

BUSINESS PRIVILEGE TAX: Change from a Disregarded Entity or Partnership to a Corporation

Q: Please advise on the Business Privilege Tax filing requirements for an entity that was treated as a disregarded entity pursuant to federal “check the box” rules, but years later converted to a C Corporation. Please advise on the filing requirements for both the owner of the disregarded entity (i.e., Final BPT returns?) and new C Corporation (i.e., New Start BPT returns?). Also, please advise on the filing requirements for an entity that was taxed federally as a Partnership, but years later elected to be treated as a C Corporation.

A: *Under the Federal “check the box” system of classifying entities for tax purposes, “eligible entities” --unincorporated business entities that aren’t trusts and that aren’t required under the IRC to be classified as corporations-- may choose their federal tax classification. An “eligible entity” may achieve a “hybrid” status in that it may be treated as one type of entity for purposes of state and local laws governing its formation and operation, but be another type of entity for Federal tax purposes.*

The Philadelphia Code does not have a comparable version of the Federal “check-the-box” regulations. The Philadelphia Department of Revenue (PHLDOR) will generally, however, recognize the Federal “check the box” entity classification the taxpayer chooses. If, in the example provided, a single member limited liability company (“SMLLC”)(that was treated as a “disregarded entity”) and owned by an individual later sought classification as a C corporation, the SMLLC would file a final BPT and Net Profits Tax return (“NPT”) and the new corporation would file a New Start BPT return under a new account number (and obtains a new BPT license). A partnership seeking to be treated as a corporation would follow suit.