

Transcript  
Incorporating for the Independent Medical Professional  
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Joseph Smith EA/RRT  
Enrolled Agent, Admitted to practice before the IRS  
Owner TravelTax LLC  
[www.traveltax.com](http://www.traveltax.com)

## **Introduction**

Hello. My name is Joseph Smith. I am an Enrolled Agent, admitted to practice before the IRS and I have been advising traveling and independent medical professionals for a number of years. Today, I want to explore an increasingly popular way to practice as a nurse or an ancillary professional: that as an *Incorporated Independent Contractor*. For the benefit of the entire audience, before I address how incorporation can benefit your practice, I need to cover some basics of working as an independent contractor. Only those that work as an independent can take advantage of incorporation.

### **Difference between working as an employee and a contractor**

The most notable difference between working as an employee and working as an independent contractor is how you are paid. As an employee, your check includes tax withholding, insurance, sick leave, vacation leave and other deductions for benefits. At the end of the year, your wages are reported on a W-2 listing the totals for the year. As a independent contractor, your check will be in a lump sum *without* these withholding and deductions. At year end, instead of a W-2, you will receive a 1099 for "non-employee compensation". Since there is no withholding for taxes, you are responsible for paying taxes out of your income, and you need to set aside a certain amount of your check to cover federal, social security, state and local taxes. The amount that you set aside will need to be paid in estimated tax payments due each quarter.

There is an important point to be made here about the treatment of social security taxes as an independent. Social Security taxes are 15.3% of your income. As an employee, you pay half of that (7.65%) – the employer pays the other half. As an independent, you are responsible for the entire 15.3%. This means that you are paying 7.65% more in taxes than you did as an employee. If you had no income taxes, only social security taxes, you would have to make 7.65% more as an independent to equal the same salary as an employee.

Now, there is one important difference to point out here. As an independent, many expenses that you would have as an employee are now deductible *business* expenses. You have to buy uniforms, pay for licenses, insurance, and CEU's. As

an employee, you could use the expense as an itemized deduction, but only if you were able to itemize. And even if you could, you cannot deduct them fully as the amounts are reduced based on your income. As a contractor, the entire amount is deductible against your income. Also, there are some items that you cannot deduct as an employee, but are allowed to deduct as an independent. For example, transportation to and from work is normally considered personal commuting expense, but as a business, the mileage or actual vehicle expenses are deductible. The combination of these factors can significantly reduce your taxable income more than offsetting the additional social security taxes that you pay as an independent. In fact, if managed correctly, your after tax income as an independent can be greater than the after tax income you receive as an employee even with the additional taxes.

## **The Everyday Work of an Independent**

As an independent, you have some additional responsibilities that an employee does not. I'll mention these briefly.

### The Contract

Obtaining a contract can be difficult as a traveler or even someone looking for one locally. That is where Healthcareseeker, the host of this conference can help. They can find, negotiate and draft the contract for you. Talk with them if you are interested

### The permits, etc

All businesses need to obtain the necessary licenses to operate; you will need to as well. You will be responsible to obtain your own malpractice insurance, physical, CPR, ACLS and other requirements. Since you are not employed, you will have to find alternative avenues for this.

### Financial

If you work as an independent, the most time consuming task that you will face is the financial management of your practice.

#### *Bookkeeping*

Your activities as an independent make it a business. Your business has a financial life of its own. You will need a separate checking account, credit account and anything that is business related should be separate from your personal finances. Since the income that you earn from your business will be offset by expenses, the receipts and records for these expenses need to be

maintained. This may require you to learn how to use a bookkeeping program like QuickBooks which many of my independent clients use.

### *Benefits*

One last area of financial management that requires your participation is benefits. As an independent, you will have to find and pay for your own health insurance; construct a retirement account, and so on. The benefit package that you structure for yourself goes a long way in reducing your taxable income. It is the greatest source of tax breaks as well as one of the most desirable advantages of working as an independent. As an employee, you have to pick and choose from what the company offers. As an independent, you can structure the benefits to fit your needs as well as reduce your taxes.

## **Incorporation**

Now we turn to the topic of this conference, Incorporation. Independents often consider incorporating their practice. You may even know of someone who has incorporated or heard of some of the benefits of incorporating. In addressing this, I want to discuss the following: what incorporation is, a look at the types of corporations, how to incorporate, the costs, and finally, the disadvantages and advantages as they apply to the travel independent.

### What Is Incorporation

A corporation is a business operation that has a life separate from its owners. The words in –cooperation defines it well. A group of people with vested interest in an operation directs a financial and legal entity called a corporation. As the name suggests, a corporation can be a large group of stockholders and as small as a sole proprietor doing business as the corporation. Revenues and expenses that the corporation incurs result in profits that are retained, passed through to the owners or paid as salary. When independents incorporate, they become employees of their own corporation.

### Types of Incorporation

Corporations have two lives: a legal life and a tax life. The tax life of a corporation is relatively uniform on the federal level with some deviations on the state and local level. The legal life of a corporation is something that an attorney is better equipped to handle since corporations are organized at the state level. Each state sets its own policies regarding reporting requirements and corporate structures that are available to particular professions.

As far as the tax treatment of corporations, there are 3 main types of corporate structures that an incorporated travel independent should be a ware of.

### *C Corporation- C stands for Corporation*

This is the traditional corporate form. Most large companies with stockholders are C Corps. The distinguishing characteristic of a C Corp is that earnings can be retained in the company. Retained earnings however, are taxed on the corporate level. A travel independent functioning as a C Corp should pay all earnings out as salary to avoid this.

### *S Corporation (Small Corporation) and LLC (Limited Liability Corporation)*

These are called “flow through entities” as the earnings flow through the company, directly to the owners. Earnings cannot be retained in the company like a C Corporation. As far as the independent traveler, there are few tax differences between the two at the federal level. Some tax advantages at the state level may be found. From a legal standpoint, some states will not allow medical professionals to be an LLC. Additionally, the rules that govern a LLC vary widely from state to state, so this is not a good choice if there is ever a possibility of working in another state.

### *Which One is best?*

Legal aspects of each entity vary based on the state of incorporation. An attorney can advise you in this area. From a tax perspective, the choice for an independent medical professional is really between an S Corp and a C Corp. Of the two, a C Corp structure can provide the better tax benefit. I will elaborate on this shortly.

## How to Incorporate

Incorporation occurs at the state level by filing certain documents with the Secretary of State. The filing paperwork includes things like Articles of Incorporation, Corporate Bylaws, Constitution, and a federal tax ID. The more complex the corporate structure the more paperwork. The process takes anywhere from a few weeks to a few months.

## Costs

There is a filing fee that varies by state. These fees average 50\$ to 200\$ with a few states that have fees approaching 1000\$. That’s the minimum that you will pay assuming that you are comfortable with the paperwork. There are internet based companies that will process the paperwork for you for around 100\$-200\$ in addition to the state fees. These companies have their pricing and paperwork on-line, making the process relatively easy. On the other end of the cost

spectrum are attorneys. Their fees vary widely and some will charge as much as 1500\$ plus state fees to process the paperwork.

## Disadvantages

### *Paperwork and expense*

Clearly, there is more paperwork and expense involved in working as an independent - even more as an incorporated business. Corporations have their own tax returns, quarterly tax filings, payroll reports and individual accounts. Some states and local jurisdictions levy property taxes on the physical assets of a corporation; require business licenses, property taxes, unemployment insurance, business insurance, and other recurring business fees and filings. Some states also require a filing of annual meeting minutes and renewal paperwork. A corporation is like a living person that has its own set of needs. Sole proprietors operating as a corporation are immune to some of these requirements, so the additional work is sometimes simpler.

### *Interstate rules*

Since Corporations are state entities, conducting business in another state may require a separate registration. Again, Sole proprietors are often exempt from these rules, but you will want to check first.

### *Liability – not all that it seems*

Most business owners are well aware of the liability that they carry. An unincorporated sole proprietor is like a Siamese twin. There are two bodies attached – a business body and an individual body. If one is hurt the other one experiences the pain. If one side needs a surgery, the other is stuck enduring the sedation and rehabilitation period as well. An incorporated sole proprietor is more like a marriage. Though there is some pain if one spouse is hurt, the healthy spouse is still free to move about. One spouse may endure an illness, but the other one can still work and pursue the normal activities of life.

Most advertising about the benefits of incorporation usually involves the possibility of reducing your liability. For a medical professional, there is a limit to the protection that incorporating provides. If I had a business that operated a store front and a customer stumbled on the floor, they could sue for damages. If I was not incorporated, my personal assets would be open to the suit- my house, car, jewelry and any other item that is valuable. If I am incorporated, the customer would only have access my business assets. That is a clear advantage of incorporation but notice that in the illustration, I did not perform any personal act that caused harm. If I had a gun and shot the person, I could not stand behind a corporate shield and state that the business performed the act. This is

an important item to remember. Providers of professional services to the public such as attorneys, accountants and medical professionals are still liable for their personal acts. If incorporated, they are protected from the acts partners, employees or those that represent them. They are also protected from any liability arising from their business assets, debts or transactions, but any act of negligence by the professional is not immune to personal liability. Adequate malpractice insurance is imperative for any independent medical professional. Reducing personal malpractice liability is a not a reason to Incorporate.

## Tax Advantages

### *Status Risk*

Working as a corporation helps avoid the possibility that the IRS will classify you as an employee. A corporation cannot be an employee. There is an ongoing debate as to whether a nurse or ancillary medical professional is eligible to work as an independent contractor and working as a corporation can help avoid this.

### *Tax Savings*

The greatest advantages to incorporating are the tax savings available to you if you become an employee of your company and structure your own benefits. There are three areas that provide the biggest breaks: medical benefits, retirement benefits and reimbursement programs.

**Medical Benefits:** As an employee, you are normally offered a choice of health insurance benefits and in some cases a Flexible Spending account to pay for any out of pocket expenses that insurance does not cover. The insurance premiums and funds set aside for medical expenses are all taken out prior to taxes and reduce the income that is reported to the IRS. As an employee of your own corporation, you can provide the same. As an unincorporated sole proprietor, your health insurance premiums and any contributions to health savings plans are deductible for income taxes, but not for social security taxes. The same is true for S Corps and LLC's. A C Corp has a definite advantage. As a C Corp, all health insurance premiums and contributions to flexible spending plans are free of income and social security taxes. In addition, there are more liberal rules for the amount that you can contribute to your reimbursement account as a C Corp. Anyone requiring health insurance or having large out of pocket medical expenses will benefit from this.

**Retirement:** You can contribute far more to your retirement accounts as an employee of your corporation through a matching program that you arrange. A Corporation is allowed to match an employee's retirement contributions and these matching funds are not subject to the annual contribution limitations of an individual. With the S Corp and LLC, matching funds are taxable to the recipient,

but a C Corp has a better advantage. The matching portion is free from federal, state and social security taxes.

Reimbursement programs: Earlier, I pointed out that some non deductible job related expenses are deductible as an independent and that having your company reimburse you for any expenses can significantly reduce your taxable income. There is an important deduction that is available to an incorporated travel independent that requires housing while away from home on an assignment. Many travel companies offer a “tax advantage” program or a combination of taxable and non-taxable wages to their employees. The “tax advantage” or non taxable portion of the wage is designated as a housing and / or meal reimbursement. Often the amounts that the company uses are based on something called a “per diem”. Per diems are standard allowances based on geographical area published by the IRS. These are amounts that a company can reimburse their employees for meals and lodging without the exchange of receipts. The employee does not have to spend the money. He or she can find cheaper accommodations or stay with a friend and keep the difference. An unincorporated independent can use the standard allowance for meals, but must use actual expenses for housing. As an employee of your own corporation, you can pay yourself the full tax free per diem rate for each day you require housing away from home on assignment. This applies to LLC’s, S Corps and C Corps.

Others: There are other benefits that you can offer yourself as an employee of your own company that offer additional tax savings. Child Care benefits, education benefits, life insurance, car allowances are just a few.

In review, it may be good to isolate the most significant tax advantages of incorporation as this is really the factor that will affect your decision whether to incorporate or not.

- 1) Health benefits can be excluded from gross income
- 2) Larger retirement contributions with tax free matching
- 3) Full housing per diem for travelers

## **Is Incorporation Right for You?**

Clearly, there are tax advantages to incorporating but the decision can be difficult and not all independents will benefit from the additional work involved. To determine whether incorporation is right for you, there are two questions to ask yourself: 1) do you intend to work more or less full time as an independent, and 2) how long do you intend to work as an independent at those hours?

A traveler who works full time as an independent for 2 or more years is in the best position to benefit from incorporating. Even an individual that works locally

as an independent full time can see tax savings. On the other end of the spectrum, occasional per diem shifts locally as an incorporated independent or one three month travel contract annually is really not enough to justify the extra work. Family situations can influence your decision as well. If you have a spouse or common law partner that has good medical benefits and a retirement program, you may not need the benefits that incorporating provides, In between, there are many possibilities and your own particular situation will determine the answer. Be sure to talk with your attorney or tax advisor before making a decision.

### **Links and More Information**

At this point you may have more questions. There are a lot of resources available on the Internet. One of the best is the Delphi forums at [www.delphiforums.com](http://www.delphiforums.com) . Once there, do a search under “independent nurse” and you will find an entire forum dedicated to the independent, incorporated medical professional. This is a great place to discuss your plans and ask questions of those that have blazed the trail.

### **Time for Questions**