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Single Member Limited Liability Companies

An LLC is an entity created by state statute. Depending on elections made by the LLC and the number of members, the IRS will treat an LLC either as a corporation, partnership, or as part of the owner's tax return (a "disregarded entity"). Specifically, a domestic LLC with at least two members is classified as a partnership for federal income tax purposes unless it files Form 8832 and affirmatively elects to be treated as a corporation. And an LLC with only one member is treated as an entity disregarded as separate from its owner for income tax purposes (but as a separate entity for purposes of employment tax and certain excise taxes), unless it files Form 8832 and affirmatively elects to be treated as a corporation.

Owner of Single-Member LLC

If a single-member LLC does not elect to be treated as a corporation, the LLC is a "disregarded entity," and the LLC's activities should be reflected on its owner's federal tax return. If the owner is an individual, the activities of the LLC will generally be reflected on:

- [Form 1040 Schedule C, Profit or Loss from Business \(Sole Proprietorship\)](#) (PDF)
- [Form 1040 Schedule E, Supplemental Income or Loss](#) (PDF)
- [Form 1040 Schedule F, Profit or Loss from Farming](#) (PDF)

An individual owner of a single-member LLC that operates a trade or business is subject to the tax on net earnings from self employment in the same manner as a sole proprietorship.

If the single-member LLC is owned by a corporation or partnership, the LLC should be reflected on its owner's federal tax return as a division of the corporation or partnership.

Taxpayer Identification Number

For federal income tax purposes, a single-member LLC classified as a disregarded entity generally must use the owner's social security number (SSN) or EIN for all information returns and reporting related to income tax. For example, if a disregarded entity LLC that is owned by an individual is required to provide a Form W-9, Request for Taxpayer Identification Number and Certification, the W-9 should provide the owner's SSN or EIN, not the LLC's EIN.

However, for certain Employment Tax and Excise Tax requirements discussed below, the EIN of the LLC must be used instead. Therefore, an LLC will need an EIN if it has any employees or if it will be required to file any of the excise tax forms listed below. Thus, most new single-member LLCs classified as disregarded entities will need to obtain an EIN. An LLC [applies for an EIN](#) by filing [Form SS-4, Application for Employer Identification Number](#). See Form SS-4 for information on applying for an EIN.

A single-member LLC that is a disregarded entity that does not have employees and does not have an excise tax liability does not need an EIN. It should use the name and TIN of the single member owner for federal tax purposes. However, if a single-member LLC, whose taxable income and loss will be reported by the single member owner, nevertheless needs an EIN to open a bank account or if state tax law requires the single-member LLC to have a federal EIN, then the LLC can apply for and obtain an EIN.

Employment Tax and Certain Excise Tax Requirements

In August, 2007, [final regulations \(T.D. 9356\)](#) (PDF) were issued requiring disregarded LLCs to be treated as the taxpayer for certain excise taxes accruing on or after January 1, 2008 and employment taxes accruing on or after January 1, 2009. Single-member disregarded LLCs will continue to be disregarded for other federal tax purposes.

A single-member LLC that is classified as a disregarded entity for income tax purposes is treated as a separate entity for purposes of employment tax and certain excise taxes. For wages paid after January 1, 2009, the single-member LLC is required to use its name and employer identification number (EIN) for reporting and payment of employment taxes. A single-member LLC is also required

to use its name and EIN to register for excise tax activities on Form 637; pay and report excise taxes reported on Forms 720, 730, 2290, and 11-C; and claim any refunds, credits and payments on Form 8849. See the employment and excise tax returns for more information.

Joint Ownership of LLC by Spouse in Community Property States

Rev. Proc. 2002-69 addressed the issue of classification for an entity that is solely owned by husband and wife as community property under laws of a state, a foreign country or possession of the United States.

If there is a qualified entity owned by a husband and wife as community property owners, and they treat the entity as a:

- Disregarded entity for federal tax purposes, the Internal Revenue Service will accept the position that the entity is disregarded for federal tax purposes.
- Partnership for federal tax purposes, the Internal Revenue Service will accept the position that the entity is partnership for federal tax purposes.

A change in the reporting position will be treated for federal tax purposes as a conversion of the entity.

A business entity is a qualified entity if

1. The business entity is wholly owned by a husband and wife as community property under the laws of a state, a foreign country, or possession of the United States;
2. No person other than one or both spouses would be considered an owner for federal tax purposes; and
3. The business entity is not treated as a corporation under IRC §310.7701-2.

Note: If an LLC is owned by husband and wife in a non-community property state, the LLC should file as a partnership. LLCs owned by a husband and wife are not eligible to be "qualified joint ventures" (which can elect not be treated as partnerships) because they are state law entities. For more information see [Election for Husband and Wife Unincorporated Businesses](#).