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IRS and Massachusetts Rule on the Income Tax Classification of a Delaware Series Limited Liability Company—But Questions Still Abound

For more than ten years, the Delaware limited liability company laws have provided for a “series LLC” form of business organization that is essentially a subset of LLCs within the overall LLC, with each series consisting of a separate pool of assets, liabilities and stream of earnings. Three years ago, Illinois adopted its own series LLC statute that more clearly states that each series of the Illinois series LLC will be treated as a separate business entity for corporate, commercial and possibly tax purposes. In January 2008, the IRS issued Private Letter Ruling 200803004, which concluded that the federal “check-the-box” rules separately applied to each series in what is believed to be a Delaware series LLC. A month later, the Massachusetts Department of Revenue applied a more detailed analysis to reach the same conclusion. Neal Gerber Eisenberg partner and Tax Practice Group member John A. Biek authored an article that appears in the May/June 2008 edition of *CCH's Journal of Passthrough Entities*.

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