

## New Obligated Member Entities

Notice #09-16

Franchise and Excise Tax

November 2009



## Highlights

**INTRODUCTION**

This notice is intended to provide taxpayers and the general public with information concerning the requirement for certain obligated member entities to file an Application for Exemption with the Department of Revenue by November 30, 2009.

**DISCUSSION**

Public Chapter 530, Section 29, extended the date by which a taxpayer must file the required documentation to become an exempt obligated member entity for tax years beginning on or after July 1, 2008, but before October 1, 2009. Generally, such documentation must be filed with the Secretary of State on or before the first day of the tax year at issue. However, for tax years beginning on or after July 1, 2008 but before October 1, 2009, the documentation could be filed as late as October 1, 2009.

In order to perfect the exemption for 2009, taxpayers that converted to an obligated member entity as allowed by Public Chapter 530, Section 29, on or before October 1, 2009, must file an [Application for Exemption](#) form with the Department of Revenue by November 30, 2009. The taxpayer must attach to the Application for Exemption a copy of the appropriate documentation filed with the Tennessee Secretary of State showing that it was filed on or before October 1, 2009.

Public Chapter 530, Section 33, amended Tenn. Code Ann. § 67-4-2008 to require taxpayers claiming exemption from franchise and excise tax to file an application for exemption within sixty (60) days of the beginning of the first tax year for which the person claims the exemption. Since the date for claiming the obligated member entity exemption was extended to allow taxpayers to file the appropriate documents after the start of the tax year, the initial application for exemption must be filed by November 30, 2009, which is sixty (60) days after the deadline for qualifying for the exemption.

The Department is authorized to accept exemption applications that are filed after the deadline. However, a statutory penalty of \$1,000 is imposed for late filing. The Department is authorized to waive the penalty, in whole or in part, only for good and reasonable cause.

**References:**

*P.C. 530 § 29 & 33  
T.C.A. § 67-4-2008*

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.