

**CALIFORNIA LAWYERS ASSOCIATION
TAXATION SECTION**

2023 DC DELEGATION PAPER

**PROPOSAL FOR IRS TO PROVIDE CLARIFICATION TO THE IRS
WEBSITE AND RELATED RESOURCES REGARDING AN ENTITY'S
ABILITY TO RETAIN ITS HISTORIC EIN IN A DOMESTIC ENTITY
REORGANIZATION AND THE PROCESS FOR DOCUMENTING SUCH
CHANGE**

*(Clarifying when and how an entity may retain its historic EIN after certain
entity reorganizations)*

This proposal was prepared by John C. Miles, member of the International Tax Section of the California Lawyers Association.¹ The author wishes to thank the formal reviewers, Agustin Ceballos of Seltzer Caplan McMahon Vitek and Liliana Menzie of Duane Morris LLP.²

Contact Person: John C. Miles
 Procopio, Cory, Hargreaves & Savitch LLP
 525 B Street, Suite 2200,
 San Diego, California, 92101
 (619) 906-5650
 john.miles@procopio.com

¹ The comments contained in this Paper are the individual views of this Authors who prepared them, and do not represent the position of the California Lawyers Association.

² Although this author, presenter and/or reviewers of this paper might have clients affected by the rules applicable to the subject matter of this paper and have advised such clients on applicable law, no such participant has been specifically engaged by a client to participate on this project.

EXECUTIVE SUMMARY

The Internal Revenue Code (“IRC” or the “Code”)³ has long provided the Internal Revenue Service (the “IRS”) with this Authority to require entities to obtain an identifying number, often referred to as an “employer identification number” (“EIN”), including for any person (including entities) “required to make a return, statement, or other document.”⁴ The process of obtaining an EIN is relatively simple for many taxpayers, especially with the advent of the IRS online application system.⁵

This Author is aware of three (3) primary sources of authority for determining when an entity is required to obtain a new employer identification number (“EIN”):

(1) the IRS webpage entitled “*Do You Need a New EIN?*,” last reviewed or updated 03-17-2023 (the “IRS Website”);⁶

(2) IRS Publication 1635, “*Employer Identification Number, Understanding your EIN*,” last revised 02-2014 (“Publication 1635”);⁷ and

(3) Internal Revenue Manual at Parts 3.13.2.26(12) (04-29-2022) (“*Domestic Limited Liability Company (LLC)*”) (the “.26 IRM”) and 3.13.2.27.13 (01-03-2022) (“*State Reorganization/Conversion*”) (the “.27 IRM,” and together with the .26 IRM, the “IRM,”⁸ and together with Publication 1635 and the IRS Website, the “IRS Guidance”).⁹

In this Author’s opinion, the IRM contains the most helpful information for the circumstances discussed in this Paper, but it is also the least “accessible” to taxpayers.

EINs serve an obvious role with respect to federal taxes and the IRS’ ability to track and collect tax dollars. Over time, however, EINs have also become an essential and integrated part of operating businesses *outside* of simply identifying such entity to the IRS.

Many entities will require some sort of corporate reorganization at some point in the life of their business, which may include reincorporating to a different state (to accommodate a new

³ All section references are to the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder unless otherwise noted.

⁴ IRC Section 6011(b); Treasury Regulation Section 301.6109-1(a)(1)(ii)(C).

⁵ See <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>.

⁶ <https://www.irs.gov/businesses/small-businesses-self-employed/do-you-need-a-new-ein>. In large part, the IRS Website reiterates information contained in Publication 1635. A copy of the current IRS Website is attached hereto as “**Exhibit A**.”

⁷ A copy of Publication 1635 is attached hereto as “**Exhibit B**.”

⁸ A copy of the relevant text from the IRM is attached hereto as “**Exhibit C**.”

⁹ There are other IRS rulings and authorities which have a bearing on this discussion, some of which are described herein.

investor or otherwise), combining two entities/businesses, or needing to change the type of entity (for state law or tax purposes). When this occurs, retaining an EIN may be essential to the operation of their business for non-tax reasons. If an entity is required to obtain a new EIN, it can be incredibly disruptive or, in extreme situations, require that the business temporarily cease operations (because, for example, a required license was associated to the previous EIN).

In this Author's opinion, there are certain ambiguities in the context of specific entity reorganizations¹⁰ as to whether an entity may retain its EIN pursuant to the IRS Guidance. To that end, this Author makes four (4) proposals in this "Paper" to clarify a taxpayer entity's ability to retain their EIN:

1. That the IRS update the IRS Website in way that more clearly reflects an entity's ability to retain its EIN after certain entity reorganizations;
2. That the IRS clarify the meaning of the .27 IRM, and publish such information on the IRS Website;
3. That the IRS delete erroneous or misleading information regarding EINs from the IRS webpage entitled, "Business Name Change," last reviewed or updated 08-24-2022 (the "Business Name Change Website");¹¹ and
4. That the IRS provide a process, including by way of a simple 1-page form, for taxpayers to document the "transfer" of their EIN from a predecessor entity to a successor entity in the context of corporate reorganizations discussed herein.

Regardless of current IRS Guidance, there is no tax planning, including opportunities for tax avoidance, connected with an entity retaining its EIN after a corporate reorganization. For this reason, this Author believes that the IRS should interpret the proposals contained in this Paper liberally with taxpayers' legitimate business needs, both tax and non-tax, in mind.

¹⁰ The specific entity reorganizations discussed herein are: (1) Entity Conversions (as defined below); and (2) Entity Mergers (as defined below).

¹¹ <https://www.irs.gov/businesses/business-name-change>. A copy of the text of the Business Name Change Website is attached hereto as "**Exhibit D.**"

TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND	1
A. EINs - General Overview.....	1
B. Common Entity Reorganizations.....	2
1. Entity Conversions.....	2
2. Entity Mergers	3
C. Non-Tax Reasons for Entity Conversions and Entity Mergers and Retention of EINs.....	4
II. IRS GUIDANCE REGARDING THE ABILITY OF AN ENTITY TO RETAIN ITS EIN AFTER AN ENTITY CONVERSIONS OR ENTITY MERGERS	4
A. The IRS Website	5
B. Publication 1635	6
C. IRM.....	7
1. IRM at part 3.13.2.26(12) (04-29-2022).....	7
2. IRM at part 3.13.2.27.13 (01-03-2022).....	8
D. Additional IRS Authority.....	9
1. Reorganizations Pursuant to IRC Section 368(a)(1)(F).....	9
2. Corporate Conversions.....	9
3. Name Changes	9
III. PROPOSALS.....	9
A. Proposal 1: The IRS Should Update the IRS Website Regarding EINs for Corporations and Partnerships as Reflected Herein.....	9
B. Proposal 2: The IRS Should Clarify the Meaning of IRM part 3.13.2.27.13 (01-03-2022) and Publish Any Instructive Language on the IRS Website	11
C. Proposal 3: The IRS Should Delete Erroneous Language from the Business Name Change Website.....	12
D. Proposal 4: The IRS Should Create a Simplified Process for Taxpayer to Notify the IRS of Such Entity Reorganization and Retention of EIN	12
IV. EXAMPLE FROM PRIVATE PRACTICE	13

DISCUSSION

I. BACKGROUND

A. EINs - General Overview.

The Secretary of the IRS is authorized to require such information with respect to persons subject to tax as is necessary or helpful in securing property identification of that person.¹² When required to do so by the Treasury Regulations, any person required to make a return, statement, or other document must include an identifying number to secure property identification of such person.¹³ The Secretary is authorized to require such information as is necessary for proper identification.¹⁴

For persons other than an individual required to furnish an identifying number (*e.g.*, corporations, partnerships, nonprofit associations, trusts, estates, and similar persons), such person must use an EIN.¹⁵

In practice, all domestic regarded entities (*e.g.*, limited liability companies (“LLCs”) taxed as corporations or partnerships for income tax purposes and all corporations) are required to obtain an EIN.¹⁶ Disregarded entities (*e.g.*, LLCs with one member and no entity classification election in effect (an “**Entity Classification Election**”),¹⁷ and qualified subchapter S subsidiary entities) are not always required to obtain an EIN, although they must if they have any employees or if they are required to file certain excise tax forms, and may elect to obtain an EIN for certain practical purposes (*e.g.*, banking).¹⁸

In the business lifecycle, entities may encounter circumstances where it must determine if it must obtain a new EIN. While not entirely clear, if an entity is able to retain its EIN after the types of corporate reorganizations discussed herein, there is no official “process” to notify the IRS that it intends to retain its EIN. In this Author’s experience, if a letter from the IRS is required to confirm the resulting entity’s EIN after a corporation reorganization (*i.e.*, for the IRS

¹² IRC Section 6011(b).

¹³ IRC Section 6109(a)(1).

¹⁴ IRC Section 6109(c).

¹⁵ Treasury Regulation Section 301.6109-1(a)(1)(ii)(C). The IRS has issued rulings confirming this broad authority vested with the Secretary of the IRS, including Revenue Ruling 73-526 (Situation 3) and Revenue Ruling 2008-18.

¹⁶ IRC Section 6109(a)(1).

¹⁷ An Entity Classification Election is made on Form 8832, *Entity Classification Election*, and generally permits eligible entities (*e.g.*, LLCs) to elect its income tax classification. An Entity Classification Election may also be deemed to occur without filing Form 8832. See Treasury Regulation Section 301.7701-3(c)(1)(v). There are various restrictions on Entity Classification Elections which are beyond the scope of this Paper.

¹⁸ See IRS Website entitled, “Single Member Limited Liability Companies,” last reviewed or updated 08-19-2022, at <https://www.irs.gov/businesses/small-businesses-self-employed/single-member-limited-liability-companies#:~:text=An%20LLC%20will%20need%20an,Application%20for%20Employer%20Identification%20Number>.

to produce and send an EIN Verification Letter (147C)),¹⁹ the IRS must process a simple name change, at which time the IRS can provide the IRS Verification Letter (147C). Thereafter, the entity will report what occurred (from a tax standpoint) on their timely filed tax returns.

B. Common Entity Reorganizations.

It is very common for an entity to undergo state-level reorganizations for a variety of non-tax reasons, both simple and very complex. This Paper will focus on two very simple reorganizations whereby this Author is requesting clarification, additional guidance, and ideally a new process for “transferring” an EIN: (1) Entity Conversions (as defined below); and (2) Entity Mergers (as defined below).

1. Entity Conversions.

Generally, for purposes of this Paper, an entity conversion is the legal process of “converting” an existing business from one legal form to another legal form pursuant to state law (*e.g.*, converting from a California corporation into a California LLC, or converting from a California LLC to a Delaware corporation) (an “**Entity Conversion**”). An entity can generally undergo an Entity Conversion if the state jurisdictions involved have a statute enabling such conversion (an “**Enabling Statute**”). Additionally, certain states permit an entity to relocate from one state to another, sometimes referred to as a “**Domestication**” instead of a conversion. Generally speaking, a Domestication is not a change in the legal form of the entity and is similar to an Entity Conversion because it does not require formation of a new entity before undergoing a Domestication (as is required for an Entity Merger, as defined below).

Not all states permit all Entity Conversions. For example, until January 1, 2023, the State of California did not permit a California corporation from converting into a non-California entity (*e.g.*, a Delaware corporation or Delaware LLC).²⁰ If there is no Enabling Statute and there is a business need for an entity to be “converted” to an entity pursuant to another jurisdiction, steps other than a direct Entity Conversion may need to take place. For example, prior to January 1, 2023, if California corporation needed to “convert” into a Delaware corporation, such California corporation had two general options: (1) convert the California corporation into a California LLC and thereafter convert the California LLC into a Delaware corporation;²¹ or (2) form a new Delaware corporation and merge the California corporation with and into the Delaware corporation, with the Delaware corporation surviving.

¹⁹ Attached hereto as “**Exhibit E**” is a redacted example of IRS LTR 147C.

²⁰ As of January 1, 2023, the State of California effectuated an Enabling Statute to permit such conversions to a foreign jurisdiction. *See* California Corporations Code Section 1152, which was amended effective as of January 1, 2023 to allow outbound conversions.

²¹ This type of “workaround” creates tax issues that must be addressed by practitioners. If a “two-step conversion” like this is needed to accomplish the business needs of the entity, the entity likely needs to file Form 8832, Entity Classification Election, to elect that the entity be taxable as an association taxable as a corporation in order for the entity to continue to be taxed as a corporation during the limited number of days that the entity is an LLC for state law purposes. Without such an election, the default entity classification rules would result in the Entity Conversion being treated a taxable liquidation. *See* Treasury Regulation 301.7701-3(g).

If the applicable jurisdictions have Enabling Statutes allowing an Entity Conversion, the process for effectuating an Entity Conversion is different in each state. For example, for an Entity Conversion where the resulting entity is a Delaware LLC, the Delaware Secretary of State requires that the entity file a Delaware form Certificate of Conversion and a Delaware form Certificate of Formation. Similarly, for an Entity Conversion where the resulting entity is a Delaware corporation, the Delaware Secretary of State requires that the entity file a Delaware form Certificate of Conversion and a Delaware form Certificate of Incorporation. An example of the documents required by the State of Delaware for such conversions are attached hereto as Exhibit F.

An Entity Conversion can trigger income tax consequences. For example, if a state-law corporation (C corporation or S corporation) converts to a multiple-member LLC and does not otherwise make an Entity Classification Election to be taxed as a corporation for income tax purposes, the Entity Conversion is treated as if the corporation distributed all of its assets and liabilities to its shareholders in liquidation of the corporation, and immediately thereafter, the shareholders contribute all of the distributed assets and liability to a newly formed partnership.²²

On the other hand, an Entity Conversion can be a tax-neutral event. For example, if a California corporation converts into a Delaware corporation, this is considered a tax-free reorganization.²³

2. *Entity Mergers.*

The second common entity reorganization addressed herein is a merger of two entities (an “**Entity Merger**”). An Entity Merger is when two entities combine into one legal entity. The “**Surviving Entity**” in the merger assumes all assets, rights, and liabilities of the “**Extinguished Entity**,” which ceases to exist. An Entity Merger can be completed on a tax-free basis²⁴ or can be taxed as the taxable sale of assets,²⁵ depending on the circumstances. Similar to an Entity Conversion, an Entity Merger is governed by the laws of the states of formation of the entities involved in the Entity Merger.

Entity Mergers can involve a Surviving Entity that has historic operations, assets, liabilities, etc., but often the Surviving Entity is created for the sole purpose of effectuating the Entity Merger. As discussed above, an Entity Merger may also take place in lieu of an Entity Conversion in the event there is no Enabling Statute available.

²² See Treasury Regulation 301.7701-3(g)(1)(ii); IRS Nondocketed Advice, 2002 IRS NSAR 20150 (April 19, 2002).

²³ See IRC Section 368(a)(1)(F).

²⁴ See, e.g., IRC Section 368(a)(1)(A).

²⁵ See, e.g., Rev. Rul. 69-6.

C. Non-Tax Reasons for Entity Conversions and Entity Mergers and Retention of EINs.

There are numerous reasons for undergoing an Entity Conversion or Entity Merger in an entity reorganization, often completely unrelated to taxes. For example, there are many institutional investors that will require an entity become a Delaware C corporation before they are willing to invest. As a result, a California C corporation may need to undergo an Entity Conversion or Entity Merger to accommodate this request. Alternatively, shareholders or the principal place of business of an entity may move to a new jurisdiction, making it impractical or unduly burdensome to remain formed, and file state-level tax returns, in the former jurisdiction.

After an Entity Conversion or Entity Merger, it may be absolutely vital to the operation of the business that the EIN remains the same for non-tax purposes. Notably, maintaining an EIN does not avail the entity to any tax savings; this is a purely administrative issue.²⁶ Practical reasons for keeping the same EIN include, but are not limited to:

1. State filing purposes (tax and otherwise). Often times, states and local municipalities utilize an entity's EIN for identification purposes of non-federal tax returns. Without crystal-clear guidance on these issues, a state may be the party contending that an entity must obtain a new EIN rather than the IRS. Other than state-level income tax returns, other significant examples are employment/payroll tax returns and sales tax returns, which can be rejected if there is confusion whether an entity can retain its EIN.

2. Banking purposes. A business with financial accounts, indebtedness, or other bank/financial relationships could be substantially affected if their banking and financial relationships contain incorrect EINs that need to be updated.²⁷

3. Various licenses, credentials, or contracts. Often times, different licensing agencies or companies also incorporate an entity's EIN for identification purposes. For example, an entity's registration with the state Department of Motor Vehicles could be dependent on the entity's EIN, or a healthcare company's EIN could be relevant in credentials with insurance companies or state-level healthcare agencies. In extreme situations, an unexpected change in an entity's EIN could quite literally force a business to close while they update/reapply for licenses.

II. IRS GUIDANCE REGARDING THE ABILITY OF AN ENTITY TO RETAIN ITS EIN AFTER AN ENTITY CONVERSIONS OR ENTITY MERGERS.

As discussed above, the IRS has three (3) primary sources of IRS Guidance intended to help an entity determine whether it needs to obtain a new EIN, including the IRS Website,

²⁶ Although not entirely clear to this Author, it is logical that clear instructions regarding whether an entity may retain its EIN would also help the IRS to track and enforce relevant tax laws. If, for example, after an Entity Conversion or Entity Merger, the resulting entity applied for a new EIN when it did not necessarily desire to or need to, the IRS may need to take affirmative steps to link the prior EIN and new EIN.

²⁷ In this Author's experience, banks often struggle to understand some of the nuances here (e.g., a single member LLC is disregarded for income tax purposes but has a separate EIN for banking purposes). It is even more difficult for the bank to understand, for example, why an entity's EIN has changed (as a result of an Entity Conversion or Entity Merger).

Publication 1635, and the IRM. There are also other sources of IRS guidance, some examples of which are discussed below.

A. The IRS Website.

If a taxpayer undergoes an internet search to try and determine whether an entity requires a new EIN, the IRS Website will undoubtedly be the most accessible resource. The following sections of the IRS Website are most relevant to a taxpayer's determination of whether a new EIN will be needed in the context of an Entity Conversion or Entity Merger:

“Corporations

*You **will be** required to obtain a new EIN if any of the following statements are true.*

- *A corporation receives a new charter from the secretary of state.*
- *You are a subsidiary of a corporation using the parent's EIN or you become a subsidiary of a corporation.*
- *You change to a partnership or a sole proprietorship.*
- *A new corporation is created after a statutory merger.*

*You **will not** be required to obtain a new EIN if any of the following statements are true.*

- *You are a division of a corporation.*
- *The surviving corporation uses the existing EIN after a corporate merger.*
- *A corporation declares bankruptcy.*
- *The corporate name or location changes.*
- *A corporation chooses to be taxed as an S corporation.*
- *Reorganization of a corporation changes only the identity or place.*
- *Conversion at the state level with business structure remaining unchanged.*

Partnerships

*You **will be** required to obtain a new EIN if any of the following statements are true.*

- *You incorporate.*
- *Your partnership is taken over by one of the partners and is operated as a sole proprietorship.*
- *You end an old partnership and begin a new one.*

*You **will not** be required to obtain a new EIN if any of the following statements are true.*

- *The partnership declares bankruptcy.*
- *The partnership name changes.*

- *You change the location of the partnership or add other locations.*
- *A new partnership is formed as a result of the termination of a partnership under IRC section 708(b)(1)(B).*
- *50 percent or more of the ownership of the partnership (measured by interests in capital and profits) changes hands within a twelve-month period (terminated partnerships under Reg. 301.6109-1)."*

While the above may be very helpful for newly formed entities, it is this Author's view that as applied to Entity Conversions and Entity Mergers, some of the quoted bullet points are a bit contradictory and confusing. For example:

1. According to the IRS Website, a Corporation must obtain a new EIN if it "*receives a new charter from the secretary of state.*" Many state jurisdictions require the filing of a certificate of incorporation or articles of incorporation in connection with an Entity Conversion.²⁸ What if the entity "*maintains the same structure (officers, employees, type of business)?*"²⁹ The disjointed IRS Guidance creates confusion as to whether a new EIN is required.

2. According to the IRS Website, a Corporation must obtain a new EIN if "a new corporation is created after a statutory merger." This does not appear to be accurate in all scenarios, because no new EIN is required in the event of a merger resulting in a reorganization pursuant to IRC Section 368(a)(1)(F) as specifically stated in IRS guidance.³⁰ Furthermore, as discussed in the .27 IRM, it appears this should also not apply if the entity "maintains the same structure (officers, employees, type of business)." In fact, where the Surviving Entity does not already have an EIN, it is unclear to this Author under which circumstances an entity should not be able to retain its EIN after an Entity Merger, although this is not explicitly addressed in the IRS Guidance.

3. According to the IRS Website, an LLC taxed as a partnership must obtain a new EIN if it incorporates. (Because LLCs are a creature of state law, LLCs taxed as partnerships must look to the Partnerships section of the IRS Website.) As discussed above, in the event of an Entity Conversion, the state jurisdiction of the resulting entity may require the filing of a certificate or articles of incorporation. This also creates confusion as to whether a new EIN is required in light of the remaining IRS Guidance.

As discussed below, this Author's first proposal is to update the above quoted language on the IRS Website.

B. Publication 1635.

One additional source of guidance regarding EINs and whether an entity must obtain a new EIN is Publication 1635. Publication 1635 is not as easily found on the IRS Website

²⁸ See, e.g., the required conversion documents for the State of Delaware, attached hereto as "**Exhibit E.**"

²⁹ The .27 IRM.

³⁰ See, e.g., Rev. Rul. 73-256; Internal Revenue Manual at Part 3.13.2.8.2(6) (01-01-2023).

and has not been updated since February 2014. Notably, information reflected on the IRS Website is similar to information contained in Publication 1635.

In this Author's view, Publication 1635 does not offer additional guidance as to whether an entity must obtain a new EIN after an Entity Conversion or an Entity Merger, although it does provide very helpful guidance regarding other legal entities which may require an EIN (and which are outside the scope of this Paper). While this Author believes updating Publication 1635 would be helpful, this Author is sympathetic to the undertaking such an update may be.

C. IRM.

Likely the most instructive IRS guidance regarding the issue of whether an entity is required to obtain a new EIN is the IRM. The IRM is also the least accessible to taxpayers of the IRS Guidance.

The IRM is not intended, as its primary purpose, to provide guidance to taxpayers. Rather, the IRM (broadly) serves as "the primary, official compilation of instructions to [IRS] staff that relate to the administration and operation of the IRS."³¹ The IRM is extremely helpful in determining whether an entity may retain its EIN after an Entity Conversion, although it sometimes appears to contradict with the IRS Website and Publication 1635. The .27 IRM also contains some apparently helpful but cryptic instructions when an Entity Conversion is not possible, and this Author's second proposal below is guidance in this regard.

1. IRM at part 3.13.2.26(12) (04-29-2022).

The .26 IRM provides a chart instructing IRS agents on the circumstances in which an entity may retain its EIN. It is in a very helpful format and addresses Entity Conversions in all apparent scenarios. An example of the IRM is as follows:

<i>If...</i>	<i>And...</i>	<i>Then...</i>
...
<i>F) A corporation files Papers with the state to convert to an LLC,</i>	<i>1) Wishes to use the same EIN assigned to them as a corporation for their LLC and default to the classification of partnership,</i>	<i>A. Secure documentation of the state conversion before updating the EIN.</i> <i>B. Update the EIN before processing Form 8832. See IRM 3.13.2.27.13, State Reorganization/Conversion.³²</i>
...

³¹ See Internal Revenue Manual at Part 1.11.2.2 (08-12-2021), *IRM Standards*.

³² IRM 3.13.2.27.13, which is discussed further below, discusses a "dummy" Form 8832 in this scenario.

The IRM has similar guidance for a variety of other Entity Conversion scenarios, which apparently reflect an intent of the IRS to broadly permit entities to retain their EIN after an Entity Conversion.

2. *IRM at part 3.13.2.27.13 (01-03-2022).*

The .27 IRM contains some very broad language which appears to grant substantial latitude in an entity retaining its EIN, as follows:

“If an Entity reorganizes/converts at the state level and maintains the same structure (officers, employees, type of business), the entity may retain their EIN. Follow guidelines listed below:

...

Note:

If the state does not allow conversions and requires the entity to re-register, the taxpayer is allowed to keep their EIN if it maintains the same structure. The taxpayer must submit a signed statement stating they have converted with the state.”

The above quoted language appears to broadly state that an entity may retain its EIN in the event of any Entity Conversion or Entity Merger (even though it uses the terms “reorganizes/converts”), and especially in a situation whereby an Entity Conversion is not possible because a state does not have an Enabling Statute. That being said, much of the above language is vague and requires clarity. For example:

1. What does it mean for an entity to “*reorganize/convert at the state level?*” Does this include an Entity Merger? Is there any other hypothetical situation that this could apply to other than an Entity Conversion or Entity Merger?

2. What does it mean for an entity to “*maintain the same structure (officers, employees, type of business)?*” Notably, this language does not state that the entity must maintain the same tax classification or ownership, indicating that perhaps every state-level reorganization by way of an Entity Conversion or Entity Merger should not require a new EIN.

3. What does it mean for an entity to be required to “re-register?” Does that include an Entity Merger?

As discussed below, this Author’s second proposal is that the above language be clarified and incorporated into the IRS Website.

D. Additional IRS Authority.

There are other pieces of guidance which apparently modify (and likely supersede as stronger authority) the above discussed IRS Guidance.

1. Reorganizations Pursuant to IRC Section 368(a)(1)(F).

In the event a *corporate* (for income tax purposes) reorganization that is considered a “mere change in identity, form, or place of organization of one corporation, however effected,” it appears clear that the entity may retain its EIN.³³

2. Corporate Conversions.

Other authority exists supporting that, in the event of an Entity Conversion, the resulting entity (even if taxable differently from the predecessor entity) should be entitled to retain its EIN in the same way that an entity is permitted to retain its EIN and viewed as if an entity classification election was made pursuant to Treasury Regulation Section 301.7701-3.³⁴

3. Name Changes.

The Business Name Change Website contains two sentences as follows:

“In some situations, a name change may require a new Employer Identification Number (EIN) or a final return. See Publication 1635, Understanding Your EIN, to make this determination.”

It is unclear to this Author what this is referring to. Publication 1635 does not describe any situation whereby a name change could require a new EIN. As discussed below, this Author’s third proposal is that this section be deleted.

III. PROPOSALS.

A. Proposal 1: The IRS Should Update the IRS Website Regarding EINs for Corporations and Partnerships as Reflected Herein.

The above quoted language on the IRS Website is confusing when attempting to apply a real-life situation.

As a result, this Author proposes the following updates to the IRS website:

“Corporations

~~*You will be required to obtain a new EIN if any of the following statements are true.*~~

³³ See Rev. Rul. 73-256; IRM at part 3.13.2.8.2(6) (01-01-2023).

³⁴ See, e.g., Rev. Rul. 2004-59; 2002 IRS Nondocketed Service Advice Review 20150 (April 19, 2002); and PLR 200528021 (Apr. 8, 2005).

- ~~A corporation receives a new charter from the secretary of state.~~
- ~~You are a subsidiary of a corporation using the parent's EIN or you become a subsidiary of a corporation.~~
- ~~You change to a partnership or a sole proprietorship.~~
- ~~A new corporation is created after a statutory merger.~~

Generally, every new corporation is required to obtain an EIN. A corporation is ~~not~~ **not** required to obtain a new EIN if any of the following statements are true.

- You are a division of a corporation.
- ~~The surviving corporation uses the existing EIN after a corporate merger.~~
- A corporation declares bankruptcy.
- The corporate name or location changes.
- A corporation ~~chooses~~ **elects** to be taxed as an S corporation.
- ~~Reorganization of a corporation changes only the identity or place.~~
- ~~Conversion at the state level with business structure remaining unchanged.~~
- A corporation converts, domesticates, or merges into another entity in a situation described below under the heading, "Formless Conversions, Domestications, and Entity Mergers."

Partnerships

~~You **will** be required to obtain a new EIN if any of the following statements are true.~~

- ~~You incorporate.~~
- ~~Your partnership is taken over by one of the partners and is operated as a sole proprietorship.~~
- ~~You end an old partnership and begin a new one.~~

Generally, every new partnership is required to obtain an EIN. A partnership is ~~You **will** not be~~ required to obtain a new EIN if any of the following statements are true.

- The partnership declares bankruptcy.
- The partnership name changes.
- You change the location of the partnership or add other locations.
- A new partnership is formed as a result of the termination of a partnership under IRC section 708(b)(1)(B).
- 50 percent or more of the ownership of the partnership (measured by interests in capital and profits) changes hands within a twelve-month period (terminated partnerships under Reg. 301.6109-1).
- A partnership converts, domesticates, or merges into another entity in a situation described below under the heading, "Formless Conversions, Domestications, and Entity Mergers."

Formless Conversions and Entity Mergers

The following guidance applies to every corporation, partnership, and LLC (regardless of whether such LLC is taxed as a corporation, a partnership, or a disregarded entity) that reorganizes by filing paperwork with any state's Secretary of State:

- If any corporation, partnership, or LLC converts into a corporation, partnership, or LLC by way of any state's formless conversion statute, the resulting entity (whether a corporation, partnership, or LLC) after such conversion may retain the EIN assigned to the entity prior to such conversion, regardless of the tax consequences of such conversion.
- If any corporation, partnership, or LLC domesticates pursuant to state law, meaning such corporation, partnership, or LLC changes its state of formation pursuant to applicable state law, the resulting entity (whether a corporation, partnership, or LLC) after such domestication may retain the EIN assigned to the entity prior to such domestication, regardless of the tax consequences of such domestication.
- If any corporation, partnership, or LLC merges into a newly-formed entity pursuant to state law, meaning that a new corporation, partnership, or LLC is formed for the purpose of a merger and does not obtain a new EIN, and the prior corporation, partnership, or LLC merges with and into the new corporation, partnership, or LLC with the new corporation, partnership, or LLC surviving, the resulting entity after such merger may retain the EIN assigned to the entity prior to the merger, regardless of the tax consequences of such merger.”

A “clean” version of the above recommended changes is attached hereto as **“Exhibit G.”**

This Author believes these changes will be extremely helpful to practitioners and non-professional taxpayers alike.

B. Proposal 2: The IRS Should Clarify the Meaning of IRM part 3.13.2.27.13 (01-03-2022) and Publish Any Instructive Language on the IRS Website.

The .27 IRM apparently stands for the proposition that an entity may retain its EIN after *any* Entity Conversion or Entity Merger so long as the entity maintains the same structure, defined as maintaining the same “officers, employees, and type of business.”

This Author proposes that this language be (1) clarified and (2) posted to the IRS Website.³⁵ Together with the changes to the IRS Website, this change would be very helpful to practitioners and non-professional taxpayers.

³⁵ This Author recommends publishing any helpful information to the IRS website because the IRM is not easily accessible to average taxpayers.

Specifically, this Author proposes that the .27 IRM be updated as follows:

“For clarification, if an Entity reorganizes with one or more State secretaries of state, including by way of a state-level conversion, domestication, or merger, and the resulting entity was not previously assigned an EIN, the resulting entity may retain the EIN of the pre-reorganization entity.”

This Author believes the above change would not be necessary if Proposal 1 is accepted by the IRS.

C. Proposal 3: The IRS Should Delete Erroneous Language from the Business Name Change Website.

On the Business Name Change Website, this Author believes there is erroneous and confusing language related to EINs which should be deleted. Specifically, it states:

“In some situations, a name change may require a new Employer Identification Number (EIN) or a final return. See Publication 1635, Understanding your EIN, to make this determination.”

As discussed above, Publication 1635 does not discuss any situation that a name change could require a new EIN. This Author proposes that this language be deleted in its entirety.

D. Proposal 4: The IRS Should Create a Simplified Process for Taxpayer to Notify the IRS of Such Entity Reorganization and Retention of EIN.

It is not entirely clear how taxpayers should request that the IRS’ systems be updated to reflect an Entity Conversion or Entity Merger and the intention to retain the historical EIN of the predecessor entity. While this may appear unnecessary in certain situations, taxpayers often need to show state or local taxing authorities, banks, or others that the entity is permitted to retain its EIN after an Entity Conversion or Entity Merger. Specifically, entities will often need an EIN Verification Letter (147C).

It is this Author’s understanding that if an entity desires to notify the IRS of a name change, the IRS would currently recommend that the taxpayer draft a letter notifying the IRS of the name change. This process, including the IRS’ response, can take months, and without clear guidance from the IRS that an entity may retain its EIN after an Entity Conversion or Entity Merger, the simple act of writing a letter to the IRS is not sufficient for parties that are uncertain as to whether an entity may retain its EIN after an Entity Conversion or Entity Merger.

Specifically, this Author proposes that the IRS consider a very simple, 1-page form that can be used by entities after a reorganization (e.g., by way of an Entity Conversion, Entity Merger, or domestication). The IRS could limit the use of such form to very straight-forward cases where an entity is retaining its EIN (e.g., an Entity Conversion or Entity Merger), and the form could provide that it is effective when filed.

IV. EXAMPLE FROM PRIVATE PRACTICE.

The need for the additional guidance requested by this Paper can be exemplified from the following situation from private practice.

On date X, “**Buyer**” purchased 100% of the stock of “**Company**,” a corporation formed in “**State**.” Shortly after Date X, Buyer desired to convert Company from a State corporation to a Delaware LLC. Buyer paid 100% of the taxes associated with the transaction and the resulting liquidation caused by the conversion (for tax purposes).

Unfortunately, State does not have an Enabling Statute permitting an Entity Conversion of Company from a State corporation into a Delaware LLC. As a result, the “reorganization” occurred by way of an Entity Merger instead of an Entity Conversion (*i.e.*, a “**Surviving LLC**” was created in Delaware for the sole purposes of completing the Entity Merger, and the Company was merged with into the Surviving LLC with the Surviving LLC surviving). After the Entity Merger, the Surviving LLC maintained the same structure (*i.e.*, 100% of the same officers, employees, and type of business) (the “**Reorganization**”).

When reviewing the IRS Guidance, it is not entirely clear whether the Surviving LLC can retain the EIN of the Company after the Reorganization, in large part because of the apparent inconsistencies in the IRS Guidance (including as discussed in this Paper). The Surviving LLC noted that the .27 IRM indicates that the Surviving LLC should be able to retain its EIN. As a result, the Surviving LLC decided to attempt to retain the historic EIN of the Company for the Surviving LLC, because changing the EIN would have caused significant business issues.

Approximately forty-five (45) days after the effective date of the Reorganization, the Company attempted to file state income tax returns in State. State notified the Surviving LLC that “the account was merged and now must obtain a new Tax Identification Number.” Of course, although one would think it is a determination of the IRS as to whether the Surviving Entity may retain its EIN, it quickly turned into a conflict directly with State, who was requiring a new EIN or an EIN Verification Letter (147C) for the Company to be able to file its tax returns and make payments to its account.

The Surviving LLC received similar rejections in two (2) other states (for a total of three states), both for sales tax filing obligations, payroll tax return purposes, and state-level income tax return purposes. The Surviving LLC was also having estimated tax payments rejected because their “tax accounts” with such jurisdictions were marked as “closed.” Furthermore, Surviving LLC was unable to provide timely complete and accurate W-2s to its employees.

The Surviving LLC sent a letter requesting that the IRS system be updated and on EIN Verification Letter (147C) be issued. The Surviving LLC called the IRS at least 15 times over the next six (6) months without success.

Finally, as a matter of last resort, the Surviving LLC requested the assistance of the Taxpayer Advocate Service (“**TAS**”). The TAS Case Advocate was able to have the IRS system updated reflecting the name change approximately six (6) weeks later.

Overall, this issue cost the Surviving Entity tens of thousands of dollars in lost productivity and professional advisor costs. This situation would have been avoided if the proposals reflected in this Paper were adopted by the IRS.

EXHIBIT A

The IRS Website (“Do You Need a New EIN?”), last updated or revised on 03-17-2023

(4 pages)

EXHIBIT B

**IRS Publication 1635, “*Employer Identification Number, Understanding your EIN*” (Revised
02-2014)**

(36 pages)

EXHIBIT C

IRM Part 3.13.2.26(12) (04-29-2022) and IRM Part 3.13.2.27.13 (01-03-2022)

(19 pages)

EXHIBIT D

Business Name Change Website

(2 pages)

EXHIBIT E

Example IRS LTR 147C

(2 pages)

EXHIBIT F

**Delaware Required Conversion Documents When the Resulting Entity is a Delaware LLC
and When the Resulting Entity is a Delaware Corporation**

(6 pages)

EXHIBIT G

Clean Version of Proposed Updates to IRS Website

“Corporations

*Generally, every new corporation is required to obtain an EIN. A corporation is **not** required to obtain a new EIN if any of the following statements are true.*

- *You are a division of a corporation.*
- *A corporation declares bankruptcy.*
- *The corporate name or location changes.*
- *A corporation elects to be taxed as an S corporation.*
- *A corporation converts, domesticates, or merges into another entity in a situation described below under the heading, “Formless Conversions, Domestications, and Entity Mergers.”*

Partnerships

*Generally, every new partnership is required to obtain an EIN. A partnership is **not** required to obtain a new EIN if any of the following statements are true.*

- *The partnership declares bankruptcy.*
- *The partnership name changes.*
- *You change the location of the partnership or add other locations.*
- *A new partnership is formed as a result of the termination of a partnership under IRC section 708(b)(1)(B).*
- *50 percent or more of the ownership of the partnership (measured by interests in capital and profits) changes hands within a twelve-month period (terminated partnerships under Reg. 301.6109-1).*
- *A partnership converts, domesticates, or merges into another entity in a situation described below under the heading, “Formless Conversions, Domestications, and Entity Mergers.”*

Formless Conversions and Entity Mergers

The following guidance applies to every corporation, partnership, and LLC (regardless of whether such LLC is taxed as a corporation, a partnership, or a disregarded entity) that reorganizes by filing paperwork with any state’s Secretary of State:

- *If any corporation, partnership, or LLC converts into a corporation, partnership, or LLC by way of any state’s formless conversion statute, the resulting entity (whether a corporation, partnership, or LLC) after such conversion may retain the EIN assigned to the entity prior to such conversion, regardless of the tax consequences of such conversion.*

- *If any corporation, partnership, or LLC domesticates pursuant to state law, meaning such corporation, partnership, or LLC changes its state of formation pursuant to applicable state law, the resulting entity (whether a corporation, partnership, or LLC) after such domestication may retain the EIN assigned to the entity prior to such domestication, regardless of the tax consequences of such domestication.*
- *If any corporation, partnership, or LLC merges into a newly-formed entity pursuant to state law, meaning that a new corporation, partnership, or LLC is formed for the purpose of a merger and does not obtain a new EIN, and the prior corporation, partnership, or LLC merges with and into the new corporation, partnership, or LLC with the new corporation, partnership, or LLC surviving, the resulting entity after such merger may retain the EIN assigned to the entity prior to the merger, regardless of the tax consequences of such merger.”*



Do You Need a New EIN?

Generally, businesses need a new EIN when their ownership or structure has changed. Although changing the name of your business does not require you to obtain a new EIN, you may wish to visit the [Business Name Change](#) page to find out what actions are required if you change the name of your business. The information below provides answers to frequently asked questions about changing your EIN. If, after reading the information below, you find that you need an EIN, please see [How to Apply for an EIN](#).

Sole Proprietors

You **will be** required to obtain a new EIN if any of the following statements are true.

- You are subject to a bankruptcy proceeding.
- You incorporate.
- You take in partners and operate as a partnership.
- You purchase or inherit an existing business that you operate as a sole proprietorship.

You **will not** be required to obtain a new EIN if any of the following statements are true.

- You change the name of your business.
- You change your location and/or add other locations.
- You operate multiple businesses.

Corporations

You **will be** required to obtain a new EIN if any of the following statements are true.

- A corporation receives a new charter from the secretary of state.
- You are a subsidiary of a corporation using the parent's EIN or you become a subsidiary of a corporation.
- You change to a partnership or a sole proprietorship.
- A new corporation is created after a statutory merger.

You **will not** be required to obtain a new EIN if any of the following statements are true.

- You are a division of a corporation.

Related Topics

- [Employer ID Numbers](#)

Forms & Publications

- [About Publication 15, \(Circular E\), Employer's Tax Guide](#)
- [About Publication 15-A, Employer's Supplemental Tax Guide, \(Supplement to Pub. 15, Employer's Tax Guide\)](#)
- [About Publication 334, Tax Guide for Small Business \(For Individuals Who Use Schedule C\)](#)
- [About Publication 541, Partnerships](#)
- [About Publication 542, Corporations](#)
- [About Publication 559, Survivors, Executors and Administrators](#)

- The surviving corporation uses the existing EIN after a corporate merger.
- A corporation declares bankruptcy.
- The corporate name or location changes.
- A corporation chooses to be taxed as an S corporation.
- Reorganization of a corporation changes only the identity or place.
- Conversion at the state level with business structure remaining unchanged.

- [0214 Publ 1635 \(PDF\)](#)

[PDF](#)

Partnerships

You **will be** required to obtain a new EIN if any of the following statements are true.

- You incorporate.
- Your partnership is taken over by one of the partners and is operated as a sole proprietorship.
- You end an old partnership and begin a new one.

You **will not** be required to obtain a new EIN if any of the following statements are true.

- The partnership declares bankruptcy.
- The partnership name changes.
- You change the location of the partnership or add other locations.
- A new partnership is formed as a result of the termination of a partnership under IRC section 708(b)(1)(B).
- 50 percent or more of the ownership of the partnership (measured by interests in capital and profits) changes hands within a twelve-month period (terminated partnerships under Reg. 301.6109-1).

Limited Liability Company (LLC)

An LLC is an entity created by state statute. The IRS did not create a new tax classification for the LLC when it was created by the states; instead IRS uses the tax entity classifications it has always had for business taxpayers: corporation, partnership, or disregarded as an entity separate from its owner, referred to as a “disregarded entity.” An LLC is always classified by the IRS as one of these types of taxable entities. If a “disregarded entity” is owned by an individual, it is treated as a sole proprietor. If the “disregarded entity” is owned by any other entity, it is treated as a branch or division of its owner.

Changes affecting Single Member LLCs with Employees

For wages paid on or after January 1, 2009, single member/single owner LLCs that have not elected to be treated as corporations may be required to change the way they report and pay federal employment taxes and wage payments and certain federal excise taxes. On Aug. 16, 2007, changes to [Treasury Regulation Section 301.7701-2](#) were issued. The new regulations state that the LLC, not its single owner, will be responsible for filing and paying all employment taxes on wages paid S

on or after January 1, 2009. These regulations also state that for certain excise taxes, the LLC, not its single owner, will be responsible for liabilities imposed and actions first required or permitted in periods beginning on or after January 1, 2008.

If a single member LLC has been filing and paying employment taxes under the name and EIN of the owner, and no EIN was previously assigned to the LLC, a new EIN will be required for wages paid on or after January 1, 2009. If a single member LLC has been filing and paying excise taxes under the name and EIN of the owner and no EIN was previously assigned to the LLC, a new EIN will be required for certain excise tax liabilities imposed and actions first required or permitted in periods beginning on or after January 1, 2008. The following examples may assist in determining if a new EIN is required:

- If the primary name on the account is John Doe, a new EIN will be required.
- If the primary name on the account is John Doe and the second name line is Doe Plumbing (which was organized as an LLC under state law), a new EIN is required.
- If the primary name on the account is Doe Plumbing LLC, a new EIN will not be required.

You **will be** required to obtain a new EIN if any of the following statements are true.

- A new LLC with more than one owner (Multi-member LLC) is formed under state law.
- A new LLC with one owner (Single Member LLC) is formed under state law and chooses to be taxed as a corporation or an S corporation.
- A new LLC with one owner (Single Member LLC) is formed under state law, and S has an excise tax filing requirement for tax periods beginning on or after January 1, 2008 or an employment tax filing requirement for wages paid on or after January 1, 2009.

You **will not be** required to obtain a new EIN if any of the following statements are true.

- You report income tax as a branch or division of a corporation or other entity, and the LLC has no employees or excise tax liability.
- An existing partnership converts to an LLC classified as a partnership.
- The LLC name or location changes.
- An LLC that already has an EIN chooses to be taxed as a corporation or as an S corporation.
- A new LLC with one owner (single member LLC) is formed under state law, does not choose to be taxed as a corporation or S corporation, and has no employees or excise tax liability. **NOTE:** *You may request an EIN for banking or state tax purposes, but an EIN is not required for federal tax purposes.*

Estates

You **will be** required to obtain a new EIN if any of the following statements are true. S

- A trust is created with funds from the estate (not simply a continuation of the estate).
- You represent an estate that operates a business after the owner's death.

You **will not** be required to obtain a new EIN if any of the following statement is true.

- The administrator, personal representative, or executor changes his/her name or address.

Trusts

You **will be** required to obtain a new EIN if any of the following statements are true.

- One person is the grantor/maker of many trusts.
- A trust changes to an estate.
- A living or intervivos trust changes to a testamentary trust.
- A living trust terminates by distributing its property to a residual trust.

You **will not** be required to obtain a new EIN if any of the following statements are true.

- The trustee changes.
- The grantor or beneficiary changes his/her name or address.

Page Last Reviewed or Updated: 17-Mar-2023 S



EMPLOYER IDENTIFICATION NUMBER

Understanding Your EIN

This publication provides general information on Employer Identification Numbers (EINs). The topics included are:

- *What is an EIN*
- *Information by type of business entity*
- *When you need a new EIN*
- *How to apply for an EIN*
- *How to complete Form SS-4*
- *Where to apply for an EIN*
- *How to avoid common problems*

Table of Contents

What is an EIN?	2
Special Rules Regarding Entity Classification Elections	2
Information by Type of Business Entity	2
Sole Proprietorship	3
Corporation	4
Partnership	5
Estate	7
Trust	7
Employee Plans	9
Exempt Organizations	10
Limited Liability Company (LLC)	12
Employment and Excise Taxes	13
Employment Taxes	13
Excise Taxes	14
How to Apply for an EIN	14
Apply Online	14
Apply by Fax	15
Apply by Mail.....	15
How to Complete Form SS-4, Application for an EIN	15
Sole Proprietor/Individual.....	16
Corporation.....	17
Partnership	19
Trust	20
GNMA POOLS (Governmental National Mortgage Association)	21
Estate.....	22
Plan Administrators	23
Employee Plans	24
Exempt Organizations	25
Bankruptcy (Individual)	27
Bankruptcy (Corporation or Partnership)	28
EFTPS (Electronic Federal Tax Payment System)	28
Where to Apply for an EIN (Mail or Fax):.....	29
Avoiding Common EIN Problems.....	30

What is an EIN?

An Employer Identification Number (EIN) is a nine-digit number that IRS assigns in the following format: XX-XXXXXXX. It is used to identify the tax accounts of employers and certain others who have no employees. However, for employee plans, an alpha (for example, P) or the plan number (e.g., 003) may follow the EIN. The IRS uses the number to identify taxpayers that are required to file various business tax returns. EINs are used by employers, sole proprietors, corporations, partnerships, non-profit associations, trusts, estates of decedents, government agencies, certain individuals, and other business entities. Use your EIN on all of the items that you send to the IRS and the Social Security Administration (SSA).

Caution: An EIN is for use in connection with your business activities only. Do not use your EIN in place of your social security number (SSN).

Effective May 21, 2012, to ensure fair and equitable treatment for all taxpayers, the Internal Revenue Service will limit Employer Identification Number (EIN) issuance to one per responsible party per day. This limitation is applicable to all requests for EINs whether online or by fax or mail. We apologize for any inconvenience this may cause.

You should have only one EIN for the same business entity. If you have more than one EIN and are not sure which one to use, call the Business and Specialty Tax Line at 1-800-829-4933 (TTY/TDD users can call 1-800-829-4059). Provide the numbers that you have, the name and address to which each was assigned, and the address of your main place of business. The IRS will tell you which number to use.

If you do not have your EIN by the time your return is due, write “Applied For” and the date that you applied for it in the space shown for the number.

Special Rules Regarding Entity Classification Elections

There are special rules and procedures for classification elections made on Form 8832, Entity Classification Election. Those rules and procedures are not reflected in this publication. The results explained in this publication may be different when an entity classification election is involved. See the instructions for Form 8832 for further information regarding entity classification elections.

Information by Type of Business Entity

This section contains the following information:

- Definitions of various entity types
- Which forms each entity type may file
- When you need a new EIN
- When you don’t need a new EIN

Sole Proprietorship

Definition

A sole proprietorship is an unincorporated business that is owned by one individual. It is the simplest form of business organization to start and maintain. The business has no existence apart from you, the owner. Its liabilities are your personal liabilities and you undertake the risks of the business for all assets owned, whether or not used in the business. Include the income and expenses of the business on your own tax return. For more information on sole proprietorships, see Publication 334, Tax Guide for Small Businesses. If you are a farmer, see Publication 225, Farmer's Tax Guide.

Form(s):

Business profits or losses of a sole proprietorship are reported on Schedule C, Schedule C-EZ, or Schedule F of Form 1040, U.S. Individual Income Tax Return. A sole proprietor may also be required to file other returns (such as employment or excise tax returns).

You will need a new EIN if any of the following are true:

- You file bankruptcy under Chapter 7 (liquidation) or Chapter 11 (reorganization) of the Bankruptcy Code
- You incorporate
- You are a sole proprietor and take in partners and operate as a partnership
- You are establishing a pension, profit sharing, or retirement plan

You do not need a new EIN if any of the following are true:

- You change the name of your business
- You change your location or add locations (stores, plants, enterprises or branches of the entity)
- You operate multiple businesses (including stores, plants, enterprises or branches of the entity)

Note: If you are a sole proprietor who conducts business as a limited liability company (LLC), you do not need a separate EIN for the LLC, unless you are required to file employment or excise tax returns. A limited liability company is an entity formed under state law by filing articles of organization as an LLC. An LLC owned by one individual is automatically treated as a sole proprietorship for federal income tax purposes (referred to as an entity to be disregarded as separate from its owner). Report the business activities of the LLC on your Form 1040 using a Schedule C, Schedule C-EZ or Schedule F.

Corporation

Definition:

A corporation is defined as a legal entity or structure created under the authority of the laws of a state consisting of a person, or group of persons, who become shareholders. The entity's existence is considered separate and distinct from that of its members. Since a corporation is an entity in its own right, it is liable for its own debts and obligations. In forming a corporation, prospective shareholders transfer money, property, or both, for the corporation's capital stock.

The following businesses formed after 1996 are taxed as corporations:

- A business formed under a federal or state law that refers to it as a corporation, body corporate, or body politic
- A business formed under a state law that refers to it as a joint-stock company or joint-stock association
- An insurance company
- Certain banks
- A business wholly owned by a state or local government
- A business specifically required to be taxed as a corporation by the Internal Revenue Code
- Certain foreign businesses
- Any other business that elects to be taxed as a corporation. For example, a limited liability company (LLC) by filing Form 8832, Entity Classification Election. For more information, see the instructions for Form 8832.

Form(s):

Corporations usually file a Form 1120 series return, plus other returns that apply (such as employment or excise tax returns).

The Form 1120 series returns are as follows:

- Form 1118, Foreign Tax Credit-Corporation
- Form 1120, U.S. Corporation Income Tax Return
- Form 1120-C, U.S. Income Tax Return for Cooperative Associations
- Form 1120-E, U.S. Income Tax Return of a Foreign Corporation
- Form 1120-FSC, U.S. Income Tax Return of a Foreign Sales Corporation
- Form 1120-H, U.S. Income Tax Return for Homeowners Associations
- Form 1120-L, U.S. Life Insurance Company Income Tax Return
- Form 1120-ND, Return for Nuclear Decommissioning Funds and Certain Related Persons
- Form 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return
- Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations
- Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts

- Form 1120-RIC, U.S. Income Tax Return for Regulated Investment Companies
- Form 1120S, U.S. Income Tax Return for an S Corporation
- Form 1120-SF, U.S. Income Tax Return for Designated Settlement Funds (Under section 468B)
- Form 1120-W, Estimated Tax for Corporations
- Form 1120-X, Amended U.S. Corporation Income Tax Return

You will need a new EIN if any of the following are true:

- You are a subsidiary of a corporation and currently use the parent's corporate EIN
- You become a subsidiary of a corporation
- The corporation becomes a partnership or a sole proprietorship
- You create a new corporation after a statutory merger
- You receive a new corporate charter

You will not need a new EIN if any of the following are true:

- You are a division of a corporation
- After a corporate merger, the surviving corporation uses its existing EIN
- A corporation declares bankruptcy. However, if a liquidating trust is established for a corporation that is in bankruptcy, an EIN for that trust is required. See Treasury Reg. § 301.7701-4(d).
- Your business name changes
- You change your location or add locations (stores, plants, enterprises or branches)
- You elect to be taxed as an S Corporation by filing Form 2553
- After a corporate reorganization, you only change identity, form, or place of organization
- The corporation is sold and the assets, liabilities and charters are obtained by the buyer

Partnership

Definition:

A partnership is the relationship existing between two or more persons who join together to carry on a trade or business. Each partner contributes money, property, labor or skill, and expects to share in the profits and losses of the business.

The term 'partnership' includes a limited partnership, syndicate, group, pool, joint venture, or other unincorporated organization, through or by which any business, financial operation, or venture is carried on.

An unincorporated organization with two or more members is generally classified as a partnership for federal tax purposes if its members carry on a trade, business, financial operation, or venture and divide its profits. However, a joint undertaking merely to share expenses is not a partnership. For example, co-ownership of property maintained and rented or leased is not a partnership unless the co-owners provide services to the tenants.

Husband and Wife Businesses – Sole Proprietorship or Partnership?

Many small businesses are operated by husband and wife, without incorporating or creating a formal partnership agreement. A husband and wife business may be a partnership, whether or not a formal partnership agreement is made. However, see the information below regarding legislation designed to reduce taxpayer burden for husband and wife businesses.

The Small Business and Work Opportunity Tax Act of 2007 (Public Law 110-28) provides that for tax years beginning after December 31, 2006, a qualified joint venture conducted by a husband and wife who file a joint return is not rated as a partnership for federal tax purposes. A qualified joint venture, for purposes of this provision, includes only businesses that are owned and operated by spouses as co-owners, and not in the name of a state law entity (including a general or limited liability company).

If a husband and wife materially participate as the only members of a jointly owned and operated business, and file a joint federal income tax return (Form 1040), they can elect for the business to be taxed as a qualified joint venture instead of a partnership. To make the election, all items of income, gain, loss, deduction, and credit must be divided between the spouses, in accordance with each spouse's interests in the venture, and reported on separate Schedules C or F as sole proprietors.

Spouses who meet these qualifications and require EINs should submit separate Forms SS-4 as sole proprietors. Do not apply for a joint EIN as a "Qualified Joint Venture".

Note: If your spouse is your employee, not your partner, you must pay Social Security and Medicare taxes for him or her.

Form(s):

A partnership files Form 1065, U.S. Partnership Return of Income, plus other returns that apply (such as employment or excise tax returns).

You will need a new EIN if any of the following are true:

- You incorporate
- One partner takes over and operates as a sole proprietorship
- The partnership is terminated (no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership) and a new partnership is begun

You do not need a new EIN if any of the following are true:

- The partnership declares bankruptcy. However, if a liquidating trust is established for a partnership that is in bankruptcy, an EIN for that trust is required. See Treasury Reg. § 301.7701-4(d)
- The partnership name changes
- The location of the partnership changes or new locations are added.
- The partnership terminates under IRC Section 708(b)(1)(B). A partnership shall be considered terminated if within a 12-month period there is a sale or exchange of at least 50% of the total interest in partnership capital and profits to another partner. If the purchaser and remaining partners immediately contribute the properties to a new partnership, they can retain the old partnership EIN.

Estate

Definitions:

Estate: An estate is a legal entity created as the result of a person's death. The decedent's estate is a separate legal entity for federal tax purposes. An estate consists of real and/or personal property of the deceased person. The estate pays any debts owed by the decedent and then distributes the balance of the estate's assets to the beneficiaries of the estate. The estate exists until the final distribution of the assets is made to the heirs and other beneficiaries.

Fiduciary: A fiduciary is any person acting in a fiduciary capacity for any other person. A fiduciary for a decedent's estate can be an executor, administrator, personal representative, or person in possession of property of a decedent's estate. The primary duties of the fiduciary are to collect all the decedent's assets, pay the creditors, and distribute the remaining assets to the heirs or other beneficiaries.

Form(s):

- Estates file either Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or
- Form 1041, U.S. Fiduciary Return of Income, plus other returns that apply (such as employment or excise tax returns)

You will need a new EIN if any of the following are true:

- A trust is created with estate funds. Such a trust is not simply a continuation of the estate.
- You represent an estate that operates a business after the owner's death.

You will not need a new EIN if any of the following are true:

- The administrator, personal representative, or executor changes
- The beneficiaries of an estate change

Trust

Definitions

Trust: A trust is an arrangement through which trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts. A trust is a legal entity created under state law and taxed under federal law. A trust may be created during an individual's lifetime (inter vivos) or at the time of his or her death under a will (testamentary). Trusts include guardianships, custodianships, conservatorships, receiverships, escrow accounts, Ginnie Mae (GNMA) and Fannie Mae (FNMA) pools.

Fiduciary/Trustee: A fiduciary is an individual or organization charged with the duty to act for the benefit of another. A trustee is a fiduciary. The trustee obtains legal title to the trust assets and is required to administer the trust on behalf of the beneficiaries according to the express terms and provisions of the trust agreement.

Beneficiary: A beneficiary is a person designated as a recipient of funds or other property under a trust or an estate.

Grantor: The grantor (also known as trustor, settlor, or creator) is the creator of the

trust relationship and is generally the owner of the assets initially contributed to the trust. The grantor generally establishes, in the trust instrument, the terms and provisions of the trust relationship between the grantor, the trustee, and the beneficiary. The grantor may retain control over all or a portion of the trust, which may result in the grantor being subject to tax on the income from that portion of the trust.

Revocable/Irrevocable Trust: An irrevocable trust is a trust, which, by its terms, cannot be modified, amended, or revoked. For tax purposes, an irrevocable trust can be treated as a simple, complex, or grantor trust, depending on the powers listed in the trust instrument. A revocable trust may be revoked and is considered a grantor trust (IRC § 676). State law and the trust instrument establish whether a trust is revocable or irrevocable. If the trust instrument is silent on revocability, then most states consider the trust revocable.

Living Trust: A living person creates an inter vivos trust during that person's lifetime. An inter vivos trust can be established as revocable or irrevocable. An inter vivos trust can be a simple, complex, or grantor trust depending on the trust instrument.

Testamentary Trust: A testamentary trust is created by a will, which begins its existence upon the death of the person making the will, when property is transferred from the decedent's estate. Testamentary trusts are generally simple or complex trusts. A testamentary trust is irrevocable by definition, as it comes into being at the death of the grantor. A "trust under the will" is the same as a testamentary trust.

Conservatorship: A trust, not an estate, which is usually set up for an incompetent person.

Guardianship/Custodianship: A trust usually set up for a minor.

Form(s):

Form 1041 U.S. Fiduciary Return of Income, plus other returns that apply (such as employment tax returns).

You will need a new EIN if any of the following are true:

- A trust changes to an estate
- A living (inter vivos) trust changes to a testamentary trust
- The revocable trust changes to an irrevocable trust

You will not need a new EIN if any of the following are true:

- The trustee changes
- The grantor or beneficiary changes his or her name or address.

Note: Separate EINs are needed if one person is the grantor/maker of multiple trusts. For example, if you have a trust for each of your grandchildren, each trust must have a separate EIN and file a separate tax return. However, a single trust with several beneficiaries requires only one EIN.

Employee Plans

Definitions:

Employee Benefit Plan: An employee benefit plan is a permanent arrangement under which an employer provides retirement or health benefits for employees. Some of these include: cafeteria plans, defined benefit plans, and defined contribution plans. The employer/sponsor and/or the plan administrator file the applicable returns.

Plan Sponsor: The plan sponsor is the entity that establishes and maintains a benefits plan. The plan sponsor is usually an employer, but may also be an employee organization created for the purpose of offering benefits. If the plan is a “multi-employer plan,” the committee or other entity that established the plan is considered the plan sponsor.

Plan Administrator: The plan administrator is the person or company who handles day-to-day details of operating a health benefit or pension plan, such as processing claims for benefits, employer and employee contributions, record-keeping, and reports. The administrator is usually identified in the plan creation documents.

Note: If you are reporting withholding on pension distributions, be sure to be consistent in using the same name and EIN for all reporting and depositing of taxes, i.e. Forms 945, 1099-R, and 8109/EFPS. Filing Form 945 with an incorrect name or EIN or failure to use the same name and EIN in all reporting and depositing of taxes may result in penalties and delays in processing your return.

Form(s):

Employee plans usually file Form 5500 series returns plus other returns that apply (such as employment or excise taxes). The major employee plan forms are listed below.

Note: If the employer/sponsor entity already has an EIN, use that number on all Form 5500 series returns.

- (electronic) Form 5500-SF, Short Form Annual Return/Report of Small Benefit Plan
- Form 5500-C/R, Return/Report of Employee Benefit Plan (with fewer than 100 participants)
- Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Pension Benefit Plan
- Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
- Form 5304-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) (Not Subject to the Designated Financial Institution Rules)
- Form 5305-SEP, Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement
- Form 5305A-SEP, Salary Reduction and Other Elective Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement
- Form 5305-SIMPLE, Savings Incentive Match Plan for Employees of Small

Employers (SIMPLE) (for Use With a Designated Financial Institution)

- Form 5329, Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs
- Form 5330, Return of Excise Taxes Related to Employee Benefit Plans

Note: For more information on employee plans, visit the Retirement Plans Community located on the IRS website at www.irs.gov, or call 1-800-TAX FORM, and ask for Package 5500.

Exempt Organizations

Definitions:

Tax Exempt Organization: A tax exempt organization is a non-profit organization that is exempt from certain taxes because it is described under Section 501 of the Internal Revenue Code. Certain organizations are required to apply to the Internal Revenue Service for a determination letter that grants them formal tax exemption, while other organizations are treated as tax exempt as long as they are organized and operated under an applicable section of the Code.

IRC Section 501(c)(3) Organization: This is an organization that is organized and operated exclusively for one or more of the following purposes: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment), or the prevention of cruelty to animals. To qualify, the organization must be a corporation, community chest, fund, unincorporated association, or foundation. A trust is a fund or foundation and will qualify. However, an individual or a partnership will not qualify.

Organizations not required to apply for formal tax exempt status: Some organizations are treated as tax exempt under IRC Section 501(c)(3) without being required to file Form 1023, provided they are organized and operated appropriately. These include:

- Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or youth group.
- Any organization (other than a private foundation) normally having annual gross-receipts of not more than \$5,000.

Contributions to domestic 501(c)(3) organizations, except organizations testing for public safety, are generally deductible as charitable contributions on the donor's federal income tax return.

Private Foundation vs. Public Charity: Most organizations that are exempt from income tax under IRC Section 501(c)(3) are presumed to be private foundations, unless they notify the Internal Revenue Service within a specified period of time that they are not. In effect, the definition divides organizations into two classes, namely private foundations and public charities. There is an excise tax on the net investment income of most domestic private foundations. In addition, there are several other rules that apply.

See Publication 557 for a chart listing many other categories of exempt organizations.

Organizations seeking formal recognition of their exempt status must generally file one of the applications listed below with the Internal Revenue Service and must pay the required user fee. Requests for exemption under subsections other than 501(c)(3) must include Form 8718, User Fee for Exempt Organization Determination Letter Request. Requests should be sent to the address shown on Form 1023 and on Form 8718. To decide which application form listed below is needed for your organization, refer to Publication 557, Tax-Exempt Status for Your Organization.

- Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code
- Form 1024, Application for Recognition of Exemption Under Section 501(a) for Determination Under Section 120 of the Internal Revenue Code

Note: All non-profit organizations must apply for an EIN before filing for exempt status.

All publications and forms mentioned above are available for download from the IRS website, www.irs.gov, or by calling our toll-free number 1-800-TAX-FORM.

Group Exemption Letter: A group exemption letter is a ruling or determination letter issued to a central organization recognizing, on a group basis, the exemption of subordinate organizations on whose behalf the central organization has applied for recognition of exemption. A central organization is an organization that has one or more subordinates under its control. A subordinate organization is a chapter, local, post, or unit of a central organization.

Public Disclosure of Forms 990: Exempt organization Forms 990 are required to be made available to the public. Procedures for obtaining this information are found in Publication 557, Tax-Exempt Status for Your Organization, and Form 4506A, Request for Public Inspection or Copy of Exempt or Political Organization. In addition, submitted Forms 990-N are made available on the IRS website, www.irs.gov.

Unrelated Business Income: Even though an organization is recognized as tax-exempt, it still may be liable for tax on its unrelated business income. Unrelated business income is income from a trade or business, regularly carried on, that is not substantially related to the charitable, educational, or other purpose that is the basis for the organization's exemption.

Form(s)

Exempt organizations usually file a Form 990 series return plus other returns that apply (such as employment or excise tax returns). The exempt organization forms are listed below:

- Form 990-N, e-Postcard
- Form 990, Return of Organizations Exempt From Income Tax
- Form 990-EZ, Short Form Return of Organization Exempt From Income Tax
- Form 990-BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons
- Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Charitable Trusts Treated as a Private Foundation
- Form 990-T, Exempt Organization Business Income Tax Return

- Form 4720, Return of Certain Excise Taxes on Charities and Other Persons under Chapters 41 and 42 of the Internal Revenue Code
- Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax

Annual information returns: Except for private foundations, which must file Form 990-PF annually regardless of gross receipts, an exempt organization that normally has \$25,000 or more in gross receipts must file an exempt organization information return Form 990, Return of Organization Exempt from Income Tax, whether or not the organization has formal tax exempt status. Most organizations not required to file a Form 990/Form 990-EZ or Form 990-PF are required to submit a Form 990-N, e-Postcard, for tax years that began after December 31, 2006. Organizations exempted from this requirement are listed in Publication 557, Tax Exempt Status for Your Organization. Special filing rules apply to supporting organizations described in IRC section 509(a)(3). These rules can also be found in Publication 557.

Limited Liability Company (LLC)

Definition: A limited liability company (LLC) is an entity formed under state or foreign law by filing articles of organization as an LLC. Unlike a partnership, none of the members of an LLC are personally liable for its debts.

LLC Tax Classification: Treas. Reg. Section 301.7701-3 provides guidance on classification for limited liability companies. Generally, if the business is an unincorporated business entity, and there are two or more owners, the entity can choose to be a partnership or a corporation. If an unincorporated business entity has only one owner, it can either elect to be a corporation or the entity can be disregarded. If an individual owns a disregarded entity, it is treated as a sole proprietorship. If a corporation owns a disregarded entity, it is treated as a division or branch of the corporation. See Form 8832, Entity Classification Election, for more details.

Note: While a single member entity, that does not elect corporate status, will default to a disregarded status for some federal tax purposes, it will not be disregarded for all federal tax purposes. For federal employment taxes (after January 1, 2009) and certain excise taxes (after January 1, 2008) it will be treated as a separate entity.

Single Member LLC:

A single member LLC generally has the following choices:

- (1) File Form 8832 to be taxed as a corporation
 - (2) If qualified, file Form 2553, Election by a Small Business Corporation (Under Section 1362 of the Internal Revenue Code), to be taxed as an S corporation
 - (3) Be taxed (by default) as a disregarded entity
- If the single member is an individual, the LLC will be taxed as a sole proprietorship
 - If the single member is a business entity, the LLC will be taxed as a division of the corporation

Multiple Member LLC:

A multiple member LLC generally has the following choices:

- (1) File Form 8832 to be taxed as a corporation
- (2) If qualified, file Form 2553 to be taxed as an S-Corporation
- (3) Be taxed (by default) as a partnership

Note: A husband and wife, who are owners of an LLC, and share in the profits of such, can file as a single member if they reside in a Community Property State (Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington, or Wisconsin). Publication 555, Community Property, contains additional information on Community Property laws.

If you are organized as a limited liability company and require an EIN, please refer to the instructions for Form SS-4 for information on completing the form or apply online using the Internet EIN application available at www.irs.gov and select "Limited Liability Company" as the type of entity you are establishing.

Employment and Excise Taxes

Employment Taxes

Definition:

If you have one or more employees, you will generally be required to withhold federal income tax from their wages. You also may be subject to social security and Medicare taxes under the Federal Insurance Contributions Act (FICA) and federal unemployment tax under the Federal Unemployment Tax Act (FUTA).

If you are required to report employment taxes or give tax statements to employees or annuitants, you need an employer identification number (EIN).

Form(s):

Social security, Medicare, and withheld income tax are usually reported on Form 941, Employer's QUARTERLY Federal Tax Return. The exceptions are:

- If your employees are agricultural workers, file Form 943, Employer's Annual Tax Return for Agricultural Employees.
- If your yearly employment taxes will be \$1,000 or less (average annual wages of \$4,000 or less) you may file Form 944, Employer's ANNUAL Federal Tax Return, rather than Form 941, Employer's QUARTERLY Federal Tax Return. Do not file Form 944 unless the IRS has notified you of this requirement.
- If your employee(s) does household work in your private, non-farm home (for example, child care, housekeeping, or gardening work) attach Schedule H, Household Employment Taxes, to your Form 1040.

Note: Employers must report and pay required employment taxes for household domestic employees on Schedule H attached to Forms 1040 or 1040A. While withheld amounts no longer have to be deposited on a monthly basis, employers do need an employer identification number (EIN) to include on Form W-2 and Schedule H.

Non-payroll items, including backup withholding and withholding for pensions, annuities, IRAs, and gambling winnings are reported on Form 945, Annual Return of Withheld Federal Income Tax. The return is due January 31 of the following year.

Report Federal Unemployment Tax on Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return.

Excise Taxes

Definition:

Excise tax is a tax on the manufacture, sale, or consumption of a specific commodity. Examples are: fuel taxes, environmental taxes, and communications and air transportation taxes.

Form(s):

Most excise taxes are reported on Form 720, Quarterly Federal Excise Tax Return. Certain excise taxes are reported on different forms and to other organizations. Those excise taxes and forms are:

- Form 2290, Highway Use Tax
- Form 730, Tax on Wagering
- Form 11-C, Occupational Tax Return and Application for Registry-Wagering
- TTB Form 5300.26, Firearms and Ammunition Excise Tax Return, and Special Tax Registration and Return, TTB Form 5630.5

How to Apply for an EIN

You can apply for an EIN online, by fax, or mail depending on how soon you need to use the EIN

Apply Online

Note: This is a free service offered by the Internal Revenue Service at **www.irs.gov**. Beware of websites on the internet that charge for this free service.

The internet is the preferred method to use when applying for an EIN. Visit the IRS website at **www.irs.gov** (keyword "EIN") and check out the Interview-style online EIN application. The application includes embedded help topics and hyperlinked keywords and definitions so separate instructions aren't needed. The information you submit is validated during the online session. Once you've completed the application, you will receive your EIN immediately. You can then download, save, and print your confirmation notice. (This feature is not available to Third Party Designees.) The online application is fast, free, and user-friendly!

The application is available during the following hours:

Monday - Friday 7:00 a.m. to 10:00 p.m. Eastern time

The online application is available for all entities whose principal business, office or agency, or legal residence (in the case of an individual), is located in the United States or U.S. Territories. Additionally, the principal officer, general partner, grantor, owner, trustor etc. must have a valid Taxpayer Identification Number (Social Security Number, Employer Identification Number, or Individual Taxpayer Identification Number) in order to use the online application.

Apply by Fax

You can receive your EIN by fax within four (4) business days. Fax your completed Form SS-4 to the fax number listed for your state under “Where to Apply” in this publication. The fax number is available 24 hours a day, 7 days a week. Be sure to provide your fax number so that an IRS representative can fax the EIN back to you. Do not fax an application and also call the EIN toll-free number for the same entity because a duplicate EIN may be assigned. By using this method, you are authorizing IRS to fax your EIN without a cover sheet.

Apply by Mail

You can receive your EIN by mail within about four (4) weeks. Ensure that the Form SS-4 contains all of the required information and mail the application to the address listed under “Where to Apply” in this publication. An EIN will be assigned and mailed to you.

How to Complete Form SS-4, Application for an EIN

If you choose to apply online, you will not need a Form SS-4. Otherwise, you can download Form SS-4 and separate instructions by accessing the IRS website at www.irs.gov or call 1-800-TAX-FORM to request the form and instructions by mail. You can also visit your local IRS office.

Special Characters In Your Business Name:

The only special characters IRS systems can accept in a business name are: 1) alpha (A-Z), 2) numeric (0-9), 3) hyphen (-) and 4) ampersand (&). If the legal name of your business includes anything other than those listed above, you will need to decide how best to enter your business name into the online EIN application or on Form SS-4.

If your legal name contains a symbol or character such as a “plus” symbol (+) or a period (.) you could spell out the symbol and leave a space. Jones.com could be submitted as Jones Dot Com or Jones Com. The backward (\) or forward (/) slash can be substituted with a hyphen (-). If your business name contains an apostrophe (’), drop the apostrophe and do not leave a space.

Third Party Designee:

No matter what method you use to apply, if a third party is making the application for an EIN, the taxpayer must authorize the third party to apply for and receive the EIN.

- A Third Party Designee (TPD) must complete his/her identifying information at the bottom of the Form SS-4.
- The Form SS-4 must be signed by the taxpayer for the TPD authorization to be valid.
- The Form SS-4 must be mailed or faxed to the appropriate Internal Revenue Service campus. See “Where to Apply” in this publication.

The designee’s authority terminates at the time the EIN is assigned and released to the designee.

Read the instructions for Form SS-4.

After reading the instructions, find your entity type (sole proprietor, corporation, partnership, etc.).

Note: This is not an election for a tax classification. See Form 8832, Entity Classification Election, for tax classification information.

The Internal Revenue Service has become aware that nominee individuals are being listed as principal officers, general partners, grantors, owners, and trustors in the Employer Identification Number (EIN) application process. A nominee is not one of these people. Rather, nominees are temporarily authorized to act on behalf of entities during the formation process. The use of nominees in the EIN application process prevents the IRS from gathering appropriate information on entity ownership, and has been found to facilitate tax non-compliance by entities and their owners.

The IRS does not authorize the use of nominees to obtain EINs. All EIN applications (mail, fax, phone, electronic) must disclose the name and Taxpayer Identification Number (SSN, ITIN, or EIN) of the true principal officer, general partner, grantor, owner or trustor. This individual or entity, which the IRS will call the “responsible party,” controls, manages, or directs the applicant entity and the disposition of its funds and assets.

Follow the line-by-line instructions below to complete Form SS-4 for your entity type.

Sole Proprietor/Individual

- Line 1** Enter your first name, middle initial and last name exactly as it appears on your social security card. Do not use abbreviations or nicknames. Do not enter your business name on line 1.
- Line 2** Enter your trade name or “doing business as” name, if any.
- Line 3** If you have a person designated to receive all of your IRS correspondence, enter that person’s name on this line. Otherwise, leave blank.
- Line 4a-b** Enter your mailing address. If Line 3 (Care-Of) is completed, enter the address for the designated person.
- Lines 5a-b** Enter the location address only if it is different from Lines 4a-b mailing address. Do not enter a PO Box here.
- Line 6** Enter the county and state where your principal business is located.
- Line 7a-b** N/A
- Line 8a** N/A
- Line 8b** N/A
- Line 8c** N/A
- Line 9a** Check the “Sole Proprietor” box and enter your SSN (or ITIN) in the space provided.
- Line 9b** N/A

- Line 10** Check only one box. If your reason for applying is not specifically listed, check the "Other" box and enter the reason.
- Line 11** Enter the date you first started or acquired your business.
- Line 12** Enter the last month of your accounting year or tax year (generally December (12) calendar year for a sole proprietor).
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check "Yes". (To file Forms 941, check "No".)
- Line 15** If your business has (or will have) employees enter the date the business began or will begin to pay wages (Month, Date, Year.) If you have no employees, leave blank. If the applicant is a withholding agent, enter date income will first be paid to nonresident alien.
- Line 16** Check the one box that best describes the type of business you operate, i.e. construction, real estate, etc. If none of the boxes apply, check the "Other" box and specify type of business. Do not leave blank or enter "none", or "N/A".
- Line 17** Describe the applicant's principal line of business in more detail than Line 16 such as, type of merchandise sold, specific construction product produced or service provided. Do not leave blank or enter "none" or "N/A".
- Line 18** If the applicant shown on line one (1) ever applied for and received an EIN previously, check "yes". If "yes", enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of Form SS-4. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: The sole proprietor must sign the application if the Third Party Designee section is completed.

Corporation

- Line 1** Enter the corporate name as it appears on the corporate charter.
- Line 2** Enter Doing Business as (DBA) name, only if different from Line 1.
- Line 3** If you have a designated person to receive all of your IRS correspondence, enter that person's name on this line. If none, leave blank.
- Line 4a-b** Enter your mailing address. If Line 3 (Care-Of) is completed, enter the address for the designated person to receive the tax information.
- Lines 5a-b** Enter the business physical location, only if different from Lines 4a-b mailing address. Do not enter a PO Box here.

- Line 6** Enter the county and state where principal business is located.
- Line 7a** Enter the first name, middle initial, and last name of responsible party. The responsible party will be a president, vice president or other principal officer of the corporation.
- Line 7b** Enter the SSN or ITIN of the responsible party shown on Line 7a.
- Line 8a** N/A
- Line 8b** N/A
- Line 9** Check the "Corporation" box, then write on the line the form number that you intend to file (ex: 1120). If you entered "1120S" after the check-box, you must file Form 2553. See the Instructions for Form 2553.
- Line 9b** Enter the state or foreign country where you were incorporated.
- Line 10** If your reason for applying is not specifically listed, check the "Other" box and enter the reason.
- Line 11** Enter the date you first started or acquired your business.
- Line 12** Enter the last month of your accounting year or tax year.
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check "Yes". (To file Forms 941, check "No".)
- Line 15** If your business has (or will have) employees enter the date the business began or will begin to pay wages (Month, Date, Year). If you have no employees, leave blank. If the applicant is a withholding agent, enter date income will first be paid to nonresident alien.
- Line 16** Check one box that best describes the type of business you operate (i.e. construction, real estate, etc.) If none of the listed boxes applies, check the "Other" box and write your specific type of business. Do not leave blank or enter "none" or "N/A".
- Line 17** Describe the applicant's principal line of business in more detail (such as, type of merchandise sold, specific construction work, product produced or service provided). Do not leave blank or enter "none" or "N/A".
- Line 18** If the applicant shown on line one (1) ever previously applied for and received an EIN, check "yes". If "yes", enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of Form SS-4. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: The president, vice president, or other principal officer must sign the application if the Third Party Designee section is completed.

Note: If you wish to elect S-corporation status, you must file Form 2553, Election by a Small Business Corporation.

Partnership

- Line 1** Enter the name of the partnership as it appears in the partnership agreement.
- Line 2** Enter trade name or “doing business as” name, if different from line 1.
- Line 3** If you have a person designated to receive all of your IRS correspondence, enter that person’s name on this line. If none, leave blank.
- Lines 4a-b** Enter your mailing address. If Line 3 (Care-Of) is completed, enter the address of the designated person.
- Lines 5a-b** Enter the business physical location only if different from Lines 4a-b. Do not enter PO Box here.
- Line 6** Enter the county and state where principal business is located.
- Line 7a** Enter the first name, middle initial, last name of the responsible party. The responsible party is a general partner of the partnership.
- Line 7b** Enter the SSN, ITIN or EIN of the responsible party shown on Line 7a.
- Line 8a** N/A
- Line 8b** N/A
- Line 8c** N/A
- Line 9a** Check the “Partnership” box.
- Line 9b** N/A
- Line 10** Check only one box. If your reason is not specifically listed, check the “Other” box and enter the reason.
- Line 11** Enter the date you first started or acquired your business.
- Line 12** Enter the last month of your accounting year or tax year.
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check “Yes”. (To file Forms 941, check “No”).
- Line 15** If your business has (or will have) employees enter the date the business began or will begin to pay wages (Month, Date, Year). If you have no employees leave blank. If the Applicant is a withholding agent, enter date income will first be paid to nonresident alien.
- Line 16** Check one box that best describes the type of business you operate (i.e., construction, real estate, etc.). If none of the boxes apply, check the “Other” box and specify type of business. Do not leave blank or enter “none”, or “N/A”.

- Line 17** Describe the applicant's principal line of business in more detail (type of merchandise sold, specific construction work, product produced or service provided). Do not leave blank or enter "none" or "N/A".
- Line 18** If the applicant shown on line one (1) ever applied for and received an EIN previously, check "yes". If "yes" enter previous EIN on the line.

Complete the Third Party Designee section only, if you want to authorize the named individual to receive the EIN and answer questions about the completion of Form SS-4. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: A responsible and duly authorized member or officer having knowledge of the partnership's affairs must sign the application if the Third Party Designee section is completed.

Trust

- Line 1** Enter the exact name of the trust as it appears on the trust instrument.
- Line 2** N/A
- Line 3** Enter the name of the trustee.
- Line 4a-b** Enter mailing address of the trustee, where all IRS correspondence will be mailed.
- Lines 5a-b** Enter the physical location of the trustee, only if different from Lines 4a-b mailing address.
- Line 6** Enter the county and state where the trust is located.
- Line 7a** Enter the name of the responsible party. This will be the grantor, owner or trustor.
- Line 7b** Enter the SSN, ITIN or EIN of the person shown on Line 7a.
- Line 8a** N/A
- Line 8b** N/A
- Line 8c** N/A
- Line 9a** Check "Trust" and enter the SSN, ITIN, or EIN of the grantor.
- Line 9b** N/A
- Line 10** Check the "Created a Trust" box.
- Line 11** Enter the date the trust was funded.
- Line 12** Enter the last month of your accounting year or tax year. Generally, a trust must adopt a calendar year, except for the following trusts: tax-exempt trusts, charitable trusts, and grantor-owned trusts.
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.

- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check "Yes". (To file Forms 941, check "No".)
- Line 15** If your business has (or will have) employees enter the date the business began, or will begin, to pay wages (Month, Date, Year). If you have no employees leave blank. If the applicant is a withholding agent, enter date income will first be paid to nonresident alien.
- Line 16** Check the "Finance & Insurance" box.
- Line 17** Enter "Trust Administration".
- Line 18** If the applicant shown on line one (1) ever applied for and received an EIN previously, check "yes". If "yes", enter previous EIN on the line.

Complete Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of Form SS-4. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: The trustee or other authorized fiduciary must sign the application, if the Third Party Designee section is completed.

GNMA POOLS (Governmental National Mortgage Association)

Note: The EIN Stays with the "GNMA Pool" if it is traded from one financial institution to another.

- Line 1** Enter the pool number. Do not enter leading zeros. For example, enter GNMA 00979 as GNMA 979
- Line 2** N/A
- Line 3** Enter the name of the trustee.
- Line 4a-b** Enter the mailing address. This is the address where all IRS correspondence will be sent.
- Lines 5a-b** Enter only if different from the mailing address.
- Line 6** Enter the county and state where the GNMA Pool is located.
- Line 7a-b** N/A
- Line 8a** N/A
- Line 8b** N/A
- Line 8c** N/A
- Line 9a** Check "Trust" and enter the TIN of the grantor.
- Line 9b** N/A
- Line 10** Check the "Other" box and enter "GNMA Pool".

- Line 11** Enter the date the "GNMA Pool" was created.
- Line 12** Enter 12 for the last month of your accounting year.
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check "Yes". (To file Forms 941, check "No".)
- Line 15** If your business has (or will have) employees enter the date the business began or will begin to pay wages (Month, Date, Year). If you have no employees, leave blank.
- Line 16** Check the "Finance & Insurance" box.
- Line 17** Enter "GNMA".
- Line 18** If the applicant entity shown on line one (1) ever applied for and received an EIN previously, check "yes". If "yes", enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of this form. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title of the fiduciary.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: The trustee or other authorized fiduciary must sign the application if the Third Party Designee Section is completed.

Estate

- Line 1** Enter the first name, middle initial and last name of the decedent, followed by "Estate".
- Line 2** N/A
- Line 3** Enter the name of the executor, administrator, or other fiduciary.
- Lines 4a-b** Enter the mailing address. This is the address where all IRS correspondence will be sent.
- Lines 5a-b** Enter only if different from the mailing address on Lines 4a-b.
- Line 6** Enter the county and state where the will is probated.
- Line 7a-b** N/A
- Line 8a** N/A
- Line 8b** N/A
- Line 8c** N/A
- Line 9a** Check "Estate" and enter the SSN of the decedent on the line provided.
- Line 9b** N/A

- Line 10** Check the "Other" box and enter "Estate Administration".
- Line 11** Enter the date the estate was funded.
- Line 12** Enter the last month of your accounting year or tax year.
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check "Yes". (To file Forms 941, check "No".)
- Line 15** If the estate has (or will have) employees enter the date the estate will begin to pay wages (Month, Date, Year) If no employees, leave blank.
- Line 16** Check the "Finance & Insurance" box.
- Line 17** Enter "Estate Administration".
- Line 18** If the applicant shown on line one (1) ever previously applied for and received an EIN, check "yes". If "yes" enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of this form. You must also sign the application for the authorization to be valid.

Name and Title: Print the name and title of the fiduciary.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: The fiduciary must sign the application if the Third Party Designee section is completed.

Note: If you use an estate to create a trust, the trust is considered a different entity type and a new EIN is needed.

Plan Administrators

Note: If the plan administrator already has an EIN, use that number. A new EIN is not needed.

- Line 1** Enter the name of the plan administrator.
- Line 2** N/A
- Line 3** If you have a person designated to receive all of your IRS correspondence, enter that person's name on this line. If none, leave blank.
- Line 4a-b** Enter the mailing address. This is the address where all IRS correspondence will be sent.
- Line 5a-b** Enter only if different from Lines 4a-b mailing address.
- Line 6** Enter the county and state where the employee plan is located.
- Line 7a-b** N/A
- Line 8a** N/A
- Line 8b** N/A.

- Line 8c** N/A.
- Line 9a** Check “Plan Administrator”. If the plan administrator is an individual, enter the plan administrator’s SSN or ITIN in the space provided. Otherwise enter the EIN.
- Line 9b** If you are a corporation, enter the state or foreign country where you were incorporated
- Line 10** If your reason is not specifically listed, check the “Other” box and enter the reason.
- Line 11** Enter the date you first started or acquired your business.
- Line 12** Enter the last month of your accounting year or tax year. Enter the highest number of employees expected in the next 12 months.
- Line 13** Enter the highest (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check “Yes”. (To file Forms 941, check “No”).
- Line 15** If your business has (or will have) employees enter the date the business began or will begin to pay wages (Month, Date, Year.) If you have no employees leave blank. If the applicant is a withholding agent, enter date income will first be paid to nonresident alien.
- Line 16** Check the “Finance & Insurance” box.
- Line 17** Enter “Plan Administration”.
- Line 18** If the applicant shown on line one (1) ever previously applied for and received an EIN, check “yes”. If “yes”, enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of this form. You must also sign the application for the authorization to be valid.

Name and Title: Print the plan administrator’s name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: A responsible and duly authorized member or officer with the knowledge of plan’s affairs must sign if the Third Party Designee section is completed.

Employee Plans

- Line 1** Enter the name of the plan.
- Line 2** N/A
- Line 3** Enter the name of the trustee.
- Line 4a-b** Enter the mailing address. This is the address where all IRS correspondence will be sent.
- Lines 5a-b** Enter only if different from the mailing address.
- Line 6** Enter the county and state where the employee plan is located.

- Line 7a-b** Enter the name of responsible party for the plan and SSN, ITIN or EIN.
- Line 8a** N/A
- Line 8b** N/A
- Line 8c** N/A.
- Line 9a** Check "Other" and specify "Employee Plan".
- Line 9b** N/A
- Line 10** Check "Created a Pension Plan".
- Line 11** Enter the date you first started or acquired your Employee plan.
- Line 12** Enter the last month of your accounting year or tax year.
- Line 13** N/A
- Line 14** N/A
- Line 15** N/A
- Line 16** Check the "Finance & Insurance" box.
- Line 17** Enter "Employee Plan".
- Line 18** If the applicant shown on line one (1) ever previously applied for and received an EIN, check "yes". If "yes", enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of this form. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: A responsible and duly authorized member or officer with knowledge of the plan's affairs must sign if there is a Third Party Designee.

Exempt Organizations

- Line 1** Enter the legal name of the exempt organization.
- Line 2** N/A
- Line 3** Enter the name of the responsible party for the organization.
- Line 4a-b** Enter the mailing address. This is the address where all IRS correspondence will be sent.
- Lines 5a-b** Enter only if different from the mailing address in 4a and 4b.
- Line 6** Enter the county and state where the exempt organization is located.
- Line 7a-b** Enter the name and SSN or ITIN of a responsible and duly authorized member or officer of the exempt organization.
- Line 8a** N/A.
- Line 8b** N/A

- Line 8c** N/A
- Line 9a** Check only one box. If you check “other”, enter the specific reason for applying.
- Line 9b** If you are a corporation, enter the State or Foreign Country where you were incorporated.
- Line 10** If your reason is not specifically listed, check the “Other” box and enter the reason.
- Line 11** Enter the date you first started or acquired your organization.
- Line 12** Enter the last month of your accounting year or tax year.
- Line 13** Enter the highest number of employees expected in the next 12 months (Agricultural, Household or Other). If none, enter 0 and skip to Line 16.
- Line 14** If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly check “Yes”. (To file Forms 941, check “No”.)
- Line 15** If your business has (or will have) employees enter the date the business began or will begin to pay wages (Month, Date, Year.) If you have no employees, leave blank. If the applicant is a withholding agent, enter date income will first be paid to nonresident alien.
- Line 16** Check one box that best describes the type of business you operate (construction, real estate, etc.). If none of the listed boxes apply, check the “Other” box and write your specific type of business. Do not leave blank or enter “none” or “N/A”.
- Line 17** Describe the applicant’s principal line of business in more detail (type of merchandise sold, specific construction work, product produced or service provided). Do not leave blank or enter “none” or “N/A”.
- Line 18** If the applicant shown on line one (1) ever previously applied for and received an EIN, check “Yes”. If “yes”, enter previous EIN on the line.

Complete the Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of this form. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: A responsible and duly authorized member or officer having knowledge of the exempt organization’s affairs must sign the application if there is a Third Party Designee.

Bankruptcy (Individual)

Bankruptcy proceedings begin with the filing of a petition with the bankruptcy court. The filing of the petition creates a bankruptcy estate, which generally consists of all the assets of the person filing the bankruptcy petition. A separate taxable entity is created if the bankruptcy petition is filed by an individual under Chapter 7 or Chapter 11 of the Bankruptcy Code.

Note: A married couple who file a joint bankruptcy petition require separate EINs for federal tax purposes.

- Line 1** Enter the first name, middle initial and last name of the individual who has filed the bankruptcy petition followed by "Bankruptcy Estate".
- Line 2** N/A
- Line 3** Enter the name of the receiver, debtor in possession, or bankruptcy trustee.
- Line 4a-b** Enter the trustee or receiver's mailing address.
- Line 5a-b** Enter only if different from the mailing address.
- Line 6** Enter the county and state where the bankruptcy petition was filed.
- Line 7a-b** Enter the name and SSN (or ITIN) of the bankrupt individual.
- Line 8a** N/A.
- Line 8b** N/A.
- Line 8c** N/A.
- Line 9a** Check "Other" and write in "individual bankruptcy", "receivership", or "debtor in possession".
- Line 9b** N/A
- Line 10** Check "Other" and write in "bankruptcy", "receivership", or "debtor in possession".
- Line 11** Enter the date the bankruptcy estate was created.
- Line 12** Enter the last month of your accounting year or tax year.
- Line 13** N/A
- Line 14** N/A
- Line 15** N/A
- Line 16** Check the "Other" box and write in "Bankruptcy".
- Line 17** Enter "Bankruptcy".
- Line 18** If the applicant shown on line one (1) ever previously applied for and received an EIN, check "yes". If "yes", enter previous EIN on the line.

Complete Third Party Designee section only if you want to authorize the named individual to receive the EIN and answer questions about the completion of this form. You must also sign the application for the authorization to be valid.

Name and Title: Print your name and title.

Telephone Number: Enter the telephone number where we can reach you if we have questions about your application.

Signature: The bankruptcy trustee, receiver, or debtor in possession must sign the application if there is a Third Party Designee.

Bankruptcy (Corporation or Partnership)

A separate taxable estate is not created when a partnership or corporation files a bankruptcy petition. The court appointed trustee is, however, responsible for filing the regular income tax returns on Form 1065 or Form 1120.

If you are a bankrupt/liquidated corporation or partnership, you do not need a new EIN. Send the name of the trustee/receiver of the bankruptcy to your IRS service center so we can add that information to your existing EIN account.

EFTPS (Electronic Federal Tax Payment System)

Start your business off right. A Secure Way to Pay All Your Federal Taxes

EFTPS is a tax payment system provided free by the U.S. Department of Treasury. Pay federal taxes electronically - on-line or by phone 24/7. Businesses and Individuals can pay all their federal taxes using EFTPS. Individuals can pay their quarterly 1040ES estimated taxes electronically using EFTPS, and they can make payments weekly, monthly, or quarterly as well as schedule payments for the entire year in advance.

To enroll or for more information online, visit the EFTPS website at <https://www.eftps.gov/eftps/>, or to receive an enrollment form, call EFTPS Customer Service:

- 1-800-555-4477 (for Business payments)
- 1-800-316-6541 (for Individual payments)
- 1-800-733-4829 (TDD Hearing-Impaired)
- 1-800-244-4829 (Español)
- 1-800-555-8778 (EFTPS Online)

Where to Apply for an EIN (Mail or Fax):

If your principal business, office or agency, or legal residence in the case of an individual, is located in:	File or fax with the “Internal Revenue Service Center” at:
One of the 50 states or the District of Columbia	Attn: EIN Operation Cincinnati, OH 45999 Fax-TIN: 855-641-6935
If you have no legal residence, principal place of business, or principal office or agency in any state:	Attn: EIN International Operation Cincinnati, OH 45999 Fax: 855-215-1627 (within the U.S.) Fax: 304-704-9471 (outside the U.S.)

Applications submitted by mail will be processed within 4 to 6 weeks.

Applications submitted by fax will be processed within 4 business days.

If you have not been notified of your EIN assignment within the normal processing timeframe, please call the IRS Business and Specialty Tax Line at 1-800-829-4933 for assistance.



If you have not received your EIN by the time you need to file a return, write: “Applied For” in the space provided for the EIN.

Avoiding Common EIN Problems

- If you wish to elect to be taxed as an S corporation, you must file Form 2553, Election by a Small Business Corporation (Under Section 1362 of the Internal Revenue Code).
- An association, limited liability company (LLC) or other organization that elects to be taxed as a corporation must file Form 8832, Entity Classification Election.
- Remember to always include your SSN, EIN, or ITIN on Line 7b of Form SS-4.
- Always use the full legal name you entered on Form SS-4, line 1 and the EIN given to you, consistently on all business tax returns you file with the IRS.
- If you change your address and/or you change the responsible party for the entity after you receive your EIN, you must use Form Form 8822-B, Change of Address or Responsible Party - Business, to notify the IRS of the new address.
- If you change your business name after you receive your EIN, write to us at the address where you file your tax return. The request to change your business name must be signed by an authorized person. Additionally, partnerships and corporations must include a copy of the Articles of Amendment that were filed with the state that authorized the name change.
- If the U.S. Postal Service doesn't deliver mail to your street address and you have a P.O. Box, show the P.O. Box number as the entity's mailing address instead of the street address.



Publication 1635 (Rev. 2-2014) Catalog Number 14332X
Department of the Treasury **Internal Revenue Service** www.irs.gov

- (6) A multi-member LLC has more than one owner and the default tax status is a partnership. A multi-member LLC can elect to be classified as an association taxable as a corporation by filing a Form 8832. A multi-member LLC cannot file a Form 8832 and elect to be disregarded as a separate entity. If at any time the number of members drops below two, the LLC automatically defaults to single member status.
- (7) It is important to remember that LLCs are distinct entities and are legally different than sole proprietorships, partnerships or corporations. LLCs file Articles of Organization with the Secretary of State  or equivalent state entity, and they are considered to be officially formed at the time the signed articles are filed.
- (8) Homeowner Associations (HOA) are usually formed as corporations. Since the 528 election is made on a yearly basis, see IRC 1.528-8(a). HOAs may choose to file Form 1120-H or Form 1120 on an annual basis. HOAs formed as LLCs (single or multi-member), would first file Form 8832 electing to be treated as an association taxable as a corporation prior to filing Form 1120-H or Form 1120. Once Form 8832 is approved, the HOA may choose between filing Form 1120-H or Form 1120.
- (9) The suffix "LTD" does not automatically indicate that an entity is a corporation or a partnership. LLCs the correct filing requirement cannot be determined, research the Secretary of State's  website to confirm.
- (10) Spouses residing in a community property state (AZ, CA, ID, LA, NV, NM, TX, WA, or WI - See Publication 555, Community Property) are treated as a single member LLC/disregarded entity. It is acceptable for both names to be on the Sort Name Line as **sole member**. Otherwise, they are treated as a multi-member LLC. If the LLC indicator is incorrect, input transaction to update.
- (11) Rev. Rul. 75-477 concludes that, if an eligible entity has two owners under local law, but one of the owners is, for federal purposes, disregarded as an entity separate from the other owner of the eligible entity, then the eligible entity cannot be classified as a partnership and is either disregarded as an entity separate from its owner or an association taxable as a corporation.

IRM 3.13.2.26

- (12) An LLC that has multiple members and that is required to file Form 1065 for federal tax purposes, however, is not a partnership under state law. If the LLC files a Form 8832, Entity Classification Election, to change their classification to a corporation, they are required to file Form 1120; however, they are not a corporation under state law. Regardless of the filing status, the entity remains a Limited Liability Company under state law. See the chart below for more information on domestic LLCs.

Caution: It is very important when processing correspondence and forms received from LLCs to determine how they are classified by researching CCs ENMOD and/or BMFOL'E' to see if there is a posted or pending TC 076 and verifying the PARA-SEL-CD>.

Note: A state law entity organized as a limited partnership (LP), a limited liability partnership (LLP) or a limited liability limited partnership (LLLP) is generally a partnership unless it elects to be classified for federal tax purposes as a corporation, or another limited exception applies. See *IRM* 3.13.2.26(12)(H) for treatment of such entities (LP, LLP, LLLP), and see *IRM* 3.13.2.26(11) for an exception to the general rule.

If...	And...	Then...
A) A Limited Liability Company (LLC) has multiple members and a Form 1065 filing requirement,	1) The number of members changes from more than one member to a single member,	<ul style="list-style-type: none"> a. They are not required to file Form 8832. The LLC automatically defaults from the classification of partnership to disregarded entity for income tax purposes. b. Update the sort name line and LLC indicator. c. If the final Form 1065 has posted, delete the Form 1065 FRC. d. Correspond with the taxpayer explaining the action taken.
A) A Limited Liability Company (LLC) has multiple members and a Form 1065 filing requirement,	2) Files Form 8832 to be taxed as a partnership,	<ul style="list-style-type: none"> a. Prepare Form 8832 for destruction as classified waste per local procedures. b. Correspond with the taxpayer telling them their default classification is that of a partnership, therefore, Form 8832 is not required.

If...	And...	Then...
B) An LLC has only one member and is classified as a disregarded entity,	It changes from a single member to more than one member,	<ul style="list-style-type: none"> a. They are not required to file Form 8832. The LLC automatically defaults from the classification of disregarded entity to partnership. b. Prepare Form 8832 for destruction as classified waste per local procedures. c. Update the sort name line and LLC indicator. d. Add a 1065 filing requirement. e. Correspond with taxpayer explaining action taken.
C) An LLC sends in correspondence indicating that it has converted to a business trust (including a Delaware Statutory Trust), (See note below.)	The taxpayer does not indicate that the ownership of the business has changed and the taxpayer does not file Form 8832 ,	The business entity does not need a new EIN. Process the taxpayer's correspondence as a business name change.

If...	And...	Then...
<p>D) A sole proprietor files papers to become a state entity and organizes as a single member LLC,</p> <p>Note: A sole proprietor is not eligible to file Form 8832. If the sole proprietor organizes as a state entity (for example, LLC) that LLC is eligible to file a Form 8832 using the LLCs own EIN.</p>	<p>1) Wishes to use the same Employer Identification Number (EIN) assigned to them as a sole proprietor for their LLC. A single member LLC without employment or excise tax liability is a disregarded entity,</p> <p>Note: Once an LLC has any federal tax filing requirement, they are required to have their own EIN.</p>	<p>a. A single member LLC disregarded entity can use the sole proprietor's EIN but the owner/sole proprietor's EIN remains in the owner/sole proprietor's name.</p> <p>b. Enter the name of the disregarded entity in the sort name line.</p> <p>c. The single member LLC can obtain its own EIN but is not required to.</p> <p>Note: If an EIN already exists for the single member LLC disregarded entity, inform the taxpayer they already have an EIN for the disregarded entity.</p>

If...	And...	Then...
<p>D) A sole proprietor files papers to become a state entity and organizes as a single member LLC,</p> <p>Note: A sole proprietor is not eligible to file Form 8832. If the sole proprietor organizes as a state entity (for example, LLC) that LLC is eligible to file a Form 8832 using the LLCs own EIN.</p>	<p>2) Wishes to use the same EIN assigned to them as a sole proprietor for the LLC and they have excise tax filing requirements for tax periods prior to 01-01-08 or employment tax filing requirements for tax periods prior to 01-01-09,</p> <p>Note: Once an LLC has any federal tax filing requirement, they are required to have their own EIN.</p>	<p>a. A single member LLC disregarded entity can use the sole proprietor's EIN but the owner/sole proprietor's EIN remains in the owner/sole proprietor's name.</p> <p>b. Enter the name of the disregarded entity in the sort name line.</p> <p>c. Inform the taxpayer that after those dates the LLC must have its own EIN for reporting employment and/or excise tax.</p> <p>d. A single member LLC disregarded entity must have its own EIN for BMF filing requirements. Advise the taxpayer to obtain a new EIN. If you are processing a return or payment, assign a new EIN with NIC B.</p> <p>Note: If an EIN already exists for the single member LLC disregarded entity, inform the taxpayer they already have an EIN for the disregarded entity.</p>

If...	And...	Then...
<p>D) A sole proprietor files papers to become a state entity and organizes as a single member LLC,</p> <p>Note: A sole proprietor is not eligible to file Form 8832. If the sole proprietor organizes as a state entity (for example, LLC) that LLC is eligible to file a Form 8832 using the LLCs own EIN.</p>	<p>3) Wishes to use the same EIN assigned to them as a sole proprietor for the LLC, and they have excise tax filing requirements for the tax periods after 01-01-08 or employment tax filing requirements for tax periods after 01-01-09,</p> <p>Note: Once an LLC has any federal tax filing requirement, they are required to have their own EIN.</p>	<p>a. The single member LLC must have its own EIN, separate from the sole proprietor's EIN, to report excise taxes and employment taxes accruing after those dates.</p> <p>b. If you are processing a return or payment, assign a new EIN with NIC B.</p> <p>Note: If the LLC was previously assigned an EIN, add the appropriate excise and/or employment tax filing requirements to the LLC's EIN. Update Sole Prop EIN to indicate out of business.</p>

If...	And...	Then...
<p>D) A sole proprietor files papers to become a state entity and organizes as a single member LLC,</p> <p>Note: A sole proprietor is not eligible to file Form 8832. If the sole proprietor organizes as a state entity (for example, LLC) that LLC is eligible to file a Form 8832 using the LLCs own EIN.</p>	<p>4) Wishes to use the same EIN assigned to them as a sole proprietor for their LLC and elect to be treated as a corporation with a Form 1120 filing requirement,</p>	<ul style="list-style-type: none"> a. The single member LLC must have its own EIN separate from the sole proprietor's EIN, since the LLC is no longer disregarded. b. Do not update the sole proprietor's account. The Form 8832 must be filed with the EIN of the LLC to elect to be treated as a corporation. c. Return Form 8832 to taxpayer informing him/her that Form 8832 cannot be processed with their Sole Prop EIN, they must apply for a new EIN and re-file Form 8832.

If...	And...	Then...
<p>D) A sole proprietor files papers to become a state entity and organizes as a single member LLC,</p> <p>Note: A sole proprietor is not eligible to file Form 8832. If the sole proprietor organizes as a state entity (for example, LLC) that LLC is eligible to file a Form 8832 using the LLCs own EIN.</p>	<p>5) Wishes to use the same EIN assigned to them as a sole proprietor for their LLC and elect to be treated as an S corporation with a Form 1120-S filing requirement,</p>	<p>a. The single member LLC must have its own EIN, separate from the sole proprietor, since the LLC is no longer disregarded.</p> <p>b. The LLC must timely file a Form 2553 (deemed Form 8832), with the EIN of the LLC electing to be treated as an S corporation.</p>

If...	And...	Then...
E) A corporation, partnership, estate or trust is the sole owner of a single member LLC,	<p>1) Wishes to use the same EIN assigned their owner for the LLC and they have excise tax filing requirements for tax periods prior to 01-01-08 or employment tax filing requirements for tax periods prior to 01-01-09,</p> <p>Note: Once an LLC has established federal tax liability (for example, employment, excise tax liability), they are required to have their own EIN.</p>	<p>a. A single member LLC disregarded entity can use the owner's EIN but the owner's EIN remains in the owner's name.</p> <p>b. A single member LLC disregarded entity must have its own EIN for BMF filing requirements. If processing a return or payment, assign a new EIN with NIC B.</p> <p>c. Inform the taxpayer that after those dates the LLC must use its own EIN for reporting employment or excise tax.</p> <p>Note: If an EIN already exists for the LLC, inform the taxpayer they already have an EIN for the disregarded entity.</p>

If...	And...	Then...
E) A corporation, partnership, estate or trust is the sole owner of a single member LLC,	2) Wishes to use the same EIN assigned to the owner for the LLC, and they have excise tax filing requirements for the tax periods after 01-01-08 or employment tax filing requirements for tax periods after 01-01-09, Note: Once an LLC has established federal tax liability (for example, employment, excise tax liability), they are required to have their own EIN.	a. The single member LLC must have its own EIN, separate from the owner's EIN. b. If you are processing a return or payment, assign a new EIN with NIC B . Note: If the single member LLC was previously assigned an EIN add filing requirement codes for the appropriate excise and/or employment tax returns to the LLC's EIN.
F) A corporation files papers with the state to convert to an LLC,	1) Wishes to use the same EIN assigned to them as a corporation for their LLC and default to the classification of partnership,	a. Secure documentation of the state conversion before updating the EIN. b. Update the EIN before processing Form 8832. See <i>IRM 3.13.2.27.13</i> , State Reorganization/Conversion.
F) A corporation files papers with the state to convert to an LLC,	2) Wishes to use the same EIN assigned to them as a corporation for their LLC and retain their status as a corporation, Note: This is other than an F-reorganization, as described in <i>IRM 3.13.2.28</i> , Business Trust ("F" Reorganization).	a. They must timely file Form 8832 electing to be treated as a corporation. Attach conversion paperwork to 8832. b. Update the EIN before processing Form 8832. See <i>IRM 3.13.2.27.13</i> .

If...	And...	Then...
F) A corporation files papers with the state to convert to an LLC,	3) Wishes to use the same EIN assigned to them as a corporation for their LLC and be classified as an S corporation, Note: This is other than an F-reorganization, as described in <i>IRM 3.13.2.28</i> .	<ul style="list-style-type: none"> a. The LLC must timely file Forms 2553 (deemed Form 8832) electing to be treated as an S corporation. b. Update the EIN before processing the Form 2553 (deemed Form 8832). c. If the existing corporation already has a valid S-election on file, update the entity by following procedures in <i>IRM 3.13.2.27.13</i>.
F) A corporation files papers with the state to convert to an LLC,	4) Wishes to use the same EIN assigned to them as a corporation for their LLC and be classified as a disregarded entity,	<ul style="list-style-type: none"> a. Secure documentation of the state conversion before updating the EIN. b. Update the EIN before processing Form 8832. See <i>IRM 3.13.2.27.13</i>.
G) A corporation reorganizes as an association treated as a corporation,	Wishes to use the same EIN assigned to them as a corporation and be taxed as a partnership,	<ul style="list-style-type: none"> a. They must timely file Form 8832 electing to be treated as a partnership. b. Update the EIN before processing Form 8832. <p>Note: If there is a posted TC 090, a TC 096 needs to be input. BK95 may be needed.</p>

If...	And...	Then...
H) A partnership (not LLC),	1) Submits Form 8832 to be treated as a C corporation, with a Form 1120 filing requirement,	<ul style="list-style-type: none"> a. They must timely file Form 8832 electing to be treated as a corporation. b. Do not update the account until a Form 8832 is approved. c. See <i>IRM 3.13.2.27</i>, Form 8832, Entity Classification Election, for processing instructions.
H) A partnership (not LLC),	2) Submits correspondence stating they wish to elect to be treated as an S corporation and converted/reorganized at the state level to a corporation,	<ul style="list-style-type: none"> a. Secure documentation of the state conversion and Form 2553 before updating the EIN. b. Do not update the EIN until all documentation is received and Form 2553 can be approved. c. Prepare a "dummy" Form 8832 and input.
H) A partnership (not LLC),	3) Submits correspondence stating they wish to elect to be treated as a C corporation and converted/reorganized at the state level to a corporation,	<ul style="list-style-type: none"> a. Secure documentation of the state conversion before updating the EIN. b. Prepare a "dummy" Form 8832 as an association taxable as a corporation and input. c. Follow procedures in <i>IRM 3.13.2.27.13</i>.

If...	And...	Then...
I) A partnership (not an LLC) reduces to one member,	Wishes to use the same EIN it used as a partnership,	<ul style="list-style-type: none"> a. Treasury Regulation 301.7701-3(f)(2) provides that an entity classified as a partnership becomes disregarded as an entity separate from its owner when the entity's membership is reduced to one member. b. Send Letter 147C to the taxpayer telling them they should continue to use the EIN that was assigned to the partnership. c. Update the Entity information as needed, including the LLC indicator.
J) A partnership (not an LLC) is attempting to elect to be a disregarded entity,	There is no indication they reduced to one member,	They are not eligible, as an entity with multiple owners cannot elect to be classified as a disregarded entity.
K) A partnership files articles with the state to be recognized as an LLC,	Wishes to use the same EIN assigned to them as a partnership,	<ul style="list-style-type: none"> a. They are not required to file the Form 8832, but automatically default to the classification of partnership. b. Update the name lines to reflect it is now an LLC.

If...	And...	Then...
L) An LLC or partnership files papers with the state to convert to a corporation. (Taxpayer's name had LLC or PTR and name now shows it is a corporation) .	Wishes to use the same EIN assigned to them as an LLC or partnership,	Secure documentation of the state conversion before updating the EIN. See <i>IRM</i> 3.13.2.27.13.
M) A taxpayer makes an entity classification election within 60 months of the effective date of an earlier election,	They were a newly formed eligible entity when their original election was filed and approved for the date of their formation,	Process the election because the original election is not considered a change and they are not subject to the 60-month limitation.
N) A taxpayer makes an entity classification election within 60 months of the effective date of an earlier election,	They were not a newly formed eligible entity when their election was filed and approved for a date later than the date of their formation,	<ul style="list-style-type: none"> a. The 60-month rule applies and the taxpayer cannot file another election to change their classification for 60 months. b. Contact the taxpayer to inform them they are not eligible to change their classification for 60 months; however, they may seek a waiver to the 60-month limitation by requesting a Private Letter Ruling from the Office of Chief Counsel.

If...	And...	Then...
O) A taxpayer indicates Form 8832 was filed in error and wants to default to the classification of partnership or disregarded entity,	1) Their request to withdraw the election is received before the due date of the initial tax return, Example: TC 076 effective date is 01-01-2022 election and/or request to withdraw must be received by 04-15-2023,	<ul style="list-style-type: none"> a. Input a TC 077 to reverse the TC 076. b. Associate documentation for TC 077 with Form 8832 (TC 076 DLN).
O) A taxpayer indicates Form 8832 was filed in error and wants to default to the classification of partnership or disregarded entity,	2) Their request to withdraw the election is not received before the due date of the initial tax return and the initial election was effective for the first day of the LLCs existence,	Contact the taxpayer to inform them they cannot change their classification for the tax year they requested, but are eligible to file a timely Form 8832 to change their classification for the following year, long as they do not contravene the 60-month rule.
P) A taxpayer indicates Form 8832 was filed in error and wants to default to the classification of partnership or disregarded entity,	Their request to withdraw the election is not received before the due date of the initial return and the effective date was not for the first day of the LLC's existence,	<ul style="list-style-type: none"> a. The 60-month rule applies and the taxpayer cannot file another Form 8832 to change their classification for 60 months. b. Contact the taxpayer to inform them they cannot change their classification for the current tax year, are not eligible to file Form 8832 to change their classification for 60 months; however, they may seek a waiver to the 60-month rule by requesting a PLR from the Office of Chief Counsel.

If...	And...	Then...
Q) The taxpayer intentionally filed Form 8832 and wants to default to the classification of partnership or disregarded entity,	Their request to withdraw the election is not received before the due date of the initial return and the effective date was not for the first day of the LLC's existence,	<ul style="list-style-type: none"> a. Deny Form 8832 by inputting TC 078, see <i>IRM</i> 3.13.2.27.9 , Procedures for a Denied Form 8832. b. Send Letter 3575C to the taxpayer.
R) The taxpayer made a Subchapter S-election,	They want to revert to a default classification,	<p>If we allow the Entity Classification Election to be withdrawn/rescinded and there is a Subchapter S-election on file, the Subchapter S-election terminates and the following action will be taken:</p> <ul style="list-style-type: none"> a. Input a TC 077 to reverse original TC 076. b. Input a TC 096, PSC - Z using the effective date from the new Form 8832. A BK95 may be necessary if the taxpayer owes a final Form 1120-S. If notification is received via correspondence from the taxpayer, use the IRS received date of the correspondence as the TC 096 effective date. Send Letter 326C explaining the reason for the termination.

~~Not a business trust as described in *IRM* 3.13.2.27.1(3), Entities eligible to file Form 8832, is a business entity eligible to file Form 8832 (similar to an LLC). A common example of a business trust is a Massachusetts Business Trust. A Statutory Trust (DST) can be classified as a business trust (business entity) or a trust (not a business entity). If a trust files Form 8832 electing status as a business entity, the trust will receive a TC 076.~~

- case. Unless the classification of the entity is not relevant for 60 months, it will retain its classification. Associate any subsequent filings with the original Form 8832. Send Letter 3576C with appropriate language. The Letter 6801sce cannot be used for foreign taxpayers.
- (8) BMF Entity Unpostables has several different types of unpostables generating with a Form 1120 and a Form 5472 is attached.
- (9) A Form 5472 is used to provide information required under IRCs 6038A and 6038C when reportable transactions occur during the tax year of a reporting corporation with a foreign or domestic related party. There is a filing requirement for foreign-owned U.S. disregarded entities (DEs). Final regulations treat certain domestic disregarded entities wholly owned by a foreign person as a domestic corporation separate from its owner for **limited** purposes of the reporting, record maintenance, and associated compliance requirements that apply to 25 percent foreign-owned domestic corporations under IRC 6038A. Normally, these disregarded entities do not have a filing requirement, however, under the regulations, they must file a "dummy" Form 1120, and attach the Form 5472. **These returns should not have been processed.**
- (10) Foreign owned LLC filing a Form 1120 with or without a Form 5472 attached indicating money amounts on the return and the entity **is** a default corporation shown on Page 7 of the Form 8832 should be processed by removing the LLC Indicator and updating the FRC as needed.
- (11) Foreign owned LLC filing a Form 1120 with or without a Form 5472 attached indicating money amounts on the return and the entity **is not** a default corporation correspond requesting the Form 8832. Follow specific unpostables instructions for closing the case.

3.13.2.27.13 (01-03-2022)

State Reorganization/Conversion

- (1) If an Entity reorganizes/converts at the state level and maintains the same structure (officers, employees, type of business), the entity may retain their EIN. Follow guidelines listed below:

- Information found on the Secretary of State [SOS](#) site identifying the reorganization/conversion can be used for case documentation without contacting the taxpayer. Print documentation to attach to the case.

Note: If the state does not allow conversions and requires the entity to re-register, the taxpayer is allowed to keep their EIN if it maintains the same structure. The taxpayer must submit a signed statement stating they have converted with the state.

- If unable to secure documentation from the SOS, contact the taxpayer via telephone requesting the state paperwork showing the reorganization/conversion. If unable to secure documentation via phone, return any documents received to the

taxpayer explaining the reason. Ensure open paragraphs are reviewed by lead TE. If unable to secure documentation, do not update the account.

- Update the taxpayer's name, address, and/or FRCs as needed. Update LLC indicator as needed.
- Prepare a "dummy" Form 8832, see *IRM* 3.13.2.2 (11), BMF Entity - General, with the state paperwork attached. Input TC 074 (as a source document) effective the date the entity reorganized/converted. If the taxpayer submits a Form 8832, use it as the source document rather than preparing a "dummy" document. The FOE input will depend on the change to the Entity and the taxpayer's intent. See *IRM* 3.13.2.27.5(6), Processing Approved Form 8832.
- Send the taxpayer Letter 3064C or Letter 3574C stating our records have been updated to reflect their state reorganization/conversion.
- When using IAT SET tool for Form 8832 or Form 2553, in conjunction with a state reorganization, applicable letters will be utilized.

Reminder: If the EIN reflects a previous TC 074/076, input a TC 075/077, to reverse the original election. Use a PDC 1 on the TC 074 input.

- (2) If a Subchapter S-election needs moved from one EIN to another, the effective date on the TC 090 input will be the same as the original TC 090. If the entity has an S-election and there is only one EIN involved with the conversion it remains in effect. If there is a valid FYM election, that transaction should be input also.
- For example, per Rev. Rul. 2008-18, shareholders who form a holding company and then transfer all of their S corporation stock to the holding company, followed by a QSub election, will treat the transaction as a tax-free F reorganization, see *IRM* 3.13.2.28, Business Trust ("F" Reorganization), and the S-election from the old S corporation will carry over to the new holding company. The holding company has a separate EIN but a new S-election is not needed.
 - Often it is not known that a reorganization occurred until the newly formed corporation files a Form 1120-S and no TC 090 is on the module. The S-election will be moved after correspondence with the new corporation.
 - Suppress CP 261. Include information about the Subchapter S-election in the Letter 3574C or Letter 3064C.
 - When using IAT SET tool for Form 8832 or Form 2553, in conjunction with a state reorganization, applicable letters will be utilized.

3.13.2.28 (01-01-2023)



Business Name Change

Business owners and other authorized individuals can submit a name change for their business. The specific action required may vary depending on the type of business. If the EIN was recently assigned and filing liability has yet to be determined, send Business Name Change requests to the [IRS address](#) where you file your return.

In some situations a name change may require a new Employer Identification Number (EIN) or a final return. See [Publication 1635, Understanding Your EIN](#) [PDF](#), to make this determination.

If you need acknowledgement of the name change, please ask for one to be sent. Follow the chart below to determine who the authorized individual is to make the business name change for your type of business:

Individuals Topics

- Tools
- Taxpayer Advocate
- Affordable Care Act

Type of Business	Action Required
Sole Proprietorship	<p>Write to us at the address where you filed your return, informing the Internal Revenue Service (IRS) of the name change.</p> <p>Note: The notification must be signed by the business owner or authorized representative.</p>
Corporation	<p>If you are filing a current year return, mark the appropriate name change box of the Form 1120 type you are using:</p> <ul style="list-style-type: none"> • Form 1120: Page 1, Line E, Box 3 • Form 1120-S: Page 1, Line H, Box 2c <p>If you have already filed your return for the current year, write to us at the address where you filed your return to inform us of the name change. In addition:</p> <ul style="list-style-type: none"> • The notification must be signed by a corporate officer.

Type of Business	Action Required
Partnership	<p>If you are filing a current year Form 1065, mark the appropriate name change box on the form: Page 1, Line 6, Box 3.</p> <p>If you have already filed your return for the current year, write to us at the address where you filed your return to inform us of the name change. In addition:</p> <ul style="list-style-type: none"> The notification must be signed by a partner of the business.

Page Last Reviewed or Updated: 24-Aug-2022

COPY - DO NOT MAIL

OGDEN, UT 84201

In reply refer to: [REDACTED]
Apr. 13, 2023 LTR 147C 0
[REDACTED] 000000 00 000
00001
BODC: SB

Employer identification number: [REDACTED]

Dear Taxpayer:

Thank you for your phone call of Apr. 13, 2023.

Your employer identification number (EIN) is [REDACTED]. Please keep this letter in your permanent records. Enter your name and EIN on all federal business tax returns and on related correspondence.

Our records show that, for federal income tax purposes, this EIN number is considered a C Corporation.

You can get any of the forms or publications mentioned in this letter by visiting our website at [IRS.gov/forms](https://www.irs.gov/forms) or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can call us at 800-829-0115.

If you prefer, you can write to us at the address at the top of the first page of this letter.

When you write, include a copy of this letter, and provide your telephone number and the hours we can reach you in the spaces below.

Telephone number () _____ Hours _____

Keep a copy of this letter for your records.

Thank you for your cooperation.

=====

Apr. 13, 2023 LTR 147C 0
000000 00 000
00002
BODC: SB

Sincerely yours,

Tracie A. Nicholas
Program Manager, AM OPS 2

Enclosures:
Copy of this letter
.

**Delaware Division of Corporations
401 Federal Street – Suite 4
Dover, DE 19901
Phone: (302) 739-3073**

**Certificate of Conversion from a
Non-Delaware Limited Liability Company to
a Delaware Limited Liability Company**

Dear Sir or Madam:

Enclosed please find a form for a Certificate of Conversion from a Non-Delaware Limited Liability Company to a Delaware Limited Liability Company. The fee to file the Certificate of Conversion is \$200.00. Also, enclosed please find a form for a Certificate of Formation that is required to be filed simultaneously with the Certificate of Conversion. The fee for filing the Certificate of Formation is \$90.00. Please submit the filing with 1 cover sheet with Conversion first. You will receive a stamped “filed” copy of your document. If you would like a certified copy it will be an additional \$100.00. (\$50.00 for the Conversion and \$50.00 for the Formation) Expedited services are available please contact our office concerning these fees. Please make any check payable to “Delaware Secretary of State”.

In order to process your request in a timely manner, please include a cover letter with your name, address and telephone/fax number to enable us to contact you if necessary. For your convenience a cover sheet is available at the following link. <http://corp.delaware.gov/filingmemo.pdf>. Please make sure you thoroughly complete all information requested on these forms. It is important that the execution be legible, we request that you print or type your name under the signature line.

Thank you for choosing Delaware as your corporate home. Should you require further assistance in this or any other matter, please don’t hesitate to call us at (302) 739-3073.

Sincerely,

Department of State
Division of Corporations

Rev 09/05

STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A NON-DELAWARE LIMITED LIABILITY COMPANY TO
A DELAWARE LIMITED LIABILITY COMPANY PURSUANT TO
SECTION 18-214 OF THE LIMITED LIABILITY
COMPANY ACT

- 1.) The jurisdiction where the Non-Delaware Limited Liability Company first formed is _____.
- 2.) The jurisdiction immediately prior to filing this Certificate is _____.
- 3.) The date the Non-Delaware Limited Liability Company first formed is _____.
- 4.) The name of the Non-Delaware Limited Liability Company immediately prior to filing this Certificate is _____.
- 5.) The name of the Limited Liability Company as set forth in the Certificate of Formation is _____.

IN WITNESS WHEREOF, the undersigned have executed this Certificate on the _____ day of _____, A.D. _____.

By: _____
Authorized Person

Name: _____
Print or Type

STATE OF DELAWARE
CERTIFICATE OF FORMATION
OF LIMITED LIABILITY COMPANY

The undersigned authorized person, desiring to form a limited liability company pursuant to the Limited Liability Company Act of the State of Delaware, hereby certifies as follows:

1. The name of the limited liability company is _____
_____.

2. The Registered Office of the limited liability company in the State of Delaware is located at _____ (street),
in the City of _____, Zip Code _____. The
name of the Registered Agent at such address upon whom process against this limited
liability company may be served is _____
_____.

By: _____
Authorized Person

Name: _____
Print or Type

**Delaware Division of Corporations
401 Federal Street – Suite 4
Dover, DE 19901
Phone: 302-739-3073**

**Certificate of Conversion from a
Non-Delaware Corporation
to a Delaware Corporation**

Dear Sir or Madam:

Enclosed please find a form for a Certificate of Conversion from a Non-Delaware Corporation to a Delaware Corporation. The fee to file the Certificate of Conversion is \$164.00 for a 1 page document. Please add \$9 for each additional page. A Certificate of Incorporation is required to be filed simultaneously with the Certificate of Conversion. Enclosed for your convenience, please find a form for a Stock Certificate of Incorporation. Forms for a Non-Stock Certificate of Incorporation can be found on our web site. The fee for filing the Certificate of Incorporation is a minimum of \$89.00 for a 1 page document. Please add \$9 for each additional page. Filing fees for the Certificate of Incorporation will vary depending on the amount of authorized stock. You may contact our office for assistance in calculating these fees. Please submit the filing with 1 cover sheet with Conversion first. You will receive a stamped “filed” copy of your document. If you would like a certified copy it will be an additional \$100.00. (\$50.00 for the Conversion and \$50.00 for the Certificate of Incorporation) Expedited services are available please contact our office concerning these fees. Please make any check payable to “Delaware Secretary of State”.

In order to process your request in a timely manner, please include a cover letter with your name, address and telephone/fax number to enable us to contact you if necessary. For your convenience a cover sheet is available at the following link. <http://corp.delaware.gov/filingmemo.pdf>. Please make sure you thoroughly complete all information requested on these forms. It is important that the execution be legible, we request that you print or type your name under the signature line.

Thank you for choosing Delaware as your corporate home. Should you require further assistance in this or any other matter, please don't hesitate to call us at (302) 739-3073.

Sincerely,

Department of State
Division of Corporations

STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A NON-DELAWARE CORPORATION
TO A DELAWARE CORPORATION
PURSUANT TO SECTION 265 OF THE
DELAWARE GENERAL CORPORATION LAW

- 1.) The jurisdiction where the Non-Delaware Corporation first formed is _____.
- 2.) The jurisdiction immediately prior to filing this Certificate is_____.
- 3.) The date the Non-Delaware Corporation first formed is_____.
- 4.) The name of the Non-Delaware Corporation immediately prior to filing this Certificate is _____.
- 5.) The name of the Corporation as set forth in the Certificate of Incorporation is _____.

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the converting Non-Delaware Corporation have executed this Certificate on the _____day of _____, A.D._____.

By:_____

Name:_____

Print or Type

Title:_____

Print or Type

STATE of DELAWARE
CERTIFICATE of INCORPORATION
A STOCK CORPORATION

• **First:** The name of this Corporation is _____
_____.

• **Second:** Its registered office in the State of Delaware is to be located at
_____ Street, in the City of _____
County of _____ Zip Code _____.

The registered agent in charge thereof is _____
_____.

Third: The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

• **Fourth:** The amount of the total stock of this corporation is authorized to issue is
_____ shares (number of authorized shares) with a par value of
_____ per share.

• **Fifth:** The name and mailing address of the incorporator are as follows:

Name _____

Mailing Address _____

_____ Zip Code _____

• **I, The Undersigned,** for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts herein stated are true, and I have accordingly hereunto set my hand this
_____ day of _____, A.D. 20____.

BY: _____
(Incorporator)

NAME: _____
(type or print)