



Entity Formation, Conversion & Restructuring

We have deep experience guiding clients through the choice-of-entity selection process, including the tax planning and cost analysis of organizing and operating a new business.

OUR PROCESS

First, we discuss the various different entities from which to choose, the possible jurisdictions of organization, and the set-up and on-going maintenance costs. As part of this process, we advise clients as to the relative advantages and disadvantages of forming, organizing, and operating different types of business entities – corporations (business and professional as well as S Corporations and C Corporations), general partnerships, limited partnerships, limited liability partnerships, and limited liability companies. We also address the benefits and drawbacks of organizing in different jurisdictions.

Once the client has decided on a particular type of entity, we help to prepare the appropriate charter documents. These documents – articles of incorporation and bylaws, articles of organization and operating agreement, certificate of limited partnership and partnership agreement, or general partnership agreement, depending on the type of entity – set forth how the entity is to be governed and operated. We also draft the associated organizational documents to get directors and officers, managers or general partners in place to conduct the business.

Next, we prepare subscription documentation for prospective owners of the entities to acquire ownership interests and the necessary authorizations to issue those interests. We also advise on the proper process to capitalize the entity as well as how to comply with applicable securities law exemptions.

CONVERSION

We regularly assist clients in converting their business entities from one type of organization to another. For example, changing a limited partnership into a limited liability company, or a professional corporation into a business corporation. Our conversion work includes first discussing whether a change is necessary or beneficial. If so, we then identify the proper type of new entity, taking business and tax aspects into

consideration.

Once the client has determined to make a change, we help to prepare the appropriate documentation to approve and effect the conversion. This includes owner consents to approve the conversion and formation and preparation of the governing documents for the new entity. As part of the conversion process, we ensure compliance with applicable securities laws and file the necessary documentation in all relevant jurisdictions.

RESTRUCTURING

We have expertise in guiding clients through more complex restructuring transactions, including:

- reincorporations;
- recapitalizations;
- classification of boards of directors ("staggered boards");
- issuance of multiple classes or series of stock;
- venture capital transactions; and,
- strategic alliances.

We also handle restructurings in connection with mergers, acquisitions, divestitures, split-ups, spin-offs, credit facilities (e.g., where a lender demands a security interest in the stock of an operating entity, requiring the creation of a new parent holding company), self-tender offers, and bankruptcy reorganizations.

Our restructuring work includes first discussing with the client why a restructuring is necessary or beneficial. We then help to identify which restructuring makes the most sense. We evaluate the costs to implement the new structure and any business or tax disadvantages resulting from the restructuring. We prepare and negotiate (if applicable) letters of intent, merger or reorganization agreements and amendments of articles of incorporation and bylaws. We also arrange for the adoption and filing of amendments to charter documents and related securities filings with regulatory agencies.

AREAS OF CONCENTRATION

Alcoholic Beverage & Controlled Substances Licensing & Regulation
Ambulatory Surgery Centers
Bankruptcy
Corporate Finance
Corporate Governance
Entity Formation, Conversion & Restructuring
Financial Services
Mergers & Acquisitions
Public Finance
Taxation