



Tax News

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Marijuana business webpage recently launched

We recently developed a Medical Marijuana Business web page on our public website to provide taxpayers who are in the medical marijuana business information about their tax obligations, as well as other useful links.

We will update this page for any new laws that impact how these businesses are to report their income tax.

State Bar Association approves MyFTB enhancements for attorneys

We are pleased to announce the California State Bar Association approved FTB to enhance our online registration and allow licensed California attorneys to register for MyFTB using their State Bar Number. Beginning March 7, 2016, Attorneys can register for a "tax preparer" account and, add your clients in MyFTB.

For a list of MyFTB online services available for tax preparers, check out our November 2015 Tax News, or go to ftb.ca.gov and select **the MyFTB *Learn More* link**. If you are an attorney with a Power of Attorney (POA) declaration, see our November 2015 Tax News for additional information specific to POA representative.

Tips for filing a Power of Attorney Declaration using MyFTB

There are two methods for a POA representative to submit a POA Declaration using MyFTB:

1. Taxpayer Approves using MyFTB

Step 1.

Representative files the POA Declaration online using MyFTB and does not attach a signed copy of the POA Declaration.

Step 2.

FTB reviews and processes.

Step 3.

The taxpayer client then approves using their MyFTB account. The POA Declaration is now active.

2. Upload Signed POA Declaration

Step 1.

Representative completes the declaration online using MyFTB AND uploads a signed, dated, and fully completed declaration. The declaration must exactly match the information entered using MyFTB.

Step 2.

FTB reviews and processes. The POA Declaration is now active.

The primary reason we reject MyFTB POA Declarations is the uploaded signed copy does not match the information entered in MyFTB.

If you elect to file your POA Declaration on MyFTB using the Upload Signed POA Declaration method, use the current version of the FTB 3520. Additionally, use the following checklist to ensure your declaration is not rejected:

- The POA Declaration information you enter in MyFTB must exactly match all the information on the POA Declaration you upload.
- Individual taxpayer POA Declarations are submitted separately from Business Entity declarations (even for Sole Proprietorships).
- All representatives listed on the signed POA Declaration must be entered in MyFTB, including secondary representatives.
- The primary representative on the declaration must be marked as the primary representative when entered in MyFTB.
- The Privileges listed on the signed POA Declaration must exactly match what is entered in MyFTB. For example:
 - If the Authorization for All Tax Years for a Limited Duration box from Part 3 is marked on the signed POA Declaration, then the box in the All Tax Years or Income Periods for a Limited Duration section on MyFTB must be selected.
 - If tax years or account periods are listed on the signed POA Declarations in Part 4 or Part 8, the exact tax years or account periods must be entered in the Calendar Tax Year or Fiscal and Short Period Income Year sections, respectively, on MyFTB.
 - If Tax Year 2013 is entered in the Calendar Tax Year section, do not enter 1/1/2013 – 12/31/2013 in the Fiscal and Short Period Income Year section.
- The signed POA Declaration uploaded is only for the taxpayer in context.

- We are unable to process POA Declarations when the signed POA Declaration included is not for the taxpayer in context, or when there are multiple signed POA Declarations included, and they are not for the taxpayer in context.
- All supporting documentation required for Estates and Trusts are included in the uploaded attachments.
- Only a single POA Declaration is submitted for each taxpayer.
 - We do not require the IRS 2848 when submitting a POA Declaration. If the IRS 2848 is included with the FTB 3520, the POA Declaration will be rejected because the information on the two forms is contradictory. Only upload one signed declaration for each taxpayer. If a non FTB form has been modified to apply for FTB matters and is being uploaded, you should not to upload a signed FTB 3520 because this will result in rejection of the POA.

Instructions are available online at [How to File a POA](#).

Nonwage withholding in MyFTB

In the December 2015 Tax News Article, Tax Preparer Tour of MyFTB, we shared that taxpayers and their representatives can access a variety of account information in MyFTB including estimated payments and credits such as nonwage withholding.

Potentially 16 million individuals could register for a MyFTB account. Of these 16 million individuals, we have identified up to 131,000 individuals whose MyFTB accounts will not be viewable because they have multiple nonwage withholding credits. We are continuing to make enhancements to our system so all taxpayers with nonwage withholding credits will be able to view their accounts on MyFTB by early summer.

If you are unable to access your client's MyFTB account information, please contact our Tax Practitioner Hotline at 916.845.7057.

To receive electronic notifications...

With the enhanced MyFTB, POA representatives and taxpayers can elect to receive electronic notification when a notice or correspondence is available to view in MyFTB.

Effective February 1, 2016, POA representatives who provided their email address on a POA Declaration will receive email notification when their client has notices or correspondence available in MyFTB. POA representatives will no longer receive a copy of the notice via US mail; some exceptions apply as we move to an electronic notification process. Email notifications will prompt the POA representative to access MyFTB to view the notice online. The email will not include any identifying client information.

The email address used for email notification is the email address provided on each individual POA Declaration. Therefore, we advise POA representatives to confirm the email address listed for each active POA Declaration. To confirm or update an email address on a POA declaration, go to: [How to Add or Edit a Representative's Email Address on an Active POA Declaration](#)

Note: Not all notices sent by FTB are viewable on MyFTB. Additionally, notices sent prior to January 1, 2016, are not available unless specifically requested.

[Take steps to remove inactive representatives on active POA declarations](#)

Effective this year, the enhanced MyFTB allowed Power of Attorney (POA) representatives to file POA declarations electronically on behalf of their clients.

A POA declaration can have multiple individuals listed as additional authorized representatives when it is originally submitted.

When a representative no longer represents the taxpayer (i.e. no longer works for a firm) it is the Primary Representative's responsibility to remove that representative from the declaration. There are three options to remove or edit a POA representative:

1. If authority to add and delete a representative was granted on the POA when it was originally submitted, the representative can use the edit POA functionality on MyFTB to remove the representative.*
2. If authority to add and delete a representative was not granted on the original POA. The taxpayer can login to MyFTB and remove the representative.*
3. Send FTB a copy of the POA declaration by fax at (916) 845-9144 or mail and indicate the former representative's name, clearly stating that the POA is being withdrawn for that representative only. This option takes longer to process.

*only applies to active POA Declarations processed by FTB on or after 10/1/2014.

Below are the steps to remove a representative from an active POA declaration in MyFTB:

1. Select the **View POA** link in the **Actions** column.



The screenshot shows the 'Client List' page in MyFTB. On the left, there is a sidebar with the MyFTB logo, 'ACCOUNT', a 'CalFile' logo with the text 'File your state tax return', a 'Start My Return' button, and a 'Contact Us' link. The main content area has a search bar labeled 'Client Search Criteria' and a 'Show Filter' link. Below this is a table of individual clients. A red arrow points to the 'View POA' link in the 'Actions' column of the first row.

Last Name	First Name	SSN/TIN	Expiration Date	Access Type	Status	Actions
Doe	John	XXX-XX-0000		Power of Attorney	Active	View POA

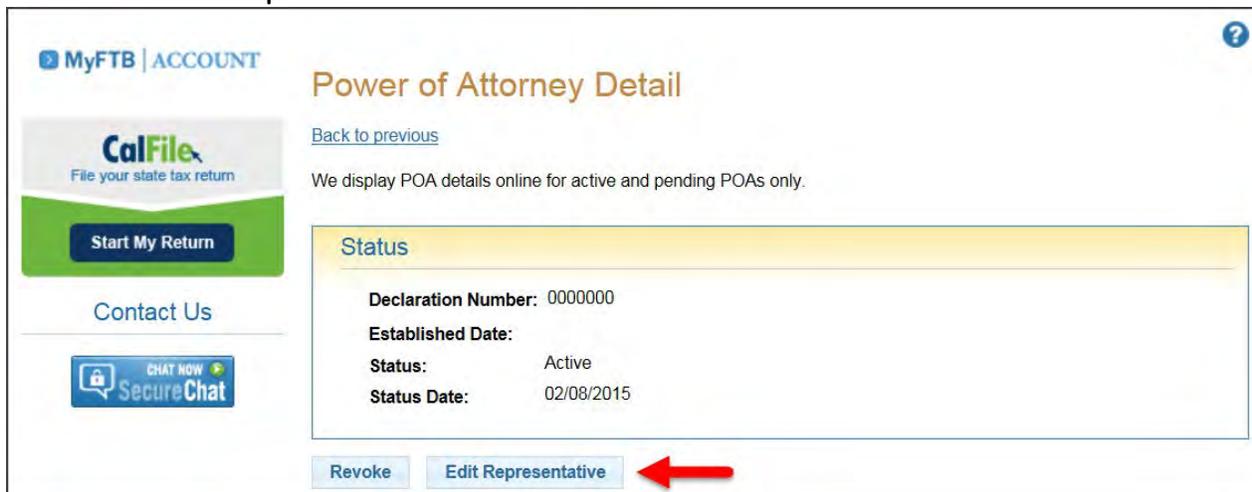
2. Select the **View POA** link in the **Actions** column next to the Declaration you want to edit.



The screenshot shows the 'Power of Attorney List' page in MyFTB. The sidebar is identical to the previous screenshot. The main content area has a 'Back to previous' link and the title 'Power of Attorney Agreements with John Doe'. Below this is a 'Show Filter' link and a table of power of attorney agreements. A red arrow points to the 'View POA' link in the 'Actions' column of the first row.

Status Date	Status	Declaration #	Tax Year	Expiration Date	Actions
02/08/2015	Active	0000000	2014		View POA
09/15/2015	Active	0000000	2013		View POA

3. Select the **Edit Representative** button.



The screenshot shows the 'Power of Attorney Detail' page in MyFTB. The sidebar is identical to the previous screenshots. The main content area has a 'Back to previous' link and the title 'Power of Attorney Detail'. Below this is a message: 'We display POA details online for active and pending POAs only.' A 'Status' section contains the following information: Declaration Number: 0000000, Established Date: (blank), Status: Active, Status Date: 02/08/2015. At the bottom, there are two buttons: 'Revoke' and 'Edit Representative'. A red arrow points to the 'Edit Representative' button.

Status

Declaration Number: 0000000
Established Date:
Status: Active
Status Date: 02/08/2015

[Revoke](#) [Edit Representative](#)

4. Select the **Check Box** in the **Primary** column next to the representative that you want to remove.

5. Select the **Remove** link in the **Action** column. **Note:** To remove the Primary representative from the declaration you must first designate a new Primary representative.

MyFTB | ACCOUNT

Representative List

CalFile
File your state tax return

Start My Return

Contact Us

Add Representative

Primary	Last Name	First Name	IRS CAF No.	PTIN	Action
<input type="checkbox"/>	Frost	Jack			Remove Edit
<input checked="" type="checkbox"/>	Doe	Jane			Remove Edit

Save Cancel

FTB email to re-register for MyFTB

We are proactively reaching out via email to those individuals and tax preparers who had MyFTB accounts prior to January 2, 2016, to remind them of the need to re-register. Emails will be sent beginning March 8, 2016.

Note that the email will not include any active links or contact information (phone numbers or addresses) to reduce risks associated with spam or phishing. In addition, the emails will not request any information, such as address, SSN, PTIN, or other personal or confidential information. We will post a copy of this email on ftb.ca.gov.

If your client indicates they have received an email from FTB, have them go to ftb.ca.gov select **Learn more**, and follow the 3 step instructions to re-register. If you or your client need to file a return, check a refund, or make a payment, MyFTB registration is not required to use the other online service tools listed on ftb.ca.gov.

Important return processing trends that may affect you

As we shared in past articles, one Enterprise Data to Revenue (EDR) project deliverable is an improved system for processing and validating tax returns and payments. As a result of our new return processing system, we now capture and validate more information on tax returns.

With this article, we want to share early trends and information that we believe will be helpful for you and your clients when filing their tax returns.

Incomplete schedules

An early trend indicates that required schedules that should be filed with the return to claim deductions or credits are not included or are not completely filled out for various reasons. As a result, our system does not recognize the deduction or credit claimed as valid and denies these credits or deductions.

Schedule CA (540), California Adjustments – Resident, is a primary example where the specific additions and or subtractions to California adjusted gross Income may be left blank, but adjustments are carried over to the tax return itself. Such an incomplete schedule could result in the taxpayer being denied a refund or receiving a bill.

Another example involves incomplete or missing information when preparing the **Schedule S** to claim the Other State Tax Credit (OSTC).

We may deny or adjust the OSTC in the processing phase of the return due to:

- Missing information on the Schedule S.
 - You compute the Schedule S through a supporting computation, but do not include and/or carry forward the figures from the supporting computation to the Schedule S. This results in the OSTC being denied or adjusted.
- Not including a **group nonresident composite schedule** and statement (if the California resident taxpayer is included in other state group composite returns):
 - In this particular example, the Schedule S instructions explain that California residents included in a group nonresident composite return may also claim a credit for their share of income taxes paid to Arizona, Indiana, Oregon, and Virginia, unless any of these states allow a credit for taxes paid to California on the group, and must attach a group nonresident composite statement to the return. If this documentation is not included, the system will deny or adjust the OSTC.

Generally, if the return is incomplete, we will make an adjustment based on the information provided on the return which may result in a bill, adjusted refund, or denial of the refund. In some cases, we may send a letter asking for documentation to support the information claimed on the return.

What can you do?

Ensure that the schedules and attachments you provide are filled out accurately and completely. This will help us process returns more quickly.

If you receive a notice from us that you believe is in error, send documentation supporting your position through one of the channels shown below. If we receive your supporting documentation and agree with your position, we will correct your account.

- Upload documents into your MyFTB account
- Fax information to (916) 845-6377
- Mail the information to:

Franchise Tax Board
POX 942840
Sacramento, CA 94240-0040

California Competes Tax Credit

The California Competes Tax Credit is an income or franchise tax credit available to businesses that come to California or stay and grow in California. Tax credit agreements are negotiated by the Governor's Office of Business and Economic Development (GO-Biz) and approved by a statutorily created "California Competes Tax Credit Committee." The committee consists of:

- Director of GO-Biz (Chair).
- State Treasurer.
- Director of the Department of Finance.
- One appointee each by the Speaker of the Assembly and Senate Committee on Rules.

For Fiscal Year 2015/2016, \$200.9 million of the California Competes Tax Credits will be available for allocation during three application periods. For the third application period \$50.9 million will be available for allocation, plus any unallocated amounts from the previous application periods. Applications for the credit will be accepted at calcompetes.ca.gov from March 7, 2016, until March 28, 2016.

Go to business.ca.gov/CalCompetes.aspx for more information on the California Competes Tax Credit.

Which employment credit am I claiming?

There are multiple tax credits in California to encourage hiring and employment. Many of the credits have similar names and qualification requirements. Some credits are current while others are repealed. When preparing returns, be sure to report the correct credit on the tax returns and on any California Schedule K-1s. Below is helpful information about several of these credits, including the applicable credit codes.

New Employment Credit

- For qualified employers that hire qualified full-time employee beginning on or after January 1, 2014.
- Requires qualified employers to get a tentative credit reservation from FTB within 30 days of completing their New Hire Reporting requirements with the Employment Development Department.
- Requires a net increase in the total number of full-time employee equivalents over the employer's "base year."
- Reported on FTB Form 3554, New Employment Credit.
- Claimed on return using Credit Code 234.
- Additional information on this credit is available [here](#).

Enterprise Zone Hiring Credit

- Repealed on December 31, 2013.
- Employers can continue to generate credit for eligible employees hired prior to the repeal for up to five years.
- Carryovers may be claimed until the applicable carryover period expires.
- Reported on FTB Form 3805Z, Enterprise Zone Deduction and Credit Summary.
- Claimed on return using Credit Code 176.

New Jobs Credit

- Repealed on December 31, 2013. New credits could only be generated for the 2013 taxable year.
- No new credit can be generated for taxable years beginning on or after January 1, 2014.
- Carryovers may be claimed until the applicable carryover period expires.
- Carryovers are reported on FTB Form 3540, Credit Carryover and Recapture Summary.
- Claimed on return using Credit Code 220.

Additional information on the repeal of the Enterprise Zone Hiring Credit and the New Jobs Credit is available [here](#).

[New Employment Credit database coming soon](#)

The credit is available to eligible employers who have qualified new hires beginning on January 1, 2014.

Statute requires us to provide the employer names, the amounts of tax credit claimed, and the number of new jobs created as a searchable database on our website for each taxable year. We plan to post this information on our website in the coming weeks. You can access the database when it is available, and get additional information on the credit [here](#).

[Taxpayer Bill of Rights Hearing responses](#)

We want to share responses we gave regarding the inability to dissolve/cancel business entities formed and not launched, inadvertent failure to file Form 568 by Single-Member LLC's, and 2015 CA Disasters.

In our January 2016 issue, we provided you with an overview of the Taxpayers' Bill of Rights Hearing held on December 8, 2015. This month, we share the responses to the California Society of Enrolled Agents (CSEA) regarding inability to dissolve/cancel business entities formed and not launched, inadvertent failure to file Form 568 by Single-Member LLC's, and 2015 CA Disasters.

Inability to dissolve/cancel business entities formed and not "launched"

We agree that this issue has been discussed for many years. In 2006, Assembly Bill 2431 was enacted to simplify the entity dissolution and cancellation process by eliminating burdensome tax clearance requirements. The department has set up a team to study why entities continue to have challenges with dissolving and cancelling. The team will formalize a planned approach including anticipated deliverables no later than July of 2016. We anticipate the deliverables to include a complete analysis of the dissolution and cancellation process, identification of opportunities for improved education and outreach, and a review of administrative, regulatory, and/or legislative changes that might present opportunities to address this continuing issue.

This effort will include seeking input and feedback from our partner state agencies and our stakeholders.

Inadvertent Failure to File Form 568 by single-member LLC's (SMLLC)

We are currently working on a feasibility study regarding to the SMLLC filing requirements for personal income tax filers. We will also include in this study the filing requirements for corporations that have SMLLCs. Our feasibility study will address potential form changes suggested by the CSEA and Spidell as well as impacts to department business areas such as processing, systems, Legal, and Audit. We expect to complete the study and recommend a resolution by spring 2016.

2015 California disasters

The original presidentially declared disaster was only for the Valley Wildfire (Lake County). We updated Publication 1034 based on this original declaration but were not aware that the original Presidential disaster declaration was later amended to add the Butte Wildfire (Calaveras County). We have updated Publication 1034 and the links to the publication on our external disaster loss webpage. Additionally, we are updating our procedures so that we are aware of federal amendments to presidentially declared disasters.

FTB Audit roundtable update – Third in a series

Last year, we conducted two Audit Roundtable Sessions with representatives from large accounting and law firms, a sampling of large corporate taxpayers, and other interested parties. Attendees asked for timeliness, better communication, and enhanced collaboration during the audit process. This quarterly article focuses on improvements in our claim for refund process and the new Audit Customer Experience Survey.

Business Entity Claims for Refund Acknowledgement letters

We implemented new procedures in November to improve our communication with Business Entity taxpayers that filed a claim for refund on Form 100X, Amended Corporation Franchise or Income Tax Return. Claim for Refund Acknowledgement Letters will notify Business Entity taxpayers of the receipt of their claim and the status of whether the claim will be referred to audit or referred for processing of the refund. The new procedures will assist taxpayers in estimating when to expect their refunds.

Audit Customer Experience survey

On January 31, 2016, we launched the Audit Customer Experience Survey to help us gauge the satisfaction level and overall customer experience with our audit program in the areas of communication, transparency, timeliness, and accuracy. A top aspect of the Audit Division's mission is to responsibly conduct our business with fairness, integrity, and in a timely manner. At the conclusion of an audit in which there has been substantial communication with the Audit Division, taxpayers will receive an invitation to participate in the Audit Customer Experience Survey. This is a pilot program and will run from January 31, 2016, to June 30, 2016.

Once again we thank Tax News subscribers who participated in the roundtable discussions and provide their suggestions to further improve our communication efforts.

Ask the Advocate



Susan Maples, CPA
Taxpayers' Rights Advocate
Follow me on Twitter at
twitter.com/FTBAdvocate

New advocate video

As the Advocate, I'm always looking for ways to educate and reach out to the public. We just finished a new video, Taxpayers' Rights Advocate, in which I have the opportunity to explain the advocate's duties and my commitment to helping the tax community.

I work independently of FTB's Audit and Collections areas. I help taxpayers who have been unable to resolve their tax problems through normal channels. My goal is to protect you and your clients' rights and ensure that FTB handles you and your clients' tax problems promptly and fairly.

I hope you enjoy the video and can use it as a learning tool for your clients.

Inside FTB

New FTB refund app available

We now offer a Refund Mobile app available for download at the Apple App Store for mobile devices with an iOS operating system.



We now offer a Refund Mobile app to check the status of your current year California tax refund. The app is available for download at the Apple App Store for mobile devices with an iOS operating system. With this app, you or your client now have the freedom to access current year refund status information on the go!

The following information is required to check the status of a current year California personal income tax refund:

- Social security number
- Mailing address
- Refund amount shown on the current year tax return

If you have trouble downloading, go to ftb.ca.gov and search mobile app support.

All About Business

Disregarded entities, SMLLC – Credit limitations

A business may operate under any number of legal forms. One of the first critical questions is to decide which form of ownership will best meet their business' needs. Under California law, you can form a business entity, such as a corporation or limited liability company. It is state statute that creates the entity, and gives it a legal existence separate from its owner (i.e., its stockholder or member). State statute governs the entity's operations, and controls how and when the entity is formed and comes to an end. Personal and personnel needs and the needs of your particular type of business should be considered. Additionally, tax issues pertaining to the type of entity should be well thought out when making your decision. The determination of the tax ramifications is important. There are tax consequences, and taxpayers are normally required to accept the tax consequences of their choice.

LLCs are "hybrid" business entities in the sense that they have some of the characteristics of both partnerships (i.e., members typically have the right to participate in the management of the business similar to general partners of general or limited partnerships) and corporations (i.e., liability protection for the members analogous to shareholders of corporations).

An LLC with more than one member defaults to a partnership classification, while an LLC with only one member defaults to a disregarded entity. Accordingly, tax questions involving LLCs and their members must be addressed by applying applicable tax law principles that result from the entity choice the LLC makes for federal tax purposes under the federal entity classification election, commonly referred to as the "check-the-box" regulations.¹

Under the federal "check-the-box" regulations, a business entity that is not a corporation is an eligible entity and it can elect its classification for federal tax purposes. For example, an eligible entity with a single owner can choose the default treatment of being classified as a disregarded entity for federal tax purposes, or it can elect to be classified as an association taxable as a corporation for federal tax purposes.

Despite their existence under state statutory law, disregarded entities, such as disregarded SMLLCs, are not recognized as an entity for federal tax purposes. When an SMLLC does not make an affirmative election to be classified as an association taxable as a corporation for

¹ Refer to IRS Form 8832.

federal tax purposes, it will be disregarded as an entity separate from its owner for federal tax purposes and all of the disregarded SMLLC's income and expenses are reported on the single-member's federal income tax return. California tax law generally conforms to the federal entity classification election system by mandating that an eligible business entity be either classified or disregarded for California tax purposes, just as the entity is for federal tax purposes.²

Under California law (R&TC Section 23038) the SMLLC that is disregarded for federal tax purposes, will also be a disregarded entity where all of the disregarded SMLLC's income and expenses are reported on the single-member's California income tax return. However, California Revenue and Taxation Code (R&TC) Section 23038(b)(2)(B)(iii) explicitly provides that the separate existence of the eligible business entity is not disregarded for purposes of the LLC tax (Section 17941), LLC fee (Section 17942), and LLC return filing requirement (Section 18633.5).

In addition, California R&TC Sections 17039 and 23036³ explicitly provides the amount of credit attributable to the disregarded entity that the owner can claim is to be limited, but only if the entity is disregarded for tax purposes pursuant to Section 23038.

Utilization of the credits attributable to the activities of a disregarded entity which are otherwise allowed is limited to the increase in the owner's regular tax, (tax before reduction by any credits), that results from including the income and expenses attributable to the disregarded entity. Determining the credit limitation requires several steps. First, the owner computes its regular tax on all its income, by including in its income the income and expenses attributable to the disregarded entity. Second, the owner then recalculates its regular tax excluding the income and expenses attributable to the disregarded entity, and subtracts this amount from the first amount. The positive difference between the first and second amounts of tax, if any, is the limitation on the amount of credits of the disregarded entity that the owner may use for the tax year. The amount of credit is limited to the difference between the two calculations.

Example 1

A disregarded SMLLC generated a research credit of \$25,000. This example shows the tax effect of the single member as a C corporation or an S corporation with total net income, including the income (loss) attributable to the activities of the disregarded SMLLC, of \$50,000. The

² See, R&TC, Section 23038; see also Cal. Code Regs., tit. 18, Section 23038(b)-3.

³ See R&TC Sections 17039(g) and 23036(i)

income of the corporation excluding the income (loss) of the disregarded SMLLC, however, is \$100,000. In other words, the disregarded SMLLC generated a loss of (\$50,000). Assume the tax rate on the C Corporation is the regular 8.84 percent, and the tax rate on the S corporation is 1.5 percent. The minimum corporate franchise tax is \$800.

Tax including income	C corporation	S corporation
Net income of disregarded SMLLC	(\$50,000)	(\$50,000)
Net income of member excluding disregarded SMLLC's net income	\$100,000	\$100,000
Total net income reported by member	\$50,000	\$50,000
Regular Tax	\$4,420	\$800
Total net income of member excluding income/loss attributable to disregarded SMLLC	\$100,000	\$100,000
Tax (Excluding the disregarded SMLLC income)	\$8,840	\$1,500
Credit allowable	0	0

In this example, no credit from the disregarded SMLLC can be claimed, since the member's regular tax including the disregarded SMLLC is less than the member's regular tax excluding the income attributable to the disregarded SMLLC.

Example 2

The disregarded SMLLC generated a research credit of \$25,000. This example show the tax effect of the single member as a C corporation or an S corporation with total net income, including the income attributable to the disregarded SMLLC, of zero. The income (loss) of the corporation excluding the income of the disregarded SMLLC, however, is (\$100,000). In other words, the income attributable to the disregarded SMLLC is \$100,000.

Tax including income	C corporation	S corporation
Net income of disregarded SMLLC	\$100,000	\$100,000

Tax including income	C corporation	S corporation
Net income of member excluding disregarded SMLLC's net income	(\$100,000)	(\$100,000)
Total net income reported by member	\$0	\$0
Regular Tax (minimum tax)	\$800	\$800
Total net income of member excluding income/loss attributable to disregarded SMLLC	(\$100,000)	(\$100,000)
Tax (excluding the SMLLC income, minimum tax due)	\$800	\$800
Credit allowable	0	0

In this example, no credit from the disregarded SMLLC can be claimed, since the member's regular tax including net income of the disregarded SMLLC is not any more than the member's regular tax excluding the net income attributable to the disregarded SMLLC.

Example 3

The disregarded SMLLC generated a research credit of \$25,000. This example shows the tax effect of the single member as a C corporation or an S corporation with total net income, including the income attributable to the disregarded SMLLC, of \$50,000. The income of the corporation excluding the income of the disregarded SMLLC, however, is (\$50,000). In other words, the net income attributable to the disregarded SMLLC is \$100,000.

Tax including income	C corporation	S corporation
Net income of disregarded SMLLC	\$100,000	\$100,000
Net income of member excluding disregarded SMLLC's net income	(\$50,000)	(\$50,000)
Total net income reported by member	\$50,000	\$50,000
Regular Tax	\$4,420	\$800

Tax including income	C corporation	S corporation
Total net income of member excluding income/loss attributable to disregarded SMLLC	(\$50,000)	(\$50,000)
Tax (excluding SMLLC income, minimum tax due)	\$800	\$800
Credit allowable	\$3,620	0

In this example, for the member that is a C corporation the allowable amount of the credit is the difference between the regular tax of \$4,420 and the tax excluding SMLLC income of \$800, \$3,620. The member that is the S corporation would not be allowed to use any credit to reduce the S corporation's minimum tax, since no credits can reduce tax below the minimum amount.

The shareholders of the S corporation will also have to run the numbers to determine their limitations on use of the credit, since the limitation also applies to indirect owners to whom credits flow. Consider example 2 above. If member X owned the S corporation that owned disregarded SMLLC 100 percent, member X would receive a schedule K-1 reporting \$0 (no income/no loss). When you run the numbers excluding the disregarded SMLLC income of \$100,000, however, the schedule K-1 would have reported a loss of (\$100,000). To the extent that including the \$100,000 income of the disregarded SMLLC in the income on the S corporation increases member X's own regular tax, the credit that passes through would be allowable to member X. Depending on member X's other reported income, you would think in Example 2 that the total regular tax liability computed by excluding the disregarded SMLLC's income would be less than the original reported tax, since the total taxable income should be less. However, depending on passive activity loss limitations and the other limitations on reporting S corporation losses, the taxable income, and therefore the tax, might not be less.

Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We now provide a calendar that shows the events we attend, as well as other events happening with us, such as interested party and board meetings.