

**INSTRUCTIONS FOR FILING A REINSTATEMENT OF A
DOMESTIC OR FOREIGN FILING ENTITY FOLLOWING A TAX
FORFEITURE
(Form 801)**

Commentary: A domestic or foreign filing entity that has forfeited its existence or authorization to transact business in Texas for failure to file a franchise tax report or failure to pay the taxes due under the return may reinstate to active status by satisfying the delinquency that resulted in the tax forfeiture and then filing an application for reinstatement with the Secretary of State.

Contact the Comptroller of Public Accounts for assistance in complying with franchise tax filing requirements. The Comptroller may be contacted by calling (800) 252-1381, (512) 463-4600, or (512) 463-4621. When all franchise tax requirements have been met, the Comptroller will issue a tax clearance letter for reinstatement. This letter should be included as an attachment to the web filing of the application for reinstatement.

There is not a time period in which the entity must apply for reinstatement following a tax forfeiture. The Texas Tax Code permits an application to be submitted at any time after the tax delinquency is cured.

Please note that prior to reinstatement, the Secretary of State will determine whether the name of the entity is available for use. If the name is not available because it is the same as or deceptively similar to an existing entity on file with the Secretary of State, the entity must amend its certificate of formation to change its name; or, if the taxable entity is a foreign entity, it must amend its application for registration to transact business under an assumed name that meets the entity name standards. If the name is not available because it is similar to that of an existing entity, then a letter of consent from the entity with the similar name may be submitted as an attachment to the web filing in the same manner and on the same screen as an attachment of the letter from the Comptroller regarding eligibility to reinstate. However, if the entity must submit an amendment to its formation or registration document, the reinstatement and the amendment cannot be submitted as web filings.

Reinstatements following an involuntary dissolution/termination or revocation for failure to maintain a registered agent/office or failure

to pay a filing fee may not be submitted as web filings. Please submit a reinstatement requiring an amendment or a reinstatement for non-tax reasons to the Secretary of State by mail, fax, or in person.

- **Web Form and Content:** The web form promulgated by the secretary of state is designed to meet minimum statutory filing requirements and no warranty is made regarding the suitability of this form for any particular purpose. This form and the information provided are not substitutes for the advice of an attorney and it is recommended that the services of an attorney be obtained before preparation of the application for reinstatement.

During the web filing process, you will be directed from screen to screen to provide certain variable information with which to populate the form. After entry of the information, a document image will be displayed for your review. Please review the name of the entity and the contents of the document carefully for accuracy prior to submission. Note that a person commits an offense under the Texas Business Corporation Act, the Texas Limited Liability Company Act, the Texas Non-Profit Corporation Act, and the Texas Business Organizations Code if the person signs a document the person knows is false in any material respect with the intent that the document be delivered to the secretary of state for filing. The offense is a Class A misdemeanor. The Texas Business Corporation Act and the Texas Business Organizations Code further provides that the offense is a state jail felony if the person's intent is to defraud or harm another.

- **Fee:** Following a tax forfeiture, the filing fee for an application for reinstatement for a domestic or foreign filing entity, other than a nonprofit corporation, is \$75.00. There is no filing fee for a nonprofit corporation.

Payments for web filings may be made by credit card or client account. Selection of the payment method is performed during the subscriber login process. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7% of the total fees. To view the available balance in your client account, select the Account tab from the navigation bar and select "Client Account Statements" from the Account Maintenance Menu.

- **Attachments/Name Search Screen:** **Please note that additional documentation is required in order to complete this filing.** The letter of eligibility for reinstatement issued by the Comptroller of

Public Accounts must be included as an attachment to the web filing of the application for reinstatement.

Additionally, if a letter of consent is required due to a name conflict with a similar name, the letter of consent must be attached on this screen.

Attachments must be in TIF, TXT, or PDF file format to be accepted.

Name Availability Search Option: The Tax Code requires the Secretary of State to determine whether the forfeited entity's name is available before approving an application for reinstatement. If the name of the forfeited entity is the same as, deceptively similar to, or similar to the name of any existing domestic or foreign filing entity, or any name reservation or registration filed with the secretary of state, the reinstatement cannot be filed. The administrative rules adopted for determining entity name availability (Texas Administrative Code, title 1, part 4, chapter 79, subchapter C) may be viewed at the secretary of state web site by clicking on the Texas Register icon.

You may perform a search of the entity name by clicking on the Name Availability Search button. Do not presume that the name searched is "available" and that the reinstatement will be approved for filing. **Even if you believe the results do not reveal the same or deceptively similar name in use, the Office of the Secretary of State must still perform its own search after receipt of the document.** A final determination regarding the entity name is not made until an examiner's review and filing of the document. You are strongly urged not to make financial expenditures or regulatory filings based upon the results of your search.

If you wish our office to provide a preliminary determination on the availability of the name before submission, you may do so by telephone at (512) 463-5555, by dialing 7-1-1 for relay services, or by e-mail to corpinfo@sos.state.tx.us. This is only a preliminary clearance. Also note that the preclearance of a name or the issuance of a certificate under a name does not authorize the use of a name in violation of another person's rights to the name.

Execution Screen: An application for reinstatement by a corporation or professional association forfeited for failure to file a franchise tax report and/or pay state franchise taxes must be signed by a person who was an officer, director or shareholder of the corporation or

association at the time of forfeiture.

An application for reinstatement by a limited liability company must be signed by a person who was a manager or member of the limited liability company at the time of forfeiture.

An application for reinstatement by a limited partnership must be signed by a person who was a partner of the partnership at the time of forfeiture.

Select the title of the person signing from the Title drop down box. A title may be typed in the box if the drop down does not include the appropriate title or capacity of the person signing the reinstatement.

The person signing the reinstatement is verifying that the person was an officer, director, shareholder, manager or member, or partner at the time the entity was forfeited.

- **Document Display Screen:** After entry of the signature, click Continue. An image of the electronic instrument will appear for your review. This instrument will include all information entered on prior screens as well as any other statements required by law. Read the information carefully. **Make sure that you selected the correct entity for reinstatement and that the person signing has the capacity to sign the document.**
- If you need to make changes in the document, click the Edit Filing button at the top of the screen. Please note that secretary of state personnel cannot edit a submitted electronic document. Do not use the back button of your web browser for this purpose. You will be returned to all entry screens as well as the execution screen to correct the desired information.
- When the document is correct in all respects, click the Submit Filing button at the top of the screen. If you wish to retain a copy of the displayed document image for your records, you may use the print function on your web browser.
- The filing may be cancelled at any time prior to submitting, by clicking on Cancel Filing.
- After clicking on the Submit Filing button, you will receive a message confirming receipt of the filing that contains the session ID and the document tracking number of the document transmitted. You may wish to attach this receipt notice to your retained copy.