



**The Law Office of Bryan A. Gutraj**  
700 N Lake Street, Suite 204  
Mundelein, IL 60060

[www.iltaxlaw.com](http://www.iltaxlaw.com)  
[info@iltaxlaw.com](mailto:info@iltaxlaw.com)  
P: 847-393-7679

## **ILLINOIS CORPORATIONS**

An Illinois corporation is a separate legal entity from its owners. It can sue or be sued and can hold title to real property in its own name.

### **Introduction to Illinois Business Corporations**

The following is a brief overview of Illinois business corporations. The owners of a corporation are called "shareholders." The corporate form results in the owners having limited liability and provides for centralized management, freely transferable interests, and continuity of existence. The liability of the shareholders is limited in that only the assets contributed to the corporation are usually at risk for the corporation's obligations. The limited liability may be lost in certain instances, such as inadequate capitalization of the corporation or the failure to maintain appropriate formalities in the operation of the corporation. It also may be lost if the corporation's activities are not maintained as separate and distinct from other activities of the owners. For example, the commingling of funds of a corporation in an account in which other funds of the business owners are deposited might result in the elimination of limited liability.

A corporation has greater flexibility in the types of investment vehicles it can offer and therefore has greater opportunity to attract investors. The relative ease with which corporate ownership interests can be transferred, unless restricted, when compared to partnership interests, further enhances the desirability of the corporate form if the need to attract investors is a factor in selecting the business form.

Bylaws will constitute an additional documentation burden if the corporate form is selected. However, they also serve to provide a method for the resolution of disputes with regard to certain issues that may arise between and among shareholders and/or directors and a means by which shareholders may obtain a voice in the day-to-day operation of the corporation without becoming personally liable for its debts.

Shareholder buy-sell agreements are also common in the context of closely held corporations, and additional expense will result if such a document is desired. However, comparable documentation might also be desirable in connection with partnerships, and so this may not be a significant factor in selecting the form of the business entity.

The corporation is clearly the most complex type of business entity and therefore necessarily

results in the incurrence of additional administrative expenses. Furthermore, additional expense may be incurred simply because the shareholders wish to take advantage of the flexibility available in the corporate form by electing to put into effect a more complex capitalization structure, incentive compensation plans, and buy-sell agreements.

### **Illinois Corporations In Sum**

The corporation offers the owners of the business the best protection of any form of business entity against personal liability (i.e., the owner's personal assets that are not involved in the operation of the business are not at risk for the obligations of the business). Furthermore, if multiple transfers of ownership interests are anticipated or if perpetual operation of the business is desired, the corporate form makes it possible to satisfy these requirements easily. The corporation also lends itself to the issuance of stock options as a means of attracting, providing incentives for, and rewarding employees. Finally, the corporate form offers a simple means for raising additional capital, although this is not significant for certain types of businesses such as real estate projects for which financing may be more easily available in the form of a mortgage.

A major disadvantage of the corporate form is that it requires observance of many formalities, thereby necessitating greater administrative expense than non-corporate forms. Also, because the corporation exists only as provided for in the Business Corporation Act, there are some limitations on the flexibility of the structure when compared to the general partnership, limited partnership, or limited liability company, which can be structured by contractual agreement in virtually any manner agreed to by the partners or members.