

Equipment Corporations

Establishing an Equipment Corporation

- » **Choose a name**
Choose a name for the new entity.
- » **Select shareholders**
Decide who the shareholders will be in your new corporation. (Generally, this is your children, as minors provide the best income tax advantages and creditor protection.)
- » **Selecting an attorney**
Form a new corporation using your attorney of choice or by directing DoctorsManagement to engage an attorney on your behalf. (Note: The law firm used by DoctorsManagement will provide a price quote for forming a corporation based upon the type of corporation and the State which you are located.)
- » **Apply for a federal identification number**
DoctorsManagement will apply for a federal identification number on your behalf after receipt of the name of your corporation and the shareholders. (Note: We will need the address and social security number for all shareholders.)
- » **File a “Subchapter S” election**
DoctorsManagement will file a “Subchapter S” election on your behalf after receipt of the name of your corporation and the names of shareholders. (Note: We will need the address and social security number for all shareholders.)
- » **Execute an equipment lease between your medical practice and the equipment corporation** (sample enclosed)
- » **Open an account in the name of the equipment corporation**
As this account is primarily going to simply accumulate funds with minimal distributions, a mutual fund is oftentimes the vehicle of choice. If you would like DoctorsManagement to establish the account on your behalf, please let us know.
- » **Begin paying rent each month**
The rental amount per month should be roughly the value of the equipment and furniture times two and one-half percent (2.5%).
- » **Assemble copies of all financial statements, bank accounts (if relevant), and check stubs (if relevant)**, and forward those copies to DoctorsManagement in January of each year (so that the annual corporate tax return can be prepared).

Advantages of Equipment Corporations

» **Income tax savings**

To the extent that the stock in the Equipment Corporation (EC) is owned by dependents of the shareholder who have lower tax brackets than the shareholder, an income tax savings can be realized.

» **Recharacterization of income**

Paying “rent” to a separate entity lowers the amount each owner-physician in the medical practice corporation must claim as “salary.” At a minimum, this recharacterization saves Medicare tax (currently, 2.90%). It may also create passive income with which the shareholder can offset passive losses.

» **Creditor protection**

To the extent that ownership of stock in the EC is passed on to dependents of the shareholders, the professional can experience protection from creditors (i.e., slip and fall lawsuit judgment) for the value of their equipment and furniture used in the medical practice. Even if the EC stock is retained by the doctor, the equipment and furniture is at least removed from the list of attachable assets available in the event that there is a judgment against the medical practice corporation.

» **Estate tax reduction**

Again, to the extent that stock in the EC is transferred to dependents of the doctor, the value of that stock escapes estate tax entirely.

Disadvantages of Equipment Corporations

» **Sales tax**

Some states require that sales tax be paid on rent paid from the medical practice to the EC. To the extent that you comply, you can realize a cost which partially decreases the above-referenced tax savings.

» **Ownership by minors**

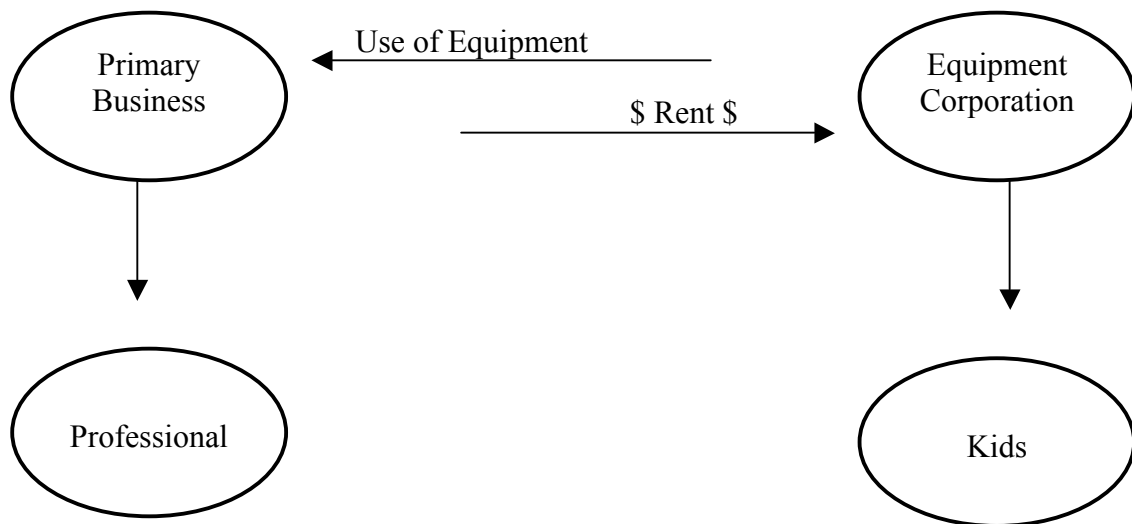
Ownership of the EC by minor children (strongly encouraged above) can place some control in the hands of children when they reach the age of majority. Transferring stock back to the parent(s) close to the time the child reaches the age of majority can alleviate this potential problem.

Sample Calculation

	Professional #1	Professional #2
Amount of Equipment Lease payment to child's equipment corporation	\$24,000	-0-
Taxable profit from business	\$150,000	\$150,000
Tax deductions – equipment rent	+\$24,000,	-0-
Adjusted gross income	\$126,000	\$150,000
Itemized deductions	+\$20,000,	+\$20,000,
Exemptions (4 @ \$2,500) *	+\$10,000,	+\$10,000,
Income Tax (MFJ) – 31.0%	\$21,524	\$28,856
Self-Employment Tax – 2.9%	\$11,763	\$12,460
Total Tax Due:	\$33,287	\$41,316

* Rounded for ease of presentation

Equipment Corporations



Equipment Lease

This Equipment Lease Agreement ("Lease") is made effective _____, 20____, by and between _____, a _____ corporation, located in _____, County, _____ ("Lessee") and _____, ("Lessor").

In consideration of the mutual promises herein contained, the parties hereto agree as follows:

Section 1 Equipment Leased

The Lessor hereby leases to the Lessee and the Lessee hereby leases and hires from the Lessor, all machinery, equipment, and other property described.

- a) The schedule executed by the parties concurrently herewith and made a part hereof by reference; and
- b) Any schedule or schedules hereafter executed by the parties hereto and made a part hereof by reference.

All said machinery, equipment, and other property described in all said schedules are hereinafter called "equipment" and all said schedules are hereinafter collectively called the "Schedule."

Section 2 Term

The term of this Lease respecting each item of equipment commences on the date the item is delivered to the Lessee. The term of this Lease ends on the date designated in the Schedule. Renewal thereafter for annual periods shall be automatic, provided that either party may terminate this Lease at the end of any annual period by giving thirty (30) days written notice to the other party.

Section 3 Rent

The rent for each and every item of equipment described in the Schedule shall be the amount designated in the Schedule. The Lessee shall pay said rent in advance, in the amounts and at the times set forth in the Schedule, at the office of the Lessor, _____, or to such other person or at such other place as the Lessor may from time to time designate in writing to the Lessee.

Section 4 Default

If the Lessee, with regard to any item or items of equipment, fails to pay any rent or other amount herein provided within ten (10) days after the same is due and payable: or if any execution of any other writ of process shall be issued in any action or proceeding against the Lessee whereby said equipment may be seized or taken; or if a proceeding in bankruptcy, receivership, or insolvency shall be instituted by or against the Lessee or its property; or if the Lessee shall enter into any arrangement or composition with its creditors; or if the Lessee, with regard to any item or items of equipment, fails to observe, keep, or perform any other requirement of this Lease, then the Lessor shall, if such default shall continue for ten (10) days after written notice thereof to the Lessee, have the right to exercise any one or more of the following remedies:

- a) To declare the entire amount of rent hereunder immediately due and payable as to any or all items of equipment, without notice or demand to the Lessee.
- b) To sue for and recover all rents and other payments then accrued or thereafter accruing, with respect to any or all items of equipment.
- c) To take possession of any or all items of equipment, without demand or notice, wherever the same may be located, without any court order or other process of law. The Lessee hereby waives any and all damages occasioned by such taking of possession. Any taking of possession shall not constitute a termination of this Lease as to any or all items of equipment unless the Lessor expressly so notified the Lessee in writing.
- d) To terminate this lease as to any or all items of equipment.
- e) To pursue any other remedy at law or in equity.

Notwithstanding any repossession, or any other action which the Lessor may take, the Lessee shall be and remain liable for the full performance of all obligations to be performed by the Lessee under this Lease. All such remedies are cumulative, and may be exercised concurrently or separately.

Section 5 Interest

If the Lessee fails to pay any part of the rent herein reserved or any other sum required by the Lessee to be paid to the Lessor within ten (10) days after the due date thereof, the Lessee shall pay to the Lessor interest on such delinquent payment from the expiration of said ten (10) days until paid at the rate of seven percent (7%) per annum.

Section 6 Offset

The Lessee hereby waives, and agrees not to assert, any and all existing and future claims, defenses, and offsets against any rent or other payments due hereunder. The Lessee agrees to pay

the rent and other amounts hereunder regardless of any claim, defense, or offset which may be asserted by the Lessee or on its behalf.

Section 7 Manner of Use

The Lessee shall use the equipment in a careful and proper manner and shall comply with all laws, ordinances, and regulations relating to the possession, use, or maintenance of the equipment.

Section 8 Markings

If at any time during the term of this Lease, the Lessor supplies the Lessee with labels, plates, or other markings, stating that the equipment is owned by the Lessor, the Lessee shall affix and keep the same in a prominent place on the equipment.

Section 9 Lessee's Inspection

The Lessee shall inspect the equipment within ten (10) days after receipt thereof. Unless the Lessee within said period of time gives written notice to the Lessor, specifying any objection to the equipment, the Lessee agrees that it shall be conclusively presumed, as between Lessor and the Lessee, that the Lessee has fully inspected and acknowledged that the equipment is in good condition and repair, and that the Lessee is satisfied with, and has accepted, the equipment in such good condition and repair.

Section 10 Lessor's Inspection

The Lessor shall, at any and all times during business hours, have the right to enter into and on the premises where the equipment may be located for the purpose of inspecting the same or observing its use. The Lessee shall give the Lessor immediate notice of any attachment or other judicial process affecting any item of equipment and shall, whenever requested by the Lessor, advise the Lessor of the exact location of the equipment.

Section 11 Alterations

Without the prior written consent of the Lessor, the Lessee shall not make any alterations, additions, or improvements to the equipment. All additions and improvements of whatsoever kind or nature made to the equipment shall belong to and become the property of the Lessor on the termination of this Lease.

Section 12 Repairs

The Lessee, at its own cost and expense, shall keep the equipment in good repair, condition, and working order and shall furnish any and all parts, mechanisms, and devices required to keep the equipment in good mechanical and working order.

Section 13 Loss or Damage

The Lessee hereby assumes and shall bear the entire risk of loss and damage to the equipment from any and every cause. No loss or damage to the equipment or any part thereof shall impair any obligation of the Lessee under this Lease which shall continue in full force and effect. In the event of loss or damage of any kind to any item of equipment, the Lessee, at the option of the Lessor, shall:

- a) Place the same in good repair, condition, and working order; or
- b) Replace the same with like equipment in good repair, condition, and working order.

Section 14 Stipulated Loss Value

If the equipment is determined by the Lessor to be lost, stolen, destroyed, or damaged beyond repair, the Lessee shall pay the Lessor in cash the "Stipulated Loss Value" as set forth in the Schedule. On such payment this Lease shall terminate with respect to such item of equipment so paid for and the Lessee thereon shall become entitled to such item of equipment as-is-where-is without warranty, express or implied, with respect to any matter whatsoever.

Section 15 Surrender

Upon termination of this Lease, with respect to any item of equipment, the Lessee shall (unless the Lessee has paid the Lessor in cash the "Stipulated Loss Value" of such item of equipment pursuant to Paragraph 14, above) return the same to the Lessor in good repair, condition, and working order (ordinary wear and tear resulting from proper use thereof along excepted) in the following manner as may be specified by the Lessor:

- a) By delivering such item of equipment at the Lessee's cost and expense to such place as the Lessor shall specify within the city or county in which it was delivered to the Lessee or to which it was moved with the written consent of the Lessor; or
- b) By loading the item of equipment at the Lessee's cost and expense on board such carrier as the Lessor shall specify and shipping the same, freight collect, to the destination designated by Lessor.

Section 16 Insurance

The Lessee shall keep the equipment insured against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof as determined by the Lessor. The Lessee shall carry public liability and property damage insurance covering the equipment. All said insurance shall be in the form and amount and with companies approved by the Lessor, and shall be in the joint names of the Lessor and Lessee. The Lessee shall pay the premiums therefor and shall deliver said policies, or duplicates thereof, to the Lessor. Each insurer shall agree, by endorsement on the policy issued by it or by independent instrument furnished to the Lessor, that it will give the Lessor thirty (30) days written notice before the policy in question shall be altered or canceled. The proceeds of such insurance, at the option of the Lessor, shall be applied:

- a) Toward the replacement, restoration, or repair of the equipment; or
- b) Toward payment of the Lessee's obligations hereunder.

The Lessee hereby appoints the Lessor as the Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for loss or damage under any said insurance policy.

Section 17 Taxes

There shall be added to all charges made under this Lease amounts equal to any taxes, however designated, levied, or based on such charges, or on this Lease, or the services rendered or parts supplied pursuant hereto, including state and local privilege or excise taxes based on gross revenue, and any taxes or amounts in lieu thereof paid or payable by the Lessor in respect of the foregoing, exclusive, however, of taxes based on net income. The Lessee shall keep the equipment free and clear of all levies, liens, and encumbrances for any taxes, however designated.

Section 18 Lessor's Payment

In case of failure of the Lessee to procure or maintain said insurance or to pay said fees, assessments, charges, and taxes, as herein specified, the Lessor shall have the right, but shall not be obligated, to effect such insurance, or pay said fees, assessments, charges, and taxes, as the case may be. In the event, the cost thereof shall be repayable to the Lessor with the next installment of rent. Failure to repay the same shall carry with it the same consequences, including interest at seven percent (7%) per annum, as failure to pay any installment of rent.

Section 19
Lessor's Warranties

THE LESSOR MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE.

Section 20
Personal Property

The equipment is, and shall at all times be and remain, personal property, notwithstanding that the equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or embedded in, or permanently resting on, real property or any building thereon, or attached in any manner to that which is permanent by means of cement, plaster, nails, bolts, screws, or otherwise.

Section 21
Ownership

The equipment is, and shall at all times be and remain, the sole and exclusive property of the Lessor. The Lessee shall have no right, title, or interest therein, except as expressly set forth in this Lease.

Section 22
Lessee's Assignment

Without the prior consent of the Lessor, the Lessee shall not:

- a) Assign, transfer, pledge, or hypothecate this Lease, the equipment or any part of it, or any interest in it; or
- b) Sublet or lend the equipment or any part of it, or permit the equipment or any part of it to be used by anyone other than the Lessee or the Lessee's employees.

Consent to any of these prohibited acts applies only in the given instance, and is not a consent to any subsequent like act by the Lessee or any other person.

Section 23
Lessor's Assignment

It is understood that the Lessor contemplates assigning this Lease or mortgaging the equipment, and that the assignee may assign it. All rights of the Lessor under this Lease may be assigned, pledged, mortgaged, transferred, or otherwise disposed of, either in whole or in part, without notice to the Lessee. If the Lessor assigns this Lease or the rentals due or to become due hereunder or any other interest herein, whether as security for any of its indebtedness or otherwise, no breach or default by Lessor hereunder or pursuant to any other agreement between

the Lessor or Lessee, should there be one, shall excuse performance by the Lessee of any provision hereunder. No such assignee shall be obligated to perform any duty, covenant, or condition not required to be performed by the Lessor under the terms of this Lease.

Section 24 Indemnity

The Lessee shall indemnify the Lessor against, and shall hold the Lessor harmless from, any and all claims, actions, suites, proceedings, costs, expenses, damages, and liabilities, including attorney's fees, arising out of, connecting with, or resulting from the equipment, including, without limitation, the manufacture, selection, delivery, possession, use, operation, or return of the equipment.

Section 25 Attorney's Fees and Expenses

The Lessee shall pay the Lessor all costs and expenses, including attorney's fees, incurred by the Lessor in exercising any of its rights or remedies hereunder, or in enforcing any of the terms, conditions, or provisions hereof.

Section 26 Concurrent Remedies

No right or remedy herein conferred on or reserved to the Lessor is exclusive of any other right or remedy herein or by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

Section 27 Non-Waiver

No covenant or condition of this Lease may be waived except by the written consent of the Lessor. Forbearance or indulgence by the Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the Lessee to which the same may apply, and, until complete performance by the Lessee of any covenant or condition, the Lessor shall be entitled to invoke any remedy available to the Lessor under this Lease or by law or in equity despite said forbearance or indulgence.

Section 28 Entire Agreement

This Lease constitutes the entire agreement between the Lessor and the Lessee and supersedes and prior understandings or written or oral agreements between the parties respecting the within subject matter. It shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

Section 29
Notices

Service of all notices under this Lease shall be sufficient if given personally or mailed to the party involved at its respective address herein set forth, or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed, and with postage prepaid.

Section 30
Gender; Number

Whatever the context of this Lease requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural. Whenever the word "Lessor" is used herein, it shall include all assignees of the Lessor. If there is more than one Lessee named in this Lease, the liability of each shall be joint and several.

Section 31
Time

Time is of the essence in this Lease and in each and all of its provisions.

Section 32
Governing Law

This Lease shall be construed under and in accordance with the laws of the State of _____, and all obligations of the parties created hereunder are performable in _____ County, _____.

Section 33
Binding Effect

This Lease shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

Section 34
Severability

If any one or more of the provisions contained in this Lease shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Lease shall be constructed as if such invalid, illegal, or unenforceable provision has never been contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease effective _____, 20____.

LESSEE: _____

By: _____

Date: ____ / ____ / ____

LESSOR: _____

By: _____

Date: ____ / ____ / ____

Initial Equipment Schedule

Equipment Leased	Rent	Stipulated Loss Value

1. Term. Unless sooner terminated as set forth in the Lease, the term of the Lease respecting each item of equipment listed on this Schedule expires on _____, 20____.

2. Rent. As rent for said equipment, the Lessee shall pay the Lessor the sum of _____ (\$_____) per month. Except as otherwise provided in the Lease or in this Schedule, said rent payments will commence on the first day of _____, 20____, and continue on the first day of each month thereafter until termination of this Lease.

3. Location. The above-described equipment shall be located at _____, and shall not be removed therefrom without the prior written consent of the Lessor.

Approved and agreed on _____, 20____, as a schedule to that certain Equipment Lease made effective _____, 20____, by and between the parties hereto, and made a part hereof.

LESSEE: _____

LESSOR: _____

By: _____

By: _____