

TIP 98C1-05
DATE ISSUED: Jul 01, 1998

**1998 Legislative Changes To The Law Covering
Qualified Subchapter S Subsidiaries And
Limited Liability Companies**

The 1998 Legislature made changes affecting Qualified Subchapter S Subsidiaries and Limited Liability Companies effective July 1, 1998.

Qualified Subchapter S Subsidiaries

Qualified Subchapter S Subsidiaries are no longer treated as separate entities from their parent corporations for purposes of Florida corporate income tax. This change is effective retroactively to apply to tax years beginning on or after January 1, 1997.

Additionally, Qualified Subchapter S Subsidiaries are required to file an informational return with the Department of Revenue for tax years beginning on or after January 1, 1997. This return should identify the subsidiary, the S corporation parent, and the effective date of the election for the year in which an election is made to file as a Qualified Subchapter S Subsidiary. Penalty will not be assessed for failure to file an informational return that was due before the effective date of this law, July 1, 1998.

Limited Liability Companies

Effective July 1, 1998, and applicable to tax years ending on or after that date, limited liability companies (LLCs) and foreign LLCs qualified to do business in Florida will be treated identically for state purposes as they are for federal purposes.

Single member LLCs will be treated in the same manner as they are for federal income tax purposes, including the filing

election. For example, single member LLCs which have elected to be disregarded for separate filing requirements under the federal "check the box" or similar provisions will be allowed this same treatment for Florida corporate income tax purposes.

For tax years ending after the effective date of this act, the tax attributes of formerly taxable LLCs will not be allowed to carry over to another entity. LLCs that have made estimated tax payments for which no return is required will need to file a return in order to claim a refund of previously paid estimated taxes.

An LLC doing business in Florida, disregarded for federal purposes, and included in another corporate income tax return, will create nexus for Florida state income tax purposes for the corporate parent on whose return the LLC is included.

Since LLCs treated as partnerships federally will now receive the same treatment for Florida corporate income tax purposes, those partnerships having corporate partners will be required to file Florida partnership returns and the corporate partners will be required to file Florida corporate income tax returns.

When a corporate member or partner is required to file a Florida corporate income tax return, the corporation is to include its share of the LLC's sales, payroll, and property factors with its own in calculating its apportionment factor.

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For more information call Tax Information Services, Monday - Friday, 8:00 a.m. to 5:00 p.m., ET, at 850-488-6800.

Hearing or speech impaired persons should call our TDD at 1-800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, PO Box 7443, Tallahassee, FL 32314-7443.

Also, visit our Web site at <http://sun6.dms.state.fl.us/dor/> for forms and other information.

Get tax forms quickly by FAX ON DEMAND. Call 850-922-3676, twenty-four hours a day, seven days a week, using your fax machine handset and follow the instructions.

References:

Ch. 98-101, L.O.F.

Ch. 608, F.S.

s. 1361(b)(3), I.R.C.