

## Business Compliance: Are You In or Out? Understanding how compliance protects your assets

By Troy Janisch, Marketing Director, BizFilings  
April 18, 2006

### Abstract

Determining how a company will be structured as a business entity is one of the first major decisions every small business owner and entrepreneur must make. But that is just the beginning. Staying on top of and in compliance with business laws and regulations is a complex and ongoing process that can put an undue burden on any small business and time-pressed owner or entrepreneur, including the 53 percent of all small businesses that are based in the home. One of the main reasons small businesses fail is because they don't seek help with the legal aspects of starting and running a business.

Small businesses with less than 50 employees represented 95.4 percent of the 7.9 million businesses in the United States in 2004 and employed 40 percent of all private sector employees. Each year, the number of business closures is about equal to the number of startups. In 2004, new firms numbered 580,900 and closures, 576,200 (each about 10 percent), including 34,317 bankruptcies.

### Executive Summary

Research shows that small businesses continue to bear a disproportionate share of the federal regulatory burden. Federal regulations cover economic, workplace, environmental and tax issues and, depending upon the size and nature of the business, may encompass such acronyms as OSHA, EPA, FDA, SOX, HIPAA and ADA, to name a few.

In calculating the cost of launching and operating a business, an owner must take into account not only the time and expense required to meet all federal regulations, but the local and state obligations as well. The latter embodies everything from licensing, permits, annual reports/statements and fees to economic, environmental and workplace issues and tax compliance.

This white paper focuses on compliance that relates to the very core of small business entities: maintaining a solid legal structure.

Why? Because compliance is the best way for a business owner or entrepreneur to protect his or her personal and business assets. Many owners of small businesses are unaware of the compliance obligation that must be upheld after they have formed a new business entity — and noncompliance can lead to numerable legal challenges.

This white paper also discusses how formation of a legal business entity and ongoing compliance protects an owner's assets, while outlining the consequences of noncompliance, the primary hurdles to compliance, and timesaving strategies for maintaining compliance. It is designed to help the small business owner better:

- Understand business compliance
- Realize the consequences of noncompliance
- Navigate the challenges of maintaining compliance
- Save time and money in the record-keeping and filing processes

## What is Compliance?

New business owners create a corporation or limited liability company (LLC), in large part, to separate their personal assets from those of the company. Forming either type of business entity provides important benefits both to the business and to the owner. In return, however, an owner must fulfill certain legal responsibilities and requirements, including various formalities and filings. It is imperative to know the steps necessary to keep the corporation or LLC in compliance and, therefore, in "good standing" — not only with the state in which it was formed, but with every state in which it does business.

Compliance, as defined in this white paper, means meeting all local, state and federal obligations required to keep a corporation or LLC in good standing within the state or states it conducts business.

### Consequences of Noncompliance — "Piercing the Corporate (or LLC) Veil"

If a business does not perform all the necessary steps to act like a corporation or LLC, and do so in a timely manner, the repercussions can be serious. In the event the business is sued and unable to show it, indeed, has met all of the corporate or LLC formalities and state requirements, a judge could rule that the owner's limited liability under the "veil" has been breached, which is called "piercing the corporate veil." When a "corporate veil" is pierced, the business is then deemed to be operating more like a sole proprietor than a corporation or LLC, and an owner's personal assets will no longer be protected.

There are other potential consequences at the state level that can happen prior to piercing the corporate veil. When a corporation or LLC does not comply with state requirements, that company may fall into "bad standing," be revoked or administratively dissolved.

Each state has different parameters for what is required before a company falls out of good standing and how that state handles it. For example, many states impose late fees and interest payments on the outstanding annual report and/or franchise tax fees or just revert to "bad standing." Being in "bad standing" long enough may lead to administrative dissolution by the state.

When the state administratively dissolves a corporation or LLC, all of the benefits of being a corporation or LLC are lost, and an owner could be held personally responsible for the debts and the liabilities of the business. The corporate (or LLC) veil is the shield of limited liability that stands between the owner of a business and its creditors. This valuable legal shield, which is created when a corporation or LLC is formed, ordinarily means that creditors can seek payment only out of the business's assets.

To avoid day-to-day liability risks when enacting an asset protection plan, a small business owner must also pay close attention to initial capitalization and recordkeeping, as well as the timely report filing and payment of fees, in order to steer clear of the "piercing the veil" doctrine. Small business owners need to thoroughly understand the direness of the situation should they fail to maintain the limited liability protection the corporation or LLC affords them.

When this exception arises in a lawsuit by a creditor of the business, who is seeking to impose personal liability on the owner of the business, the creditor will sue the business owner personally, plead the doctrine of piercing of the veil of limited liability in his complaint, and then try to prove to the court that the doctrine should be applied in that particular case. If the veil is deemed pierced, this judgment will apply to all of the business's creditors as well.

Of course, this type of lawsuit is even more likely in a business that has little capital within the business form, where the debt in question is unlikely to be satisfied from the business's assets. In fact, piercing of the veil of limited liability is one of the most frequently litigated issues involving small businesses.

The courts will apply this doctrine if the creditor can prove either one of two legal theories:

- **Alter Ego Theory** — The creditor must establish that the business owner failed to separate his financial affairs from the entity's financial affairs, and/or observe statutory formalities regarding division of authority within the entity, required meetings, and recordkeeping.
- **Undercapitalization Theory** — The creditor must prove that the owner intentionally underfunded the entity, when it was formed, to defraud the business's creditors.

While any one of the items listed above on their own may not be enough to pierce the corporate veil, multiple items could lead to such an outcome. There are also more serious circumstances where piercing of the veil would automatically apply, and thus any owner of that business would obviously lose his or her limited liability. They include:

- Commingling of an owner's personal assets with the assets of the business
- A shareholder or shareholders engaging in illegal, and/or fraudulent, and/or negligent acts (which can also result in the shareholders being convicted of criminal acts and possibly sent to jail)

There are also other events that can trigger dissolution of a business and produce a similar result. However, they can usually be controlled in an entity's articles of organization and operating agreement, or bylaws.

While failure to renew an LLC or a corporation annually or biannually can trigger an automatic dissolution, failure to register that a business entity as a foreign entity, when it does business in a state or states other than the one in which it was formed, usually does not. In some states, however, this failure, too, can cause penalties, even dissolution.

It is important to remember that a corporation or LLC is a legal entity that exists separately from its owners. Owners, therefore, have a duty to maintain that separation. If not in compliance, they risk losing protection of their personal assets.

### Hurdles to Compliance

Small business owners often mistakenly believe that many corporate and LLC requirements do not apply to them, or they may feel too busy to properly satisfy them. Other reasons include:

- Complexity of state regulations, especially for entities doing business in multiple states
- Unclear understanding of compliance requirements
- Frequent changes in regulations
- High cost in time and money to fully comply
- Difficulties in obtaining clear answers to questions about compliance

Compliance with local, state and federal regulations is at the core of asset protection planning. Large businesses know this and have teams of lawyers and accountants constantly looking out for their best interests. Most small businesses, however, don't (and won't ever) have these kinds of resources available to them. Moreover, many are unaware of the protections granted to them (and all businesses) under law, which can put small business owners at a distinct disadvantage in the world of commerce.

### Protecting Your Assets

The very nature of owning and operating a business is risky, which is why every business owner needs a comprehensive asset protection plan.

If, for example, a business defaults on an account with a vendor, or on a mortgage or other secured loan from a bank, the business could face litigation. Likewise, the same could happen if an owner or employee commits a negligent act while carrying out company activities. A customer could bring a claim against the business for an injury suffered from the sale of a defective product, or a claim based on an unfair or deceptive business practice. In addition, claims such as wrongful discharge and sexual harassment by employees are on the rise.

Any such claims (even if unwarranted) could end in a financial settlement. The litigation alone could spell financial disaster for a business owner, in terms of both loss of business and personal assets.

Because most small businesses lack the infrastructure required to handle litigation, the cost can be significant. An average civil case can cost \$50,000 to \$100,000 to litigate through trial, exclusive of appeals or any judgment. The fact that many small businesses are uninsured or underinsured, and that the time the owner spends dealing with the litigation is time taken away from running the business only adds to the devastating consequences. *Unfortunately, the national impact of this type of litigation is not known, since there is no reporting requirement for such expenses and no reliable periodic surveys of small businesses that record such costs or even the incidence of litigation in the small business sector.*

### Limiting liability

Small business owners form corporations or limited liability companies (LLC) in order to limit their personal exposure to such events, hoping to protect their assets outside of their various businesses. Forming a corporation or LLC is an important step that offers other possible benefits for the business and its owners as well — benefits that are unavailable to sole proprietorships and general partnerships. Only in the corporation and LLC structure does an owner enjoy full "limited liability" in every state, so creditors cannot pursue his or her personal assets (such as house or car) to pay business debts.

### Comparison table

Below is a table listing the specific characteristics of certain business entities.

| Characteristics                    | Sole Proprietorship   | General Partnership  | C Corporation   | S Corporation   | Limited Liability Company  |
|------------------------------------|---|--|---|---|--|
| <b>Formation</b>                   | No state filing required                                      | Agreement between two or more parties. No state filing required  | State filing required   | State filing required   | State filing required  |
| <b>Duration of Existence</b>       | Dissolved if sole proprietor ceases doing business or dies    | Dissolves upon death or withdrawal of a partner unless safeguards are specified in a partnership agreement                   | Perpetual   | Perpetual   | Dependent on the requirements imposed by the state of formation                                      |
| <b>Liability</b>                   | Sole proprietor has unlimited liability                       | Partners have unlimited liability  | Shareholders are typically not personally liable for the debts of the corporation   | Shareholders are typically not personally liable for the debts of the corporation | Members are not typically liable for the debts of the LLC  |
| <b>Operational Requirements</b>    | Relatively few legal requirements                             | Relatively few legal requirements  | Board of directors, officers, annual meetings, and annual reporting required  | Board of directors, officers, annual meetings, and annual reporting required      | Some formal requirements but less formal than corporations   |
| <b>Management</b>                  | Sole proprietor has full control of management and operations | Typically each partner has an equal voice, unless otherwise arranged   | Managed by the directors, who are elected by the shareholders   | Managed by the directors, who are elected by the shareholders                     | Members have an operating agreement that outlines management   |
| <b>Taxation</b>                    | Not a taxable entity. Sole proprietor pays all taxes          | Not a taxable entity. Each partner pays tax on his/her share of income and can deduct losses against other sources of income | Taxed at the entity level. If dividends are distributed to shareholders, dividends are also taxed at the individual level | No tax at the entity level. Income/loss is passed through to the shareholders     | If properly structured there is no tax at the entity level. Income/loss is passed through to members |
| <b>Pass Through Income/Loss</b>    | Yes   | Yes  | No  | Yes   | Yes  |
| <b>Double Taxation</b>             | No  | No   | Yes, if income is distributed to shareholders in the form of dividends  | No  | No   |
| <b>Cost of Creation</b>            | None  | None   | State filing fee required   | State filing fee required   | State filing fee required  |
| <b>Raising Capital</b>             | Often difficult unless individual contributes funds           | Contributions can be made from partners, and more partners can be added  | Shares of stock are sold to raise capital   | Shares of stock are sold to raise capital   | Possible to sell interests, though subject to operating agreement restrictions                       |
| <b>Transferability of Interest</b> | No  | No   | Shares of stock are easily transferred  | Yes, but must observe IRS regulations on who can own stock                        | Possibly, depending on restrictions outlined in the operating agreement                              |

It is the business owner, however, not the business that enjoys this limited liability. An owner's liability for the business's debts is limited to what he or she has invested in the business (i.e., the business's assets) or to any loans he or she has personally guaranteed. The business can lose everything it owns, including the owner's investment.

Example:

Let's say the owner of a sole proprietorship or a general partnership has a personal net worth of \$1 million, outside of his business, as well as outside of post-judgment and bankruptcy exemptions. His business suffers severe financial difficulties, resulting in a debt of \$1.5 million, due to a loss of market share, default on loans, loss of a major lawsuit, etc.

Further, if the owner, at the time of the loss, has \$2,000 invested in the business. What does the owner stand to lose? His entire personal net worth of \$1 million, in addition, of course, to his \$2,000 business interest.

Now if the owner had been operating his business as a corporation or LLC, due to limited liability, his loss now would be limited to his investment in the business, \$2,000, and his entire personal net worth of \$1 million would be preserved.

A business owner may be unaware that significant *exceptions* exist to this limited liability. And when an exception applies, personal liability is imposed on the owner, despite the fact that a corporation or LLC exists. Accordingly, an owner's home, car, personal bank account, investment portfolio, etc., are all subject to the claims of business creditors. With knowledge and planning, however, these exceptions can be avoided, and thus limited liability preserved.

Asset protection planning extends well beyond protecting an owner's personal assets. The primary strategy centers on most effectively using the asset exemptions allowed under federal and state codes, which is best accomplished under guidance of an attorney or financial advisor. This exempted property is then declared untouchable in the eyes of the law, in the event that a creditor's lien threatens the business's assets.

Every state has a list of assets considered "exempt" from legal judgments and unreachable by creditors. The federal bankruptcy statute also has its own list of exempt assets, although in some states the state's exemption may be substituted instead.

The federal government changed its bankruptcy laws on October 17, 2005, and in the process some state bankruptcy exemptions have been limited. The two biggest changes involve the homestead exemption and residency requirements for exemption eligibility.<sup>8</sup>

#### Considerations regarding state of formation

One of the first decisions a business owner must make after deciding to incorporate or form an LLC involves selecting the proper state of formation. It need not be the state in which the business operates. It can be any one of the 50 states or the District of Columbia.

In making this decision, three factors are typically weighed: 1) the location of the business's physical facilities, 2) a cost analysis comparing formation in the state of operation versus qualifying to do business as a "foreign" entity in the state under consideration, and 3) determining the advantages and disadvantages of each state's business regulations and tax structure.

The decision is most often between the state of its operations and Delaware. Why? Because the liability and internal affairs of a business entity are governed by the laws of the state in which it is formed, rather than by those of the state in which it operates. While forming the business in its home state may offer

simplicity and cost savings, states such as Delaware — and, more recently, also Nevada — may, in some cases, offer superior liability and other offsetting advantages.

If the corporation is closely held — i.e., most of the voting stock is in the hands of a few stockholders — and does business primarily within a single state, local incorporation is usually the best decision. The cost of local formation is typically less than formation in another state and then qualifying to do business as a foreign entity in the state of operations.

There are advantages and disadvantages to either option. One consideration is the complexity of administration, fees and costs. From an asset protection standpoint, the unique protections and other benefits of forming and registering in a state known as friendly to business ownership may offset any additional expenditures of time and money.

All states impose certain requirements on corporations and LLCs formed there. One is the filing of an annual (biennial in some states) report. This is the state's way of maintaining updated information on corporations and LLCs. Most states also impose a filing fee on these reports/statements.

### Doing business in multiple states — “foreign qualification”

If a corporation or LLC plans to transact business outside its state of formation, it may be required to qualify as a “foreign corporation” or “foreign LLC.” It is considered to be domestic only in the state where it was formed. In all other states, it is regarded as a foreign corporation or LLC. To qualify to transact business in another state, the company must register for a Certificate of Authority to do so in that state. The consequences of not qualifying in a foreign state in which the company transacts business may include loss of access to that state's courts and potential fines.

Corporations and LLCs are subject to taxes and annual report fees in both the state of formation (also called their domestic state) and any other states where the corporation or LLC is qualified as a foreign corporation or LLC. Additionally, states require corporations or LLCs that are foreign qualified in its state to have a registered agent within that state. This agent must maintain a physical address and be available to receive important communications from the state and others on behalf of the company.

### Maintaining Business Compliance Means Doing Your Homework

As stated previously, to avoid the piercing of the corporate veil, small business owners must comply with state and internal regulations imposed on corporations and LLCs. Though regulations for maintaining compliance may vary by state, most require the filing of an annual or biennial report, along with a filing fee. Corporations and LLCs are also subject to a number of other ongoing requirements and formalities.

History dictates that such requirements must also be satisfied in order to protect the corporate or LLC status. Working with organizations like BizFilings that specialize in helping small businesses stay in compliance can help take some of the burden off a busy owner's shoulders.

Internal **corporate** formalities include, but are not limited to:

- Initial meeting of directors. When the articles of incorporation are completed, the corporation should hold the initial meeting of its directors, also called the organizational meeting. At this meeting, the bylaws are adopted, officers are elected, and stock is issued to all shareholders. Another item of business often addressed during this initial meeting is the authorization for the corporation to open a bank account. Some banks require a copy of a directors' resolution approving the opening of a bank account and assigning which officers will have signature authority on the account. (These formalities are equally important for a corporation that has only one shareholder acting as sole director and officer; however, in lieu of holding a meeting, they can be documented by means of unanimous written consent.)
  - Adopting bylaws after incorporating. Each corporation must adopt bylaws, which is the document that outlines how the internal affairs of the corporation will be executed. The bylaws are the second most important document behind the articles of incorporation, as it indicates how

the company will be operated. As mentioned above, the bylaws should be adopted at the initial meeting of directors.

- Conducting business on the corporation's behalf. Officers and directors should visibly be acting on behalf of, and in the best interest of the corporation. This is especially important when it comes to officers or directors entering into contracts for the corporation.
- Holding annual meetings of directors and shareholders. A requirement of all corporations is that they hold annual meetings of both directors and shareholders. It is also important that the minutes of these meetings be kept with the corporate records. If items of business are determined by unanimous consent in lieu of holding a meeting, which is popular with many closely held corporations; the unanimous consent documents should be kept with the corporate records.
- Documenting corporate activity. In addition to keeping minutes of all director and shareholder meetings, it is important for corporations to maintain a stock ledger that records all shares of stock issued to shareholders and the contributed amount each share represents. Any contracts into which the corporation enters, including leases or major business contracts, must also be kept.
- Documenting corporate financial activity. Corporations should record all disbursements, payments received, invoices issued (accounts receivable), and invoices received (accounts payable), and keep those records for a period of seven years. Corporations should also keep balance sheets and profit and loss statements for each year. Additionally, it's important to document any loans taken by the corporation, as well as the repayment terms.

While LLCs do not have the formal ongoing requirements that corporations have, it is recommended that an LLC undertake many of the same steps.

Common internal recommendations for LLCs include:

- Holding an organizational meeting. After the formation of the LLC is complete, the members (even if they are manager-members) should hold a formal meeting to adopt an operating agreement and issue membership interest to members.
- Adopting an operating agreement. As with the corporate bylaws, the operating agreement for an LLC is an important document that outlines the internal governance of the LLC. Note that state law governs an LLC's requirements of operating agreements. Even if state law doesn't require one, it is highly recommended for an LLC to have an operating agreement.
- Documenting the LLC's activity. It is typically considered beneficial to keep records of any changes in membership interest and also to keep records of all major business decisions of the LLC, such as contracts and leases.
- Documenting financial activity. LLCs should maintain the same financial information outlined for corporations above.
- Annual meetings of members. Holding and documenting the business conducted at annual meetings of the members and/or managers helps LLCs keep updated ongoing records of decisions made by the owners.

### Internal Compliance

Internal requirements are those the directors of corporations or the members or managers of LLCs undertake. Documentation of these actions is kept with the company records instead of being filed with the state. Corporations have the strictest internal requirements of all the entity types, such as being required to hold and properly document initial and annual meetings of the directors and shareholders.

Unfortunately, internal requirements are those most often not completed, particularly by small business owners. However, the importance of undertaking and properly documenting each cannot be overstated. There are a number of tools available today, many specifically geared towards small business owners, to help make the process of complying with internal formalities as easy and convenient as possible for business owners.

### External Requirements

External requirements are those imposed on corporations and LLCs by the state in which it is formed or foreign qualified. These requirements often include an annual state filing and payment of a corresponding state fee.

The annual report typically has a number of questions regarding the company, such as its legal address, who the directors and officers of a corporation are or who the managers or members of an LLC are. Certain information the states have on companies can only be updated via the filing of a certificate of amendment, such as the company name, purpose and shares and/or par value (for corporations); however, the annual report provides a means to update other company information with the state.

Not all states have annual reports/statements. Some require a report be sent every two years. Also, the timing for these reports/statements varies by states. In terms of timing, most states use either a common due date or a due date that is tied to the company's formation/qualification date. For example, the state of Delaware uses the common due date model. Annual reports/statements for all corporations are due March 1st. Annual reports/statements for all LLCs are due June 1st. When a state uses a date tied to the formation date, the annual report is often due in the anniversary month of the company's date of formation or qualification that is on file with the state.

Many states also impose an annual report filing fee. These fees vary by state. While some states do not charge a fee, others may charge a flat fee or a fee based on a percentage of the company's income. States also may impose penalties and/or fines if the annual report and filing fee are not received by the stated due date. Additionally, as previously outlined, a company may be considered to be in "bad standing" with the state, if annual reports/statements are not filed in a timely manner with the state. So, it is definitely in a company's best interest to pay on time.

Some states also have a franchise tax, which is essentially a fee paid to the state for the mere privilege of operating as a corporation or LLC formed or qualified in that state. The states employ different formulas for calculating the franchise tax. For example, the tax may be based on the corporation or LLC's revenue or on a corporation's number of authorized shares and par value.

How states send the annual report to companies also varies. Some, such as Delaware, send annual reports/statements to the company's registered agent. Other states send them to the legal address for the business.

Because the annual reports/statements and franchise taxes represent ongoing requirements corporations and LLCs will face, it is advisable for business owners to research these requirements prior to incorporating, so that they know what to expect going forward, and can attempt to budget for the cost.

Additional common external requirements that corporations and LLCs often face include:

- Filing a federal income tax return and paying necessary taxes
- Filing a state income tax return and paying necessary taxes
- State franchise taxes
- State annual reports/statements
- Payroll tax obligations (such as Social Security, Medicare and unemployment)
- Property tax obligations
- State sales and use tax obligations

- County, city or municipality tax obligations
- Obtain and renew any necessary business permits and/or licenses

### [Timesaving Solutions](#)

There are several ways in which business owners can keep track of these obligations. The most common are 1) to contact the state directly for an outline of requirements, 2) to subscribe to a compliance tool, 3) to hire an individual — called a “registered agent” — to be responsible for these filings or 4) to engage a combination of these. Whichever way a small business owner chooses to comply is typically a matter of personal preference. It is, however, important to understand that even a single failure to comply could be detrimental to the life of a business.

It is equally important for small business owners to be aware of the tools and services that can simplify and ease the burden of regulatory compliance.

### [What is a Registered Agent?](#)

Virtually all states require corporations and LLCs to appoint a registered agent in the state where the company is formed. The registered agent, also known as a statutory agent or agent of process, is responsible for receiving important legal and tax documents, including notice of litigation (service of process), franchise tax forms and annual report forms, for the corporation or LLC it represents. Most states require that corporations and LLCs also have a registered agent in the state(s) in which they are foreign qualified. The agent’s name and address must be included on the formation documents, and are a matter of public record.

Many small business owners, especially those operating in multiple states, select a registered agent service provider to serve as their agent. Benefits of using a provider for this service include:

- **Stability** — In the event the business’s location changes, the registered agent address with the state need not change.
- **Anonymity** — The registered agent’s name and address is of public record and listed in the public documents, as opposed to the business owner’s.
- **Reliability and accountability** — Service providers ensure that important legal (service of process) and tax documents are delivered promptly, allowing the small business owner to handle all affairs in a timely fashion. Failure to receive service of process could result in the small business owner not appearing at the court hearing for which the litigation was served and as a result, the individual filing the charge could automatically win the lawsuit by default judgment. In addition, failure to complete and return certain tax documents could result in the corporation or LLC going into bad standing status with the state, or possibly being administratively dissolved by the state.
- **Convenience** — Some providers offer registered agent services in all 50 states and online access to the registered agent account 24/7.

### [Benefits of choosing BizFilings as a registered agent](#)

BizFilings operates through a company-owned, national network of registered agent offices, which allows them to deliver consistent registered agent service and exceptional customer service and support. The company’s registered agent service also includes free access to BizComply, an online compliance tool created to assist small business owners with maintaining state-imposed requirements and regulations, which are often overlooked after the company formation process is complete.

BizFilings can also file the necessary paperwork to qualify a business as a foreign corporation or LLC in any of the 50 states. BizFilings performs business formation services; it is not a law firm and does not provide legal advice or legal services.

### [Compliance tools \(BizComply\)](#)

BizComply, a product of BizFilings, is an online compliance management tool that reminds customers of compliance events, provides many of the forms necessary to satisfy these requirements, and also allows customers to keep all of their corporate information in a secure online area that is accessible 24/7 from any computer.

BizComply sends email reminders to customers for events such as state due dates for annual reports/statements, franchise taxes, and other state taxes. It also provides reminders on internal governance requirements, such as holding the annual meetings of directors and shareholders, and provides access to the documents necessary to call and record these meetings.

#### Corporate and LLC kits

Corporate kits are available for purchase that include a customized binder with the company's name to use for storing corporate records, a corporate seal for stamping documents, custom stock certificates, a stock transfer ledger, sample hard-copy bylaws, and sample hard-copy resolutions. Similar kits are also available for LLCs. Kits such as these are often included as part of a complete formation service or may be available for purchase as stand alone products.

#### Corporate and LLC forms CDs

Corporate and LLC forms are available on CDs that include sample, customizable templates of the documents corporations and LLCs typically need for complying with the required formalities of director and shareholder meetings (corporations) or recommended formalities of member and/or manager meetings (LLCs). The Word format allows these documents to be easily customized to meet the needs of customers' businesses. The Corporate or LLC Forms CD may be included as part of a complete formation service or can be purchased as a stand-alone product

#### Conclusion

The importance of complying with ongoing corporate or LLC formalities cannot be overstated. For a business owner to maintain the benefits afforded by the corporation or LLC, the business must continually satisfy the ongoing legal requirements.

BizFilings helps businesses meet their compliance requirements by providing:

- Online formation services for corporations, LLCs and nonprofits in any state within the United States, including rush filing services, corporate supplies and business planning tools
- Foreign qualification services including:
  - Preliminary name availability check in the state of qualification
  - Preparation and filing of the Certificate of Authority in the state of qualification
  - Obtaining a Certificate of Good Standing or certified copy for the business from the state of formation, which must accompany Certificate of Authority
  - Payment of initial state filing fees
- Compliance tools and services, including registered agent services in all 50 states and Washington, D.C., and BizComply, the online compliance management tool.
- Expert resource for information on all small business needs, including a free and comprehensive online Small Business Guide, powered by CCH Incorporated.

### About the Author

**Troy Janisch** is marketing director for BizFilings. Janisch is responsible for all BizFilings's marketing activities and strategies. Having founded two successful Internet companies — Online Arts and Icon Interactive ([www.iconinteractive.com](http://www.iconinteractive.com))—prior to his start at BizFilings, he is passionate about entrepreneurialism and technology. Janisch has presented his value-based approach to e-marketing and search engine optimization through multiple editorial inclusions, and has been a keynote speaker on topics including e-marketing, technology, online branding and search engines. As a part-time instructor for the University of Wisconsin-Oshkosh, Janisch teaches how to create successful advertising campaigns. Janisch graduated from the University of Wisconsin-Oshkosh in 1989 with a bachelor's degree in journalism. In 1994, Janisch received his master's in mass communication from the University of Wisconsin-Madison.

### About BizFilings

BizFilings is the Internet leader in providing incorporation and related services to business owners. As a company started in 1996 by two entrepreneurs seeking online resources to start a business of their own, BizFilings embraces the entrepreneurial spirit. The company has grown rapidly in the past decade, helping over 100,000 domestic and international business owners with their corporation, limited liability company, and nonprofit formation needs.

A free "Guide to Incorporating Your Business," available from BizFilings, illustrates the options available to new business owners as they decide the appropriate structure for their business; the advantages and disadvantages of forming a corporation or an LLC; the formation process; and the requirements imposed on business owners after forming a corporation or an LLC. The company also provides rush services that make it possible to professionally file a corporation or LLC or nonprofit in as little as 24 hours — faster than any other company.

BizFilings is headquartered in Madison, Wisconsin, with satellite operations around the country. BizFilings is a part of Wolters Kluwer, a leading multinational publisher and information services company. Wolters Kluwer has annual revenues (2005) of €3.4 billion, employs approximately 18,400 people worldwide and maintains operations across Europe, North America and Asia Pacific.

---

<sup>1</sup> SBA Office of Advocacy, "Home-Based Business and Government Regulation," February 2004, referencing Pratt, 2000.

<sup>2</sup> United States Small Business Administration, Business Laws

<sup>3</sup> United States Small Business Administration, Office of Advocacy

<sup>4</sup> Small Business Administration (SBA), Office of Advocacy, "The Impact of Regulatory Costs on Small Firms," September 2005.

<sup>5</sup> SBA Office of Advocacy, "Impact of Litigation on Small Business," October 2005, referencing "Avoiding Litigation: How To Stay Out of the Courthouse," The Castleman Law Firm, P.C.

<sup>6</sup> SBA Office of Advocacy, "Impact of Litigation on Small Business," October 2005, referencing Tillinghast-Towers Perrin, "U.S. Tort Costs: 2003 Update--Trends and Findings on the Costs of the U.S. Tort System," February 2003; Council of Economic Advisors, "Who Pays for Tort Liability Claims? An Economic Analysis of the U.S. Liability System," April 2002.

<sup>7</sup> SBA Office of Advocacy, "Impact of Litigation on Small Business," October 2005.

<sup>8</sup> CCH Incorporated, accessed on February 23, 2006, at [http://www.bizfilings.com/toolkit/ToolkitIndex2.asp?fileName=P12\\_2100.htm](http://www.bizfilings.com/toolkit/ToolkitIndex2.asp?fileName=P12_2100.htm)

<sup>9</sup> Internal Revenue Service, United States Department of the Treasury, "How Long Should I Keep Records?" <http://www.irs.gov/businesses/small/article/0,,id=98513,00.html>