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Single Member Limited Liability Companies



Over the years, there has been confusion regarding Single Member Limited Liability Companies in general and specifically, how they can report and pay employment taxes.

An LLC is an entity created by state statute. The IRS uses tax entity classification, which allows the LLC to be taxed as a corporation, partnership, or sole proprietor, depending on elections made by the LLC and the number of members. An LLC is always classified under federal law as one of these types of taxable entities.

A multi-member LLC can be either a partnership or a corporation, including an S corporation. To be treated as a corporation, an LLC has to file Form [Form 8832, Entity Classification Election](#) (PDF), and elect to be taxed as a corporation. A multi-member LLC that does not so elect will be classified under federal law as a partnership.

A single member LLC (SMLLC) can be either a corporation or a single member "disregarded entity". Again, to be treated under federal law as a corporation, the SMLLC has to file Form 8832 and elect to be classified as a corporation. An SMLLC that does not elect to be a corporation will be classified by the existing federal guidance as a "disregarded entity" which is taxed as a sole proprietor for income tax purposes.

Employment tax and certain excise tax requirements for an SMLLC that is a disregarded entity have changed over the past few years. In August, 2007, [final regulations \(T.D. 9356\)](#) (PDF) were issued requiring disregarded single member 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. SMLLC's will continue to be disregarded for other federal tax purposes.

For employment taxes, prior to the regulation changes, the single member owner of a disregarded SMLLC was responsible for reporting and paying employment taxes. Before January 1, 2009 the single member owner could file using either the name and EIN assigned to the SMLLC, or the name and EIN of the single member owner. Even if the pre-January 1, 2009 employment tax obligations were reported using the disregarded SMLLC's name and employer identification number, the single member owner retains ultimate responsibility for collecting, reporting and paying over employment taxes for those periods.

As of January 1, 2009, Notice 99-6 is obsolete and the SMLLC will be responsible for collecting, reporting and paying over employment tax and excise tax obligations using the name and EIN assigned to the LLC.

An LLC [applies for an EIN](#) by filing [Form SS-4, Application for Employer Identification Number](#), and completing lines 8 a, b, and c. An SMLLC 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 SMLLC, 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 SMLLC to have a federal EIN, then the SMLLC can apply for and obtain an EIN.

Filing Federal Tax Forms

If the LLC is a sole proprietor for federal tax purposes, the entity should file either:

- [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)
- [Form 1040 Schedule J, Income Averaging for Farmers and Fisherman](#) (PDF)

If the business has net income over \$400, it may be required to file [Schedule SE, Self-Employment Tax](#) (PDF).

References/Related Topics

- [Limited Liability Company](#)
- [Possible Repercussions](#)
- [LLC Filing as a Corporation or Partnership](#)

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the [Tax Code, Regulations, and Official Guidance](#) page. To access any Tax Court case opinions issued after September 24, 1995, visit the [Opinions Search page of the United States Tax Court](#).

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