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**CANADA BUSINESS CORPORATIONS ACT
REVIVAL POLICY**

**This policy is intended only as a guide;
it does not replace or take precedence over the CBCA.**

Introduction

This policy sets out the position of the Director appointed under the *Canada Business Corporations Act* (CBCA) concerning a revival of a corporation dissolved under the provisions of the CBCA. The final interpretation of the CBCA is a function of the courts.

Nothing in this policy is intended to constitute a binding statement of the position the Director will take with respect to a particular revival. In addition, this policy is not intended to be a substitute for professional, legal, accounting, commercial or business advice in specific cases. Corporations Canada recommends that you consult a legal advisor or other professional advisors who will assess your specific case and the possible impacts of revival as well as determine what you need to include in your application for revival.

Information on the steps to follow to revive a dissolved corporation is available in the CBCA policy “Steps to Follow to Revive a Corporation” on the Corporations Canada website www.corporationscanada.ic.gc.ca.

What is a revival?

Revival allows a dissolved corporation to be restored to its previous legal position in the same manner and to the same extent as if it had not been dissolved. A revival retroactively validates the business and affairs of the corporation during the time of its dissolution. A dissolved corporation that is insolvent or bankrupt within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* may be revived. A corporation is deemed to be revived on the date appearing on the certificate of revival¹.

What are the impacts of revival on the corporation?

Retroactivity

The CBCA provides for the retroactivity of the revival². The corporation can benefit from, is bound to and is liable for, all acts of the corporation taken while the corporation was dissolved. Also, any changes to the internal affairs of the corporation are deemed valid. The revived corporation is liable for the contracts and torts/faults occurring between dissolution and revival. Rights, liabilities and obligations arising before and after the dissolution are restored to the revived corporation.

¹ Subsection 209(3.1) of the CBCA.

² Subsection 209(4) of the CBCA.

Any legal action³ respecting the internal affairs of a revived corporation taken between the time of its dissolution and its revival is valid.

Corporation's Articles

Since no filings can be made while a corporation is dissolved, the articles of a revived corporation are exactly as they were at the time of its dissolution. Therefore, if changes were made to the information contained in the articles of the corporation, you are required to update this information by first reviving the corporation and then filing Form 4: Articles of Amendment. Please see the Amendment Policy for more information.

With respect to the corporation's name, the revived corporation must apply for the revival using the same corporation name it had at the time of its dissolution. At the time of the revival, the corporation's name is subject to a name decision by Corporations Canada. If Corporations Canada does not approve the name because it is prohibited (e.g., if it is likely to be confused with a corporate name acquired by another corporation between the date of the dissolution and the date of revival), the Director will assign a numbered name to the revived corporation. If this is the case, once the Certificate of Revival is issued, the revived corporation may request a new corporate name by filing Form 4: Articles of Amendment.

Corporation number

The revived corporation's number is the same number it had at the time of its dissolution. This number can be found on the certificate of incorporation, amalgamation, or continuance, as applicable. It can also be found on the Corporations Canada website under "Search for Federal Corporation".

Directors

The public record will show the directors of a revived corporation exactly as they were at the time of its dissolution. Therefore, if changes have been made to the board of directors of the revived corporation, you are required to update this information by filing Form 6: Changes Regarding Directors after the revival.

Anniversary Date

The anniversary date of the corporation is relevant for filing annual returns (i.e. the corporation must file its annual return within the 60 days following its Anniversary Date). The Anniversary Date of a revived corporation is the date of its incorporation, amalgamation, or continuance, as applicable, and **not** the revival date. The Anniversary Date is generally found on the certificate of incorporation, amalgamation or continuance issued before the dissolution or on the Corporations Canada website under "Search for Federal Corporation". Please consult the Annual Return Policy for more information on filing annual returns.

Property that vested in Her Majesty in Right of Canada as a result of the dissolution

On the date of the corporation's dissolution, property that had not been disposed of (e.g., money and moveable and real property) vested in Her Majesty in Right of Canada⁴. Upon revival of the corporation, property that vested in Her Majesty in Right of Canada will be returned to the corporation⁵. However, if some or all of the property received on dissolution under subsection 228(1) has been disposed of by the Crown, the corporation will receive an amount equal to the lesser of:

³ Subsection 209(5) of the CBCA.

⁴ Subsection 228(1) of the CBCA.

⁵ Subsection 228(2) of the CBCA.

- the value of the property at the date it vested in the Crown, and
- the amount realized by the Crown from the disposition of the property⁶.

If you believe that money or property should be returned to the revived corporation, you may attach a letter to the application for revival requesting its return. Please note that the request for the return of property or money may be made after the revival of the corporation. The letter must include a description of the property in question and any supporting evidence that it was owned by the corporation at the time of its dissolution. In the case of money or moveable property, state whether actual possession of it was ever transferred to Her Majesty in Right of Canada. It must also enclose a statutory declaration by the applicant stating that:

1. the applicant is authorized to request the return of the property;
2. the property was owned by the corporation at the time of the dissolution;
3. no other person has rights to claim against the property; and
4. the revived corporation has the right to receive the whole or a part of the property.

If the application is for money, Corporations Canada will review the application and determine whether the money should be returned to the revived corporation. If moveable property is involved, Corporations Canada will contact the relevant government department in order to initiate a process for returning any property. The revived corporation is responsible for following up with the appropriate departments.

According to the *Department of Public Works and Government Services Act* (S.C. 1996, c. 16), the Minister of Public Works and Government Services administers all federal real property and, accordingly, has the authority to return real property to the revived corporation. A request for reconveyance should be made to the Director, attaching evidence that establishes that the land was owned by the corporation at the time of its dissolution and has not been disposed of by Her Majesty or otherwise. The Director will ask Public Works and Government Services to arrange for the appropriate document reconveying the property to the revived corporation.

In situations where it is preferred that the property be restored to a third party (i.e. not to the dissolved corporation), the *Escheats Act* (R.S.C. 1985, c. E-13) may be of assistance. The third party must be claiming rights to the property through the dissolved corporation.

Note that there can be no return of property where possession by Her Majesty was never taken. Instead, Corporations Canada will send you a letter waiving any rights over the personal property in question.

Other Considerations

Who can apply for a revival?

Any interested person may apply for the revival of a dissolved corporation. An interested person is:

- a shareholder, director, officer, employee or creditor of the dissolved corporation, or anyone who, although not one of the foregoing at the time of dissolution, would be such a person if the corporation were revived;
- any person having a contractual relationship with the dissolved corporation; and
- any person with a valid reason for applying for a revival, for example, a trustee in bankruptcy or a liquidator.

⁶ Subsection 228(2) of the CBCA.

Obligations of the corporation after the revival

After receiving the Certificate of Revival, the corporation must take immediate steps to ensure that it is up-to-date with its reporting obligations under the CBCA. Failure to do so could result in the corporation being dissolved by Corporations Canada for non-compliance as early as 120 days after the date of this revival. Where applicable, the corporation must:

- File the last two outstanding annual returns and pay all prescribed fees.
- Report any change to the registered office address.
- Report any changes regarding directors;
- Amend articles if changes have been made to the following:
 - Name of the corporation;
 - The province or territory in which the registered office is situated;
 - The classes of shares;
 - Any restriction on share transfers;
 - The minimum and/or maximum number of directors;
 - Any restrictions on the business that the corporation may carry on;
 - Any other provisions set out in the articles.

Date of the revival

The corporation is revived as of the date on the Certificate of Revival. Normally, this is the date on which Form 15: Articles of Revival is received by Corporations Canada. When making your application for revival, you may request a later revival date than the date on which Form 15: Articles of Revival is received by Corporations Canada.

Conditions on revival

Corporations Canada may impose certain conditions on issuing a Certificate of Revival following its revival, especially if the applicant is not a director, shareholder or officer of the dissolved corporation. Examples of conditions are:

- to notify of the corporation and its directors and officers that the corporation has been revived by sending a copy of the Certificate of Revival;
- to advise the corporation and its directors and officers to contact Corporation Canada immediately to determine whether the corporation is up-to-date with its reporting obligations under the CBCA.

If the corporation is not up-to-date with its reporting obligation under the CBCA and does not remedy the situation, Corporations Canada can dissolve the corporation as early as 120 days after the date of this revival. Corporations Canada may consider delaying the dissolution of a corporation upon receipt of a written request, including detailed reasons for the request, from an interested person.

Appeal of the Director's decision

If you are dissatisfied with a decision made by Corporations Canada, you may ask that the decision be reviewed. You will need to provide a letter with new information and your reasons. Once your application has been re-examined and if you continue to feel you have been aggrieved by the decision to reject the application or to impose conditions on the revival, you may ask the court to review the decision under section 246 of the CBCA.

Copy of the articles of the corporation

You may obtain a copy of the articles of the corporation as they existed at the time of dissolution by contacting Corporations Canada. Your request must be made in writing and be accompanied by the required fees, which are \$1 a page for uncertified copies or \$35 for a certified copy of a document⁷. While Corporations Canada normally provides documents requested on the day following the request, the time frame increases to six business days when the corporation involved is dissolved. Requests for copies must be sent by mail, e-mail or by fax to:

Database Integrity Unit
Corporations Canada
9th Floor, Jean Edmonds Tower South
365 Laurier Avenue West
Ottawa, Ontario K1A 0C8
Toll free: 1-877-568-9922
Fax: 613-941-5789
E-mail: corporationscanada@ic.gc.ca

Additional information and how to reach Corporations Canada

For additional information on Corporations Canada's products and services, please visit the Corporations Canada website www.corporationscanada.ic.gc.ca or call our toll free number 1-866-333-5556.

You can also contact Corporations Canada at:

Client Services Section
Corporations Canada
Industry Canada
9th floor, Jean Edmonds Tower South
Ottawa, Ontario K1A 0C8
Toll free: 1-866-333-5556
Fax: 613-941-0601
www.corporationscanada.ic.gc.ca

⁷ Schedule 5 of the *Canada Business Corporations Regulations (2001)*.