



NEW LAW AMPLIFIES IMPORTANCE OF PROPER ENTITY MAINTENANCE IN CT

On June 6, 2014, Governor Dannel P. Malloy signed into law “An Act Concerning the Integrity of The Business Registry.” Among other things, the Act authorizes the Connecticut Secretary of State to (1) dissolve or terminate a Connecticut business entity’s existence or (2) revoke an out-of-state business entity’s authority to conduct business in Connecticut, if the entity fails to file its Annual Reports. Under existing Connecticut law, business entities (whether organized under Connecticut law or authorized to conduct business in Connecticut) are obligated to file Annual Reports with the Secretary on or before each anniversary of the date of the applicable entity’s organization. The new Act, which became effective on January 1, 2015, applies to various business entities, including corporations, LLCs and limited partnerships. Under the Act, the Secretary can dissolve a Connecticut corporation, LLC or limited partnership if the entity’s Annual Report is more than one year past due. The Secretary can also revoke the authority of an out-of-state business entity to conduct business in Connecticut at any time after the entity fails to file its Annual Report.

Maintaining the entity’s existence ensures the intended tax and liability limitation laws apply to the entity and its owners. If the entity’s existence is terminated, owners could be held personally liable for the debts and other obligations of the entity, including the entity’s tax obligations, and, alternatively, the business assets of the entity could be made subject to the personal tax liability of its owners. Also, an entity that has been dissolved (or which has had its authority to do business in the State revoked) by the Secretary would be: (i) unable to sue or defend a lawsuit, (ii) at risk of losing its right to use its entity name, and (iii) limited in its ability to enforce contracts entered into by it. In short, the entity could lose most of the benefits for which it was formed.

Filing annual reports is just one of the obligations required by law to maintain the entity’s separate legal status and avoid personal liability. It is also important for business entities to maintain proper records. Failure to do so may have adverse consequences for the entity, particularly, for Connecticut corporations which are specifically required by Connecticut law to hold annual shareholder and director meetings. Moreover, in the course of conducting audits, IRS agents routinely request copies of an entity’s books and records.

This new Act amplifies the importance of proper entity maintenance. In response, Brody Wilkinson is now offering a Company Compliance Checkup to our business clients to help them comply with Connecticut law and free them to focus on more substantive business matters. For more information on the new law and this service, please contact Justin L. Galletti (jgalletti@brodywilk.com).