

Form 908—General Information
(Foreign Corporate Fiduciary Estates Code Filing)

The attached form is drafted to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.

Commentary

Under section 505.004 of the Texas Estates Code, a foreign corporate fiduciary must file with the secretary of state before qualifying or serving in any fiduciary capacity in the State of Texas. This form has been promulgated for the purpose of submitting the required filing.

Instructions for Form

- **Fiduciary Information:** Provide the full legal name of the fiduciary as stated in its formation document and the state or territory under the laws of which the fiduciary was formed. If the entity is formed under federal law of the United States, indicate the jurisdiction as “United States.” The date of formation should be set forth; the fiduciary should select the appropriate organizational form for the fiduciary; and the principal office address should be provided. It is recommended that the federal employer identification number (FEIN) be entered in the space provided. The FEIN is a 9-digit number (e.g., 12-3456789) that is issued by the Internal Revenue Service (IRS). If the fiduciary has not received its FEIN at the time of submission, this should be noted by checking the applicable box.
- **Power to Act as a Fiduciary:** The filing should include an affirmation that the fiduciary has the corporate power to act in a fiduciary capacity in the state or territory of its formation or as a fiduciary under the laws of the United States.
- **Reciprocity:** Section 505.003 of the Texas Estates Code requires that the state or territory under which the foreign fiduciary is formed must grant reciprocal authority to serve in a like fiduciary capacity to a corporate fiduciary formed under the laws of Texas. Reciprocity is a precondition for filing under section 505.004 of the Texas Estates Code. The secretary of state does not determine reciprocity and relies on the affirmative statement made by the fiduciary.
- **Appointment of Agent:** The fiduciary must appoint the secretary of state as its agent for service of process.
- **Certificate of Designation:** The fiduciary must designate the name, title and address of the person to whom the secretary of state should forward any notice of process received by the secretary.
- **Formation Documents:** A copy of the charter, articles of incorporation or association or similar formation documents and all amendments thereto must be attached to the filing. The copy must be certified by the secretary of the fiduciary and be issued under the corporate seal of the fiduciary, if a seal has been adopted and is used by the fiduciary.
- **Execution:** An officer of the fiduciary must sign the filing. The filing need not be notarized. However, before signing, please read the statements on this form carefully. *The person signing the*

filing may be subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

- **Payment and Delivery Instructions:** There is no filing fee for filing the statement under section 505.004 of the Texas Estates Code on behalf of a foreign corporate fiduciary.

Submit the completed form in duplicate. The form may be mailed to P.O. Box 13697, Austin, Texas 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate copy was provided as instructed.

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