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**MEMORANDUM**

TO: The Officers of new Corporation

FROM: Hamida Jackson-Little

This Memorandum is written to provide you with information common to all small businesses. It does not address every possible issue you may face. Please review this carefully and contact me if you have any questions unique to your business.

**There are two areas in which new corporate businesses must be especially careful.**

- **The first is validly completing the organization of the corporation. *SEE PARAGRAPH 3 FOR STEP-BY-STEP INSTRUCTIONS.***
- **The second, if applicable, is validly electing Subchapter S tax treatment with the Internal Revenue Service. *SEE PARAGRAPH 4 IF APPLICABLE.***

**Please review these paragraphs immediately.**

Upon receipt, you should carefully review the entire corporate minute book in order to become familiar with its contents and to make certain that all signature spaces, dates and other blanks have been completed. You will find in the minute book a certified copy of the Articles of Incorporation (or Temporary Page), the By-Laws, the Minutes of the Organizational Meeting (or Organization Minutes by Consent in Lieu of a Meeting), a Stock Subscription and Investment Letter, and, depending upon the circumstances, various other documents involved in the corporation's formation.

The minute book also contains stock certificates covering the issuance of stock to the original shareholders and blank stock certificates for the future issuance of shares. The stock certificates for the original shareholders are already in your minute book. You should carefully review them before delivery to make sure that they are properly filled out and executed by the appropriate corporate officers, and complete information about the shares issued should be inserted on the Cancellation sheets and the Transfer Ledger in the minute book.

**Free Information for Small Businesses.**

The Georgia Secretary of State operates the First Stop Business Information Center. They offer a publication, "Points of Contact for Small Business Entrepreneurs," that gives you the information to quickly request most of the government forms you will need to run your business. It also contains a wide variety of other resources for the small business. You may download this booklet from the Secretary of State's website: <http://www.sos.georgia.gov/firststop>. If you do not have access to the Internet, you may call (404) 656-2817 to request a copy.

## NEW CORPORATION CHECKLIST

✓	TASK	DUE DATE / FREQUENCY
<b>INITIAL BUSINESS REGISTRATION</b>		
___	Obtain a Federal Tax ID Number	Now
___	Sub-Chapter S Election (If Applicable)	<b>After</b> incorporating, but <b>before</b> 75 days after the <b>earlier</b> of (1) issuing shares of stock, (2) acquiring any assets, or (3) doing business as a corporation. <b>Missing the deadline can cause substantial additional taxes. Do not delay.</b>
___	Open a Bank Account	As soon as conveniently possible after applying for a Federal Tax ID Number
___	<b>Conduct Your Organizational Meeting</b>	<b>Prior to conducting business or entering into any contracts</b>
___	Obtain City / County Business Licenses	Prior to conducting business
___	Obtain a Georgia State Taxpayer (Income Tax) ID Number	As soon as conveniently possible
___	Obtain a Georgia Sales & Use Tax ID Number (If Applicable)	As soon as conveniently possible
___	Register Trade Name (d/b/a) (If Applicable)	Prior to conducting business under a name different from your corporate name
___	File Initial Georgia Net Worth Tax Return	15th day of the 3rd month after incorporating
___	File Initial Annual Registration to Secretary of State	90 days after incorporating
___	File City and County Real and Personal Property Tax Return	As soon as conveniently possible
___	Register as a Foreign Corporation in Other States (Doing Business Out of State)	Prior to "doing business" out of state
___	Register Trademark (If Applicable)	As soon as conveniently possible
___	Notify Creditors (If Incorporate an Existing Business)	As soon as conveniently possible
<b>EMPLOYEE MATTERS</b>		
___	Consult With Your Tax Advisor About Independent Contractor vs. Employee Status	Prior to hiring employees or contracting with independent contractors
___	Obtain a Georgia Department of Labor (Unemployment) Tax ID Number	As soon as conveniently possible
___	Obtain Worker's Compensation Insurance	Prior to hiring employees
___	Obtain U.S.C.I.S. Form I-9	Prior to hiring employees

\* The above items are explained in further detail in the following pages.

## RECURRING MATTERS

✓	TASK	DUE DATE / FREQUENCY
<b>MONTHLY PAYROLL DEPOSIT</b>		
___	Make Payroll Tax Deposit (Federal and State)	15 days after the end of each month for most small businesses. More often for larger businesses.
<b>QUARTERLY PAYROLL TAXES</b>		
___	File Federal Payroll Tax Return Form 941	One month after the end of each calendar quarter
___	File Georgia Payroll Tax Return Form G-7	One month after the end of each calendar quarter
___	File Georgia Quarterly Tax and Wage Report (Unemployment Tax)	One month after the end of each calendar quarter
<b>SALES TAXES</b>		
___	Georgia Sales and Use Tax	The 20th of the month after the end of each calendar month / quarter, depending on your sales volume
<b>ANNUAL TAXES AND RETURNS</b>		
___	File Federal Unemployment Return Form 940	By January 31 of each year
___	File Federal Wage and Tax Statements Form W-3 With W-2's Attached	By January 31 of each year
___	File State Annual Reconciliation Form G-3	Eliminated effective 1999
___	File Personal Property Tax Return With Tax Assessor	Varies by county, typically by March 1 / April 1 of each year
___	File Federal Income Tax Returns	By March 15 of each year
___	File Georgia Income Tax Returns	By March 15 of each year
___	File Annual Registration to Secretary of State	By April 1 of each year

\* The above items are explained in further detail in the following pages.

## INITIAL BUSINESS REGISTRATIONS AND OTHER STARTUP ISSUES

### 1. Federal Tax ID Number.

You should now apply to the Internal Revenue Service for a Federal Employer Identification Number so that payments of Federal taxes, withholdings on wages, and filing of reports, returns, and other documents with the IRS can be properly identified. Your banker will also need this number when you open your bank account. You have several options to obtain a number.

- a. Apply online at <<http://www.irs.gov>> by browsing to the online services section of the IRS website.
  - (1) Follow the prompts and the site will lead you through an interview-style EIN Application.
  - (2) *This is by far the fastest and easiest way to get a FEIN.*
  - (3) **Tip:** Do *not* use the "Search Forms and Publications for:" section, unless you want to create a printed form for faxing or mailing.
- b. If you are unable to access this form online and would like to have the form and instructions mailed or faxed to you, please contact our staff. Fax your **completed** Form SS-4 to (859) 669-5760. If you include a fax telephone number right above the date in the bottom right corner, the IRS will fax back the number to you, generally within 5-10 days. If you don't provide the IRS with a fax number, the IRS will mail the number to you within about 30 days. However, you can obtain the number assigned by calling the IRS at (800) 829-1040 about 4 business days after faxing your request. It is important to make sure the application is complete in all regards, as an incomplete application will cause significant delays.
- c. You may wish to expedite obtaining your Federal Employer Identification Number by calling (800) 829-4933. **Have the form completed before you call.** It is best to call early in the morning. The line gets very busy later in the day. Often it is extremely difficult to get through. If you obtain your F.E.I. number by phone, the completed form should be promptly mailed to: Internal Revenue Service, Atlanta Service Center, Atlanta, GA 39901.

At this time you may wish to order the following forms that further explain the intricacies of small business taxes from the Internal Revenue Service at (800) 829-3676:

Form 583	Small Business Startup Kit
Publication 3207	Small Business Resource Guide CD
Form 2553	Subchapter S Election
Circular E Publication 15 or 15A	Employer's Tax Guide or go to the IRS website at <a href="http://www.irs.gov">http://www.irs.gov</a>

## 2. Bank Account.

Opening a bank account can often present a "chicken and the egg" problem. You need to open your account, but your banker needs documentation (original Articles of Incorporation) that may take several weeks to arrive. To prevent fraud, all banks need some form of proof that they are dealing with a real corporation. If you are a long time customer and your banker knows you, you often will have no problems. If that is not the case, the following tips will help:

- a. Keep a copy of your Federal Tax ID Application (SS-4) for your banker.
- b. Bring your corporate minute book and corporate seal with you to meet with the banker.
- c. Start with the bank manager and work down, rather than with the customer service representative. It always helps to get to know the branch manager. Spend a few minutes informing your banker about your venture and your future banking needs.
- d. Many bankers require a copy of the Articles of Incorporation in order to open a bank account. Usually this is not a problem as you typically will wait until after you have incorporated to open the corporate bank account. If, however, you need to open your account before receiving the Articles, please contact us for assistance.

***THE FOLLOWING PARAGRAPH IS CRITICALLY IMPORTANT!!***

## 3. Conduct Your Organizational Meeting (Sign Your Minute Book).

There are two major steps in creating a corporation. The first is the *formation* of the corporation. That is the service we have provided to you. The second is the *organization* of the corporation. That step is completed by you by holding an organizational meeting, completing your corporation documents, issuing shares, and accepting payment for the shares. Your corporation is not in effect until you hold your organizational meeting. ***You may be individually liable for any corporate liability incurred prior to the completion of the organization step.***

Many of our clients want to start business immediately. We strive at all times to give you the best possible service. The Secretary of State takes a few weeks to return the original Articles of Incorporation. If your original Articles of Incorporation are not located in this book, we will forward the original Articles of Incorporation to you just as soon as it is received by us. During part of that time the corporation is in "pending" status. This means the Secretary of State has received and filed the Articles of Incorporation, but has not completed its final review process. However, final approval is retroactively effective back to the date of filing of the Articles of Incorporation.

### Step-By-Step Instructions.

- a. Sign and Date Minutes of Organizational Meeting. (2nd document behind "Organizational Minutes" tab divider). The minutes should be dated on or **after** the date of incorporation (you will find the date of incorporation in paragraph 1 of the Organizational Minutes), but **before** conducting any business as a corporation.

- b. Affix Corporate Seal in the Margin of Paragraph 6 / 7 of Minutes of Organizational Meeting.
- c. Sign and Date Stock Subscription and Investment Letter. (3rd document behind "Organizational Minutes" tab divider).
- d. Each Shareholder Should Write a *Personal* Check for the Purchase Price of the Shares. Deposit these checks into the corporate bank account. You can use the corporate bank account to reimburse pre-incorporation expenses incurred.
- e. Sign and Date and Affix the Corporate Seal to the Bottom Center of Each Share Certificate for Each Initial Shareholder.

That completes the organizational step. You may wish to review any optional minutes included in the corporate kit to see if they apply to your business.

***THE FOLLOWING PARAGRAPH IS CRITICALLY IMPORTANT!!***

4. **Subchapter S Election (If Applicable).**

If your corporation wishes to elect to qualify as a small business corporation (Subchapter S Corporation) so that the corporation's income will be taxed to the shareholders, thereby avoiding the Federal corporate income tax, you must file Form 2553 with the Internal Revenue Service. **To qualify during the first year, Form 2553 must be filed almost immediately.** Both the corporation and all of the shareholders must sign the form. Form 2553 can be obtained from the IRS at (800) 829-3676 in Atlanta. Alternatively, your accountant probably has a supply of these forms on hand and can assist you in filing it. ***You should use certified mail to be able to prove it was filed in case the IRS later claims it was never received.***

There are a few requirements to qualify as a Subchapter S corporation. Briefly, these are:

- a. The corporation must be a domestic corporation;
- b. The corporation can only have one class of stock;
- c. The corporation can have no more than 100 shareholders;
- d. Shareholders can only be individuals, estates or certain trusts (Corporations and Partnerships cannot be shareholders);
- e. All shareholders must be citizens or residents of the United States; and
- f. Certain domestic corporations are ineligible.

There are two steps in validly electing to be a Sub-Chapter S corporation. The *first step* is to pass a resolution to be a Sub-S corporation in your corporate minutes. We have prepared that resolution as a part of our service to you; you only need to sign and date the resolution. The *second step* is to file a Form 2553 with the Internal Revenue Service. This form can be obtained from your tax advisor. **There is only a short period of time after incorporation in which to file Form 2553 with the IRS if you want to be treated as a Sub-S corporation from the beginning of your business.** Please contact your tax advisor immediately if you have any questions about Subchapter S election.

5. **City and County Business Licenses.**

Your corporation will in all likelihood need one or more business licenses. If the business operates in a county, information may be obtained from the appropriate county clerk. If the business operates in a city, information may be obtained from the appropriate city clerk. There is a list of phone numbers at the end of this Memorandum that may be helpful to you. *Requirements and fees are different for each city/county. Contact your city/county office for details.*

6. **Georgia Taxpayer (Income Tax) Identification Number.**

You should also make application for a Georgia Employer Identification Number using State Tax Registration Application Form CRF-002 which is necessary if your corporation will be paying wages to employees or filing an income tax return. The corporation will be required to withhold amounts from employees' wages, make periodic deposits, and file periodic returns with the Georgia Department of Revenue. The First Stop package mentioned on the first page of this memorandum contains a postcard for obtaining forms and other information. You can obtain additional information on these matters immediately by telephoning the Withholding and Estimated Tax Section of the Georgia Department of Revenue at (877) 423-6711 in Atlanta. See also the Small Business Web Site Directory at the end of this memorandum.

7. **Georgia Sales and Use Tax.**

Your corporation will be required to obtain a sales tax identification number and collect the state and local Sales tax if your business involves the sale of goods and merchandise and other items. Sales Tax Returns are due quarterly for small volume businesses and more frequently for larger businesses. The First Stop package mentioned on the first page of this memorandum contains a postcard for obtaining forms and other information. The application for a Sales Tax ID is the same as in the paragraph immediately above. Additional information and the forms to be used in the collection and payment of the sales and use tax can also be obtained by telephoning the Sales and Use Tax of the Georgia Department of Revenue at (877) 423-6711. See also the Small Business Web Site Directory at the end of this memorandum.

8. **Trade Name (d/b/a) Registration.**

If your corporation plans to do business in its corporate name, then you need not register a trade name. However, if your corporation plans to do business under a name other than its corporate name, you must register that name in the county where it conducts its principal activity. This is a relatively simple process. Most counties have a one page form you can fill out yourself to register a trade name. Contact the Clerk of Superior Court - Trade Name Clerk at your local courthouse to obtain a form.

If there is any possibility someone else may have already registered your name, you may wish to check the trade name index at the courthouse. Registering a trade name tells other people who the business is owned by, but only provides minimal protection of your name. Trade name *protection* is done through filing a trademark or service mark. Please see the trademark section below for additional information.

If you use a trade name, the formal way to identify your name on contracts is the corporate name followed by d/b/a (short for "doing business as") and your trade name. For example, ABC, Inc., d/b/a Joe's Barber Shop. Please contact our office if you need further information or assistance to register a trade name.

9. **Annual Registration to the Secretary of State.**

Your corporation must file an Annual Registration with the Secretary of State of Georgia in order to remain a corporation in good standing and to avoid paying a penalty or being administratively dissolved.

**New Corporations:** If the corporation is formed before October 1 in the year, you must file the initial Annual Registration within ninety (90) days after the date of formation. If the corporation is formed on or after October 1 in the year, you must file the initial Annual Registration between January 1 and April 1 of the following year. However, all professional corporations must file the initial Annual Registration between January 1 and April 1 of the following year. The cost for the annual registration is \$50.00 per year.

**Existing Corporations:** All existing corporations should file an annual registration between January 1 and April 1 of each year. Although the deadline for filing is April 1<sup>st</sup>, there is no immediate penalty for late filing. It is advisable to file before the end of April. If the Secretary of State administratively dissolves the corporation, there is a penalty of \$100 plus all arrearages in annual fees to reinstate.

**On-line Registration:** The Annual Registration may be filed at the Georgia Secretary of State online at <[www.georgiacorporations.org](http://www.georgiacorporations.org)>. Click on "File Annual Registration." Be prepared to provide the following: name and address of chief executive officer (president), chief financial officer (treasurer) and secretary, as well as any changes in registered agent and principal office addresses. Payment may be made by credit card.

**Manual Registration:** If you choose not to file the Annual Registration online, you may call (404) 656-2817 and an Annual Registration form will be mailed to you. Additional information is available on the web site or by calling the Secretary of State Corporations Division at (404) 656-2817.

**Record Retention:** When finished, you should print a receipt of the completed online Annual Registration (or keep a copy of the printed Annual Registration). Keep this copy in your corporate minute book for at least three (3) years.

10. **Georgia Net Worth Tax Return.**

You should file for the corporation an initial Form 600 (corporate income tax return) covering the Georgia net worth tax with the Georgia Income Tax Unit. It must be filed by the 15th day of the 3rd month following the date of incorporation, together with the license or occupation tax based on the initial net worth of the corporation. Thereafter, the net worth tax is paid as a part of your annual income tax return. The First Stop package mentioned on the first page of this memorandum contains a postcard for obtaining forms and other information. Forms and information may also be obtained at the Georgia Income Tax Unit at [www.etax.dor.ga.gov](http://www.etax.dor.ga.gov). See also the Small Business Web Site Directory at the end of this memorandum.

11. **City and County Real and Personal Property Taxes.**

The corporation will be subject to taxation by the appropriate city and/or county on the value of its real and personal property. Immediately upon incorporation you should notify the appropriate city and county tax assessors of the corporation's name and address; and request that a personal property tax return be mailed to you each year. The phone numbers at the end of this Memorandum may be helpful to you.

Also, you should give a similar notice to the city and county tax commissioner in order to register the corporation's address for real property tax notices. Most counties will send a notice with the recording of each deed to your corporation.

12. **Doing Business Out of State.**

When you conduct business out of state you may be (1) subject to lawsuit(s) in that state rather than in Georgia, (2) subject to taxation in that state, or (3) required to register in that state as a "foreign" corporation. The level of activity that may trigger each of these requirements is different. This memo addresses only the third issue, i.e. registration as a foreign corporation.

Each states' requirements are different. However, in general, if you simply take orders over the phone and ship product to that other state, registration is *not* required. However, if you establish a branch office with employees in another state, registration *is* required. In between these extremes there are thousands of shades of grey. It can be difficult to determine with certainty if registration is required. Fortunately, isolated transactions generally do not require registration. Registration is often expensive and most states have substantial penalties for failure to register. Two companies in Georgia specialize in registering corporations in other states. These are CT Corporation Systems (404) 888-6488 and Paragnet Corporation Services (770) 497-9977.

13. **Trademark Registration.**

A "trademark" is a word, phrase, design or symbol, or a combination of these used by an individual or business to identify its goods and services, and to distinguish such goods from goods provided by others. A "service mark" is similar except that it relates to services rather than goods. Use of your mark in your trade may give rise to "common law" rights. However, these rights are somewhat limited. Federal or state registration of your mark greatly enhances your rights. You are then better able to stop someone else from using your mark, and can better defend yourself if someone else challenges your use of the mark. Please contact our office for further assistance if you wish to register a trademark or service mark.

See also the Small Business Web Site Directory at the end of this memorandum.

14. **If You Are Incorporating an Existing Business.**

- a. If you have already been operating as a proprietorship, you likely opened your trade accounts personally. You would generally remain liable on these accounts for future business. At a minimum, you should notify the vendor of your new name and have them change their records to indicate you are incorporated. Preferably, you would request a letter from them that you would not be personally liable for any future corporate debt. Likewise, any leases or other long term contracts should be assigned to the corporation, and preferably releases of personal liability obtained.
- b. You will need to obtain a *new* federal tax identification number.
- c. You should immediately change all internal contract forms to use the corporate name; and change signs, business cards, etc. as soon as economics permit.
- d. You should review your insurance coverage and the name under which you are insured with your insurance agent.
- e. You should consult with your tax advisor about handling existing bank accounts. You may wish to open a new corporate account and let it build up while your old proprietorship account winds down. Or you may want to convert the account to a corporate account with your bank. Your tax advisor can best advise you in this regard.

## EMPLOYMENT MATTERS

### 15. Independent Contractor vs. Employee.

How you classify your support personnel can be critical to your profitability. In general you can hire employees or contract with independent contractors. If it had its way, the IRS would classify everyone as an employee. If you use employees, you are safe with the IRS. However, if you use independent contractors there is some risk. The IRS has a 20 point test to determine if someone is an employee or an independent contractor. If you misclassify employees as independent contractors, you can suffer a financial disaster of epic proportions. The IRS will hold *you* responsible for employer payroll contributions as well as *employee payroll contributions, employee income that should have been withheld, penalties and interest.* To make matters worse, your corporation provides no personal protection from these taxes, so that responsible corporate officers are personally liable. And to make matters worse, you cannot escape this liability with a personal bankruptcy.

There is quite a bit of misinformation floating around on this issue. Do not be naive. If you are going to use independent contractors, do not rely on custom in your industry. You should seek advice from your tax advisor on the current standards of classification.

### 16. State Unemployment Taxes.

If your corporation has any employees (including yourself), it must pay the state unemployment tax. The First Stop package mentioned on the first page of this memorandum contains a postcard for obtaining forms and other information. You may also get in touch with The Adjudication Section, Unemployment Insurance Liability Dept., Georgia Department of Labor, Suite 850, 148 Andrew Young International Blvd., N.E., Atlanta, Georgia 30303 for information concerning filing quarterly unemployment tax returns. The telephone number is (404) 232-3990. See also the Small Business Web Site Directory at the end of this memorandum. The Department of Labor has a publication entitled "Unemployment Insurance: The Employer's Handbook" (DOL-224) that is extremely helpful in outlining requirements and exemptions to unemployment insurance. You may obtain the publication from their website <<http://www.dol.state.ga.us>>.

### 17. Worker's Compensation.

If your corporation will have *three* or more employees, including officers of the corporation that will be active in the business as employees, *whether or not they are receiving a salary*, then they must be covered by Workmen's Compensation. Under some circumstances, the key officers may opt out. However, other employees must be covered after the threshold of three has been reached. In some cases, employees of subcontractors are treated as being your employees for purposes of Worker's Compensation. The coverage is provided by conventional insurance companies, and you should make arrangements with the corporation's insurance agent. For additional information, you should get in touch with your insurance agent and the State Board of Workmen's Compensation, 270 Peachtree Street, NW, Atlanta, Georgia 30303, telephone (404) 656-3875.

18. **U.S. Citizen and Immigration Services: Form I-9.**

All employers are required to complete I-9 forms for every new hire. The employer must inspect at least one document of each employee showing identity (e.g., driver's license) and one document showing employment eligibility (e.g., social security card) or one document showing both (e.g., U. S. Passport). Many accountants have a stock of this form. You can also obtain the forms from the U.S. Citizen and Immigration Services at (800) 870-3676. See also the Small Business Web Site Directory at the end of this memorandum.

19. **Federal Payroll Tax Deposit.**

After issuing the Federal Employer Identification Number referred to above, the IRS will automatically mail you on a periodic basis the necessary forms for making payroll tax deposits. Most small businesses will make this deposit at their local bank by the 15th of each month for the previous month. Some will have to make deposits more frequently and may be required to use electronic fund transfers. Consult your tax advisor for more details.

20. **Quarterly Payroll Tax Returns.**

Employers are required to quarterly file (1) a federal payroll tax return, (2) a Georgia payroll tax return, and (3) a Georgia tax and wage report (unemployment tax return). These are due on the end of the first month following each calendar quarter. Consult your tax advisor for more details.

21. **Annual Payroll Tax Returns.**

Employers are required to annually file (1) Federal Wage and Tax Statements Form W-3 with W-2's attached, and (2) Federal Unemployment Tax Return Form 940. Consult your tax advisor for more details.

## **ANNUAL TAX RETURNS**

22. **Federal and State Income Tax Returns.**

Federal and state income tax returns for corporations are due by March 15 of each year for calendar year filers. Consult your tax advisor for more details. The Atlanta Small Business Taxpayer Advocate Office can be reached at (404) 338-8099.

23. **Local Personal Property Tax Returns.**

Businesses must file a Personal Property Tax Return each year. The due date varies from county to county, but typically are due March 1 or April 1 of each year. The county tax assessor will then send a bill for personal property taxes which is due later in the year. Consult your county tax assessor or tax advisor for more details.

## **OTHER MATTERS**

24. **Amortization of Organizational Expenses.**

Startup and organization expenses paid or incurred after October 22, 2004 up to \$5,000 can be deducted as an ordinary expense in your first tax year. You should contact your CPA or other tax advisor if such expenses exceed \$5,000.

Startup and organization expenses paid or incurred before October 22, 2004 have a different set of rules. Unfortunately your corporation can not just write off its organizational expenses the first year. Your corporation may elect to amortize its organization expenses over a period of not less than 60 months, beginning with the month in which it begins doing business. The election applies to expenditures which are incident to the creation of the corporation, chargeable to capital account, and of a type that would be amortized over the corporation's life if the corporation had only a limited life.

The election to amortize organization expenses must be made in a statement attached to the return for the year in which the corporation begins business, including any extensions of time that may have been allowed. The statement must set forth a description and the amount of the expenditures involved, the date the expenditures were incurred, the month in which the corporation began business, and the number of months (not less than 60) over which the ratable deduction is to be taken. We suggest that you consult with your corporation's accountants to assure that the election is properly made if your corporation desires to take advantage of this election.

**25. Issuing Additional Shares and Transfer of Shares by Shareholders (When Shareholders and/or Officers and/or Directors Leave the Corporation).**

Selling new shares or transfers of shares by shareholders raises a lot of issues.

- a. Are there any securities law issues? See paragraph below.
- b. Will there be a change on the Board of Directors?
- c. Will there be a change of officers?
- d. Will there be a new registered agent/office and principal office address?
- e. Has the leaving shareholder signed all corporate documents that should have previously been signed, i.e. organizational minutes, annual minutes, etc.?
- f. Is there a right of refusal or preemptive rights whereby all shareholders must give written consent? All shareholders in a statutory close corporation have a right of refusal and must consent.
- g. Has there been any problems where a release of liability is appropriate?
- h. Will a non-compete agreement or a non-disclosure agreement be needed?

There are several legal hurdles that the corporation will need to jump through in these situations. Please contact us if we can be of any assistance in documenting the sale or transfer of shares.

**26. Signing Corporate Documents.**

As you know, your newly formed corporation is a separate legal entity and you should take care always to execute legal documents and take other actions on behalf of the corporation in a way that makes clear that the corporation is the party taking the action rather than individual persons. The proper way to sign legal documents and other important papers on behalf of your corporation is illustrated by the following example:

[CORPORATE NAME], INC.

BY: \_\_\_\_\_  
\_\_\_\_\_, President

ATTEST: \_\_\_\_\_  
\_\_\_\_\_, Secretary

(CORPORATE SEAL)

27. **Georgia Business Outreach Services (Small Business Development Centers).**

The State of Georgia in conjunction with the U.S. Small Business Administration and a network of local colleges and universities provides a wide variety of business educational services through regional Business Outreach Services offices (Small Business Development Centers). Check your local telephone directory or contact the main office at the University of Georgia (706) 542-6762 for the SBDC near you. See also the Small Business Web Site Directory at the end of this memorandum.

28. **Sale of Securities.**

If you are going to sell shares of stock to others, you are selling a security and are subject to a myriad of federal and state laws. Fortunately, there are exemptions for small issues of stock. The documents we use are set up to qualify for exemption under *Georgia* and federal law. Having out of state investors may require you to comply with the laws of other states. Additionally, your marketing activities may disqualify your exemption and subject you to liability. If you need further information, please contact us for the name of a securities lawyer.

29. **Annual Minutes Requirements.**

Georgia law requires that certain Minutes be kept each year by the corporation. Do not ignore these requirements. In a lawsuit, the validity of your corporation may be called into question with an accusation of failure to keep corporate records (failure to treat your company as a corporation). Additionally, the Internal Revenue Service, the Georgia Department of Revenue, and the Georgia Department of Labor typically examine your corporate minute book when they audit your business. Failure to meet these legal requirements may result in a judgment of personal liability or additional taxes or tax penalties.

Requirements are slightly different depending on what type of corporation (close or standard) you have elected.

- a. Standard Corporations. Standard corporations are required to keep the following:
  - i) minutes of meetings of shareholders and directors;
  - ii) copy of most recent Annual Registration filed with Georgia Secretary of State;
  - iii) name and address of each shareholder, officer, and director;
  - iv) last 3 years profit and loss balance sheet prepared in accordance with generally accepted accounting principles.Additionally, standard corporations should have an annual meeting each year at which they elect/appoint officers and directors and approve corporate actions.
- b. Close Corporations. Close corporations are required to keep all records that standard corporations must document, but are exempted from annual meetings.
- c. All Corporations. All Corporations should document the following occurrences:
  - transfer, redemption, or sale of stock
  - change in officers and/or directors
  - change in registered agent/office
  - change in principal office address
  - opening/closing of bank accounts
  - lease/purchase/sale of office space/equipment/automobiles, *especially* if the lease/purchase/sale is through a shareholder, officer, or director of the corporation
  - implementation of medical plans, retirement benefit plans, etc.
  - approval of loans, *especially* if the lease/purchase/sale is through a shareholder, officer, or director of the corporation
  - documentation of any disputed shareholder/director decisions

This list is not all-inclusive. Any major events that take place should be documented. If you need further information on whether a specific event should be recorded, contact our office.

We provide you with sample resolutions/minutes in your minute book. Please contact our office if we can help you document your events.

### **30. New Hire Reporting.**

All employers are required to report each newly hired or recalled employee to the Georgia New Hire Reporting Center. The information must be furnished within ten (10) days from the date of hire or re-employment. (Employers electing to file magnetically or electronically may transmit twice monthly, not more than sixteen (16) days apart, when required.) As of December 2004, there is no monetary penalty for failure to file. However, this is subject to change by the state at any time. See the Small Business Web Site Directory at the end of this memorandum.

**31. Additional Information.** If you still need assistance after reviewing this memorandum, feel free to contact our office for additional advice.

## METRO ATLANTA CITY AND COUNTY PHONE NUMBERS

<b>CITY/COUNTY</b>	<b>TAX ASSESSOR</b>	<b>BUSINESS LICENSE</b>
<b>CLAYTON</b> Forest Park Jonesboro Lake City Morrow Riverdale	770-477-3285	770-477-3569 404-366-4720 770-478-3800 404-366-8080 770-961-4002 770-996-3397
<b>COBB</b> Acworth Austell Kennesaw Marietta Powder Springs Smyrna	770-528-3100	770-528-8410 770-917-8903 770-944-4303 770-424-8274 770-794-5520 770-943-8001 678-631-5321
<b>DEKALB</b> Avondale Estates Chamblee Clarkston Decatur Doraville Lithonia Pine Lake Stone Mountain	404-371-2479    404-371-2471	404-371-2461 404-294-5400 770-986-5010 404-296-6489 404-370-4100 770-451-8745 770-482-8136 404-292-4250 770-498-8984
<b>DOUGLAS</b> Douglasville	770-920-7228	770-920-7348 678-715-6047
<b>FAYETTE</b> Fayetteville Peachtree City Tyrone	770-305-5402	770-305-5413 770-461-6029 770-487-7657 770-487-4038

<b>CITY/COUNTY</b>	<b>TAX ASSESSOR</b>	<b>BUSINESS LICENSE</b>
<b>FULTON</b> Alpharetta Atlanta College Park East Point Fairburn Hapeville Palmetto Roswell Union City	404-730-6420	404-730-6420 678-297-6086 404-330-6213 404-669-3766 404-270-7030 770-964-2244 404-669-2100 770-463-3377 770-594-6235 770-964-2288
<b>GWINNETT</b> Buford Dacula Duluth Lawrenceville Lilburn Loganville Norcross Snellville Suwanee	770-822-7220	678-377-4100 770-945-6761 770-963-7451 770-476-3434 678-407-6583 770-921-2210 770-466-2633 770-448-2122 770-985-3513 770-945-8996
<b>HENRY</b> Hampton Locust Grove McDonough Stockbridge	770-288-7999	770-288-8162 770-946-4306 770-957-5043 770-957-3915 770-389-7900
<b>ROCKDALE</b> Conyers	770-278-7676	770-278-7100 770-929-4280

## OUTSIDE METRO ATLANTA CITY AND COUNTY PHONE NUMBERS

COUNTY	PERSONAL PROPERTY TAX ASSESSOR	COUNTY BUSINESS LICENSE	CITY	CITY BUSINESS LICENSE
Banks	(706) 677-6223	(706) 677-4272	Homer	(706) 677-3510
Barrow	(770) 307-3108	(770) 307-3021	Winder	(770) 867-3501
Bartow	(770) 387-5090	(770) 387-5009	Cartersville	(770) 387-5600
Bibb	(478) 621-6701	(478) 621-6500	Macon	(478) 751-7258
Bryan	(912) 653-3889	(912) 756-3177	Pembroke	(912) 653-4413
Bulloch	(912) 764-2181	(912) 489-1356	Statesboro	(912) 764-5468
Burke	(706) 554-2607		Waynesboro	(706) 554-8000
Butts	(770) 775-8207	(770) 775-8210	Jackson	(770) 775-7535
Carroll	(770) 830-5812	(770) 830-5863	Carrollton	(770) 830-2000
Catoosa	(706) 965-3772		Ringgold	(706) 935-3061
Chatham	(912) 652-7271	(912) 201-4300	Savannah	(912) 651-6451
Chattooga	(706) 857-0737		Summerville	(706) 859-0900
Cherokee	(678) 493-6400	(678) 493-6108	Canton	(770) 721-7810
Clarke	(706) 613-3140	(706) 613-3050	Athens	(706) 613-3050
Colquitt	(229) 616-7425		Moultrie	(229) 890-5405
Columbia	(706) 312-7474	(706) 868-3420	Martinez	
Coweta	(770) 254-2680	(770) 254-2626	Newnan	(770) 253-2682
Crisp	(229) 276-2635		Cordele	(229) 273-3102
Dawson	(706) 344-3590	(706) 344-3604	Dawsonville	(706) 265-3256
Dougherty	(229) 431-2130	(229) 431-2118	Albany	(229) 431-2118
Effingham	(912) 754-2125	(912) 754-2105	Rincon	(912) 826-5745
Emanuel	(478) 237-3351		Swainsboro	(478) 237-7025
Floyd	(706) 291-5125	(706) 291-5291	Rome	(706) 236-4459
Forsyth	(770) 781-2110	(770) 781-2115	Cumming	(770) 781-2024
Franklin	(706) 384-4896	(706) 384-2483	Carnesville	(706) 384-3905
Gilmer	(706) 276-2742	(706) 635-3406	Ellijay	(706) 635-4711
Gordon	(706) 629-6812	(706) 879-2175	Calhoun	(706) 602-5631
Greene	(706) 453-3355	(706) 453-7716	Greensboro	(706) 453-7967
Habersham	(706) 754-2557	(706) 754-6270	Cornelia	(706) 778-8585
Hall	(770) 531-6750	(770) 531-6815	Gainesville	(770) 535-6862
Hancock	(706) 444-5721		Sparta	(706) 444-5753
Heard	(706) 675-3786	(706) 675-3700	Franklin	
Houston	(478) 218-4760	(478) 542-2115	Perry	(478) 988-2740
Jackson	(706) 367-6330	(706) 367-5908	Jefferson	(706) 367-5121
Jeff Davis	(912) 375-6624		Hazlehurst	(912) 375-6680
Lamar	(770) 358-5161	(770) 358-5146	Barnesville	(770) 358-0181
Laurens	(478) 272-6443		Dublin	(478) 277-5091
Liberty	(912) 876-2823	(912) 876-8454	Hinesville	(912) 876-3564
Lowndes	(229) 671-2540	(229) 671-2534	Valdosta	(229) 259-3520
Lumpkin	(706) 864-2433	(706) 864-6894	Dahlonega	(706) 864-6133
Madison	(706) 795-6355	(706) 795-6346	Danielsville	(706) 795-2011
Meriwether	(706) 672-4222	(706) 672-1314	Greenville	(706) 672-1216

<b>COUNTY</b>	<b>PERSONAL PROPERTY TAX ASSESSOR</b>	<b>COUNTY BUSINESS LICENSE</b>	<b>CITY</b>	<b>CITY BUSINESS LICENSE</b>
Miller	(229) 758-4100		Colquitt	(229) 758-3412
Muscogee	(706) 653-4398	(706) 653-1426	Columbus	(706) 653-4100
Newton	(770) 784-2030	(678) 625-1668	Covington	(770) 385-2020
Oconee	(706) 769-3921	(706) 769-3907	Watkinsville	(706) 769-5161
Paulding	(770) 443-7606	(770) 443-7571	Dallas	(770) 443-8110
Peach	(478) 825-5924	(478) 825-2535	Fort Valley	(478) 825-8261
Pickens	(706) 253-8809	(706) 253-8850	Jasper	(706) 692-9100
Pike	(770) 567-2002	(770) 567-2007	Zebulon	(770) 567-8748
Polk	(770) 749-2100		Cedartown	(770) 748-3220
Putnam	(706) 485-6376	(706) 485-2776	Eatonton	(706) 485-7701
Richmond	(706) 821-2310	(706) 312-5050	Augusta	(706) 312-5050
Screven	(912) 564-7918	(912) 564-2951	Sylvania	(912) 564-7411
Seminole	(229) 524-5831		Donalsonville	(229) 524-2118
Spaulding	(770) 467-4240	(770) 467-4200	Griffin	(770) 229-6402
Stephens	(706) 886-7435		Toccoa	(706) 282-3225
Sumter	(229) 928-4500	(229) 928-4500	Americus	(229) 924-4411
Telfair	(229) 868-5688		McRae	(229) 868-6051
Tift	(229) 386-7840		Tifton	(229) 391-3970
Toombs	(912) 526-6291		Vidalia	(912) 537-7661
Towns	(706) 896-3984		Hiawassee	(706) 896-2202
Troup	(706) 883-1625	(706) 883-1650	LaGrange	(706) 883-2048
Union	(706) 439-6011		Blairsville	(706) 745-2000
Walker	(706) 638-2929		LaFayette	(706) 639-1500
Walton	(770) 267-1335	(770) 267-1485	Monroe	(770) 267-7536
White	(706) 865-5328		Cleveland	(706) 865-2017
Whitfield	(706) 275-7410		Dalton	(706) 529-2490

## SMALL BUSINESS WEB SITE DIRECTORY

<b>Federal Government</b>	
Small Business Administration	<a href="http://www.sba.gov">http://www.sba.gov</a>
Internal Revenue Service	<a href="http://www.irs.ustreas.gov">http://www.irs.ustreas.gov</a>
Internal Revenue Service Form SS-4 (Tax ID Number <i>On-Line Application</i> )	<a href="https://sa1.www4.irs.gov/modiein/individual/index.jsp">https://sa1.www4.irs.gov/modiein/individual/index.jsp</a>
Internal Revenue Service Form SS-4 (Tax ID Number <i>Fill In Form</i> )	<a href="http://www.irs.gov/pub/irs-pdf/fss4.pdf">http://www.irs.gov/pub/irs-pdf/fss4.pdf</a>
Internal Revenue Service Form 2553 (Subchapter S election)	<a href="http://www.irs.gov/pub/irs-pdf/f2553.pdf">http://www.irs.gov/pub/irs-pdf/f2553.pdf</a>
Patent & Trademark Office	<a href="http://www.uspto.gov">http://www.uspto.gov</a>
Library of Congress	<a href="http://lcweb.loc.gov">http://lcweb.loc.gov</a>
Copyright Office	<a href="http://www.copyright.gov">http://www.copyright.gov</a>
U.S. Citizen and Immigration Services	<a href="http://www.uscis.gov/portal/site/uscis">http://www.uscis.gov/portal/site/uscis</a>
U.S. Citizen and Immigration Services - Form I-9	<a href="http://www.uscis.gov/i-9">http://www.uscis.gov/i-9</a>
<b>State Government</b>	
State of Georgia	<a href="http://www.georgia.gov/">http://www.georgia.gov/</a>
Secretary of State	<a href="http://www.sos.georgia.gov/">http://www.sos.georgia.gov/</a>
- Corporations Division	<a href="http://www.sos.georgia.gov/corporations/">http://www.sos.georgia.gov/corporations/</a>
- Securities and Business Regulation	<a href="http://www.sos.georgia.gov/securities/">http://www.sos.georgia.gov/securities/</a>
- Professional Licensing Boards	<a href="http://www.sos.georgia.gov/plb/">http://www.sos.georgia.gov/plb/</a>
- First Stop Business Information Center	<a href="http://www.sos.georgia.gov/FirstStop">http://www.sos.georgia.gov/FirstStop</a>
Small Business Development Centers	<a href="http://www.sbdc.uga.edu/">http://www.sbdc.uga.edu/</a>
Georgia Tech Advanced Technology Development Center	<a href="http://www.atdc.org">http://www.atdc.org</a>
Department of Revenue	<a href="http://www.etax.dor.ga.gov/">http://www.etax.dor.ga.gov/</a>
- Form CRF-002	<a href="http://www.etax.dor.ga.gov/ctr/TSD_State_Tax_Registration_Application_crf002.pdf">http://www.etax.dor.ga.gov/ctr/TSD_State_Tax_Registration_Application_crf002.pdf</a>
Department of Labor (Unemployment)	<a href="http://www.dol.state.ga.us/">http://www.dol.state.ga.us/</a>
- Form DOL-1	<a href="http://www.dol.state.ga.us/pdf/forms/dol1a.pdf">http://www.dol.state.ga.us/pdf/forms/dol1a.pdf</a>
State Board of (Workers Compensation)	<a href="http://sbwc.georgia.gov/">http://sbwc.georgia.gov/</a>
New Hire Reporting Center	<a href="http://www.ga-newhire.com/">http://www.ga-newhire.com/</a>