

# CLIENT UPDATE

## NEW FILING REQUIREMENTS FOR LIMITED PARTNERSHIPS FORMED OR REGISTERED IN MASSACHUSETTS

In 2008, the Commonwealth of Massachusetts enacted various changes to procedures governing limited partnerships and limited liability companies (LLCs). The statutory changes apply both to Massachusetts limited partnerships and LLCs as well as to foreign limited partnerships and LLCs registered to conduct business in Massachusetts.

1. *Annual Reports for Limited Partnerships.* The most notable procedural changes apply to limited partnerships. While LLCs have been required to file annual reports for some time, limited partnerships were not required to file annual reports. However, the new law now requires all domestic and foreign limited partnerships to file an annual report with the Massachusetts Secretary of State. Reports are due on or before the anniversary of the date on which the certificate of limited partnership or foreign qualification registration was filed in Massachusetts. The filing fee for each annual report is \$500.00 (or \$450.00 if filed electronically). Filers can access forms of the Annual Report and can file reports electronically on the Massachusetts Secretary of State's website: (<http://www.sec.state.ma.us/cor/>).

2. *Failure to File Annual Reports Can Result in Dissolution.* If a limited partnership or an LLC fails to file its annual reports for two consecutive years or if the entity "has become inactive and its dissolution would be in the public interest," the amended statutes now empower the Secretary of State to administratively dissolve any such domestic entity, or to revoke a foreign entity's authority to conduct business in Massachusetts. The

Secretary of State will provide written notice to the entity of its intent to take any such action, and the entity will have 90 days to take corrective actions. If the Secretary of State dissolves a limited partnership or LLC or revokes its authority to conduct business in Massachusetts, the entity will have the right to apply for reinstatement.

3. *Consent of Resident Agent.* Domestic and foreign limited partnerships and LLCs are already required to name a resident agent in Massachusetts to receive any documents served on such entity. The amended statute now requires the resident agent to consent to its appointment as such. The consent must be noted on the certificate of limited partnership, certificate of organization or a form attached thereto. In addition, the resident agent must indicate its consent to continue to serve as resident agent in each annual report.

4. *Changes relating to a Resident Agent.* If a resident agent changes its address, the resident agent must now file a certificate of change with the Secretary of State. If the resident agent resigns, it must provide a certificate of resignation to the Secretary of State, and the termination of agency will be effective on the thirty-first day after the certificate is filed.

Recommendation. The due date for the filing of the annual report will vary based on the date a limited partnership or LLC was formed or registered in Massachusetts. All entities are advised to review their minute books to determine when their annual report will be due and to speak with Andy or Jen regarding these new requirements.



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*Andy focuses his practice in the areas of corporate, partnership, private equity, securities and general business law and has extensive experience in legal matters relating to business operations and development including: equity and debt financings, employment and consulting contracts, and intellectual property licensing.*



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*Jen focuses her practice on business law, with an emphasis on privately held businesses, commercial transactions, and creditors' rights. She counsels clients on formation issues, mergers and acquisitions, contract preparation, distribution rights, licensing and other commercial matters.*