



Incorporation Guide

For Indigenous Entrepreneurs in BC

This guide can help you:

- Decide whether incorporation makes sense for you
- Understand the steps you need to go through to incorporate your BC company
- Create and file documents you need to incorporate your BC company

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ABOUT THIS GUIDE

Are you an Indigenous entrepreneur with your own business in BC?

Are you thinking about incorporating your business?

If you answered yes to both of those questions, then this guide is for you.

This guide can help you:

- Decide whether incorporation makes sense for you
- Understand the steps you need to go through to incorporate your BC company
- Create and file documents you need to incorporate your BC company

This guide has only *general* information about incorporating a company in BC.

It is always best to get professional advice that fits the specific needs of your business.

You should talk to a lawyer and an accountant about your specific business, personal, and financial details, because **incorporation** is a big step that can affect your legal and tax situation

IMPORTANT: This guide is meant for small businesses, owned by **just you**, or **you and one other person in your family** (like you and your husband or wife). If your business is bigger or has more owners than that, it is very important to get advice from a professional to ensure the business relationship is properly documented.

This guide is not legal advice, it is just general information. Do not use it as a substitute for professional advice based on your specific situation.

This guide is **only about incorporating in BC**. If you're in another province, or looking to incorporate federally, you should not use it. If you are interested in incorporating federally, these resources are a good place to start: [Is Incorporation Right for You?](#) and [Advantages of Federal Incorporation](#).

SUMMARY: FACTORS TO CONSIDER

There are a lot of different factors that go into deciding whether it makes sense to incorporate. Tax and risk management are usually the two most important factors, but they are not the only ones. This table is a brief summary of the main factors, with examples to illustrate. There is more detailed information about these factors later in the Guide. For many entrepreneurs, one single factor might not determine whether incorporation makes sense; it's often a matter of balancing a few different considerations.

Your situation	Does Incorporation make sense for you?
Your tax situation – SEE PAGE 5 FOR MORE	
You pay federal and provincial income tax on the income from your business.	There may be tax advantages to incorporation, such as lower tax brackets, depending on your specific situation. Talk to a tax accountant who has experience with Indigenous-owned businesses.
You're a status Indian and the income from your business is tax-exempt.	There are no tax advantages to incorporation, and there could be disadvantages. Other business structures, such as Limited Partnerships, may work better for you. Talk to a tax accountant who has experience with Indigenous-owned businesses.
The level of risk in your business – SEE PAGE 5 FOR MORE	
Your business involves risky activities that could cause injuries or harm to employees or third parties (for example: forestry management and other resource industry businesses).	Incorporation may be a good idea for you, because it can help you to keep your personal assets (like your home) protected from claims against the business. Incorporating is not a replacement for insurance, and even if you incorporate, adequate insurance for your business should always be in place.
Your business does activities that don't involve much risk to other people (for example: creating artisan or crafts products without using dangerous tools or machinery).	There is probably no advantage to incorporation from the point of view of managing your risk exposure. Adequate insurance for your business should always be in place.
Your plans to transfer or shut down your business in the future – SEE PAGE 6 FOR MORE	
You plan to (or you might) transfer the business to someone else in the future. For example, you might sell it, or hand it on to a family member.	Incorporation can make the transfer or sale of your business easier and more efficient, because you can do it simply by transferring ownership of the shares of the corporation to a new owner.
You think you might want to shut the business down in the future – for example, when you retire.	It might be better not to incorporate, because corporation keeps on existing even if the business activity stops (and must keep on filing tax returns and other documents). If you don't incorporate, you don't have to worry about formally winding up the corporation in the future.

Your situation	Does incorporation make sense for you?
Your ability to handle ongoing paperwork and administrative tasks – SEE PAGE 6 FOR MORE	
You can deal with some administrative, record-keeping and organization jobs yourself, or you have employees / helpers who can take care of that.	Because corporations have to have annual meetings, keep minutes, file taxes annually and meet other administrative requirements, this will be very helpful if you do want to incorporate.
You really don't have time or capacity to deal with extra administrative jobs.	Incorporation might not work for you, because the administrative jobs involved might be too much of a burden.
Costs, and how much money your business is making – SEE PAGE 6 FOR MORE	
Your business generates good profits – enough to absorb some administrative costs.	There are some costs associated with incorporating and keeping up with the annual filing and administrative requirements for a corporation. That shouldn't be a problem if you have enough profit from the business to absorb those costs and the positives of incorporating outweigh those costs.
Your business usually doesn't make much more than you need to cover your costs.	This may be a reason not to incorporate, because it may not make sense to incur additional costs that you're not making enough profit to cover.

MORE INFORMATION: SHOULD YOU INCORPORATE?

If you're thinking about incorporating your business, you should think through the advantages and disadvantages and decide if it makes sense for you in your situation. This part of the Guide explains in more detail what the advantages and disadvantages of incorporation can be.

Advantages

1. Tax

If you incorporate your business, it will be taxed separately from you. Once your business becomes profitable enough, there may be tax advantages to incorporating, like lower corporate tax rates. You may be able to reduce the amount of tax you pay and have more control over when you're taxed. If you're thinking about incorporating for tax reasons, **it's very important to talk to tax professionals**. They will look at your situation and run the numbers to see what makes sense for your specific situation.

IMPORTANT: If you are a status Indian and the income from your business is tax exempt, incorporating may not give you any tax advantages. If you do not know whether the income is exempt, you should definitely talk to an accountant and/or a lawyer to find out. Corporations pay tax *even if they are owned by status Indians whose income is exempt*. So, incorporation isn't always a good option for entrepreneurs who are status Indians whose income is exempt, and for people in that situation other business structures might work better. **In these situations, Limited Partnerships may be an option, as they provide liability protections similar to corporations, but are not taxed separately from their owners. Again, it is very important to talk to tax and legal professionals.**

Example 1:

Bill is of First Nations ancestry but he is not a status Indian. He has a successful woodworking business in which he makes more money than he needs to pay his personal living expenses. He pays tax at his personal tax rate on all the income he makes from the business. He talks to an accountant, and together they find out that Bill can reduce the tax he pays by incorporating the business.

Example 2:

Bill is a status Indian who lives on a reserve but earns income off-reserve. He has a successful woodworking business in which he makes more money than he needs to pay his personal living expenses. He pays tax at his personal tax rate on all the income he makes from the business. He talks to an accountant, and together they find out that Bill can reduce the tax he pays by incorporating the business.

2. Risk management, or 'limited liability'

Incorporating can protect your personal assets like your house and your savings if your business causes expensive damage. If your business is involved in high-risk activities, you need insurance to protect yourself – but incorporation can give you additional protection. Your personal liability (the amount you're responsible for yourself) can be limited to the money you invested in the corporation. This is called 'limited liability.'

IMPORTANT: Incorporation is a useful tool for limiting liability, but it can't get you out of your own personal liabilities. For example, if you *personally* made an inappropriate (i.e. negligent) decision that caused damage to someone, the fact that your business is incorporated won't stop the person from suing you as well as the business. As a director of your corporation, you can also be held personally liable for some debts of the corporation, including tax debts. And lenders (banks) usually ask for personal guarantees when making loans to small businesses, so even if your business is incorporated, your own money may still be at risk for business debts.

Example:

Joe and Anne have a tree-pruning company. Although they are very responsible managers and provide good safety training, they are worried about the risk of one of their workers falling from a tree while working and getting hurt. Joe and Anne have insurance, but what if a worker claimed an amount bigger than the maximum their insurance will cover? Joe and Anne want to make sure they wouldn't have to sell their family home to pay for the excess if that happened. Incorporation might be a good option for Joe and Anne because if their business is incorporated then they have some protection from being personally responsible for the company's liabilities.

3. Making it easier to sell the business or pass it on to someone else (e.g., family members)

Incorporating can make this simpler, because you can just sell or transfer the shares of the corporation to a new owner. If your business isn't incorporated, you can sell or give all the things your business owns, like the equipment and tools, to a new owner. But it is often easier to transfer the shares of a corporation, which means everything that the corporation owns is automatically transferred too. Also, the goodwill or reputation in the community associated with your business is retained by the company, and is therefore easier to market as a valuable asset.

If you think you might sell your business to a new owner in the future, or if you're thinking about retiring and having your children, another family member, or someone else take over the business, you should talk to a lawyer and/or estate planner about your specific situation.

Disadvantages**1. Costs**

The basic fee for incorporating a limited company in BC is \$350. The name approval fee is \$30. This means the total cost for incorporating, even without professional help, is \$380.

Although it's possible to incorporate on your own, it is better to get professional advice and you may need professional help preparing the documents, which will incur more expenses, typically at least \$1,200.00. You will also have ongoing expenses for filing annual reports, and maybe for other administrative matters.

2. Record-keeping and administrative burdens

Corporations have to register, keep a minute book with minutes of all their annual meetings (and, if you have any, additional special meetings), file annual reports, and keep their information up to date. Corporations also have to file an annual tax return separate from your own tax return. This takes time, effort, and expense that you don't need to worry about if you don't incorporate. Again, bookkeepers, accountants and lawyers can help with the administrative burden, but this comes at a cost.

3. Ending the corporation

A corporation lives forever unless you actually take steps to end its life. If you own a business that's not incorporated and you want to stop, you simply stop operating the business. If the business is incorporated, you need to take additional steps to dissolve the corporation.

Example:

Sue is an Indigenous artisan leather worker who is not a status Indian. She works out of her home and sells belts and purses with traditional designs at the local farmers' market in the summer and fall. She makes a small amount of profit most years, and pays tax on her income because it is not tax exempt. Some years what she makes is only just enough to cover the expenses of the business. Sue is also busy taking care of her young family, and she hates doing paperwork.

Incorporation probably isn't a good option for Sue at this point:

- Her business isn't involved in high-risk activities, so limited liability isn't especially important.

- She doesn't make enough from the business to get professional help with the additional filing and administrative work. She would hate doing it herself, and she doesn't have enough time.

HOW TO INCORPORATE YOUR BUSINESS – STEP BY STEP

Congratulations. You've thought about all the advantages and disadvantages to incorporating your business. You've talked to professional advisors about anything complicated in your situation. You know whether or not your income is tax exempt, and you've thought through the tax consequences of incorporating. You've decided that incorporating your business makes sense for you.

What's next?

You *can* do everything you need to incorporate by yourself. This can work if your situation is simple and straightforward. Otherwise, it's better to get professional help.

To incorporate, you need four things:

1. A name for your business;
2. Articles;
3. An Incorporation Agreement; and
4. An Incorporation Application.

Here's how to complete the process, step by step.

Step One: Apply for a business name

The first step is to get your business name approved.

You don't *have* to do this, but it is a good idea. When you incorporate, an incorporation number will automatically be assigned to your corporation. You can choose *not* to create your own name for the business, in which case you'll automatically be given a name based on this number – something like *123456789 B.C. Ltd.*

The problem with this option is that it can be very hard to remember what your company's name is if it is a string of numbers. The accurate, legal name of the company needs to go on all your documents, like contracts and tax returns. This will be easier in the future if you have a name that you chose and can remember. (*You can also keep the legal name you're assigned and use a Doing Business As or "DBA" name – see page 8 for more information about this.*)

If you do create a name for your company, you need to submit an approval request. The fee is \$30.00. If your name is approved, it will be reserved for 56 days (this can be made longer, for an additional fee).

You can apply for your name approval either:

- Online, at www.bcregistrynames.gov.bc.ca;
- In person, by going to the closest Service BC Centre office (use www.servicebc.gov.bc.ca to find the nearest location to you); or
- By mail, by sending in the completed form and the applicable fee to:

Corporate Registry, PO Box 9431 Stn Prov Govt, Victoria, BC V8W 9V3.

To create your name, you **have** to have **three** things:

1. A **distinctive** element (a made-up word, a geographical location or a personal name, which identifies your specific business);
2. A **descriptive** element (which says something about what kind of business it is); and
3. A "**corporate designation**" like "Ltd." or "Inc." to show that it is a corporation.

Example:

“Secwepemc Herbal Remedies Ltd.”

Here, “Secwepemc” is the distinctive element, “Herbal Remedies” is the descriptive element, and “Ltd.” is the corporate designation.

You can't use well-known names already being used by other businesses, such as “Microsoft” or “Coca-Cola.”

Research to make sure the name you want isn't already in use by another business. Use these online tools as a starting point:

- For company names used in BC:
www.bcregistrynames.gov.bc.ca
- For names used across Canada as well as in BC:
www.nuans.com/intro-en-fr.html#getting_report-obtenir_rapport
- The Canadian Trademark Database:
www.ic.gc.ca/app/opic-cipo/trdmrks/srch/home
- More information about submitting your name request at [BC Registry and Online Services](#).

“Doing Business As” Names

Many businesses use Doing Business As or “DBA” names. This is a name you can use for operating your business, even if it's not the official name of the corporation. For example, your corporation's legal name may be the incorporation number, like “123456789 B.C. Ltd.” or a name that you created. You can do business under a different name, or names, by registering DBA names. You may want to do this for two reasons:

1. To operate your business under a different name from the legal name of the corporation. If you have an incorporation number as your business name, for example, it's hard for clients or customers to remember, and doesn't tell people much about your business. But a DBA allows a corporation whose legal name is “123456789 B.C. Ltd” to do business under the name “Wagging Tails Dog Training.”
2. Your corporation might operate more than one kind of business, and use different names for them. For example, if a dog training company decides to expand into a pet grooming business, they might use a new name for that part of the business, like “Clean Paws Pet Grooming.” The owner(s) can incorporate *one* corporation and operate multiple businesses without the cost and hassle of incorporating each one.

Make sure that you clearly communicate to others (like customers, suppliers, and people you contract with) that the business is part of a corporation that has limited liability. For example, your contracts, company documents and letterhead should all show this clearly.

Separate businesses run under DBAs, if they're part of the same corporation, don't have limited liability in relation to *each other*. This means that if a business using a DBA is sued, the other businesses within the corporation can be liable. But the corporation can still be used to limit your *personal* liability for risks of the business or businesses (as described on page 5).

The process of obtaining a DBA is very similar to applying for a business name in Step 1 of this guide:

1. Research your name choice, following the same process described above.
2. Request the business name and note on the application that the name request is for either a proprietorship or partnership.
3. After your name has been approved and you've received a Name Request number, register the DBA online, in person, or via mail. This can be done online using [OneStop](#), in person at any Service BC Centre, or by mail by submitting a Statement of Registration form.

Example 1:

Jane is a status Indian with a small business that specialized in selling herbal remedies. When she started, Jane ran the business out of her home on the reserve. However, in recent years, there has been a dramatic increase in demand for Jane's products. Now, she wants to open a store on the reserve so she can serve more customers. The problem is that using her company's current name "235785379 B.C." on her storefront is very unappealing and unlikely to attract attention in the marketplace. To have a more attractive storefront and name, Jane may consider applying for a DBA to operate her new store under.

Example 2:

Bob, a status Indian and owner of a corporation named "Bob's Lumber Yard" has recently started a business constructing custom fences, decks, and sheds. For simplicity, he wants to be able to operate this separately from his lumber yard and ensure that he will not be held personally liable for the liabilities of his new venture. He also wants to advertise his additional woodworking services separately from his lumber supplying services. Bob decides to apply for a DBA as "Bob's Custom Woodworking" under his corporation in order to limit his personal liability, advertise and grow the business, and track the income and expenses using separate bank accounts.

Step Two: Adopt the Articles of Incorporation

Your incorporation must have **articles**. They set up the basic rules about how the company is structured. The BC Government has provided a standard set of articles under the Business Corporation Regulations for companies to use. The standard set of articles are meant to be the default, and can be used without any changes. If you need to change anything from the standard set of articles, you should get a professional to help.

This isn't really a separate step: all you need to do is adopt the standard set of articles through your **Incorporation Agreement** (which is Step Three, described next).

The Articles of Incorporation mention various people involved with the corporation, like shareholders, officers and directors. In a big company, these may all be different people and the relationships between them are complicated. But in your small company, it's much simpler. If you are the only owner, you are the **only** shareholder, officer and director, so all of these are the same person (you). If you own the business with one other family member, you and that other person are the only shareholders, officers and directors.

Step Three: Complete the Incorporation Agreement

You need to complete and sign an Incorporation Agreement. Use the template of Incorporation Agreement (which also adopts the standard set of articles) available [here](#).

If you are the only owner of your business, the only incorporator is **you**. If there are two owners, such as you and your husband or wife, the incorporators are the **two of you**.

If there are more than two owners, do not do this on your own – get professional advice.

Here is the information that you need to complete the Incorporation Agreement:

- The company's full name and name reservation number, which you should have got from step one.
- The name(s) and address(es) of the incorporator(s). That means just your name, if you're the only owner; and your name plus your co-owner's name (for example, your husband's or wife's name), if you own the business with another person.

The form is very simple to fill in. Don't forget to make sure that all of the incorporators sign the form.

Allocating shares

In the first table in the Incorporation Agreement, you need to fill in the names of the incorporators and the number of shares that each incorporator has.

One option is to create two **classes** of shares – even if there is **only one** incorporator. This can give you some extra flexibility for tax planning and other purposes, either now or in the future. This is typically recommended for companies owned by spouses, and particularly if both spouses will be actively involved in the business. If you would like to know more about this, speak to a professional advisor.

Creating two classes of shares is simple. The incorporator, or the two incorporators, can fill in the table in the Incorporation Agreement following these examples, and you will set up the structure in the Incorporation Application (the next step).

Example 1:

Joe and Anne own their tree-pruning company together, and they are the two incorporators:

NAME OF INCORPORATOR	SIGNATURE OF INCORPORATOR	NUMBER OF SHARES	DATE OF SIGNING YYYY/MM/DD
Joe Smyth	/s/ Joe Smyth	50 Class A Shares	2017/07/29
Anne Smyth	/s/ Anne Smyth	50 Class B Shares	2017/07/29

Note: the actual number of shares is generally not important. Joe and Anne should have an equal number of shares because they own equal portions of the company. They could have 5 shares each, or 500 shares each.

Example 2:

Bill is the only owner of his woodworking company, and he is the only incorporator.

NAME OF INCORPORATOR	SIGNATURE OF INCORPORATOR	NUMBER OF SHARES	DATE OF SIGNING YYYY/MM/DD
Bill Jones	/s/ Bill Jones	100 Class A Shares	2017/07/29
Bill Jones	/s/ Bill Jones	100 Class B Shares	2017/07/29

Note: in this example, there are two classes of shares even though there is only one owner. Bill owns all the shares of both classes.

If you have any questions about how this works in your situation, please talk to a professional advisor, as this guide is just general information and is not legal advice.

Step Four: Complete and file the Incorporation Application

The final step is completing your incorporation application, available [here](#).

Print out a paper copy of the Incorporation Application first, and fill it in to make sure you have everything you need.

Guidelines for completing the Incorporation Application:

- A. **Name of the company.** Use the name from Step One, or check the second box if you are using the incorporation number.
- B. **Incorporation effective date.** Check the first box, which will make your corporation start when the application is filed.
- C. **Incorporator name(s) and mailing address(es).** This must match the information in the Incorporation Agreement. If you are the only owner of the business, the incorporator is just you. If you and a family member own it together, the two of you are the two incorporators.
- D, E, and F: **Completing party information and statement.** Fill this in with your information.

NOTICE OF ARTICLES (Starts on page 3)

- A. **Name of company.** This has to match the information you gave for item A above.
- B. **Translation of company name.** This shouldn't be relevant, so write N/A. ***If your company is doing business internationally, you should get professional help with the application instead of doing it yourself.***
- C. **Director names and addresses.** If you are the only owner of your business, you are also the only director, so just fill in just your name and address here. If you and one other family member are the owners, then the two of you are the only two directors. Fill in your names and addresses
- D. and E: **Registered office and records office addresses.** These two addresses are probably the same, and will be the place where you get mail for your business. Make sure you keep this information up to date if the company address changes in the future.
- F. **Authorized share structure.** If you want to create two classes of shares (see Step Three), then you can use this example:

Identifying name of class or series of shares	Maximum number of shares of this class or series of shares that the company's authorized to issue, or indicate there is no maximum number.		Kind of shares of this class or series of shares			Are there special rights or restrictions attached to the shares of this class or series of shares?	
	THERE IS NO MAXIMUM (✓)	MAXIMUM NUMBER OF SHARES AUTHORIZED	WITHOUT PAR VALUE	WITH A PAR VALUE OF (\$)	Type of currency	YES (✓)	NO (✓)
Class A	✓		✓				✓
Class B	✓		✓				✓

Submitting your application

When you have finished the application, submit it **online with Articles and the Incorporation Agreement** (Steps Two and Three) at www.corporateonline.gov.bc.ca. Keep a copy for your records.

If you **cannot** submit your application online, you will need to use a law firm or a registry agent to submit the application for you. **This may mean you have to pay additional fees.**

Once your incorporation application has been completed, the corporate registry will provide you with:

- The original Certificate of Incorporation
 - A certified copy of the Incorporation Application
 - A certified copy of the Notice of Articles
 - A cover sheet with the company's incorporation number and business number
- You should review these documents for accuracy and keep them with the company's records.

Congratulations! You have incorporated your BC company.

Now that you've completed the incorporation process, it is very important to properly maintain your company. Don't forget to file the annual reports and tax returns for the corporation every year. You will need to produce audited financial statements each year unless the requirement is waived by unanimous consent of the shareholders, which has to be done in writing every year. For more information, see <http://www.barbeau.co/uncategorized/annual-requirements-british-columbia-companies/>.

Thank you for using this Guide!