

## Series LLCs

Notice #13-15

Franchise and Excise Tax

November 2013



## Highlights

**INTRODUCTION**

This notice provides guidance regarding the registration and filing requirements for series LLCs.

**DISCUSSION**

The Tennessee Revised Limited Liability Company Act (the "TRLLCA") generally permits the establishment of a limited liability company (an "LLC") if the business owner files articles of organization with the Tennessee secretary of state. The TRLLCA was changed in 2006 to allow the establishment of one or more designated "series" within a limited liability company (commonly referred to as the "Master LLC"). If certain statutory requirements are met, each series must be treated as a separate entity with respect to its debts, liabilities, obligations and expenses. Likewise, the Master LLC is treated as an entity separate from the series.

Tax Classification

Each series is treated as a separate entity for Tennessee state tax purposes. The Master LLC and each series must therefore determine its tax classification for franchise and excise tax purposes as though it were a separate limited liability company.

- *Each series is treated as a separate entity.*
- *A series with one owner is treated either as a corporation or as disregarded to its owner.*
- *A series with two or more owners is treated either as a corporation or as a partnership.*

For franchise and excise tax, the Master LLC and each series will generally be classified as a corporation, partnership or other type of business entity, consistent with the way it is classified for federal income tax purposes. A Master LLC or a series that is wholly owned by a corporation and that is disregarded for federal income tax purposes will be disregarded for Tennessee franchise and excise tax purposes. All other federally disregarded Master LLCs or series are treated as separate entities for franchise and excise tax purposes.

Registration

Before doing business in Tennessee, the Master LLC and each series must separately register with the Department and set up separate tax accounts. The application for franchise, excise tax registration requires that a series provide information about the Master LLC under whose organization documents the series was authorized.

Although the law does not require it, it is recommended that businesses notify the Tennessee secretary of state of a series' creation. Doing so will reduce administrative inconvenience upon the eventual termination of the series.

Tax Returns

Unless a series is classified as a disregarded entity for franchise and excise tax purposes, each series must file a separate tax return. The Master LLC must also file a separate return unless disregarded. The Master LLC and each series will be treated as separate entities for purposes of assessments, refunds and taxpayer remedies, unless disregarded.

### Exemptions

The Master LLC and each series must apply separately to qualify for an applicable franchise and excise tax exemption.

On the application for exemption, the series should state that it is a limited liability company. Because each series is treated as a separate entity under state law, only that series' activities, income and other attributes will be considered in the exemption determination.

### Terminations

If a series terminates its existence, it must obtain a separate tax clearance.



### **References:**

*T.C.A. § 48-249-101*  
*T.C.A. § 48-249-309*  
*T.C.A. § 67-4-2004*  
*T.C.A. § 67-4-2007*  
*T.C.A. § 67-4-2106*  
*Prop. Treas. Reg. §§*  
*301.6011-6,*  
*301.6071-2, and*  
*301.7701-1(a)(5)*  
*Amended Treas. Reg.*  
*§§ 301.7701-1(e) and*  
*(f).*

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.