

Modern Family: The Latest on Structuring and Negotiating Joint Ventures

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Overview

1 General Considerations

2 Capital Contributions

3 Governance

4 Transfers, Exit Rights and Termination

5 Other Considerations

General Considerations

Form, Jurisdiction and Scope

- Organizational form and jurisdiction of organization should be considered based on tax, financial reporting/accounting, governance, regulatory and other relevant implications
 - Corporation: State corporate law will largely provide framework for operations of the board of directors
 - LLC/Partnership: State law will generally offer greater flexibility on governing structure, such as:
 - direct management by JV parties
 - single manager or managing member or
 - board of managers
- Scope is typically heavily negotiated
 - Defines nature of JV's business
 - May restrict types of business JV may conduct
 - May limit geographic areas in which JV operates
 - Application of corporate opportunity doctrine renders negotiations complex

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