



Determining the Startup Shares to be Authorized

Source:

<http://startuplawyer.com/incorporation/how-many-shares-should-a-startup-company-authorize-at-incorporation>

An often overlooked aspect of filing a certificate of formation or articles of incorporation is determining how many shares the new corporation should authorize. This decision doesn't really matter to most businesses (I don't have a clue how many shares I authorized when I incorporated my law firm), but startup companies aren't like most businesses. Most businesses don't grant stock options or seek venture capital. Thus, the organization and capitalization of your startup is important from the outset.

The number of shares to issue at incorporation is somewhat arbitrary, but my preference is to authorize 10,000,000 shares.

Now, that doesn't mean all 10,000,000 shares will be *issued* to the founders. You must be careful and select an amount of authorized stock that will account for your startup's planned issuances and the reserved stock option pool.

For example, say you authorize 10,000,000 shares. You may want to keep a reserved option pool of 1,000,000 shares, thus you would only issue up to 9,000,000 shares to the founders.

Of course, you could obtain the same result by authorizing 1,000,000 shares with an option pool of 100,000 and a 900,000 issuance to the founders. But for some reason, people (and when I say people I mean the developers/consultants/directors getting the stock options) like to have a larger number of stock options even if the percentage of the company would be the same. I guess 50,000 stock options sounds better than 5,000 when you are up in the club.

About The Author

Ryan Roberts is a startup lawyer and represents technology companies through all phases of the startup process, including incorporation, seed & venture financings, and exit transactions. Click [here](#) to learn more about his practice.

Other thoughts and recommendations: (please consult your attorney)

Authorizing 10 million shares we agree with, but the founders should consider issuing 4-5 million shares as that allows for room to grow during the equity distribution to investors. Otherwise, if you use up all the authorized shares, then you will have to request another increase in the authorized amount.

Also remember that common stock is issued to founders, employees and consultants. Common stock is issued at par value in early stage companies as \$.001 to \$.0001 to allow the founders to have stock with minimal tax ramifications. The IRS has allowed common stock to be 1/10 the value of preferred stock.

Always issue preferred stock to investors. When a company is acquired, the preferred stock has an automatic conversion clause that converts all stock to common stock to simplify the acquisition transaction.