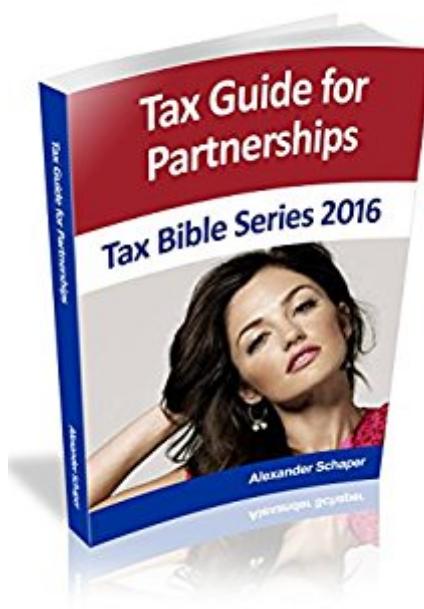


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Tax Guide For Partnerships 2016: Tax Bible Series 2016



Synopsis

Forming a Partnership The following sections contain general information about partnerships.

Organizations Classified as Partnerships

An unincorporated organization with two or more members is generally classified as a partnership for federal tax purposes if its members carry on a trade, business, financial operation, or venture and divide its profits. However, a joint undertaking merely to share expenses is not a partnership. For example, co-ownership of property maintained and rented or leased is not a partnership unless the co-owners provide services to the tenants. The rules you must use to determine whether an organization is classified as a partnership changed for organizations formed after 1996.

Organizations formed after 1996. An organization formed after 1996 is classified as a partnership for federal tax purposes if it has two or more members and it is none of the following.

- An organization formed under a federal or state law that refers to it as incorporated or as a corporation, body corporate, or body politic.
- An organization formed under a state law that refers to it as a joint-stock company or joint-stock association.
- An insurance company.
- Certain banks.
- An organization wholly owned by a state, local, or foreign government.
- An organization specifically required to be taxed as a corporation by the Internal Revenue Code (for example, certain publicly traded partnerships).
- Certain foreign organizations identified in section 301.7701-2(b)(8) of the regulations.
- A tax-exempt organization.
- A real estate investment trust.
- An organization classified as a trust under section 301.7701-4 of the regulations or otherwise subject to special treatment under the Internal Revenue Code.
- Any other organization that elects to be classified as a corporation by filing Form 8832.

For more information, see the instructions for Form 8832.

Limited liability company. A limited liability company (LLC) is an entity formed under state law by filing articles of organization as an LLC. Unlike a partnership, none of the members of an LLC are personally liable for its debts. An LLC may be classified for federal income tax purposes as either a partnership, a corporation, or an entity disregarded as an entity separate from its owner by applying the rules in Regulations section 301.7701-3. See Form 8832 and section 301.7701-3 of the regulations for more details.

A domestic LLC with at least two members that does not file Form 8832 is classified as a partnership for federal income tax purposes.

Organizations formed before 1997. An organization formed before 1997 and classified as a partnership under the old rules will generally continue to be classified as a partnership as long as the organization has at least two members and does not elect to be classified as a corporation by filing Form 8832.

Community property. Spouses who own a qualified entity (defined later) can choose to classify the entity as a partnership for federal tax purposes by filing the appropriate partnership tax returns. They can choose to classify the entity as a sole proprietorship

by filing a Schedule C (Form 1040) listing one spouse as the sole proprietor. A change in reporting position will be treated for federal tax purposes as a conversion of the entity. A qualified entity is a business entity that meets all the following requirements. ª The business entity is wholly owned by spouses as community property under the laws of a state, a foreign country, or a possession of the United States. ª No person other than one or both spouses would be considered an owner for federal tax purposes. ª The business entity is not treated as a corporation.

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