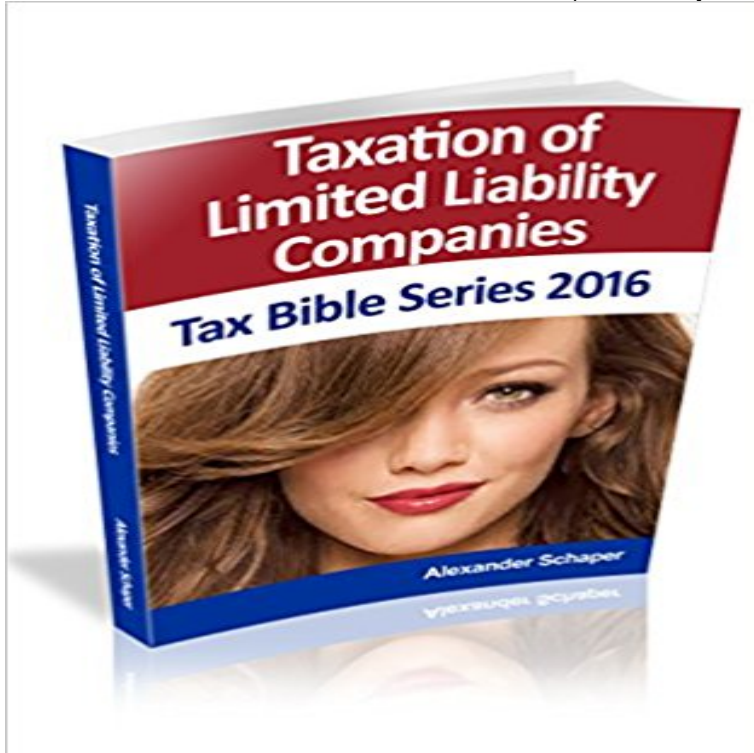


Taxation Of Limited Liability Companies 2016: Tax Bible Series 2016



This publication provides federal income, employment, and excise tax information for limited liability companies. This publication does not address state law governing the formation, operation, or termination of limited liability companies. This publication does not address any state taxes.

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What is a Limited Liability Company? For purposes of this publication, a limited liability company (LLC) is a business entity organized in the United States under state law. An LLC may be classified for federal income tax purposes as a partnership, corporation, or an entity disregarded as separate from its owner by applying the rules in Regulations section 301.7701-3. The information in this publication applies to LLCs in general, and different rules may apply to special situations, including banks, insurance companies, or nonprofit organizations that are LLCs or that own LLCs. Check your states requirements and the federal tax regulations for further information.

Classification of an LLC

Default classification. An LLC with at least two members is classified as a partnership for federal income tax purposes. 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). Also, an LLC's federal tax classification can subsequently change under certain default rules discussed later. Elected classification. An LLC can elect to be classified as an association taxable as a corporation or as an S corporation. After an LLC has determined its federal tax classification, it can later elect to change that classification. For details, see Subsequent Elections, later.

LLCs Classified as Partnerships If an LLC has at least two members and is classified as a partnership, it generally must file Form 1065, U.S. Return of Partnership Income. Generally, an LLC classified as a partnership is subject to the same filing and reporting requirements as partnerships. See the Instructions for Form 1065 for reporting rules that apply specifically to LLCs.

Member manager. Only a member manager of an LLC can sign the partnership tax return. And only a member manager can represent the LLC as the tax matters partner under the consolidated audit proceedings in sections 6221 through 6234. A member manager is any owner of an interest in the LLC who, alone or together with others, has the continuing authority to make the management decisions necessary to conduct the business for which the LLC was formed. If there are no elected or designated member managers, each owner is treated as a member manager. Change in default classification. If the number of members in an LLC

classified as a partnership is reduced to only one member, it becomes an entity disregarded as separate from its owner under Regulations section 301.7701-3(f)(2). However, if the LLC has made an election to be classified as a corporation (discussed later) and that elective classification is in effect at the time of the change in membership, the default classification as a disregarded entity will not apply. Other tax consequences of a change in membership, such as recognition of gain or loss, are determined by the transactions through which an interest in the LLC is acquired or disposed of. If a partnership that becomes a disregarded entity as a result of a decrease in the number of members makes an election to be classified as a corporation, the applicable deemed transactions discussed under Subsequent Elections, later, apply.

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