



THE MODEL ENTITY TRANSACTIONS ACT (META) (2007) (LAST AMENDED 2013)

- A Summary -

Anyone who establishes and develops a business has choices available for the entity form to do business. As a business grows, these options also allow for some changes in the form and location of the entity chosen. For example, a small enterprise that chooses to be a partnership initially has the opportunity to reorganize as a corporation when the business is big enough to want the advantage of the corporate form. Non-profit activities also have a greater array of organizational forms, along with the non-profit corporation. American law is particularly flexible and responsive to the needs of both the for-profit and the non-profit sectors. American business organization law is the envy of the rest of the world for this reason.

Until the creation of the Model Entity Transactions Act (META), there was no comprehensive statutory framework for one-step intra and inter-entity organic reorganizations such as mergers, conversions, interest exchanges and domestications. Existing state reorganization statutes are very incomplete, and have gaps and inconsistent procedural requirement.

META governs the course of four kinds of transactions: *merger* of one entity with another, *conversion* of an entity to another kind of entity, an *interest exchange* between two entities so that one of them is controlled by the other without actually merging the two entities, and the *domestication* of an entity originally organized in one state in another state. A merger occurs when one entity acquires another entity and the result is a single entity composed of both the original entities. A conversion occurs when one kind of entity converts to another kind, i.e., a limited liability company converts into a business corporation. An interest exchange occurs when interest holders transfer their interests in one entity to another for interests in the second entity. For example, the holders of all the interests in a limited partnership transfer their interests to a corporation in return for shares of stock in the corporation. Domestication occurs when an entity formed under the laws of one state becomes an entity formed in another state, extinguishing its entity status in the first state.

META authorizes each of these kinds of transactions. It authorizes different entities to merge, i.e., a corporation may merge with a limited partnership. It authorizes a partnership to convert to a limited liability company. An interest swap may occur between a limited partnership and a limited liability company. A corporation may change its place of organization from one state to another. These are examples of the kinds of transactions authorized. They can occur between an entity in one state and a foreign entity formed originally in another state, providing that the law of the foreign state permits such a transaction.

In each kind of transaction, there must be a plan that is approved by the interest holders in the entities. The plan generally describes the transaction and its effect in detail. Approval of the plan proceeds according to the organic statute and rules that govern the pre-existing entities, or if

none, by unanimous consent of all interest holders. If, for example, a partnership agreement governing a limited partnership provides for consent of partners to one of the kinds of transactions subject to META, the agreement would be the organic rules that would determine the approval of the plan. Otherwise all the partners would have to consent.

Once a plan is approved, a statement relevant to the transaction must be filed in the office in a state in which entity statements or charters are normally filed. The filing puts the transaction and the identity of the entity that survives in the public records. That entity becomes the entity with the capacity to do business and it has the applicable liability shield from that time onward.

The objective in these procedures is to make sure that no outstanding interest is extinguished in the process of any of the transactions under META, whether a merger, conversion, interest exchange or domestication. This is true for an interest holder such as a shareholder in a corporation or holder of a partnership interest. It is also true for creditor interests that pre-existed the given transaction. The point of the procedures is to end with an entity that continues the business of those entities it succeeds without extinguishing obligations incurred by these entities in a seamless, non-disruptive transfer.

There are a few exclusions from META. If mergers in a state are already governed by the merger provisions in a state's entity laws, META will not apply or displace those provisions. The same is true for interest exchanges when a state has the Model Business Corporation Act. Not all entities will necessarily be governed by META. There are special corporations, for example, that should not be included, depending upon their status in a state. META allows for them to be specifically excluded.

Business organization law and the law relating to not-for-profit organizations has been much refurbished, updated and improved in recent years. Development has been dynamic and good for economic function in the entire United States. META adds another element to this dynamic progression of law relating to these entities. It is good for business and not-for-profit ventures alike.

Originally promulgated in 2007, META was revised in 2011 and most recently in 2013. The 2011 and 2013 amendments were primarily technical amendments that harmonize the procedural and filing provisions of META with the other uniform and model entity acts that are included in the Uniform Business Organizations Code (2011) (Last Amended in 2013).

For more information on META, please contact Libby Snyder at (312) 450-6619 or by email at lsnyder@uniformlaws.org.