

New Jersey Guide to Conversions and Domestications of Corporations and Limited Liability Companies



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When the New Jersey Revised Uniform Limited Liability Company Act (“NJ-RULLCA” or the “Act”)^[1] was adopted on March 18, 2012, it included provisions allowing a New Jersey (“NJ”) corporation to convert to a NJ limited liability company (“LLC”), and vice versa. However, the legislation did not include amendments to the New Jersey Business Corporation Act (“NJBCA”)^[2] authorizing such conversions. As a result, the provisions of NJ-RULLCA addressing a NJ corporation’s conversion to a NJ LLC, and vice versa, were dormant for over a decade.

On May 8, 2023, Governor Phil Murphy signed into law Senate Bill 142 (P.L. 2023, Chapter 38), which amended and supplemented the NJBCA to allow a NJ corporation to convert to a NJ LLC, and vice versa. As of the effective date of the law, November 4, 2023 (180 days after enactment), a NJ corporation may finally convert to a NJ LLC (or a foreign LLC), and vice versa. Further, a NJ corporation may redomesticate to another state, and vice versa.

The types of conversions and domestications involving corporations and LLCs in New Jersey may be summarized by the following table:

From	To
1. NJ corporation	a. NJ LLC
	b. Foreign LLC
	c. Foreign corporation
2. NJ LLC	a. NJ corporation
	b. Foreign corporation
	c. Foreign LLC
3. Foreign corporation	a. NJ LLC
	b. NJ corporation
	c. Foreign LLC
4. Foreign LLC	a. NJ LLC
	b. NJ corporation
	c. Foreign corporation

- 1. CONVERSION OF NJ CORPORATION

a. Conversion of NJ Corporation to NJ LLC

NJ-RULLCA provides that a NJ entity^[3] (other than a foreign LLC) may convert to a NJ LLC, and a NJ LLC may convert to any other form of entity (other than a foreign LLC).^[4] Focusing on corporations, NJ-RULLCA provides that a NJ corporation may convert to a NJ LLC if:

- the governing statute of the corporation authorizes conversion;^[5]
- the conversion is not prohibited by the law of the jurisdiction of the corporation; and^[6]
- the corporation complies with its governing statute in effecting the conversion.^[7]

i. Directors' and Shareholders' Approval

As a result of the amendments to the NJBCA, the foregoing requisites are satisfied, and a NJ corporation may now convert to a NJ LLC.^[8] To convert:

- The corporation's board of directors must adopt a resolution approving a plan of conversion, which plan must state that the corporation will be converting to a NJ LLC and direct that the plan be submitted to a vote at a meeting of the shareholders.^[9]
- All shareholders, whether or not they are entitled to vote, must be given written notice of the shareholders meeting, with such notice being given not less than twenty nor more than sixty days prior to the meeting.^[10]
- All shareholders, whether or not they are entitled to vote, must approve the plan of conversion.^[11] To repeat, even shareholders holding non-voting shares of stock must vote in favor of the plan of conversion.^[12]

The amendments to the NJBCA also provide that the plan of conversion must be approved in the manner provided in the LLC's operating agreement and in accordance with applicable law, as appropriate.^[13] This is curious language because the LLC is formed upon conversion and, therefore, is not yet in existence in New Jersey and may not have an operating agreement until conversion. How would the LLC approve the conversion? Nonetheless, because the shareholders of the NJ corporation will likely be the members of the LLC and will want to know the terms of the operating agreement

prior to the conversion, this hurdle may be satisfied by the members executing the operating agreement immediately prior to the conversion.

ii. Plan of Conversion

The amendments to the NJBCA do not specify what information should be included in a plan of conversion.^[14] By contrast, NJ-RULLCA provides that the plan of conversion must include the following information:

- name of the entity before conversion;^[15]
- form of the entity before conversion (i.e., a NJ corporation);^[16]
- name of the entity after conversion;^[17]
- form of the entity after conversion (i.e., a NJ LLC);^[18]
- the terms and conditions of conversion, including the manner and basis for converting interests of the converting entity (e.g., shares of stock of a NJ corporation) into any combination of cash, interests in the converted entity (e.g., membership interests in a NJ LLC), and other consideration.^[19] (For example, the plan may state that a shareholder with 25 of 100 issued and outstanding shares of the NJ corporation will receive a 25 percent membership interest in the LLC.); and
- the organizational documents of the converted entity that are, or are proposed to be, in writing (e.g., the certificate of formation and the operating agreement of a NJ LLC).^[20]

Therefore, when converting from a NJ corporation to a NJ LLC, the foregoing items must be included in the plan of conversion.

iii. Certificate of Conversion

Once the board of directors and the shareholders approve the plan of conversion, the NJ corporation would file a certificate of conversion with the New Jersey Division of Revenue and Enterprise Services (“NJDORES”).^[21] The certificate of conversion must include the following information:

- The name of the corporation.^[22]
- If the corporation wants to change its name, the proposed new name of the LLC.^[23] (If the corporate name includes “Inc.,” “Corp.,” etc., it must be changed to “LLC,” “L.L.C.,” etc.; therefore, the proposed new name of the LLC would be included in the certificate.)
- The future date or time when the conversion will be effective, if not effective upon filing, which future date cannot be more than ninety days after filing.^[24]
- A statement that that the plan of conversion was adopted by the

board of directors and the shareholders as required by N.J.S.A. 14A:11A-2(3).^[25]

NJ-RULLCA does not address the contents of articles of conversion for an entity, such as a NJ corporation, converting to a NJ LLC. It simply requires that the certificate of formation include additional information relating to the conversion.^[26]

iv. Certificate of Formation

A NJ corporation converting to a NJ LLC must file a certificate of formation with the NJDORES.^[27] In addition to the information required by N.J.S.A. 42:2C-18(b) (which is the name, the registered agent, and the registered office of the NJ LLC), the certificate of formation must include the following information (when a corporation is converting to a NJ LLC):

- a statement that the NJ LLC has been converted from a corporation;^[28]
- the name of the corporation;^[29]
- the form of the converting entity (e.g., a NJ corporation);^[30]
- the jurisdiction of the converting entity (e.g., New Jersey); and^[31]
- a statement that the conversion was approved in a manner that complied with the converting entity's governing statute (e.g., the NJBCA).^[32]

b. Conversion of NJ Corporation to Foreign LLC

A NJ corporation may convert to a foreign LLC.^[33]

i. Approval by Directors and Shareholders

See previous discussion at Section 1(a)(i).

ii. Plan of Conversion

See discussion at Section 1(a)(ii). (With any conversion from a NJ entity to a foreign entity, the statute of the foreign entity must be reviewed for any requirements that must be stated in the plan of conversion and the certificate of conversion.)

iii. Certificate of Conversion

Once the directors and shareholders approve the plan of conversion, the NJ corporation would file a certificate of conversion with the NJDORES, which must include the following information:

- The name of the corporation, and, if the name has been changed, the name under which it was originally incorporated.^[34]
- The date of filing of its original certificate of incorporation.^[35]
- The name of the foreign LLC after conversion.^[36]
- The jurisdiction where the conversion will occur.^[37]
- A statement that the conversion was approved in the manner provided in the LLC's operating agreement and in accordance with applicable law, as appropriate.^[38] (As noted, the LLC is formed upon conversion and, therefore, is not yet in existence and may not have an operating agreement at that time. Nonetheless, the statement will be included in the certificate of conversion since the conversion would need to be approved in accordance with applicable law and, if in existence, the operating agreement.)
- The future date or time when the conversion will be effective, if not effective upon filing, which cannot be more than ninety days after filing.^[39]
- If, after conversion, the foreign LLC will be conducting business in New Jersey, a statement that "it shall comply with the provisions of this act [i.e., the NJBCA] with respect to foreign entities, . . ."^[40]
- A statement that the foreign LLC may be served with process in New Jersey in any proceeding to enforce any obligation of the converting NJ corporation.^[41]
- The foreign LLC's irrevocable appointment of the NJDORES as its agent to accept service of process in any proceeding to enforce any obligation of the converting corporation.^[42]
- The address of the foreign LLC—within or outside New Jersey—where the NJDORES will mail process of service to the foreign LLC.^[43]

c. Conversion / Domestication of NJ Corporation to Foreign Corporation

A NJ corporation may convert to a foreign corporation.^[44] This type of conversion is commonly known in NJ as a domestication, although such a term is not used in the amendments to the NJBCA.^[45]

i. Approval by Directors and Shareholders

See previous discussion at Section 1(a)(i).

ii. Plan of Conversion

See discussion at Section 1(a)(ii).

iii. Certificate of Conversion

See discussion at Section 1(b)(iii).

d. Effect of Conversion / Domestication of NJ Corporation

The conversion (or domestication) of a NJ corporation to (a) a NJ LLC, (b) a foreign LLC, (c) a foreign corporation, or (d) another form of NJ or foreign entity does not affect any of the NJ corporation's obligations or liabilities, or the personal liability of any person, incurred prior to the conversion.^[46] Upon conversion, the new NJ LLC (or foreign LLC, foreign corporation, or other form of NJ or foreign entity) is, for all purposes, deemed to be the same entity as the NJ corporation.^[47]

The amendments to the NJBCA provide that, upon conversion (using a conversion from a NJ corporation to an LLC for this discussion):

- all of the corporation's rights, privileges and powers belong to the LLC;
- all of the corporation's real, personal, and mixed property belong to the LLC and, with respect to real property, it will not revert or be in any way impaired as a result of the conversion;
- all debts owed to the corporation will be owed to the LLC;
- all rights of creditors and all liens on any property of the corporation are preserved unimpaired, meaning that the LLC's property is subject to any liens filed against the corporation's property;^[48]
- all of the corporation's debts, liabilities and duties belong to the LLC and may be enforced against the LLC as if it incurred or contracted them; and
- all of the foregoing items are not deemed transferred from the corporation to the LLC.^[49]

NJ-RULLCA likewise provides:

- all of the corporation's property remains vested in the NJ LLC;^[50]
- all of the corporation's debts, obligations and other liabilities continue as the debt, obligations and liabilities of the NJ LLC;^[51]
- any action or proceeding by or against the corporation is

continued as if the conversion had not occurred (in other words, the action or proceeding of or against the corporation continues as the action or proceeding of or against the NJ LLC);^[52]

- all of the rights, privileges, immunities, powers, and purposes of the NJ corporation remain vested in the NJ LLC, except as prohibited by law (other than NJ-RULLCA),^[53] and
- upon conversion, the terms and conditions of the plan of conversion take effect, except as otherwise provided in the plan of conversion.^[54]

The conversion is not deemed a dissolution (unless otherwise agreed in the plan), and the NJ corporation is not required to wind up its business, pay its liabilities, and distribute its assets.^[55] The NJ corporation continues in the form of the NJ LLC (or foreign LLC, foreign corporation, or other form of NJ or foreign entity).^[56]

For a conversion of a NJ corporation to a foreign LLC, corporation, or other form of entity, the conversion is not deemed to affect the choice of law applicable to the NJ corporation with respect to matters arising prior to conversion.^[57]

– 2. CONVERSION OF NJ LLC

a. Conversion of NJ LLC to NJ Corporation

As a result of the amendments to the NJBCA, a NJ LLC may now convert to a NJ corporation.^[58]

i. Approval by Members

To convert, the NJ LLC must approve a plan of conversion and a certificate of incorporation, which must be approved in accordance with the LLC's operating agreement and applicable law, as appropriate (which for a NJ LLC means NJ-RULLCA).^[59]

NJ-RULLCA provides that all members of a NJ LLC converting to a NJ corporation (or any other form of entity) must consent to the plan of conversion,^[60] unless the operating agreement authorizes conversion with the consent of less than all members.^[61] Even in a manager-managed LLC (as opposed to a member-managed LLC), the members (not the managers) approve the plan of conversion, unless the operating agreement provides otherwise.^[62]

ii. Plan of Conversion

NJ-RULLCA provides that the plan of conversion must include the:

- name of the entity before conversion;^[63]
- form of the entity before conversion (i.e., a NJ LLC);^[64]
- name of the entity after conversion;^[65]
- form of the entity after conversion (i.e., a NJ corporation);^[66]
- terms and conditions of conversion, including the manner and basis for converting interests of the converting entity (e.g., membership interests of the NJ LLC) into any combination of cash, interests in the converted entity (e.g., shares of stock of a NJ corporation), and other consideration;^[67] and
- organizational documents of the converted entity that are, or are proposed to be, in writing (e.g., the certificate of incorporation, the bylaws and the organizational resolutions appointing directors and officers, and, if applicable, the shareholders agreement).^[68]

iii. Certificate / Articles of Conversion

Once the members approve the plan of conversion and the certificate of incorporation, the NJ LLC would file articles/certificate of conversion and a certificate of incorporation with the NJDORES.

^[69] The articles/certificate of conversion must be signed by an authorized person.^[70]

NJ-RULLCA provides that the articles of conversion must include the following information:

- a statement that the NJ LLC has been converted to a corporation;^[71]
- the name of the NJ LLC;^[72]
- the form of entity and such other information as may be required by the NJDORES to correctly identify the company and the jurisdiction of its governing statute;^[73]
- the date the conversion is effective under the governing statute of the converted entity;^[74]
- a statement that the conversion was approved as required by NJ-RULLCA;^[75] and
- a statement that the conversion was approved as required by the governing statute of the converted entity (e.g., the NJBCA).^[76]

By comparison, the amendments to the NJBCA provide that the certificate of conversion must include the following information:

- the date when the LLC was formed;^[77]
- the jurisdiction where the LLC was formed, and, if it has changed, the jurisdiction immediately prior to the conversion to a NJ corporation;^[78]
- the name of the LLC prior to filing the certificate of conversion;

[79]

- the name of the NJ corporation as set forth in the certificate of incorporation to be filed with the certificate of conversion;^[80]
- the future date or time when the conversion will be effective, if not effective upon filing, which future date cannot be more than ninety days after filing;^[81] and
- a statement that the plan of conversion was approved in the manner provided in the LLC's operating agreement and in accordance with applicable law, as appropriate.^[82] (Although the entire statement would be included in the certificate, if there is no operating agreement, then for a NJ LLC the plan of conversion would be in accordance with NJ-RULLCA, which serves as the LLC's default operating agreement).

Although there is no indication in either the NJ-RULLCA or the NJBCA of how to reconcile the requirements of each statute, a NJ LLC converting to a NJ corporation would likely file one certificate / one set of articles of conversion combining all information required in N.J.S.A. 14A:11A-1(5) and N.J.S.A. 42:2C-80(a)(1) to comply with each statute. In fact, the NJDORES has published two forms of certificate of conversion—one form (CD100) to be used when the resulting entity will be a NJ entity and the other (CD101) when the resulting entity will be a foreign entity. The forms are intended to be used in all types of entity conversions. The NJDORES has done an admirable job of distilling the statutory requirements in NJ-RULLCA and the NJBCA into one-page certificates. The forms are available on the NJDORES website.^[83]

iv. Certificate of Incorporation

A NJ LLC converting to a NJ corporation must file a certificate of incorporation with the NJDORES, which must be signed in accordance with the NJBCA.^[84] This provision states that a document may be signed by the chairman, president, or vice president of the corporation;^[85] however, the corporation would not have any directors until the certificate of incorporation is filed and would not have any officers until the organizational meeting of the directors is held. Therefore, the certification of incorporation will likely be signed by an incorporator.^[86]

b. Conversion of NJ LLC to Foreign Corporation

A NJ LLC may convert to a foreign corporation.^[87]

i. Approval by Members

See previous discussion at Section 2(a)(i).

ii. Plan of Conversion

See discussion at Section 2(a)(ii).

iii. Articles of Conversion

A NJ LLC converting to a foreign corporation would file articles of conversion under NJ-RULLCA. Because the conversion is to a foreign corporation, it would not need to comply with the requirements under the amendments to the NJBCA. See previous discussion at Section 2(a)(iii) on the contents of the articles of conversion under NJ-RULLCA.

Further, if a NJ LLC converts to a foreign corporation, and the foreign corporation will not be authorized to transact business in New Jersey, the articles of conversion must also include the street and mailing addresses of an office which the NJDORES may use for the purposes of N.J.S.A. 42:2C-81(c), which purposes are discussed in the next two sentences.^[88] By doing so, the foreign corporation consents to the jurisdiction of the courts in New Jersey to enforce any debt, obligation, or other liability for which the NJ LLC is liable if the NJ LLC was subject to suit on such debt, obligation, or other liability prior to the conversion.^[89] The foreign corporation also appoints the NJDORES as its agent for service of process of any suit relating to such debt, obligation, or other liability.^[90]

c. Domestication of NJ LLC to Foreign LLC

A NJ LLC may become a foreign LLC by domestication if:

- the foreign LLC's governing statute authorizes domestication,^[91]
- domestication is not prohibited by the law governing the foreign LLC;^[92] and
- the NJ LLC complies with the foreign LLC's statute in effecting the domestication.^[93]

i. Member Approval

All members must consent to the plan of domestication,^[94] unless the operating agreement authorizes conversion with the consent of less than all members.^[95] Even in a manager-managed LLC (as opposed to a member-managed LLC), the members (not the managers) approve the plan of domestication, unless the operating agreement provides otherwise.^[96]

ii. Plan of Domestication

The plan of domestication must include the:

- name of the NJ LLC before domestication and other such information the NJDORES requires to correctly identify the LLC (e.g., the business identification number);^[97]
- name of the foreign LLC after domestication;^[98]
- jurisdiction of the foreign LLC after domestication;^[99]
- terms and conditions of the domestication;^[100] and
- organizational documents of the foreign LLC (e.g., the certificate of formation and the operating agreement or an amendment to the existing operating agreement).^[101]

iii. Articles of Domestication

After the plan of domestication has been approved, the NJ LLC would file articles of domestication with the NJDORES, which articles must include:

- a statement that the NJ LLC has domesticated to a foreign LLC;^[102]
- the name of the NJ LLC and any other information required by the NJDORES to identify the NJ LLC (e.g., its business identification number);^[103]
- the name of the foreign LLC after domestication;^[104]
- the jurisdiction of the foreign LLC after domestication;^[105]
- the date the domestication is effective under the foreign LLC's governing statute;^[106] and
- a statement that the domestication was approved as required by NJ-RULLCA.^[107]

If a NJ LLC converts to a foreign LLC, and the foreign LLC will not be authorized to transact business in New Jersey, the articles of domestication also must include the street and mailing addresses of an office which the NJDORES may use for the purposes of N.J.S.A. 42:2C-85(b), which purposes are discussed in the next two sentences.^[108] By doing so, the foreign LLC consents to the jurisdiction of the courts in New Jersey to enforce any debt, obligation, or other liability for which the NJ LLC is liable if the NJ LLC was subject to suit on such debt, obligation, or other liability prior to the domestication.^[109] The foreign LLC must also appoint the NJDORES as its agent for service of process of any suit relating to such debt, obligation, or other liability.^[110]

iv. Statement of Surrender

When a NJ LLC domesticates to a foreign LLC, the NJ LLC must file a statement with the NJDORES surrendering its certificate of formation. The statement must include:

- the name of the NJ LLC and any other information required by the NJDORES to identify the NJ LLC (e.g., its business identification number);^[111]
- a statement that the certificate of formation is being surrendered in connection with the domestication of the NJ LLC to a foreign jurisdiction;^[112]
- a statement that the domestication was approved as required by NJ-RULLCA;^[113] and
- the jurisdiction of the foreign LLC.^[114]

d. Effect of Conversion / Domestication of a NJ LLC

Upon conversion, the NJ LLC will be a NJ corporation governed by the NJBCA.^[115] The NJ corporation will be deemed to have been commenced on the date that the LLC was first formed.^[116] For example, if a NJ LLC was formed on March 19, 2013, and converted to a NJ corporation on November 5, 2023, the NJ corporation will be deemed to have been in existence since March 19, 2013.

The conversion of a NJ LLC to a NJ or foreign entity does not affect any of the NJ LLC's obligations or liabilities, or the personal liability of any person, incurred prior to the conversion.^[117] Upon conversion, the corporation is deemed to be the same entity as the LLC, which means:

- all of the LLC's rights, privileges, and powers belong to the corporation;
- all of the LLC's real, personal, and mixed property belong to the corporation and, with respect to real property, it will not revert or be in any way impaired as a result of the conversion;
- all debts owed to the LLC will be owed to the corporation;
- all rights of creditors and all liens on any property of the LLC are preserved unimpaired, meaning that the corporation's property is subject to any liens filed against the LLC's property;^[118]
- all of the LLC's debts, liabilities, and duties belong to the corporation and may be enforced against the corporation as if it incurred or contracted them; and
- all of the foregoing items are not deemed transferred from the LLC to the corporation.^[119]

The effect of a NJ LLC domesticating to a foreign LLC is the same as a NJ LLC converting to a NJ or foreign corporation, discussed previously.^[120]

NJ-RULLCA contains comparable provisions on the effect of a NJ LLC converting to a corporation, which were discussed in this article earlier at Section 1(d).

The conversion is not deemed a dissolution, and the LLC is not required to wind up its business, pay its liabilities, and distribute its assets.^[121] The LLC continues in the form of a NJ corporation.^[122]

– 3. CONVERSION OF FOREIGN CORPORATION TO NJ ENTITY

a. Conversion of Foreign Corporation to NJ LLC

A foreign corporation may convert to a NJ LLC if:

- the foreign corporation's governing statute authorizes conversion;^[123]
- the conversion is not prohibited by the law of the foreign corporation^[124] and
- the foreign corporation complied with its governing statute in effectuating the conversion.^[125]

i. Approval of Directors and Shareholders

The directors and shareholders of a foreign corporation would approve the conversion to a NJ LLC in accordance with the statutory law governing the foreign corporation.

ii. Plan of Conversion

The plan of conversion is summarized at Section 1(a)(ii).

iii. Certificate of Conversion

The certificate of conversion and the certificate of formation to be filed with the NJDORES are summarized at Sections 1(a)(iii) and (iv).

iv. Effect of Conversion

The effect of the conversion is summarized at Section 1(d) in the NJ-RULLCA discussion.

b. Conversion of Foreign Corporation to NJ Corporation

A foreign corporation may convert (that is, domesticate) to a NJ corporation.^[126]

i. Approval of Directors and Shareholders

The directors and shareholders of a foreign corporation would approve the conversion to a NJ corporation in accordance with the statutory law governing the foreign corporation.

ii. Plan of Conversion

The plan of conversion is summarized at Section 2(a)(ii) above in the NJBCA discussion.

iii. Certificate of Conversion

The certificate of conversion is summarized at Section 2(a)(iii) above in the NJBCA discussion.

iv. Effect of Conversion

The effect of the conversion is summarized at Section 2(d) in the NJBCA discussion.

c. Conversion of Foreign Corporation Authorized to Do Business in NJ to a Foreign LLC Authorized to Do Business in NJ

The scenario of a foreign corporation authorized to do business in New Jersey converting to a foreign LLC is not addressed in the amendments to NJBCA. Nor is it addressed in NJ-RULLCA. Nonetheless, the NJDORES would likely require the new foreign LLC to file a new application for authority to do business in NJ.^[127] This would be comparable to a foreign LLC authorized to do business in

New Jersey converting to a foreign corporation. If the foreign corporation seeks to continue doing business in New Jersey, the amendments to the NJBCA require it to file a new application to do so.^[128]

– 4. CONVERSION OF FOREIGN LLC TO NJ ENTITY

a. Domestication of Foreign LLC to NJ LLC

A foreign LLC may become a NJ LLC by domestication^[129] if:

- the foreign LLC's governing statute authorizes domestication;^[130]
- domestication is not prohibited by the laws of the jurisdiction of the foreign LLC;^[131] and
- the foreign LLC complied with its governing statute in effecting the domestication.^[132]

i. Approval of Members

The members of a foreign LLC would approve domestication to a NJ LLC in accordance with the statutory law governing the foreign LLC.

ii. Plan of Domestication

The plan of domestication is summarized at Section 2(c)(ii).

iii. Articles of Domestication

The articles of domestication to be filed with the NJDORES are summarized at Section 2(c)(iii). The articles must also include a statement that the domestication was approved as required by the statute governing the foreign LLC.^[133]

iv. Effect of Domestication

The effect of a foreign LLC domesticating to a NJ LLC is the same as a foreign corporation converting to a NJ LLC, which is summarized at Section 1(d) in the NJ-RULLCA discussion.^[134]

b. Conversion of Foreign LLC into NJ Corporation

A foreign LLC may convert to a NJ corporation.^[135]

i. Approval by Members

To convert, the foreign LLC must approve a plan of conversion and a certificate of incorporation, which must be approved in accordance with the foreign LLC's operating agreement and applicable law, as appropriate.^[136]

ii. Plan of Conversion

The plan of conversion should address the terms and conditions of the conversion, including the manner and basis for converting the membership interests of the foreign LLC into cash, property, shares of stock, or other rights or securities of the NJ corporation (or of another NJ entity), or whether they will be cancelled.^[137] As noted, in addition to the certificate of incorporation, the plan of conversion should include the proposed bylaws of the NJ corporation and proposed organizational resolutions appointing directors and officers, and, if applicable, the proposed shareholders agreement.

iii. Certificate of Conversion

Once the members of the foreign LLC approve the plan of conversion, it would file a certificate of conversion and a certificate of incorporation with the NJDORES.^[138] The certificate of conversion must be signed by an authorized person.^[139]

The certificate of conversion must include the following information:

- the date when the LLC was formed;^[140]
- the jurisdiction where the LLC was formed, and, if it has changed, the jurisdiction immediately prior to the conversion to a NJ corporation;^[141]
- the name of the LLC prior to filing the certificate of conversion;^[142]
- the name of the NJ corporation as set forth in the certificate of incorporation to be filed with the certificate of conversion;^[143]
- the future date or time when the conversion will be effective, if not effective upon filing, which future date cannot be more than ninety days after filing;^[144]
- a statement that the plan of conversion was approved in the manner provided in the LLC's operating agreement and in accordance with applicable law, as appropriate.^[145] (Although the entire statement would be included in the certificate, if there is no operating agreement, then for a NJ LLC the plan of conversion would be in accordance with NJ-RULLCA, which serves as the LLC's default operating agreement).

c. Conversion of Foreign LLC Authorized to Do Business in NJ to a Foreign Corporation Authorized to Do Business in NJ

If a foreign LLC is authorized to do business in New Jersey and converts to a foreign corporation, the foreign corporation must file with NJDORES a new application for authority to do business in New Jersey.^[146] The application must include:

- the name of the foreign corporation;^[147]
- the jurisdiction where it is incorporated;^[148]
- the name of the foreign LLC that was authorized to do business in New Jersey;^[149]
- the ten-digit business identification number of such foreign LLC;^[150]
- the date of conversion of the foreign LLC to a foreign corporation;^[151]
- the date the foreign LLC was authorized to do business in New Jersey;^[152]
- the address of the principal place of business of the foreign corporation (which the law describes as the main office or headquarters office);^[153]
- the foreign corporation's registered agent and registered office in New Jersey, and that the registered agent may be served with process against the corporation;^[154]
- the character of the business to be conducted in New Jersey;^[155] and
- a statement that the foreign corporation is authorized to conduct business in its state of incorporation.^[156]

The application must be accompanied by a certificate of good standing (or comparable equivalent) from the jurisdiction of the foreign corporation, which certificate must be issued after the date of conversion and within thirty days of the filing of the application.^[157] Upon filing the application, the NJDORES will issue a new certificate of authority to the new foreign corporation.^[158]

– 5. TAX CONSIDERATIONS

There are several tax considerations when converting a corporation to an LLC, and vice versa. The following discussion is a mere general summary, and any conversion should be done in consultation with a

knowledgeable tax accountant or tax attorney because the tax laws are complex and contain many nuances.

a. Income Tax Consequences^[159]

i. Conversion of LLC to Corporation

An LLC taxed as a partnership (i.e., an LLC with two or more members) or as a disregarded entity (i.e., an LLC with one member) may usually convert to a C corporation on a tax-free basis, assuming compliance with certain requirements in the U.S. Tax Code.^[160]

ii. Conversion of Corporation to LLC

Generally, a corporation converting to an LLC taxed as a partnership (i.e., an LLC with two or more members) or to a disregarded entity (i.e., an LLC with one member) is treated as a taxable liquidation of the corporation. This means that the corporation is treated as having sold its assets to its shareholders for fair market value ("FMV"), followed by the shareholders' contribution of the assets to the LLC.

1. C Corporations

The liquidation of a C corporation can result in double taxation—a tax paid by the C corporation and a tax paid by its shareholders.

- A C corporation must recognize gain on the liquidating distribution of assets to its shareholders, which is the difference between the FMV of the assets and their adjusted tax basis.^[161]
- Each shareholder recognizes gain equal to the difference between the FMV of the assets deemed to have been received by the shareholder on liquidation on a pro rata basis with the other shareholders and the adjusted tax basis of the shareholder's shares of stock surrendered to the corporation in exchange for the assets. If the shares of stock have been held for more than one year, the shareholder would recognize a long-term capital gain. If not, the shareholder would have a short-term capital gain (which would effectively be treated as ordinary income).

2. S Corporations

The liquidation of an S corporation does not result in double taxation; instead, the S corporation's gain passes through to the shareholders.

- An S corporation must recognize gain on the liquidating

distribution of assets to its shareholders, which is the difference between the FMV of the assets and their adjusted tax basis.

- However, the S corporation's gain passes through to the corporation's shareholders on a pro rata basis and is included on their personal income tax returns. If the assets have been held for more than one year, they would generally recognize a long-term capital gain. If not, they would have a short-term capital gain (which would effectively be treated as ordinary income). However, the gain on certain assets, such as accounts receivable and inventory (as well as depreciation recapture), would be ordinary income regardless of how long they have been held.
- Each shareholder would also recognize gain equal to the difference between the FMV of the assets deemed to have been received on liquidation and the adjusted tax basis of their shares of stock surrendered to the corporation in exchange for the assets, with the shareholder's tax basis adjusted to reflect the gain between the FMV of the assets and their adjusted tax basis. If the shares of stock have been held for more than one year, the shareholder would recognize a long-term capital gain. If not, the shareholder would have a short-term capital gain (which would effectively be treated as ordinary income).

Further, an S corporation may be required to pay corporate income taxes if it has built-in gains ("BIG") in its assets. The BIG tax applies to a C corporation that made an S corporation election and liquidates within five years of the election. The rule is intended to discourage a C corporation from electing to be taxed as an S corporation immediately prior to a liquidation to avoid double taxation. The BIG tax is imposed at the highest corporate tax rate (currently a federal tax rate of 21 percent, plus any applicable state and local income taxes) and is triggered by the disposition of any asset the C corporation held at the time it elected to be taxed as an S corporation. Therefore, it does not apply to any assets acquired after the S corporation election.

b. Tax Clearance Certificates

If a NJ corporation merges into a foreign corporation or LLC, which foreign entity will be the surviving entity, the NJ corporation is required to obtain a tax clearance certificate to complete the merger (that is, in order for the NJDORES to file the certificate of merger), unless the foreign entity is authorized to transact business in New Jersey (or will become authorized to transact business by simultaneously filing an application to transact business in New Jersey).^[162]

There is no legal authority on the issue at this time, but it would be logical that a tax clearance certificate would be required when a NJ corporation is converting to a foreign corporation or LLC when the foreign entity will be the surviving entity. In other words, the NJ corporation would need to obtain a tax clearance certificate to complete the conversion (that is, in order for the NJDORES to file the certificate of conversion), unless the foreign entity is authorized to transact business in New Jersey (or will become authorized to transact business by simultaneously filing an application to transact business in New Jersey).^[163]

C. EIN^[164]

For many entities, the entity's retaining its employer identification number ("EIN") is critical to the continued success of its business because of the historical data associated with the EIN—for example, an entity's credit history with customers or vendors. If an entity is required to obtain a new EIN upon conversion, it could lose all of its credit history and goodwill with a customer or vendor and would need to start from scratch.

Therefore, an important issue when considering conversion is determining whether a corporation converting to an LLC, or vice versa, can retain its EIN or if it is required to obtain a new EIN. The starting point for this analysis is IRS Publication 1635 (Rev. 2-2014).

^[165] It states that a new EIN is needed if:

- a sole proprietor incorporates, which would be an LLC taxed as a disregarded entity converting to a corporation;
- a partnership incorporates, which would be an LLC taxed as a partnership converting to a corporation; or
- a corporation becomes a partnership or a sole proprietorship, which would be a corporation converting to an LLC taxed as a partnership or an LLC taxed as a disregarded entity. However, a corporation is not required to obtain a new EIN in connection with a corporate reorganization involving only a change of identity, form, or place of organization.^[166]

However, the Treasury regulations have exceptions to these general rules, which can be found in the "check-the-box" regulations.

Specifically, Treasury Regulation §301.6109-1(h)(1) provides that any entity that has an EIN *will retain* that EIN if its federal tax classification changes under Treas. Reg. §301.7701-3.

Another source of authority to support an entity retaining its EIN after a conversion or domestication is the Internal Revenue Manual dated April 14, 2022 ("IRM"). Although it is not legally binding on the

IRS, its staff relies on the IRM in handling many procedural issues, including an entity's retention of its EIN.

As noted, IRS guidance (i.e., Publication 1635) states that a new EIN is required upon conversion, but the IRM provides otherwise. The IRM is not binding on the IRS, so there is some risk in relying on it, but it should be viewed as a calculated risk. The balance of this article's discussion of the EIN issue should be considered proposed best practices to retain an EIN upon conversion.

i. Corporation Conversion to LLC

If a C corporation converts to an LLC through a state's conversion statute, the new LLC should be able to retain the corporation's EIN regardless of whether the LLC will be taxed as a partnership, a C corporation, an S corporation, or a disregarded entity.^[167] The new LLC should submit a letter to the IRS requesting to retain the corporation's EIN and provide proof of the conversion (e.g., a copy of the filed certificate or articles of conversion).^[168]

When the corporation files its final corporate tax return (Form 1120) and its first partnership tax return (Form 1065), it should attach a copy of the filed certificate or articles of conversion and an explanation that it has converted from a corporation to an LLC and retained the corporation's EIN.^[169]

ii. LLC Conversion to Corporation

If an LLC converts to a corporation through a state's conversion statute, the new corporation should be able to retain the LLC's EIN.^[170] The new corporation should submit a letter to the IRS requesting to retain the LLC's EIN and provide proof of the conversion.

When the partnership files its final partnership tax return (Form 1065) and its first corporate tax return (Form 1120), it should attach a copy of the filed certificate or articles of conversion and an explanation that it has converted from an LLC to a corporation and retained the LLC's EIN.

– 6. CONCLUSION

As a result of the amendments to the NJBCA, NJ corporations may now convert to NJ LLCs, foreign LLCs, and foreign corporations, and vice versa. As noted, there are some procedural questions, but they should be answered when the NJDORES disseminates official forms and guidance on conversions and domestications and the New

Jersey Division of Taxation provides guidance on the tax clearance issue. In the meantime, New Jersey has finally taken a small step in modernizing its statutes.^[171]

1. N.J.S.A. 42:2C-1, *et seq.* ↑
2. N.J.S.A. 14A:1-1, *et seq.* ↑
3. NJ-RULLCA uses the term “organization,” but to be consistent with the new amendments to the NJBCA, this article uses the term “entity.” ↑
4. N.J.S.A. 42:2C-78(a). The exclusion of foreign LLCs is because a change from a NJ LLC to a foreign LLC, and vice versa, is a domestication under N.J.S.A. 42:2C-82, and not a conversion under N.J.S.A. 42:2C-78. ↑
5. N.J.S.A. 42:2C-78(a)(1). ↑
6. N.J.S.A. 42:2C-78(a)(2). ↑
7. N.J.S.A. 42:2C-78(a)(3). ↑
8. N.J.S.A. 14A:11A-2(2). The new law also allows a NJ corporation to convert to other forms of entity, such as general partnerships and limited partnerships. N.J.S.A. 14A:11A-2(2) & (1) (definition of “other entity”). However, a corporation will not be able to convert to a NJ general partnership or NJ limited partnership until the New Jersey Uniform Partnership Act, N.J.S.A. 42:1A-1, *et seq.*, and the New Jersey Uniform Limited Partnership Law, N.J.S.A. 42:2A-1, *et seq.*, are amended to authorize such conversions. Such legislation has been pending in the New Jersey Legislature for a decade. The current bills, S134 and A3831, have not yet worked their way through the legislative process. ↑
9. N.J.S.A. 14A:11A-2(3). ↑
10. N.J.S.A. 14A:11A-2(3). ↑
11. N.J.S.A. 14A:11A-2(3). ↑
12. By comparison, a merger of a NJ corporation into an LLC requires only the affirmative approval of a majority of the votes cast by shareholders holding the shares entitled to vote. N.J.S.A. 14A:10-3(1)(b)(2). For NJ corporations organized prior to January 1, 1969, two-thirds approval is required. *Id.* Therefore, there may be

situations where it will be easier to merge a NJ corporation into an LLC than to convert it to an LLC. Where unanimous approval of all voting and non-voting shareholders is questionable, practitioners may continue to use the alternative of merging a NJ corporation into an LLC. ↑

13. N.J.S.A. 14A:11A-2(3), last sentence. ↑
14. See N.J.S.A. 14A:11A-1 & -2. ↑
15. N.J.S.A. 42:2C-78(b)(1). ↑
16. N.J.S.A. 42:2C-78(b)(1). ↑
17. N.J.S.A. 42:2C-78(b)(2). ↑
18. N.J.S.A. 42:2C-78(b)(2). ↑
19. N.J.S.A. 42:2C-78(b)(3). See also N.J.S.A. 14A:11A-2(9). ↑
20. N.J.S.A. 42:2C-78(b)(4). A NJ corporation converting to a NJ LLC may decide not to have a written operating agreement and instead rely on the default provisions in NJ-RULLCA. See N.J.S.A. 42:2C-11(2). This would be a poor decision, especially for a NJ LLC that will have two or more members, because the default provisions include surprises for the unwary (e.g., members having equal distribution and voting rights regardless of their capital contributions and ownership percentages). See N.J.S.A. 42:2C-34(a) & -37(b)(2). See also Gianfranco A. Pietrafesa, "An Operating Agreement is Essential under RULLCA," 210 N.J.L.J. 664 (November 19, 2012). ↑
21. N.J.S.A. 14A:11A-2(4). ↑
22. N.J.S.A. 14A:11A-2(4)(a). ↑
23. N.J.S.A. 14A:11A-2(4)(a). ↑
24. N.J.S.A. 14A:11A-2(4)(b). ↑
25. N.J.S.A. 14A:11A-2(4)(c). ↑
26. See N.J.S.A. 42:2C-80 (specifically N.J.S.A. 42:2C-80(a)(2), discussed *infra*). ↑
27. N.J.S.A. 42:2C-80(a)(2). ↑

28. N.J.S.A. 42:2C-80(a)(2)(a). ↑
29. N.J.S.A. 42:2C-80(a)(2)(b). ↑
30. N.J.S.A. 42:2C-80(a)(2)(b). ↑
31. N.J.S.A. 42:2C-80(a)(2)(b). ↑
32. N.J.S.A. 42:2C-80(a)(2)(c). ↑
33. A NJ corporation seeking to convert or domesticate to a foreign entity will also need to comply with the specific requirements in the statute governing the foreign entity, which requirements are beyond the scope of this article. ↑
34. N.J.S.A. 14A:11A-2(5)(a). ↑
35. N.J.S.A. 14A:11A-2(5)(b). ↑
36. N.J.S.A. 14A:11A-2(5)(c). ↑
37. N.J.S.A. 14A:11A-2(5)(c). ↑
38. N.J.S.A. 14A:11A-2(5)(d). ↑
39. N.J.S.A. 14A:11A-2(5)(e). ↑
40. N.J.S.A. 14A:11A-2(5)(f). This statement is fine for a foreign corporation, but how and why would a foreign LLC comply with the NJBCA? The term “applicable law of this State” should have been used instead of “this act.” For foreign LLCs, this applicable law would be NJ-RULLCA, and a foreign LLC that intends to transact business in New Jersey must apply to do business in New Jersey. See N.J.S.A. 42:2C-58 (application of authority to do business in NJ). By analogy, see the discussion in this article at Section 4(c) concerning a foreign LLC (which is authorized to do business in New Jersey) converting to a foreign corporation, which would be required to file a new application for authority to do business in New Jersey. ↑
41. N.J.S.A. 14A:11A-2(5)(f)(i). ↑
42. N.J.S.A. 14A:11A-2(5)(f)(ii). ↑
43. N.J.S.A. 14A:11A-2(5)(f)(ii). ↑

44. N.J.S.A. 14A:11A-2(2) & (1) (definition of "other entity" includes foreign corporations). ↑
45. Apparently, the amendments to the NJBCA are based on Delaware law and, therefore, like Delaware law, do not use the term "domestication." See note 91, *infra*, for a discussion of nomenclature. ↑
46. N.J.S.A. 14A:11A-2(10) & 14A:11A-2(7). ↑
47. N.J.S.A. 14A:11A-2(10); N.J.S.A. 42:2C-81(a). ↑
48. A secured party should file an amendment to a financing statement to reflect the change of name of the debtor and/or the change of its state of organization after a redomestication to another state. ↑
49. N.J.S.A. 14A:11A-2(10). ↑
50. N.J.S.A. 42:2C-81(b)(1). ↑
51. N.J.S.A. 42:2C-81(b)(2). ↑
52. N.J.S.A. 42:2C-81(b)(3). ↑
53. N.J.S.A. 42:2C-81(b)(4). ↑
54. N.J.S.A. 42:2C-81(b)(5). ↑
55. N.J.S.A. 14A:11A-2(8); N.J.S.A. 42:2C-81(b)(6). ↑
56. N.J.S.A. 14A:11A-2(8). ↑
57. N.J.S.A. 14A:11A-2(7). ↑
58. N.J.S.A. 14A:11A-1(2) & (1) (definition of "other entity" includes a NJ LLC); N.J.S.A. 42:2C-78(a). NJ-RULLCA and the amendments to the NJBCA also allow other entities, such as general partnerships and limited partnerships, to convert to a NJ LLC or a NJ corporation, or vice versa. However, as noted in note 8, *supra*, a NJ general partnership or a NJ limited partnership will not be able to convert to a NJ LLC or a NJ corporation, or vice versa, until the New Jersey Uniform Partnership Act and the New Jersey Uniform Limited Partnership Law are amended to authorize conversions. ↑
59. N.J.S.A. 42:2C-78(b); N.J.S.A. 14A:11A-1(3). ↑

60. N.J.S.A. 42:2C-79(a). ↑
61. N.J.S.A. 42:2C-86(a). *See also* N.J.S.A. 42:2C-11(c)(10) & -86(b). ↑
62. N.J.S.A. 42:2C-37(c)(4)(b). ↑
63. N.J.S.A. 42:2C-78(b)(1). ↑
64. N.J.S.A. 42:2C-78(b)(1). ↑
65. N.J.S.A. 42:2C-78(b)(2). ↑
66. N.J.S.A. 42:2C-78(b)(2). ↑
67. N.J.S.A. 42:2C-78(b)(3). *See also* N.J.S.A. 14A:11A-1(11). Other than stating that a plan of conversion must be approved by the entity being converted (e.g., the NJ LLC), the amendments to the NJBCA do not specify the contents of the plan. *See* N.J.S.A. 14A:11A-1. ↑
68. N.J.S.A. 42:2C-78(b)(4). ↑
69. N.J.S.A. 42:2C-80(a)(1); N.J.S.A. 14A:11A-1(4)(a). ↑
70. N.J.S.A. 14A:11A-1(10); N.J.S.A. 42:2C-80(a)(1) & 42:2C-20(a)(1). It is unknown why the committee that reviewed, drafted, and advocated for the adoption of NJ-RULLCA did not change the word "articles" to "certificate" to conform to the nomenclature typically used in New Jersey. ↑
71. N.J.S.A. 42:2C-80(a)(1)(a). ↑
72. N.J.S.A. 42:2C-80(a)(1)(b). ↑
73. N.J.S.A. 42:2C-80(a)(1)(b). ↑
74. N.J.S.A. 42:2C-80(a)(1)(c). ↑
75. N.J.S.A. 42:2C-80(a)(1)(d). ↑
76. N.J.S.A. 42:2C-80(a)(1)(e). ↑
77. N.J.S.A. 14A:11A-1(5)(a). ↑
78. N.J.S.A. 14A:11A-1(5)(a). ↑
79. N.J.S.A. 14A:11A-1(5)(b). ↑

80. N.J.S.A. 14A:11A-1(5)(c). ↑
81. N.J.S.A. 14A:11A-1(5)(d). ↑
82. N.J.S.A. 14A:11A-1(5)(e). ↑
83. See <https://www.nj.gov/treasury/revenue> (<https://www.nj.gov/treasury/revenue>). ↑
84. N.J.S.A. 14A:11A-1(4)(b). See N.J.S.A. 14A:1-6. ↑
85. N.J.S.A. 14A:1-6(2). ↑
86. See N.J.S.A. 14A:2-6(1). ↑
87. N.J.S.A. 42:2C-78(a). ↑
88. N.J.S.A. 42:2C-80(a)(1)(f). ↑
89. N.J.S.A. 42:2C-81(c). ↑
90. N.J.S.A. 42:2C-81(c). ↑
91. N.J.S.A. 42:2C-82(b)(1). Note that some jurisdictions do not use the term “domestication”; instead, they use the term “conversion.” For example, Delaware allows the conversion of a foreign LLC to a DE LLC, and vice versa. DE Title 6, §18-214(a) & §18-216(a). Likewise, it allows the conversion of a foreign corporation to a DE corporation, and vice versa. DE Title 8, §265(a) & §266(a). Therefore, going from a NJ LLC to a DE LLC, or vice versa, would be a “domestication” in NJ and a “conversion” in DE. Notwithstanding the different nomenclature in the statutes, the legal effect is the same. ↑
92. N.J.S.A. 42:2C-82(b)(2). ↑
93. N.J.S.A. 42:2C-82(b)(3). ↑
94. N.J.S.A. 42:2C-83(a)(1) ↑
95. N.J.S.A. 42:2C-86(a). See also N.J.S.A. 42:2C-11(c)(10) & -86(b). ↑
96. N.J.S.A. 42:2C-37(c)(4)(b). ↑
97. N.J.S.A. 42:2C-82(c)(1). ↑
98. N.J.S.A. 42:2C-82(c)(2). ↑

99. N.J.S.A. 42:2C-82(c)(3). ↑
100. See N.J.S.A. 42:2C-82(c)(3). ↑
101. N.J.S.A. 42:2C-82(c)(4). ↑
102. N.J.S.A. 42:2C-84(a)(1). ↑
103. N.J.S.A. 42:2C-84(a)(2). ↑
104. N.J.S.A. 42:2C-84(a)(3). ↑
105. N.J.S.A. 42:2C-84(a)(3). ↑
106. N.J.S.A. 42:2C-84(a)(4). ↑
107. N.J.S.A. 42:2C-84(a)(5). ↑
108. N.J.S.A. 42:2C-84(a)(7). ↑
109. N.J.S.A. 42:2C-85(b). ↑
110. N.J.S.A. 42:2C-85(b). ↑
111. N.J.S.A. 42:2C-85(c)(1). ↑
112. N.J.S.A. 42:2C-85(c)(2). ↑
113. N.J.S.A. 42:2C-85(c)(3). ↑
114. N.J.S.A. 42:2C-85(c)(4). ↑
115. N.J.S.A. 14A:11A-1(6). ↑
116. N.J.S.A. 14A:11A-1(6). ↑
117. N.J.S.A. 14A:11A-1(7). ↑
118. As noted, a secured party should file an amendment to a financing statement to reflect the change of name of the debtor and/or the change of its state of organization after a redomestication to another state. ↑
119. N.J.S.A. 14A:11A-1(8). ↑
120. Compare N.J.S.A. 42:2C-85(a) with N.J.S.A. 42:2C-81(a) & (b). ↑

121. N.J.S.A. 14A:11A-1(7). ↑
122. N.J.S.A. 14A:11A-1(9). ↑
123. N.J.S.A. 42:2C-78(a)(1). ↑
124. N.J.S.A. 42:2C-78(a)(2). ↑
125. N.J.S.A. 42:2C-78(a)(3). ↑
126. N.J.S.A. 14A:11A-1(2) & (1) (definition of “other entity” includes foreign corporations). ↑
127. See N.J.S.A. 42:2C-58 & -60. ↑
128. See N.J.S.A. 14A:13.6-1 (discussed at Section 4(c) *infra*). ↑
129. As noted, the governing statute of a foreign LLC may use a different nomenclature (e.g., Delaware uses the term “conversion” for domestications), but it still authorizes a change of an LLC from one state to another (e.g., a DE LLC to a NJ LLC, or vice versa). ↑
130. N.J.S.A. 42:2C-82(a)(1). ↑
131. N.J.S.A. 42:2C-82(a)(2). ↑
132. N.J.S.A. 42:2C-82(a)(3). ↑
133. N.J.S.A. 42:2C-84(a)(6). ↑
134. Compare N.J.S.A. 42:2C-85(a) with N.J.S.A. 42:2C-81(a) & (b). ↑
135. N.J.S.A. 14A:11A-1(2) & (1) (definition of “other entity” includes a foreign LLC). ↑
136. N.J.S.A. 14A:11A-1(3). ↑
137. N.J.S.A. 14A:11A-1(11). ↑
138. N.J.S.A. 14A:11A-1(4)(a). ↑
139. N.J.S.A. 14A:11A-1(10). ↑
140. N.J.S.A. 14A:11A-1(5)(a). ↑
141. N.J.S.A. 14A:11A-1(5)(a). ↑

142. N.J.S.A. 14A:11A-1(5)(b). ↑

143. N.J.S.A. 14A:11A-1(5)(c). ↑

144. N.J.S.A. 14A:11A-1(5)(d). ↑

145. N.J.S.A. 14A:11A-1(5)(e). ↑

146. N.J.S.A. 14A:13-6.1(1). ↑

147. N.J.S.A. 14A:13-6.1(1)(a). ↑

148. N.J.S.A. 14A:13-6.1(1)(a). ↑

149. N.J.S.A. 14A:13-6.1(1)(b). ↑

150. N.J.S.A. 14A:13-6.1(1)(c). ↑

151. N.J.S.A. 14A:13-6.1(1)(d). ↑

152. N.J.S.A. 14A:13-6.1(1)(e). ↑

153. N.J.S.A. 14A:13-6.1(1)(f). ↑

154. N.J.S.A. 14A:13-6.1(1)(g). ↑

155. N.J.S.A. 14A:13-6.1(1)(h). ↑

156. N.J.S.A. 14A:13-6.1(1)(h). ↑

157. N.J.S.A. 14A:13-6.1(2). ↑

158. N.J.S.A. 14A:13-6.1(3). ↑

159. The author would like to thank Gordon F. Moore, Esq. of Archer & Greiner, P.C. for his comments to this Section 5(a) of the article. Any errors are the author's sole responsibility. ↑

160. Such requirements are beyond the scope of this article. ↑

161. This article ignores the possibility of a loss on a conversion. ↑

162. See N.J.S.A. 54:50-13. See *a/so* NJDORES FAQ at <https://www.njportal.com/DOR/BusinessAmendments/Home/FAQ#umc80> (<https://www.njportal.com/DOR/BusinessAmendments/Home/FAQ#umc80>).
↑

163. *See, e.g.*, N.J.S.A. 54:50-13. ↑
164. The author would like to thank Jason Zoranski, Esq. of Archer & Greiner, P.C. for his research on the EIN issue and his comments to this Section 5(c) of the article. Any errors are the author's sole responsibility. ↑
165. IRS Publication 1635 can be found online at <https://www.irs.gov/pub/irs-pdf/p1635.pdf> (<https://www.irs.gov/pub/irs-pdf/p1635.pdf>). ↑
166. A conversion of a corporation to an LLC, which elects to be taxed as a C corporation (i.e., an F Reorganization), or a domestication of a corporation from one state to another, could be a corporate reorganization, but the language is not clear. ↑
167. *See* IRM 3.13.2.26. ↑
168. If the new LLC wants to make a "check-the-box" election to be taxed as a C corporation instead of being taxed under the default classification (e.g., as a partnership for an LLC with two or more members), then it would file Form 8832 (Entity Classification Election) with proof of the conversion. ↑
169. The conversion of a corporation to an LLC should qualify as an F reorganization pursuant to Internal Revenue Code Section 368(a)(1)(F). Under this alternative, the LLC would file Form 1120 (U.S. Corporation Income Tax Return) for the year of conversion and attach an F reorganization statement pursuant to Treasury Regulation Section 1.368-3 with the tax return. ↑
170. *See* IRM 3.13.2.26. ↑
171. The author would like to thank Gordon F. Moore, Esq. and Shamila R. Ahmed, Esq., both of Archer & Greiner, P.C., for their comments to this article. Any errors are the author's sole responsibility. ↑

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