

Inside This Issue

Should I Incorporate?

Register out-of-state LLC?

LLC Fee Update

Dates to Remember

Reminders

Did you know?

Contact Information

Do you need to register your out-of-state LLC?

A recent Board of Equalization ruling held that a Montana LLC which owned property in Montana only but was owned and managed by a resident of California was doing business in California and must register with the California Secretary of State. The Board stated that "it is not where the property is located that is most germane, but where the activity of the business which owns that property occurred." *Appeal of Mockingbird Partners LLC* (May 17, 2006) Cal. St. Bd. of Equal. Case no. 306061.

If you live in California but own and manage an out-of-state LLC, please contact us regarding registering the LLC in California and paying California franchise taxes to avoid possible penalties and interest later.

Should I Incorporate?



sense. For others, it does not.

Incorporating protects the owner's personal assets from business liabilities. If something bad happens (e.g. someone gets hurt via operation of the business or is owed money by the business), the claimants and creditors have to look to the company for payment and not to the owners. Any business that has visitors on-site faces potential liability for a slip-and-fall or other injury. Any business that sells products faces potential liability for physical or economic injury caused by the product malfunctioning. Any business that pro-

vides services faces potential liability for providing bad service.

You may be thinking, "Isn't that what insurance is for?" The answer is yes. However, insurance policies do not cover everything. There are typically exclusions and policy limits. The liability shields of corporations and LLCs are broader. Nevertheless, incorporating should be viewed as a supplement to, and not a replacement for, insurance.

Liability protection is the most prevalent, but not the only, reason to incorporate. Certain benefit plans, including medical and retirement plans, are not available to sole proprietorships or partnerships but are available to corporations and LLCs. The public relations impact of incorporating is difficult to quantify but generally benefits how the business is viewed

by customers and vendors.

If incorporating will be beneficial, then the next step is determining the associated costs. Your accountant can best advise you on your options. The minimum tax in California is \$800 per year for corporations and LLCs. There may be additional taxes depending on the type of entity you select.

Structure Law Group, LLP charges a competitive flat rate to help you select and form the entity that is best for your business. If you would like to discuss whether incorporating is right for you, please contact our office at (408) 441-7500.

"Incorporating protects the owner's personal assets from business liabilities"

LLC Fee Update



In the last SLG Newsletter, we alerted you to a decision in the Northwest Energetic Services, LLC v. FTB case. Northwest was a foreign LLC that did not do any business in California, but was registered in California and paid the California LLC gross receipts fee based on all of its gross receipts. On these facts, the superior court determined that the California LLC fee is unconstitutional. This decision is now final and the FTB has until the middle of July to

appeal. If the FTB does not appeal, this decision will apply only to Northwest.

The FTB may choose not to appeal because there is another test case currently pending for the LLC fee. In *Ventas Finance I, LLC v. FTB*, a Delaware LLC was doing some business in California, so the San Francisco superior court must determine whether imposing the LLC fee on all of *Ventas Finance I, LLC's* income (inside and outside California) is unconstitutional. A hearing date has not yet been set. We will keep you posted.



STRUCTURE
LAW GROUP, LLP

1754 Technology Drive
Suite 240
San Jose, California 95110
Phone: 408-441-7500
Fax: 408-441-7501
E-mail: admin@structurelaw.com
www.structurelaw.com

Business Transactions • Corporations • Mergers & Acquisitions • Business Litigation
Limited Liability Companies • Partnerships • Tax Planning • Real Estate

Dates to Remember

July 3	Day before Independence Day - some courts and government offices closed
July 4	Independence Day - courts and government offices closed
July 23	National Hot Dog Day
July 30	Father-in-Law Day
September 4	Labor Day - courts and government offices closed
September 10	National Grandparents Day

Did you know?

- A cat has 32 muscles in each ear.
- An ostrich's eye is bigger than it's brain.
- In most advertisements, including newspapers, the time displayed on a watch is 10:10.
- A goldfish has a memory span of 3 seconds.
- The first Ford cars had Dodge engines.
- The word "set" has more definitions in the English language than any other word.

Reminders

If you need to perform a UCC search, we can perform that search for you.



Mark R. Figueiredo, Esq.



Tamara B. Pow, Esq.

Phone: 408-441-7500
www.structurelaw.com