

PROPOSED AGENDA FOR FIRST BOARD MEETING

This is a proposed agenda for the board of directors to use as a guideline at its first meeting. The purpose of the first board meeting is to complete the organization of the corporation. To do so, the board of directors must adopt resolutions on a number of important issues. This proposed agenda contains the most common and important of these issues.

You should print this page and take it to your meeting. Make notes on it as you wish. After your meeting, you can return to Step 7 and prepare your formal document by inputting the notes you made on this document into the **1STOPIQ™**. You should follow these same procedures even if you wish to adopt corporate resolutions via unanimous written consent.

THE LIST OF ISSUES BELOW IS NOT EXHAUSTIVE, AND THE BOARD MAY CONSIDER AND DECIDE UPON ANY OTHER ISSUES IT DEEMS APPROPRIATE. HOWEVER, BELOW ARE THE MOST COMMON AND IMPORTANT ISSUES THAT THE BOARD NEEDS TO CONSIDER IN COMPLETING THE BASIC ORGANIZATION OF THE CORPORATION.

SOME OF THE ISSUES WILL REQUIRE THE ADVICE OF AN ACCOUNTANT, LAWYER, OR OTHER PROFESSIONAL ADVISOR. THE AMOUNT OF ADVICE REQUIRED WILL VARY DEPENDING ON THE SOPHISTICATION OF THE BOARD OF DIRECTORS AND THE COMPLEXITY OF THE CORPORATION AND ITS ANTICIPATED BUSINESS ACTIVITY. IF THE BOARD IS HAVING DIFFICULTY UNDERSTANDING AN ISSUE, IT SHOULD SEEK THE ADVICE OF AN ATTORNEY.

Preliminary Matters

If the board will hold a meeting, there must exist a quorum. A quorum is a majority of the authorized number of directors of the board, unless the Articles provide otherwise. If a quorum does not exist, the board cannot transact business. Thus, a tally of the present and absent members should be made to determine if a quorum exists. As an example, if there are 5 board members, at least 3 need to be present to proceed with the meeting.

Assuming a quorum is present, the board should have a "Endorsed - Filed" version of the Articles of Incorporation as returned from the secretary of state. The board should also have the 1) bylaws adopted by the Incorporator, and 2) the form of share certificates that the corporation will use.

Thereafter, the board can begin its meeting and decide upon, at a minimum, the following issues.

1. Agent for Service of Process

The board needs to decide whether or not the agent for service of process named in the Articles of Incorporation will be changed. If a new agent for service of process is chosen, the name and address of the new agent needs to be provided.

2. Approval/Adoption of Bylaws

If the incorporator adopted the bylaws (as is usually the case), it is a good idea for the board to approve the adoption of the bylaws. Otherwise, the board (or the shareholders) should adopt bylaws. Either way, if you use the **1STOPIQ™** to prepare your minutes or written consent, the necessary language will be provided based upon your choice.

3. Location of Principal Executive Office

The board must identify the location of the principal executive office of the Corporation.

4. Adoption of Corporate Seal

Most corporations adopt a corporate seal, although it is not required by law, in case a creditor or financial institution requires it. A corporate seal is included as part of the "corporate kit" that may be obtained as Step 3 of forming your own corporation using this website.

5. Adoption of Form of Share Certificate

In order to issue shares to the shareholders, a form of share certificate needs to be adopted (unless an electronic system is used). Share certificates are included as part of the "corporate kit" that may be obtained as Step 3 of forming your own corporation using this website.

6. Hiring of Officers

The board of directors must elect officers to fill the three statutorily required positions listed below, and assign salaries. The table below has been provided for your convenience. Other positions may also be added.

Name	Title/Officer	Compensation
	President	
	Secretary	
	Treasurer	
	Other	

7. Filing of Statement of Information (Domestic Stock Corporation) as required by Corporation Code Section 1502

This is a requirement by law. If you use the **1STOPIQ™** to prepare your minutes or written consent, the language will reflect that the board has stated that it will comply with this requirement. This must be done within 90 days of incorporation, and every year thereafter. Usually, the Secretary of State will mail out with your "Endorsed - Filed" Articles of Incorporation an original form, pre-stamped with the issued corporate number. However, if you don't get one, don't wait for it. You can obtain a blank copy or fill one in directly online via the Secretary of State's website at http://www.ss.ca.gov/business/corp/corp_soinfo.htm.

8. Selection of Fiscal Year

The board should decide its fiscal year by choosing the month that will end its fiscal year. Although this decision does not absolutely need to be decided during the first meeting of the board, it is a good idea to decide this matter as soon as possible.

In deciding the corporation's fiscal year, the board should consult an accountant or tax professional. Tax and regulatory compliance issues will be affected by this decision. Also, if the corporation will elect "S" status, the fiscal year must end on December 31, unless permission from the commissioner is obtained. For these reasons, a tax professional should be consulted.

9. Obtaining a Federal Employer Identification Number (EIN)

Every corporation needs one, even if no employees will be hired. If you use the **1STOPIQ™** to prepare your minutes or written consent, the language will reflect that the board has stated that the corporation will obtain an EIN.

You can directly apply for an EIN online via the IRS's website at <http://www.irs.gov/businesses/small/article/0,,id=102767,00.html>. The form includes its own [instructions](#). You will need Adobe Reader to view the instructions.

10. Bank Account Decisions

The board of directors must choose a bank, open an account, choose which officers will be signers on the account, and whether or not two signatures will be required for checks above certain dollar amounts. The Board should make a resolution authorizing these actions. When using the **1STOPIQ™** to prepare your minutes, language for this resolution will be included with your specific choices.

NOTE: To open a bank account, the corporation will need a Federal Employer Identification number.

11. Payment of Corporate Expenses

The Board should make a resolution that allows for the payment of corporate expenses. When using the **1STOPIQ™** to prepare your minutes, language for this resolution will be included.

12. Insurance Matters

The Board should make a resolution stating that the corporation will obtain all insurance necessary for the business of the corporation or as required by law. When using the **1STOPIQ™** to prepare your minutes, language for this resolution will be included.

NOTE: Workers Compensation Insurance is almost always a must. In many cases, it is helpful to find an insurance broker to assist the corporation with its insurance needs.

13. Issuance of Shares to Shareholders

The board must make a resolution authorizing the issuance of the corporation's shares. The authorization must include the following specific information so that the officers will know what to do after the meeting:

- 1) who the shareholders will be
- 2) how many shares each shareholders will purchase
- 3) how much each share costs (each share costs the same no matter who buys it).
- 4) the total each shareholder will pay to the corporation for his/her shares (known as "consideration")
(multiply the cost of one share by the number of shares being purchased)

The following "fill-in" table is provided for convenience. The first two rows are provided as examples. If you are not sure how to determine the price per share, but you know how much money each shareholder will be "putting-in" to the corporation, you may work backwards. For example, if a shareholder will pay \$1000.00 and will get 100,000 shares, each share will cost 1 cent. **Everyone must pay the same price per share.**

Name (First and Last)	Number of Shares	Price Per Share	Total Amount	Type of Consideration** [Cash or Property]
Shareholder A	100,000	0.01	\$1000.00	cash
Shareholder B	50,000	Same as above	\$500.00	computer equipment
		Same as above		
		Same as above		

This table assumes the corporation has ONLY ONE (1) CLASS OF SHARES. IF YOUR CORPORATION HAS A MORE COMPLICATED SHARE STRUCTURE, YOU SHOULD NOT BE USING THIS WEBSITE AND SHOULD SEEK THE ADVICE OF AN ATTORNEY.

A Word About How To Properly Capitalize a Corporation

**** Paying for Shares With Property**

If property is used to pay for shares, the property must be described . It is possible to give property for shares (for example - furniture), but the board must determine whether the value of the property received is worth the dollar value of the shares being received. For example, if a shareholder is receiving 50000 shares, and the shares cost 1 cent, then the shareholder must provide \$500 worth of property, such worth to be determined by the board. Other consideration may also be provided, although CERTAIN TYPES OF CONSIDERATION ARE NOT ALLOWED (for example, a promise to do work for the corporation in the future is not allowed). IF CONSIDERATION OTHER THAN CASH IS BEING CONTEMPLATED, THE BOARD SHOULD CONSULT AN ATTORNEY TO DETERMINE WHAT IS OR IS NOT ALLOWED.

"Adequate Capital"

It is important to keep in mind that a corporation's initial capitalization (obtaining money for operations through sale of shares) must be "adequate." Although this depends on the facts of each case, a good rule of thumb is to capitalize the corporation with enough cash and assets so that it can reach its projected "break-even." The projection must be reasonable and in good faith. To play it safe, conservative projections should be used.

Using Debt For Capital

The **1STOPIQ™** for the Minutes of the First Board Meeting assumes that the corporation will NOT initially be capitalized through the use of debt, and is not programmed to prepare such minutes. The use of debt may be advantageous under certain circumstances, but also can create numerous problems. If you are considering using debt as part of the corporation's capitalization, you should not use the **1STOPIQ™** to prepare minutes, AND YOU SHOULD SEEK THE ADVICE OF AN ATTORNEY TO HELP YOU PLAN ANY DEBT ISSUANCE.

A Word About Issuance Of Shares And Securities Regulations

Securities Regulations; Filing of Forms

Any time a corporation offers or sells shares, the securities laws are implicated. An offer or sale of securities in California is prohibited unless it has been "qualified" OR unless an applicable exemption exists and compliance therewith is made. Federal securities laws work the same way, requiring registration of the shares unless an exemption is available.

Registration and qualification are expensive and time consuming processes. Thus, when the situation allows, corporations generally desire to structure their issuance to conform to an exemption.

State Exemptions

In California, one of the most common exemptions is that provided by [California Corporations Code section 25102\(f\)](#) - called the limited offering exemption. In short, this exemption requires the offer or sale of the shares to conform to the following:

- 1) 35 Person Cap: The shares are not sold to more than 35 people (husband and wife count as one person).
- 2) Sophistication or Preexisting Relationship: Anyone who buys the shares either
 - a) has a preexisting relationship with the corporation or any of its partners, officers, directors or controlling persons, OR
 - b) has enough business or financial experience to protect their own interest in the transaction.
- 3) For Shareholder's Own Account: Every person that buys the shares represents that (preferably in writing) he/she is buying the shares for his/her own account, and not with a view to or for sale in connection with any distribution of the shares.
- 4) No Advertising: The offer and sale of the shares is not accomplished by the publication of any advertisement.

This exemption requires a form to be filed with the California Department of Corporations within 15 days of the first sale of shares . You can read about, prepare, and file this form directly online via the California Department of Corporation's website at <http://www.corp.ca.gov/>.

IF YOU HAVE ANY QUESTIONS ABOUT THE 25102(f) EXEMPTION, YOU SHOULD CONSULT AN ATTORNEY.

THERE ARE OTHER STATE EXEMPTIONS. HOWEVER, IF YOU DO NOT QUALIFY FOR THE 25102(f) EXEMPTION, YOUR SITUATION IS PROBABLY TOO COMPLICATED TO HANDLE ON YOUR OWN. YOU SHOULD SEEK THE ASSISTANCE OF AN ATTORNEY TO HELP YOU WITH YOUR CORPORATION'S SHARE ISSUANCE. Just keep in mind that no matter what system or exemption you use, some forms will have to be filed somewhere (Department of Corporations for California and Securities and Exchange Commission for federal compliance). If you don't know what to do yourself, get a professional to help you.

Federal Exemptions

Even though your share issuance may qualify for a state exemption, you must still be concerned about federal securities laws. You do not automatically qualify for a federal exemption just because you qualify for a state exemption. Thus, in ADDITION TO the state exemptions, there are different federal exemptions, each with their own particular requirements.

If your California corporation qualified for the 25102(f) exemption, it may be able to also take advantage of the federal

Intrastate Offering Exemption. There is a good explanation regarding this exemption provided in the United States Securities and Exchange Commission's guide for small businesses. It may be found at <http://www.sec.gov/>, under the "small business" section and is entitled "Q&A: Small Business and the SEC." The portion of the guide relating to this exemption is copied below for your convenience:

A. Intrastate Offering Exemption

Section 3(a)(11) of the Securities Act is generally known as the "intrastate offering exemption." This exemption facilitates the financing of local business operations. To qualify for the intrastate offering exemption, your company must:

- be incorporated in the state where it is offering the securities;
- carry out a significant amount of its business in that state; and
- make offers and sales only to residents of that state

There is no fixed limit on the size of the offering or the number of purchasers. Your company must determine the residence of each purchaser. If any of the securities are offered or sold to even one out-of-state person, the exemption may be lost. Without the exemption, the company could be in violation of the Securities Act registration requirements. If a purchaser resells any of the securities to a person who resides outside the state within a short period of time after the company's offering is complete (the usual test is nine months), the entire transaction, including the original sales, might violate the Securities Act. Since secondary markets for these securities rarely develop, companies often must sell securities in these offerings at a discount.

It will be difficult for your company to rely on the intrastate exemption unless you know the purchasers and the sale is directly negotiated with them. If your company holds some of its assets outside the state, or derives a substantial portion of its revenues outside the state where it proposes to offer its securities, it will probably have a difficult time qualifying for the exemption.

You may follow Rule 147, a "safe harbor" rule, to ensure that you meet the requirements for this exemption. It is possible, however, that transactions not meeting all requirements of Rule 147 may still qualify for the exemption.

IF YOU HAVE ANY QUESTIONS ABOUT THIS EXEMPTION, YOU SHOULD CONSULT AN ATTORNEY.

Of course, as the rest of the SEC guide explains, there are other exemptions as well. HOWEVER, IF, AS A CALIFORNIA CORPORATION, YOU DO NOT QUALIFY FOR THE INTRASTATE OFFERING EXEMPTION, YOUR SITUATION IS PROBABLY TOO COMPLICATED TO HANDLE ON YOUR OWN. YOU SHOULD SEEK THE ASSISTANCE OF AN ATTORNEY TO HELP YOU WITH YOUR CORPORATION'S SHARE ISSUANCE.

14. Stock Issuance Under Section 1244

The board should discuss whether the corporation's capitalization would be structured with the intent to qualify for Internal Revenue Code Section 1244. The basic concept of section 1244 is to provide original shareholders the opportunity to treat as ordinary loss, instead of capital loss, an investment that is lost in a new small business.

THE TAX CONSEQUENCES OF THIS DECISION COULD BE SIGNIFICANT. THEREFORE, THE BOARD, AND THE SHAREHOLDERS, SHOULD ALL CONSULT AN ACCOUNTANT OR OTHER TAX PROFESSIONAL REGARDING THIS MATTER.

To help you discuss the matter with a tax professional, keep in mind the definition of "Section 1244 Stock." As defined in IRC section 1244(c), "section 1244 stock" is stock in a domestic corporation if:

- 1) At the time the stock is issued, the corporation must be a small business corporation (defined below).
- 2) Such stock was issued by such corporation for money or other property (other than stock and securities), and
- 3) Such corporation, during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

In addition to the definition of "section 1244 stock," there are conditions, rules of application, and special rules under the Internal Revenue Code that dictate when and how this law may be applicable to any given situation. These explanation are complicated and beyond the scope of this website's topic. THEREFORE, YOU NEED TO CONSULT A TAX PROFESSIONAL REGARDING THIS MATTER.

Definition of Small Business Corporation: For purposes of Section 1244, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed \$1,000,000.

15. "S" Election For Tax Purposes

If the corporation qualifies, the board must decide whether or not the corporation will make an "S" election for tax purposes.

To make an "S" election, the corporation must file the federal [IRS FORM 2553](#). There is no California form to file. The form includes its own instructions and explanations regarding when a corporation qualifies, what taxes the "S" corporation may owe, and how, when and where the form needs to be filed. To read more about qualifying for and making the "S" election, please read the [IRS INSTRUCTIONS FOR FORM 2553](#).

THE TAX CONSEQUENCES OF THIS DECISION COULD BE SIGNIFICANT. THEREFORE, THE BOARD, AND THE SHAREHOLDERS, SHOULD ALL CONSULT AN ACCOUNTANT OR OTHER TAX PROFESSIONAL REGARDING THIS MATTER.

NOTE: THERE IS A DEADLINE TO FILE THIS FORM - READ THE REQUIREMENTS AS SOON AS POSSIBLE.

16. Other Matters

The board should discuss and decide upon any other topic relevant to the corporation. Any matter discussed and resolution made must be included in the minutes of the meeting.