

Closing Down Your Business Permanently

If you're shuttering your business for good, there's more to it than drawing the blinds.

Today's Most Read

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Q: I'm preparing to close the doors on my S corporation. What are the legal steps I need to take?

A: When closing a business that involved registration or formation through the state government, it's important to file the right paperwork and perform the right steps in closing the business. Be sure to follow these steps:

1. Read your formation documents. Review your business's legal formation documents to see if your business has set forth any procedures for its termination. For a corporation, you would look in the articles and bylaws, minutes, shareholder agreements and so on; for an LLC, you would consult the organization agreement or other formation or corporation procedure documents. Prior to filing anything with the state, be sure that your business has complied with any steps expressly required in your formation documents. Additionally, some states have statutory requirements that your business must follow prior to terminating. Especially in the cases of LLCs, partnerships and other entities, these rules can be tricky, so it's best to consult a business attorney.

2. Settle your debts. If you have unpaid business debts, you'll need to consult with your accountant and attorney prior to ending your business to wrap up dealing with those creditors via bankruptcy, payment notes or other means.

3. Check with your state on how to dissolve the business. In the state in which you legally formed your business, your corporation is a domestic corporation--meaning one created in that state. You must file forms for dissolution of your business with the state in which it was legally formed. You can find forms for dissolving domestic businesses on the Web site of the state government entity (usually the Secretary of State or the Department of Corporations) with which you filed your business's formation documents.

In most states, prior to terminating a business, you must have obtained proof from the state tax office that the business has paid all the taxes owed. Therefore, often you have to file forms with the state tax office prior to, or concurrent with, your dissolution paperwork.

4. Withdraw or dissolve the business. Typically, ending business by a foreign corporation is referred to as "withdrawing," while ending business as a domestic corporation is referred to as "dissolving." A state in which your business is legally "doing business"--has an office, salespeople and so on--but is not your business' state of legal formation means that your corporation is a foreign corporation in that state (a corporation formed outside it).

To what degree activities constitute "doing business" in a state is a difficult question that's determined by state statute and case law. However, if your office has an office in a state, you are almost certainly doing business there, and your business should have registered to do business as a foreign corporation when it began such activities. If you did not do so, be sure to consult an attorney about the proper steps for withdrawing or ending your business in the state prior to any filings, as there can be penalties for failure to have registered.

As with dissolution, the forms for withdrawing are available on state Web sites, and you usually must obtain tax clearance prior to, or concurrent with, withdrawal.

Note: The information in this column is provided by the author, not Entrepreneur.com. All answers are general in nature, not legal advice and not warranted or guaranteed. Readers are cautioned not to rely on this information. Because laws change over time and in different jurisdictions, it is imperative that you consult an attorney in your area regarding legal matters and an accountant regarding tax matters.

Judith A. Silver, Esq., is the CEO and founder of Silver Law Inc., a technology and business law practice, and [Coollawyer Inc.](#), a legal publishing company on the Web. Prior to starting her companies, she served as in-house counsel at Adobe Systems and Sabre/Travelocity.com. She holds a bachelor's degree cum laude from Cornell University and her juris doctorate from the University of California, Hastings College of the Law, in San Francisco.

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