

## Single Member LLCs: Tax Classification

Notice #13-16

Franchise and Excise Tax

November 2013



## Highlights

- A SMLLC will be disregarded if its sole member has elected to be classified as a corporation for federal income tax purposes.
- A SMLLC will not be disregarded if its single member has not elected to be classified as a corporation.

**INTRODUCTION**

This notice provides clarification regarding whether a single member limited liability company ("SMLLC") is disregarded for Tennessee franchise and excise tax purposes if: 1) the SMLLC is disregarded for federal income tax purposes; and 2) the SMLLC's sole owner is not a corporation under state law, but is classified for federal income tax purposes as a corporation.

**DISCUSSION**

Tennessee franchise and excise tax laws say that a SMLLC that is disregarded for federal income tax purposes will be disregarded for franchise and excise tax purposes if its single member is a "corporation."

The Department interprets "corporation" in this context to mean any entity that is classified as a corporation for federal income tax purposes. This includes:

- An entity formed as a corporation under state law
- A non-corporate entity whose default classification for federal tax purposes is to be treated as a corporation
- An entity formed under another country's laws, whose default classification for federal tax purposes is to be treated as a corporation
- An entity that makes an election on federal Form 8832 (Entity Classification Election) to be classified as a corporation for federal tax purposes

Thus, a federally disregarded SMLLC will be disregarded for franchise and excise tax purposes if its sole member is federally classified as a corporation. The sole member can be any type of entity that is classified as a corporation for federal tax purposes, including a business trust, a limited liability company or a limited partnership.

A SMLLC will not be disregarded if its single member is not classified as a corporation for federal tax purposes. In such cases, the SMLLC will be treated as a separate entity for franchise and excise tax purposes, and it must file its own separate franchise and excise tax return.

**References:**

T.C.A. § 48-249-1003  
T.C.A. § 67-4-2004  
T.C.A. § 67-4-2007(d)  
T.C.A. § 67-4-2106(c)

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