

# Memo

**To:** Foreign Investors  
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**Re:** LLC & Foreign Investors

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The LLC (Limited Liability Company) offers several important advantages when it comes to owning real estate. There are some disadvantages that should be considered as well. Due to both the legal and tax reasons the LLC is the primary and preferred entity in which to invest in real estate in the United States. The LLC offers the foreign investor the following significant advantages as well as potential consequences:

## Tax Advantages

1. Through the use of an LLC to own rental properties the foreign investor may be able to avoid the 30% withholding tax requirement.
2. FIRPTA Withholding on sale of property:
  - a. An LLC will generally not prevent FIRPTA Withholding when a foreign individual sells U.S. property. Other exceptions may apply based on the situation.

## Legal Advantages

3. The foreign investor is afforded all legal liability protection offered by the LLC structure. This means that that the investor may be protected from potential lawsuits from the tenant.
4. The property may be protected from unrelated lawsuits brought against the foreign investor. This would help protect the property against outside lawsuits from business dealings, bankruptcy or divorce.

## Other Advantages

5. With an LLC the foreign investor can be issued an EIN (employer identification number). This number will generally be issued well in advance of the foreign investor's ITIN (Individual Taxpayer Identification Number).
6. With the EIN the foreign investor can open bank accounts, and set up utilities with local utilities.

### **Legal Disadvantages**

7. The LLC may not be treated as favorably in your home country as it is treated here in the U.S. You will want to check with your accountant in your home to see what the tax implications will be back home.
8. Generally, Canadian citizens will not benefit from the use of an LLC. As a Canadian citizen if you use an LLC it will either generate a bad tax ramification here in the U.S. or a bad tax ramification back in Canada. It is for this reason we usually suggest that Canadians purchase property in their personal name and not use an LLC.

The LLC should be established as soon as possible to facilitate the purchase and rental process. Our office can assist any foreign investor with all aspects of the LLC set up and continued maintenance/operation. Other companies cannot help past the set up process, however; our office is full services from the initial consultation to the continued operation. Every situation is different. If you would like to discuss your situation further please feel free to give us a call. Thank you.

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