



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

CC:INTL:4:KTHolman  
COR-126108-00  
February 13, 2001

Number: **2001-0067**  
Release Date: 3/30/2001  
Index Numbers: 701.00-00, 871.03-00



Dear [REDACTED]:

This is in response to your letter dated November 14, 2000 in which you request general information concerning the U.S. federal income taxation of and reporting requirements associated with an LLC formed in 1999 in the state of Delaware.

The U.S. tax consequences associated with the LLC depend upon whether the entity is classified as a partnership or as a disregarded entity for U.S. tax purposes. Unless it elects otherwise on Form 8832, a LLC formed under state law in the U.S. is classified as a partnership if it has two or more members, or it is disregarded as an entity separate from its owner if it has a single owner. See § 301.7701-3(b)(1).

If a LLC is classified as a partnership, it does not pay any U.S. federal income tax pursuant to § 701, regardless of whether the source of its income is U.S. or foreign. Any gain or loss flows through to the partners who are taxable on their share of the partnership taxable income. A nonresident alien partner must pay tax on the partner's share of the partnership income only to the extent that the income is U.S. source or effectively connected with the conduct of a trade or business in the United States. See § 871.

Pursuant to § 6031 of the Code, every domestic partnership must file an annual partnership return (Form 1065). The partnership return is due on or before the 15<sup>th</sup> day of the fourth month following the close of the partnership's taxable year. See § 6072. The partnership must send each partner a statement that reports the partner's share of the partnership income, gain, loss, and deductions. A nonresident alien individual who is engaged in a trade or business in the United States at any time during the taxable year is required to file a return on Form 1040-NR. If a partnership is engaged in a U.S.

trade or business, its nonresident alien partners are also considered engaged in a U.S. trade or business. See § 875(1).

If a LLC is classified as a disregarded entity, the LLC also does not pay any U.S. tax. Instead, the LLC income tax items are considered earned directly by the single owner. If the owner is a nonresident alien, the owner must pay tax in the U.S. on the LLC income items that are U.S. source or effectively connected income. See § 871. The single nonresident alien owner must file a return on Form 1040-NR if the owner is engaged in a U.S. trade or business. A separate return is not required from the disregarded entity.

If you need any IRS tax forms, they can be obtained at the IRS website, [www.irs.ustreas.gov](http://www.irs.ustreas.gov).

We hope that this information will prove helpful to you. Pursuant to § 1.04 of Rev. Proc. 2001-1 I.R.B. 9, a general information letter such as this is advisory only and has no binding effect on the Service.

If you have any further questions, please contact Kay Holman or Eliana Dolgoff at (202) 622-3860.

Sincerely yours,

Charles P. Besecky  
Chief, Branch 4  
Office of Associate Chief Counsel  
(International) :