

CALIFORNIA PRACTICE GUIDE

CORPORATIONS

2026 UPDATE

The 2026 softbound update completely replaces the 2025 update.

These Highlights summarize the most significant developments over the past year. The paragraph numbers are keyed to the 2026 edition of the Practice Guide where the topics are discussed in greater detail.

Our cut-off date for this Update was June 1, 2026. Some of the new cases cited were not final as of that date, so be sure to check the subsequent histories before citing or relying on them.

Thank you! As always, we appreciate your comments and suggestions regarding this Practice Guide. *Please keep them coming!*

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2026 UPDATE HIGHLIGHTS

CHAPTER 2

SUBSTANTIVE LAW CONSIDERATIONS IN CHOOSING BUSINESS ENTITY: TAX AND NONTAX FACTORS

Comparison of Tax Consequences

[2:85.1] **Overview of federal legislation:** The One Big Beautiful Bill (OB BB) provides for permanent and limited modifications of many tax provisions that were set to expire at the end of 2025. [See PL 119-21 (2025)]

Pass-Through Entities

[2:88.5] **Disallowance of “qualified business income” 20% deduction for certain service businesses “specified service trade or business”:** For tax years beginning after 2025, a taxpayer carrying on a service business may claim a modified QBI deduction if taxable income is less than the W-2/capital threshold, plus \$150,000 (joint returns) and \$75,000 (non-joint return). The exclusion is fully phased in if taxable income exceeds \$553,500 for married filing joint returns, \$276,775 for married filing separately, and \$276,750 for single and head of household. [Rev.Proc. 2025-32]

Taxation of Individuals

[2:100.2-100.4] **Ordinary income rate structure—exclusion of gain from “small business stock”:** The OB BB provides that noncorporate investors may exclude from their taxable income an applicable percentage of gain from the sale or exchange of qualified small business stock acquired after July 4, 2025, and held for at least three years. The gain exclusion is 50% for qualified stock held for three years, 75% for qualified stock held for four years, and 100% for qualified stock held for five or more years. [Amended IRC §1202(a), (c), (d)]

CHAPTER 4

FORMING THE CORPORATION

Bylaws Relating to Shareholder Disputes

[4:397.12a] **Provision selecting litigation forum:** The California Supreme Court upheld a bylaw provision designating Delaware courts for the resolution of disputes. Even where the enforcement of a forum selection clause effectively deprives a plaintiff of the right to a trial by jury, that alone does not provide a basis to avoid its enforcement. [*EpicentRx, Inc. v. Sup.Ct. (EpiRx, L.P.)* (2025) 18 C5th 58, 78-80, 334 CR3d 702, 717-718—California Constitution guarantees right to jury trial in California but does not reflect public policy regarding that right in other forums, and right may be waived]

Corporate Transparency Act

[4:531] **Eleventh Circuit:** The Eleventh Circuit Court of Appeals upheld the CTA as constitutional. [*National Small Business United*

v. U.S. Department of the Treasury (11th Cir. 2025) 161 F4th 1323, 1334—CTA’s uniform reporting requirement applied to all businesses that meet definition of “reporting company” and did not violate 4th Amend.]

CHAPTER 5

SHARE ISSUANCE: SECURITIES LAW CONSIDERATIONS

Liability for Fraudulent Securities Transactions

[5:74.2] **Disgorgement:** A showing of pecuniary loss to victims is not required in order for the SEC to obtain a disgorgement award. [*Sripetch v. SEC* (2026) — US —, —, 146 S.Ct. 1403, 1413]

CHAPTER 6

OPERATING PROBLEMS

Directors’ Duties and Liabilities

[6:245.1] **“Business judgment rule”—good faith presumed:** See *Eng v. Opperman* (2025) 117 CA5th 354, 374, 340 CR3d 481, 497.

Delivery to State of Unclaimed Corporate Shares, Bonds and Distributions

[6:597.5/] **Report and payment to California:** The property to be escheated is paid or delivered to the Controller no later than 30 days for digital financial assets and between seven months and seven months and 15 days for all other escheated property after the due date of the report filed by the corporate officer. [Amended CCP §1532(e)]

Derivative Suits

[6:603] **Nature of action:** See *Norman v. Strateman* (2025) 112 CA5th 92, 101, 333 CR3d 706, 713—claims of mismanagement, including using company assets in self-dealing transactions, was derivative in nature.

[6:620a] **Plaintiffs must “adequately represent” other shareholders (federal actions):** Factor test in *Larson v. Dumke* (9th Cir. 1990) 900 F2d 1363 “is not rigid but rather flexible, giving courts discretion to choose the controlling factors upon which to focus and how much weight each of those factors should be given in deciding particular cases.” [*Bigfoot Ventures Ltd. v. Knighton* (9th Cir. 2025) 132 F4th 1138, 1143-1144]

CHAPTER 8

CORPORATE CHANGES AND DISSOLUTION

Post-Dissolution Lawsuits Against Corporation

[8:1007.1] **Relief from default where agent served:** Effective January 1, 2027, relief from default may be granted “[w]hen service of a summons was lawfully effected but has not resulted in actual notice to a party in time to defend the action . . .” [Amended CCP §473.5(a)]

Duty to Employees in Effecting Layoffs and Plant Closings

[8:1097; 8:1116] **Notice requirement under California law (Lab.C. §1400 et seq.):** Covered employers must include in the notice whether the employer plans to coordinate services through the local workforce development board, a different entity, or does not plan to coordinate services with any entity, and, regardless of the employer's decision, the employer must include in the notice a functioning email and telephone number of the board and specified language. The notice must also include information related to the statewide food assistance program and a functioning email and telephone number of the employer [Amended Lab.C. §1401(c)]