



Don't Neglect the Corporate Minute Book

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Make it your business to practice good defense



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A sound defense requires a coordinated effort by all of the players and the full utilization of all the assets on the playing field. The same philosophy applies in business. To be effective, we must fully utilize all of our assets and exploit the opposition's weaknesses.

Well, the most under-utilized asset in American business is the corporation minute book. It is also one of the most frequently exploited "weaknesses." I can already hear the shouts of amazement and disbelief. The minute book? An asset?! A weakness to exploit?!

Most people treat the minute book as a liability and leave it with the attorney who incorporated the business. Entries are made to the minute book, maybe once a year. The common entries concern the elections of directors and officers; the authorization of bank accounts and large leases; and the general approval of the actions of the officers—the bare minimum. Boring, lacking imagination, vanilla—and underutilized!

Why do I say that? Well, have you experienced a corporation income tax audit? Do you know what the IRS asks for first. Yup, the minute book. The minute book is the historical record explaining the "whys" and "hows" by which the business acted. The theory is that if it is written in the minute book, then that's the way it happened. The minute book is accepted by the IRS and the Courts as a contemporaneous business record—difficult evidence to overcome.

In other words, the minute book is gospel "according to you."

Up to the minute

What should be in the minute book? Where will the offense (the Infernal Revenue) attack? Corporate income tax audits frequently look at the amount of compensation paid to employee-shareholders (i.e., Reasonable Compensation), expenses for conventions and business meetings, travel and entertainment and the reasonable accumulation of earnings vs. the payment of dividends.

The minute book can be used to support business deductions. Shareholder meetings need not be held in the office or around the dining room table in the shareholder's home. In fact, such in-office (or in-home) meetings are usually unproductive and full of potential distractions.

Meetings in a relaxed (or even resort) environment may allow the officers to focus on problems at a distance and thus be able to analyze them better. Such meetings should be preceded in the minute book by an agenda and followed with a summary of discussions and action plans. Many businesses use the opportunity to build communications and create strategic goals and plans.

Compensation issues involving the employee shareholders can be easily addressed in the minute book. In early years of the business, the minutes should highlight sales and promotional efforts of the employee shareholders. Achievements and extraordinary efforts should be mentioned and applauded in the minutes. If funds do not exist to financially reward the employee shareholders, noteworthy achievements should nonetheless be noted in the minute book.

Business start-ups frequently lack sufficient funds to adequately compensate employee shareholders for the long hours and burdens endured in this phase of business development. It is important to document these extraordinary efforts so that they can be acknowledged and rewarded in later years. The minute book discussion will serve as additional justification for bonuses in later years.

Accumulated risk

The accumulation of earnings at low corporate income tax rates is a great assistance in the early growth of corporations. Frequently the earnings are accumulated in the form of higher balances in accounts receivable and ending inventory. As a business matures, accumulations may be in more liquid forms.

The Internal Revenue Code discourages accumulations of earnings beyond ordinary working capital and business needs. Regular tax paying corporations (C Corporations) can, in fact, be penalized if they accumulate beyond those needs and do not pay taxable dividends to their shareholders.

The minute book should contain discussions of the corporation's long-term and short-term vision. Such discussions would include the business's wish-list: planned expansions of the physical plant, plans for both horizontal and vertical business expansion, product expansions, new and existing market expansions, research and development plans, and the anticipated introduction of new products.

Regular entries in the minute book can plug the holes in the corporation's bottom line, and prevent the IRS from taking more than its due. So, dust off that defensive play book before the Internal Revenue Service calls.

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