

LLC's Have Great Legal & Tax Benefits - Finally That Ideal Entity For Real Estate!

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LLC's have all of the legal benefits of a corporation; yet all of the excellent tax advantages of a general partnership; yet avoid the legal disadvantages of a general partnership, yet avoid the tax disadvantages of C corps, S corps and LP's, including avoiding the legal complications of LP's and legal constraints of S-corps. More specifically there is the following:

Legal Benefits – There is the following:

- **The LLC statutes of all 50 states and the District of Columbia all recognize LLC's as legal entities separate and distinct from its member-owners, granting the *corporate* shield of limited liability for its members, based primarily on corporation law which has many decades of long standing precedent in the US.**
- **LP type protection.** Legally, LLC's also have similarities to the long-standing limited partnership (LP) with another form of protection called "charging order" protection (which is a way to thwart claimants from attaching your ownership shares).

- * **Limited liability protection for ALL of the members.** LLC's have the corporate characteristic of limited liability for *all* of the members. An LLC does not need an individual or entity (such as a general partner) who is personally liable for debts. NO LLC member is personally liable. This is unlike a limited partnership, where there must be at least one general partner personally liable for all debts. This causes the necessity of additional cost and paperwork to incorporate the general partner. This is not necessary with an LLC.
- * **Control with limited liability.** Unlike a limited partner, any LLC member can exercise control over daily management decisions without the fear or actuality of losing their protected, limited liability status.
- * **Charging order protection** like an LP. Yet without LP pitfalls.
- * **LLC's are free from the qualification constraints imposed on S-corps.** The members can be corporations, partnerships, estates, pension plans, IRA's, and non-resident aliens. Unlike S-corps, an LLC can have more than one class of "membership interest" (similar to stock).
- * **LLC's can be used for all types of real estate transactions. Residential rental, commercial, wholesaling, short sales, rehabbing, new construction, sub-divisions, condo conversations, etc.**

Tax Benefits - There is the following:

- **Easy entity selection.** Under simple IRS check-the-box rules, as a separate legal entity an LLC can be taxed as a sole proprietor, as a partnership or as a corporation. But for real estate ownership, an LLC should elect to be taxed as a partnership and thereby be governed by the favorable tax benefits of partnership tax law.
- **The LLC-partnership is the only pure flow-through entity where the tax benefits still pass down to your 1040 even though the LLC-partnership is a separate legal and tax entity from you.** One example is property tax losses which can be "paper" losses because of componentizing depreciation (a non-cash paper deduction). Such paper losses pass down to offset your other 1040 income saving you a bundle of taxes every year.
- ❖ **Lower IRS audit risk** than other forms of ownership such as corporations, Schedule C's and E's.
- ❖ **No IRS controversy on corporate tax-prone issues** of "reasonable compensation" or "constructive dividends", there are no issues of loans to partners as taxable dividends or salaries (as with corporations).

- * **No W-2 salaries.** Unlike corporations, LLC-partnerships do not have to pay salaries to partners and thus avoid payroll recordkeeping, tax withholdings and filings. Optionally and without the bookkeeping of W-2 salaries, simple straight guaranteed payments could be paid to create earned income for valuable retirement plan contributions.
- * **No corporation limits for deducting property tax losses.** Even S-corps have limits on deducting losses with leveraged real estate.
- * **Avoid IRS passive loss limits.** Unlike limited partners, because LLC members can participate in management, they can side step passive loss limits and fully currently deduct property tax losses against other ordinary income by actively participating in property management under Code Section 469. This is huge!
- * **Tax-free distributions.** Unlike corporations, distribution of funds (including borrowed money) from an LLC will not result in current tax (single or double); there is no gain recognized to a member upon the distribution of property to the member even if it is appreciated property (with built-in gains) where the value is higher than its adjusted basis.
- * **1031 tax-free exchanges.** Unlike corporations, LLC's, with members splitting up, can much better accomplish a 1031 exchange to defer capital gains taxes on property sales.

- * **Special member P&L allocations.** Can allocate profit or losses to the members in a manner that best suits the members' tax needs. For example, a member in a high tax bracket, may want allocated to them less of any net income or more of any net losses; or vice versa for a low bracketed member. These special allocations can be done in compliance with special *partnership* provisions under code section 704(b). They do not at all apply to corporations and are more restricted with limited partnerships.

In a nutshell, the intended benefits of LLC's offer the best of several worlds:

- The corporate shield of limited liability for *all* of the members
- Control over management decisions for *all* of the members
- Charging order protection
- All of the optimum real estate tax advantages of a partnership.
- Ability to use for all types of real estate investing.

A properly structured LLC should...

- **Protect your personal assets**
- **Save you substantial amounts of taxes**

Defend you against IRS attacks

- Prevent legal disputes and save you legal fees and hassles
- Enable you to successfully operate your real estate business.

But Most LLC's Are Worthless! They simply do not give you the significant dollar-saving benefits that a well-designed & documented LLC should give you!!

Get solid LLC documentation here:

<https://TractionREIA.com/al>