

Topic: Clear Path for Entity Filing? Chicken or Egg?

Question by: Patrick Reed

Jurisdiction: Washington

Date: December 17, 2014

Jurisdiction	Question(s)		
	<p>When a domestic entity (Corp/LLC/LP) files for a business license or to set up tax accounts and unemployment accounts, must they first be filed at the Secretary of State (or appropriate creation authority) before they are allowed to move forward with secondary items? Or, can they record the legal entity after they have received a business license or other state registrations?</p>	<p>For jurisdictions were entity filing and business licensing are in the same shop, is there a clear step 1/step 2..... for entity filing first, then business/tax/employment filing after?</p>	<p>If an entity has become inactive/administratively dissolved, can they still renew a business or other state registrations/licenses during the inactive/dissolved status?</p>
Manitoba			
Corporations Canada			
Alabama			
Alaska			
Arizona	<p>There is no clear path outlined for Arizona businesses. We at the AZ Corporation Commission advise that they set up the entity first, then seek other licenses and registrations.</p>		<p>Typically, if an entity is administratively dissolved on our records, other agencies or licensing authorities will not renew until or unless the entity gets reinstated.</p>
Arkansas			
California			
Colorado			
Connecticut	<p>See Additional Comments Below</p>		
Delaware			

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District of Columbia	<p>You would first form your entity with my office before doing anything else.</p>	<p>Yes, step one is to form your organization, step 2 is tax registration, step 3 is occupancy and step 4 is business/professional license.</p>	<p>No, if we revoke organization's registration then it generally voids everything else such as business license, etc.</p>
Florida	<p>In Florida, the entity has to file first with us before our other State Agencies will allow them to register.</p>	<p>We do not have a one stop shop in place.</p>	<p>Other State Agencies are on our website continually and make sure the entity is active on our records before the allow an entity to renew with their office.</p>
Georgia	<p>In Georgia, this is a question for the county revenue office. We do not check for a business license before they file with us.</p>	<p>Not in the same shop in Georgia.</p>	<p>In Georgia, this is a question for the county revenue</p>
Hawaii	<p>Preferably the entity should be registered or created first. We do have an online multi-departmental filing system, Wizard, where the filing electronically moves through Business Registration, the Tax and Labor Departments</p>	<p>The Professional & Vocational Licensing Division, in our department, does require the business to be registered first.</p>	<p>If the entity is inactive/administratively dissolved, they can file delinquent annual reports if done within the required 2 year period. Other departments or government offices may issue or renew a registration/license if the registration's status is not checked.</p>
Idaho			
Illinois			

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Indiana	<p>Indiana is working to define a recommended process through the one stop application. There is nothing in statute that defines the orders of the filings. I think that it generally makes sense to file with SOS first. Like OH, the banks check the SOS system regularly to makes sure that the filing is on the record before they will proceed with opening accounts. That being said, we do have folks come to the SOS who have already obtained their FEIN numbers regularly. Clearly the other agencies are not requiring in proof that they have created an entity.</p>		<p>I am not certain how much the SOS “admin dissolved status” impacts the processes of other agencies. We will definitely be working on defining those connections. I will follow up with more information</p>
Iowa			
Kansas			
Kentucky			

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Louisiana	<p>Louisiana designed its one stop portal to allow both simultaneous submissions or “wait on SOS approval” submissions. Unemployment accounts needed to be set up immediately in case they were near the end of a quarter due to federal reporting requirements. This means that they’ll get SOS rejected filings multiple times (when corrections are made and the filing is resubmitted). Tax accounts wanted to wait on SOS acceptance.</p>		<p>If the entity was revoked they do have an option to reinstate. Most licensing agencies check with our office to see if entities or in good standing before issuing licenses. If they are not they are told to contact our office to get back in good standing before they can proceed with that agency.</p>
Maine			
Maryland			
Massachusetts			
Michigan			
Minnesota			
Mississippi			
Missouri			

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Montana	<p>Montana has no regulatory authority but when asked we advise the company to file with our office first. This prevents the business from having to amend the name appearing on their license or other state registration should their initial business name not be available on our records.</p>	<p>Not applicable in Montana.</p>	<p>Montana provides a five year grace period for corporations and LLC to reinstate. However, the business may be required to amend their business name if another company registered the same name during their dissolution status.</p>
Nebraska			
Nevada	<p>They are supposed to. However, we have some agencies and local jurisdictions that do not always follow this, especially when processing renewals.</p>	<p>For the State Business License they are part of the initial and annual filing, so they cannot be separated. Sole proprietors and partnerships are supposed to have a State Business License before a local jurisdiction or other licensing board can grant a license. Again, this is not always followed by all agencies and local licensing agencies.</p>	<p>They cannot renew their state business license unless they are bringing the entity back into good standing. Again, this is not always followed by all agencies and local licensing agencies. We are proposing legislation that specifies that the state business license (which is inexorably connected to the initial and annual filing for entities) is required before an agency may provide a license.</p>
New Hampshire			
New Jersey			
New Mexico			

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New York			
North Carolina	<p>The entity must file their registration at the Secretary of State's Office before applying for State Revenue numbers.</p>	<p>North Carolina doesn't have a one stop shop yet.</p>	<p>If an entity is administratively dissolved, they should only do such actions to wind up business. North Carolina has been educating licensing boards and agency registration office and they are starting to check the records at the Secretary of State's Office before processing any renewals before becoming reinstated by the SOS or the Department of Revenue when they suspend an entity.</p> <p>North Carolina began a program where third parties (licensing boards and agencies) can subscribe at no charge to the entities they have licensed or registered to receive an e-mail whenever a status change is eminent (e.g., they file a voluntary dissolution, a notice of grounds for administrative dissolution has been sent, the Department of Revenue suspended the entity, or any other event which would affect the status of the entity.)</p>
North Dakota			

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Ohio	<p>There is not a clear direction in the law, but we recommend business entities to register with our office first, and many other agencies/banks will check our database to make sure the business has properly registered with our office.</p>	N/A	<p>It is unlikely that they can still renew or license with other agencies if they are no longer active on our records, but if the other agency fails to check our database it is possible.</p>
Oklahoma			
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas			

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Utah	<p>In Utah, although there is no statutory or rule stating such, we work very closely with the state tax commission, department of workforce services, and local business licensing bureaus. Each of them require a statutory entity to register with our business registry office prior to issuing a license, number, etc. It doesn't work perfectly, but it's pretty good.</p> <p>We do have our OneStop Business Registry that combines all these in a single web site.</p>		
Vermont			
Virginia			
Washington			
West Virginia			
Wisconsin			
Wyoming			

Additional comments:

CONNECTICUT:

- 1.) While it makes the most sense to establish an entity first, and proceed from there, there is no law in CT requiring this. We try to work with other agencies and have some great success with some and limited success with others to have them refer the appropriate businesses to us for proper registration or formation. Most other agencies completely miff the concept of what is an entity that needs to register here, as opposed to, for example, a sole proprietor or a general partnership, which do not. I learned a couple months ago that our Department of Consumer Protection was sending out notices to home improvement contractors seeking to renew their annual DCP license. Thinking they were helping matters, they included language in the notice that stated, quite incorrectly, that all home improvement contractors need to register with the Secretary of the State before they can qualify for their trade license renewal. YIKES! I wrote a quick, diplomatic letter to my counterpart at DCP who runs that program, offering to help re-word the letter and to train his staff on when a company needs to be registered with the Secretary. He went all sideways on me, so I wrote a longer letter describing in detail exactly how and why his letter to renewal applicants was all wickety-whack. He replied with a terse thank-you and he informed me that they amended their letter. Yet, no copy was provided for me to proof. Hmmm...Yeah, right. I'm guessing they scrapped their program to inform contractors that they might need to be registered here. Sound familiar, IACA folks?
- 2.) N/A. These functions are stovepiped among different agencies with disparate automated systems in Connecticut. However, we did develop our Online Business Startup Tool that links forming and foreign-registering companies to a large array of other agencies where they may be required to register or seek licensure/permitting.
- 3.) They are not supposed to be able to because they are not technically an entity. Yet, for reasons stated above, there are surely cases when this occurs due to misunderstandings regarding entity laws as applied by state employees at other agencies.

Full text of email:

Happy Holidays my IACA friends,

I am revisiting questions from a couple years ago and I am hoping jurisdictions can help me clarify a few things:

1. When a domestic entity (Corp/LLC/LP) files for a business license or to set up tax accounts and unemployment accounts, must they first be filed at the Secretary of State (or appropriate creation authority) before they are allowed to move forward with secondary items? Or, can they record the legal entity after they have received a business license or other state registrations?
2. For jurisdictions where entity filing and business licensing are in the same shop, is there a clear step 1/step 2..... for entity filing first, then business/tax/employment filing after?

3. If an entity has become inactive/administratively dissolved, can they still renew a business or other state registrations/licenses during the inactive/dissolved status?

Thank you all for your help,

Patrick

Patrick Reed
Operations Manager
Division of Corporations and Charities
Office of the Secretary of State
360.725.0358
patrick.reed@sos.wa.gov