Delaware Franchise Taxes Are Around the Corner

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News Alert

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If you are a Delaware corporation, you likely received a notice from the Secretary of State of Delaware informing you that your company’s Annual Report and franchise tax payment are due by March 1, 2020. These notices are sent to the corporation’s registered agent. You are still required to file an Annual Report and pay the franchise tax even if your corporation never engaged in business or generated revenue. Delaware requires these to be submitted online.

There are two ways to calculate your Delaware franchise taxes (the Authorized Shares Method and the Assumed Par Value Capital Method). Delaware defaults to calculating its franchise taxes owed by using the Authorized Shares Method, which almost always results in a higher tax liability for startups with limited assets. However, by using the Assumed Par Capital Value Method, startups are often able to significantly lower their franchise tax burden.

For example, a typical early-stage startup corporation with: (i) 10 million authorized shares of stock; (ii) 9 million issued shares of stock; (iii) a par value of $0.0001; and (iv) gross assets of $100,000, would result in the following franchise tax obligations under the different methods:

- $85,165 under the Authorized Shares Method
$400 under the Assumed Par Value Capital Method

If you are incorporated in Delaware, but conducting business in another state, you must be qualified to do business in that state – meaning, you might be subject to that state’s franchise tax (if any) as well. For example, a Delaware corporation doing business in Texas must still register for a foreign qualification to conduct business in Texas ($750 filing fee), submit a Texas annual Franchise Tax Report (due by May 15 of each year), and pay the associated tax.

Texas franchise taxes are based on an entity’s margin (unless filing under an EZ computation),

and are calculated based on one of the following ways:

- total revenue times 70 percent;
- total revenue minus cost of goods sold (COGS);
- total revenue minus compensation; or
- total revenue minus $1 million (effective Jan. 1, 2014).

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