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Conversion of California Corporation to Another State

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This Newsletter will discuss the conversion (a.k.a. re-domicile or redomestication) of California corporations into another state (“Conversion”) and preliminary considerations and steps to consider prior to the Conversion.¹

There are three (3) potential ways of moving a corporation from one state to another.

Reincorporation. Form a new-state corporation; transfer assets and liabilities of the existing corporation to the new-state corporation; and dissolve the existing corporation (known as "***Reincorporation***"). The dissolution of the existing corporation and transfer of the assets to a new corporation can, and often time does, result in an unnecessary and unacceptable taxable income and gain. Reincorporation is highly discouraged due to the adverse tax ramifications.

Redomiciliation. If both states authorize a statutory corporate re-domicile procedure, a corporation can convert the existing corporation to a new-state of incorporation ("***Redomestication***" or "***Redomiciliation***"). California **does not** statutorily authorize Redomestications.

Merger. Form a new-state corporation and merge the existing California corporation into the new-state corporation via tax-free short form merger (via "***Short Form Merger***"). The Merger method is the most tax efficient corporate relocation method authorized under the California Corporation Code. The term “Short Form Merger” in this context means a Parent Corporation merging into a wholly-owned subsidiary by using a streamlined and simplified filing with the respective Secretaries of State.

The conversion of the California Corporation into another state corporation via merger requires the below corporate formalities, steps, and documentation.

- Preparation of new-state corporate formation and governance documents
- Agreement of Merger, Certificate of Merger and Certificate of Ownership
- Authorizing Minutes/Consent

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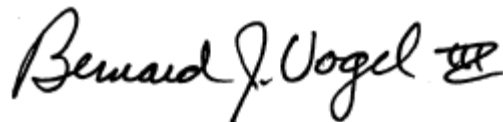
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Before starting a Conversion, many tax and nontax issues need to be addressed and decided, such as:

- Accountant. Discuss and plan the Conversion with your accountant and determine whether you need to establish a new accountant in the new-state.
- Tax Elections. Is the California Corporation an S corporation or are there tax elections unique to the California corporation? If so, consideration needs to be given to determine whether the new-state Corporation should also be treated as an S corporation and whether a Q-Subsidiary election or any other tax elections need to be made for the new-state Corporation.
- Corporate Name. Will the Corporation use the same corporate name? Do you want to use another corporate name? Is corporate name available in new state?
- Corporate Status. Is the California corporation in “Good Standing” with the California Secretary of State (i.e., current filing of Statement of Information and all taxes paid)?
- Licensing. Does the Corporation possess or require unique business or professional licenses?
 - Does the Corporation require a business or professional license in California? (i.e., (i) professional licenses for the practice of law, accounting, architecture, medical, etc., (ii) contractor licenses, or (iii) business licenses)?
 - Will such licenses be required in the other state?
 - If such licenses are required, is the reciprocity between California and the other state? i.e., Will the other state accept the California license? If not, have you determined that you can timely secure the necessary licenses in the other state?
- Registered Agent. The new-state generally will require a Registered Agent. The Registered Agent can either be a corporate registered agent (requiring payment of annual fees) or an individual residing in the other state.

If you have any questions or need assistance converting, re-domiciling, or re-domesticating your Corporation to another state, please contact me.

Very truly yours,



Bernard J. Vogel, III