works and what doesn't on his own. This manual is your starting point for finding out what is right for your company.

The first lesson we would like you to learn is that there are quite a few new responsibilities that come with a new corporation. Many new businesses have failed because they fell behind on these responsibilities.

The second lesson we would like you to learn is that you are not alone. We are here to help you. As a company, that is our reason for being. And that is why we have put together this manual.

Finally, we are always looking for new clients.

## **Chapter 2 - Registration of Your Business**

### **A. Federal Employer Identification Number**

When you filed the articles of organization with the Secretary of State's office, a new legal entity was created. Just like human beings, the government needs a way to keep track of your new business. As an officer in the corporation you are obligated to obtain a Federal Employer Identification Number (FEIN) for the corporation, by registering with the Federal government.

Historically, the way to register a new business with the federal government has been to file a Form SS-4 - Application for Employer Identification Number (see following page). The age of electronic information is here, allowing this task to be completed online very quickly.

If you have internet access, we have created a quick way to reach the appropriate web site for registering your new business with the government. Open your web-browser and type the following in your address bar:

**[www.TALCPA.com](http://www.TALCPA.com)**

Once you are at our website, you will find a variety of useful links if you click on "helpful links". Once you are at our "helpful links" page, you will find a link, entitled "Internal Revenue Service - Register a new business". Clicking on that link will bring you to the IRS' web page for obtaining Employer Identification Numbers. If you follow the directions on this page you will be able to obtain a number very easily. There is no fee for obtaining an identification number.

### **B. Massachusetts Web-file for business - registering with Massachusetts Department of Revenue**

New businesses are now required to register with the Massachusetts Department of Revenue using Massachusetts Web-File for Business. If you return to our "helpful links" page, you will find a link to: Mass DOR Webfile for Business. You can use this link to find the location to register your new business with Massachusetts.

As a minimum you must register to pay the Massachusetts Corporate Excise Tax, since this is due from all Massachusetts Corporations and requires a minimum payment of at least \$ 456 per year. There are many other Massachusetts taxes that you will need to register for at this site (as applicable), for example:

- Sales and Use Taxes - if you sell or rent tangible property.
- Withheld Payroll Taxes - if you have employees
- Cigarette Taxes
- Room Taxes

# Application for Employer Identification Number

(For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.)

OMB No. 1545-0003

EIN

▶ See separate instructions for each line. ▶ Keep a copy for your records.

Type or print clearly.	<b>1</b> Legal name of entity (or individual) for whom the EIN is being requested	
	<b>2</b> Trade name of business (if different from name on line 1)	<b>3</b> Executor, administrator, trustee, "care of" name
	<b>4a</b> Mailing address (room, apt., suite no. and street, or P.O. box)	<b>5a</b> Street address (if different) (Do not enter a P.O. box.)
	<b>4b</b> City, state, and ZIP code	<b>5b</b> City, state, and ZIP code
	<b>6</b> County and state where principal business is located	
	<b>7a</b> Name of principal officer, general partner, grantor, owner, or trustee	<b>7b</b> SSN, ITIN, or EIN

**8a Type of entity** (check only one box)

<input type="checkbox"/> Sole proprietor (SSN) _____	<input type="checkbox"/> Estate (SSN of decedent) _____
<input type="checkbox"/> Partnership	<input type="checkbox"/> Plan administrator (SSN) _____
<input type="checkbox"/> Corporation (enter form number to be filed) ▶ _____	<input type="checkbox"/> Trust (SSN of grantor) _____
<input type="checkbox"/> Personal service corporation	<input type="checkbox"/> National Guard <input type="checkbox"/> State/local government
<input type="checkbox"/> Church or church-controlled organization	<input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military
<input type="checkbox"/> Other nonprofit organization (specify) ▶ _____	<input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises
<input type="checkbox"/> Other (specify) ▶ _____	Group Exemption Number (GEN) ▶ _____

**8b** If a corporation, name the state or foreign country (if applicable) where incorporated

State	Foreign country
-------	-----------------

**9 Reason for applying** (check only one box)

<input type="checkbox"/> Started new business (specify type) ▶ _____	<input type="checkbox"/> Banking purpose (specify purpose) ▶ _____
<input type="checkbox"/> Hired employees (Check the box and see line 12.)	<input type="checkbox"/> Changed type of organization (specify new type) ▶ _____
<input type="checkbox"/> Compliance with IRS withholding regulations	<input type="checkbox"/> Purchased going business
<input type="checkbox"/> Other (specify) ▶ _____	<input type="checkbox"/> Created a trust (specify type) ▶ _____
	<input type="checkbox"/> Created a pension plan (specify type) ▶ _____

**10** Date business started or acquired (month, day, year). See instructions. **11** Closing month of accounting year

**12** First date wages or annuities were paid (month, day, year). **Note.** If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (month, day, year)

**13** Highest number of employees expected in the next 12 months (enter -0- if none). **Agricultural** **Household** **Other**

Do you expect to have \$1,000 or less in employment tax liability for the calendar year?  Yes  No. (If you expect to pay \$4,000 or less in wages, you can mark yes.)

**14** Check **one** box that best describes the principal activity of your business.

<input type="checkbox"/> Construction	<input type="checkbox"/> Rental & leasing	<input type="checkbox"/> Transportation & warehousing	<input type="checkbox"/> Health care & social assistance	<input type="checkbox"/> Wholesale-agent/broker
<input type="checkbox"/> Real estate	<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Finance & insurance	<input type="checkbox"/> Accommodation & food service	<input type="checkbox"/> Wholesale-other
			<input type="checkbox"/> Other (specify)	<input type="checkbox"/> Retail

**15** Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided.

**16a** Has the applicant ever applied for an employer identification number for this or any other business?  Yes  No  
**Note.** If "Yes," please complete lines 16b and 16c.

**16b** If you checked "Yes" on line 16a, give applicant's legal name and trade name shown on prior application if different from line 1 or 2 above.  
 Legal name ▶ \_\_\_\_\_ Trade name ▶ \_\_\_\_\_

**16c** Approximate date when, and city and state where, the application was filed. Enter previous employer identification number if known.  
 Approximate date when filed (mo., day, year) \_\_\_\_\_ City and state where filed \_\_\_\_\_ Previous EIN \_\_\_\_\_

Third Party Designee	Complete this section <b>only</b> if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.	
	Designee's name	Designee's telephone number (include area code) ( )
	Address and ZIP code	Designee's fax number (include area code) ( )

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.

Name and title (type or print clearly) ▶ \_\_\_\_\_ Applicant's telephone number (include area code) ( )

Signature ▶ \_\_\_\_\_ Date ▶ \_\_\_\_\_ Applicant's fax number (include area code) ( )

## Do I Need an EIN?

File Form SS-4 if the applicant entity does not already have an EIN but is required to show an EIN on any return, statement, or other document.<sup>1</sup> See also the separate instructions for each line on Form SS-4.

IF the applicant...	AND...	THEN...
Started a new business	Does not currently have (nor expect to have) employees	Complete lines 1, 2, 4a-8a, 8b (if applicable), and 9-16c.
Hired (or will hire) employees, including household employees	Does not already have an EIN	Complete lines 1, 2, 4a-6, 7a-b (if applicable), 8a, 8b (if applicable), and 9-16c.
Opened a bank account	Needs an EIN for banking purposes only	Complete lines 1-5b, 7a-b (if applicable), 8a, 9, and 16a-c.
Changed type of organization	Either the legal character of the organization or its ownership changed (for example, you incorporate a sole proprietorship or form a partnership) <sup>2</sup>	Complete lines 1-16c (as applicable).
Purchased a going business <sup>3</sup>	Does not already have an EIN	Complete lines 1-16c (as applicable).
Created a trust	The trust is other than a grantor trust or an IRA trust <sup>4</sup>	Complete lines 1-16c (as applicable).
Created a pension plan as a plan administrator <sup>5</sup>	Needs an EIN for reporting purposes	Complete lines 1, 3, 4a-b, 8a, 9, and 16a-c.
Is a foreign person needing an EIN to comply with IRS withholding regulations	Needs an EIN to complete a Form W-8 (other than Form W-8ECI), avoid withholding on portfolio assets, or claim tax treaty benefits <sup>6</sup>	Complete lines 1-5b, 7a-b (SSN or ITIN optional), 8a-9, and 16a-c.
Is administering an estate	Needs an EIN to report estate income on Form 1041	Complete lines 1, 2, 3, 4a-6, 8a, 9-11, 12-15 (if applicable), and 16a-c.
Is a withholding agent for taxes on non-wage income paid to an alien (i.e., individual, corporation, or partnership, etc.)	Is an agent, broker, fiduciary, manager, tenant, or spouse who is required to file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	Complete lines 1, 2, 3 (if applicable), 4a-5b, 7a-b (if applicable), 8a, 9, and 16a-c.
Is a state or local agency	Serves as a tax reporting agent for public assistance recipients under Rev. Proc. 80-4, 1980-1 C.B. 581 <sup>7</sup>	Complete lines 1, 2, 4a-5b, 8a, 9, and 16a-c.
Is a single-member LLC	Needs an EIN to file Form 8832, Entity Classification Election, for filing employment tax returns, or for state reporting purposes <sup>8</sup>	Complete lines 1-16c (as applicable).
Is an S corporation	Needs an EIN to file Form 2553, Election by a Small Business Corporation <sup>9</sup>	Complete lines 1-16c (as applicable).

<sup>1</sup> For example, a sole proprietorship or self-employed farmer who establishes a qualified retirement plan, or is required to file excise, employment, alcohol, tobacco, or firearms returns, must have an EIN. A partnership, corporation, REMIC (real estate mortgage investment conduit), nonprofit organization (church, club, etc.), or farmers' cooperative must use an EIN for any tax-related purpose even if the entity does not have employees.

<sup>2</sup> However, do not apply for a new EIN if the existing entity only (a) changed its business name, (b) elected on Form 8832 to change the way it is taxed (or is covered by the default rules), or (c) terminated its partnership status because at least 50% of the total interests in partnership capital and profits were sold or exchanged within a 12-month period. The EIN of the terminated partnership should continue to be used. See Regulations section 301.6109-1(d)(2)(iii).

<sup>3</sup> Do not use the EIN of the prior business unless you became the "owner" of a corporation by acquiring its stock.

<sup>4</sup> However, grantor trusts that do not file using Optional Method 1 and IRA trusts that are required to file Form 990-T, Exempt Organization Business Income Tax Return, must have an EIN. For more information on grantor trusts, see the Instructions for Form 1041.

<sup>5</sup> A plan administrator is the person or group of persons specified as the administrator by the instrument under which the plan is operated.

<sup>6</sup> Entities applying to be a Qualified Intermediary (QI) need a QI-EIN even if they already have an EIN. See Rev. Proc. 2000-12.

<sup>7</sup> See also *Household employer* on page 3. **Note.** State or local agencies may need an EIN for other reasons, for example, hired employees.

<sup>8</sup> Most LLCs do not need to file Form 8832. See *Limited liability company (LLC)* on page 4 for details on completing Form SS-4 for an LLC.

<sup>9</sup> An existing corporation that is electing or revoking S corporation status should use its previously-assigned EIN.



There are many other taxes and the applicability of them to any particular business depends on the nature of the specific business.

### **C. Massachusetts Division of Unemployment Assistance**

Travel back to our "helpful links" page and you will find a link to the Massachusetts Division of Unemployment Assistance. You are required to register with this agency after you have employees and have started to pay them, but you are not supposed to register here until you do.

### **D. S Corporation Election - Form 2553**

The first major tax decision to be made by a new corporation comes early. **The decision whether to elect S-Corporation status must be made and filed by the 15th day of the third calendar month of its tax year for it to be effective beginning with the year when made.** You should think of this as an absolute rule and make this decision within this time frame.

The primary reason for S-Corporation election is to eliminate double taxation of corporate income and to provide for deduction of corporate losses on the tax returns of the shareholders. The election will affect the nature of corporate taxation for the life of the corporation. It is critical that you obtain any professional guidance required in time to make this decision.

The election is made by filing Form 2553 with the Internal revenue Service (see following page).

### **E. DBA - doing business as**

Occasionally, a business will choose to operate under a name other than the official corporate name. This is not necessarily to hide anything rather to take advantage of "goodwill" associated with a name.

The mechanism for "doing business as" another business name is to file a "DBA" certificate with the Town or City Clerk's office in the municipality in which the business operates. After approval from the Assessor's office, a certificate will be issued. There is a small nominal fee for this service.

**Election by a Small Business Corporation**  
 (Under section 1362 of the Internal Revenue Code)

OMB No. 1545-0146

▶ See Parts II and III on back and the separate instructions.

▶ The corporation may either send or fax this form to the IRS. See page 2 of the instructions.

- Notes:** 1. Do not file Form 1120S, U.S. Income Tax Return for an S Corporation, for any tax year before the year the election takes effect.  
 2. This election to be an S corporation can be accepted only if all the tests are met under **Who May Elect** on page 1 of the instructions; all shareholders have signed the consent statement; an officer has signed this form; and the exact name and address of the corporation and other required form information are provided.

**Part I Election Information**

<b>Please Type or Print</b>	Name (see instructions)	<b>A</b> Employer identification number
	Number, street, and room or suite no. (If a P.O. box, see instructions.)	<b>B</b> Date incorporated
	City or town, state, and ZIP code	<b>C</b> State of incorporation

**D** Check the applicable box(es) if the corporation, after applying for the EIN shown in **A** above, changed its name  or address

**E** Election is to be effective for tax year beginning (month, day, year) . . . . . ▶ / /

<b>F</b> Name and title of officer or legal representative who the IRS may call for more information	<b>G</b> Telephone number of officer or legal representative ( )
--	---

**H** If this election takes effect for the first tax year the corporation exists, enter month, day, and year of the **earliest** of the following: (1) date the corporation first had shareholders, (2) date the corporation first had assets, or (3) date the corporation began doing business . . . . . ▶ / /

**I** Selected tax year: Annual return will be filed for tax year ending (month and day) ▶ .....  
 If the tax year ends on any date other than December 31, except for a 52-53-week tax year ending with reference to the month of December, complete Part II on the back. If the date you enter is the ending date of a 52-53-week tax year, write "52-53-week year" to the right of the date.

<b>J</b> Name and address of each shareholder or former shareholder required to consent to the election. (See the instructions for column K)	<b>K</b> Shareholders' Consent Statement. Under penalties of perjury, we declare that we consent to the election of the above-named corporation to be an S corporation under section 1362(a) and that we have examined this consent statement, including accompanying schedules and statements, and to the best of our knowledge and belief, it is true, correct, and complete. We understand our consent is binding and may not be withdrawn after the corporation has made a valid election. (Sign and date below.)		<b>L</b> Stock owned or percentage of ownership (see instructions)		<b>M</b> Social security number or employer identification number (see instructions)	<b>N</b> Shareholder's tax year ends (month and day)
	Signature	Date	Number of shares or percentage of ownership	Date(s) acquired		

Under penalties of perjury, I declare that I have examined this election, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of officer ▶ Title ▶ Date ▶

**Part II Selection of Fiscal Tax Year** (All corporations using this part must complete item O and item P, Q, or R.)

- O** Check the applicable box to indicate whether the corporation is:
  1.  A new corporation **adopting** the tax year entered in item I, Part I.
  2.  An existing corporation **retaining** the tax year entered in item I, Part I.
  3.  An existing corporation **changing** to the tax year entered in item I, Part I.
- P** Complete item P if the corporation is using the automatic approval provisions of Rev. Proc. 2002-38, 2002-22 I.R.B. 1037, to request **(1)** a natural business year (as defined in section 5.05 of Rev. Proc. 2002-38) or **(2)** a year that satisfies the ownership tax year test (as defined in section 5.06 of Rev. Proc. 2002-38). Check the applicable box below to indicate the representation statement the corporation is making.
  1. Natural Business Year ►  I represent that the corporation is adopting, retaining, or changing to a tax year that qualifies as its natural business year as defined in section 5.05 of Rev. Proc. 2002-38 and has attached a statement verifying that it satisfies the 25% gross receipts test (see instructions for content of statement). I also represent that the corporation is not precluded by section 4.02 of Rev. Proc. 2002-38 from obtaining automatic approval of such adoption, retention, or change in tax year.
  2. Ownership Tax Year ►  I represent that shareholders (as described in section 5.06 of Rev. Proc. 2002-38) holding more than half of the shares of the stock (as of the first day of the tax year to which the request relates) of the corporation have the same tax year or are concurrently changing to the tax year that the corporation adopts, retains, or changes to per item I, Part I, and that such tax year satisfies the requirement of section 4.01(3) of Rev. Proc. 2002-38. I also represent that the corporation is not precluded by section 4.02 of Rev. Proc. 2002-38 from obtaining automatic approval of such adoption, retention, or change in tax year.
- Note:** If you do not use item P and the corporation wants a fiscal tax year, complete either item Q or R below. Item Q is used to request a fiscal tax year based on a business purpose and to make a back-up section 444 election. Item R is used to make a regular section 444 election.
- Q** Business Purpose—To request a fiscal tax year based on a business purpose, check box Q1. See instructions for details including payment of a user fee. You may also check box Q2 and/or box Q3.
  1. Check here ►  if the fiscal year entered in item I, Part I, is requested under the prior approval provisions of Rev. Proc. 2002-39, 2002-22 I.R.B. 1046. Attach to Form 2553 a statement describing the relevant facts and circumstances and, if applicable, the gross receipts from sales and services necessary to establish a business purpose. See the instructions for details regarding the gross receipts from sales and services. If the IRS proposes to disapprove the requested fiscal year, do you want a conference with the IRS National Office?  
 Yes  No
  2. Check here ►  to show that the corporation intends to make a back-up section 444 election in the event the corporation's business purpose request is not approved by the IRS. (See instructions for more information.)
  3. Check here ►  to show that the corporation agrees to adopt or change to a tax year ending December 31 if necessary for the IRS to accept this election for S corporation status in the event (1) the corporation's business purpose request is not approved and the corporation makes a back-up section 444 election, but is ultimately not qualified to make a section 444 election, or (2) the corporation's business purpose request is not approved and the corporation did not make a back-up section 444 election.
- R** Section 444 Election—To make a section 444 election, check box R1. You may also check box R2.
  1. Check here ►  to show the corporation will make, if qualified, a section 444 election to have the fiscal tax year shown in item I, Part I. To make the election, you must complete **Form 8716**, Election To Have a Tax Year Other Than a Required Tax Year, and either attach it to Form 2553 or file it separately.
  2. Check here ►  to show that the corporation agrees to adopt or change to a tax year ending December 31 if necessary for the IRS to accept this election for S corporation status in the event the corporation is ultimately not qualified to make a section 444 election.

**Part III Qualified Subchapter S Trust (QSST) Election Under Section 1361(d)(2)\***

Income beneficiary's name and address	Social security number
	: : : :
Trust's name and address	Employer identification number
	: :

Date on which stock of the corporation was transferred to the trust (month, day, year) . . . . . ► / /

In order for the trust named above to be a QSST and thus a qualifying shareholder of the S corporation for which this Form 2553 is filed, I hereby make the election under section 1361(d)(2). Under penalties of perjury, I certify that the trust meets the definitional requirements of section 1361(d)(3) and that all other information provided in Part III is true, correct, and complete.

Signature of income beneficiary or signature and title of legal representative or other qualified person making the election	Date
--	------

\*Use Part III to make the QSST election only if stock of the corporation has been transferred to the trust on or before the date on which the corporation makes its election to be an S corporation. The QSST election must be made and filed separately if stock of the corporation is transferred to the trust **after** the date on which the corporation makes the S election.