

Your Company Tune-Up

A Pre-Race Checklist

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NASCAR drivers and team mechanics tune their cars prior to each race using a pre-race checklist to maximize performance and ultimately chances at victory. Like NASCAR, your company, whether a corporation or LLC, also needs periodic pre-race check-ups to ensure proper performance and maximize its chance of success in each day's business race.

Your company's tune-up protects the business and its owners from unforeseen events and accidents, maximizes liability protections, and limits the ability for material misunderstandings in the conducting of company business. Here are a few points to include in your checklist:

1. Timely and accurate submission of all required state and federal filings, fees, and taxes, including: federal income tax returns, state B & O tax returns, employment tax filings, and the Washington State Secretary of State's annual report. It is important these filings are timely made because a failure to do so can be used as factor to disregard the liability shield of your entity or may prevent your company from being able to conduct business legally.

2. Maintenance of separate financial records of the company. This includes keeping separate company bank accounts for all company business. Care must be taken to avoid commingling company finances and personal finances. Any money paid from the company to you must be for approved company expenditures. Some examples are payment of dividends/wages, repayment of indebtedness, a loan, rent, and payment for approved and appropriate company benefits. The underlying employment agreement, promissory note, or lease should be in writing and approved by the company. Commingling of finances between the company and its owners is a factor considered in disregarding the company's liability shield, also known as "piercing the corporate veil," to pursue individual liability of the owners.

3. Keep written company records approving all significant company business transactions. These are known as company minutes. The term "significant business transaction" varies depending upon the type of entity (Corporation or LLC) and the amount and type of business you are conducting. Common significant business transactions include elections of officers, directors, and managers; leases of significant assets or business locations; entering into significant contracts for the business; hiring, firing, compensation changes and other material issues for key employees; changes in company ownership; opening lines of credit; providing or obtaining loans; and buying or selling

significant assets. Company minutes do not have to include small purchases, insignificant incidental costs or contracts, or hiring of hourly employees where such are not key employees in the operations of the company. Failure to properly maintain the company minutes is another factor considered by outside parties to pierce the corporate veil. Company minutes also reduce the risk of miscommunications between employees and owners as the specific action or task has been clearly addressed and approved by the company in writing. In addition potential purchasers of the company will want to see maintenance of up to date and complete company minutes in evaluating whether to purchase some or all of the business.

4. Ensuring all parties with whom your company does business understands you are acting on behalf of your company. Correspondence should be from the company with you signing in your official capacity. If ever a creditor reasonably believes they were acting with you in your individual capacity, they may be able to pursue you individually for any liability related to that activity. If it is clear to all creditors and other third parties that you are acting on behalf of your company, then this potential exposure is greatly reduced.

5. Review and confirm existing liability and property insurance coverages for the company. The company's liability shield does not cover your individual negligent actions, even if such were taken on behalf of the company. For these things, you will need to make sure you have adequate insurance. Also, maintaining sufficient liability and property insurance can greatly limit the effects of unforeseen events, like fire, loss, death or other accidents.

6. Meet with your accountant as needed and at least annually to ensure the company operations are being conducted in as tax efficient a manner as possible.

Regularly reviewing the above checklist with your company practices can help maximize your company's performance and its chances for success.