

BAHAMAS INCORPORATION

A Simplified Guide For Converting From *Me* to *We*

WHAT IS INCORPORATION?

Incorporation is the process by which an individual ceases to do business as an individual, and instead acts under the umbrella of a company.

WHAT ARE THE PRIMARY ADVANTAGES?

- Limited liability

Personal liability is limited to the amount unpaid on shares owned by an individual. For example if an individual owns 5 shares in a company with an authorized share capital \$5,000 divided into 5,000 shares of a par value of \$1 per share, then the extent of the individual's liability to the company is \$5. However an aggrieved third party who has done business with the company obtains his remedy from the company and its assets, and not the individual. The exception is where a fraud can be proved in which case the "veil of incorporation" may be lifted by the Courts to reveal its beneficial ownership, where liability resides. In that case, liability becomes personal rather than corporate and the primary advantage of incorporation is suspended or lost until resolved.

- Estate planning

A company is managed and governed by its Directors and Officers which allows the business of the company to continue in the event of the death or disability of its ownership. The company's shares may be easily transferred during the owner's lifetime, or left by Will for transfer upon death. The shares of a company may also be owned by a Trust thus allowing for a more perpetual governance.

- Perpetual duration

Unlike individuals, a company may continue indefinitely although in reality, for practical reasons, companies are often dissolved upon completion of their purpose. For example, a company formed to operate a Fund will be dissolved once the Fund matures and the proceeds paid to the shareholders of the Fund.

WHAT ARE THE DISADVANTAGES?

- Formation fees
- Annual registration and maintenance fees
- Annual compliance and filing requirements

INCORPORATION PROCEDURES

Bahamas company formations are simple, and reasonably quick, and relatively cost-efficient. The following procedures are required:

- A unique name must be reserved, which is not so similar to an existing name as to be potentially confusing with another. Certain types of words or names are prohibited from being registered. These include names which depict royalty, and banking or trust business, without special approval. All company names must bear a suitable suffix such as "Limited", "Ltd.", "Incorporated", "Inc.", "Societe Anonyme", "S.A", "GmbH".
- Preparation of a Memorandum of Association setting out the proposed business of the company

- Preparation of Articles of Association setting out the operational procedures of the company
- Filing of Memorandum and Articles of Association with the Office of The Registrar General together with supporting statutory compliance documents
- Payment of incorporation/registration fees to the Registrar General
- Obtaining Certificate of Registration from Registrar General
- Preparation and signature of statutory documents, including shareholders and directors Minutes
- Procuring a Corporate Seal
- Issuing shares either in certificate or book entry form
- Preparation, signing, and sealing of ancillary post-registration documents

REGULATION

Companies are subject to various regulatory functions, which, depending on the type of company, may include obtaining the approvals of various governmental agencies for the business of the company and any required licences to do business.

COMPANY INCORPORATIONS AND MAINTENANCE

Companies may only be formed and maintained by a licensed Financial And Corporate Service Provider ("FCSP") registered with the Securities Commission of The Bahamas. FCSPs must meet certain statutory requirements in order to be licensed annually and are charged an annual licence fee. FCSPs are usually local Attorneys, Banks, Trust Companies, and Accountants who charge annual fees for company compliance and maintenance.

GETTING STARTED

To begin the process of incorporation please go to the Forms and Articles section of our website (www.williamslawchambers.com) to download our Form for International Business Companies or Domestic Companies, as appropriate. Please also complete our Due Diligence Information Form, all of which may be submitted to us electronically.