

The FAQ's are broken down into five segments:

- i) INTERNATIONAL PORTFOLIO GROUP OVERVIEW
- ii) LEGAL AND STRUCTURE REQUIREMENTS
- iii) ACCOUNTING
- iv) BANKING
- v) INSURANCE (Risk mitigation)

## INTERNATIONAL PORTFOLIO GROUP OVERVIEW

### Why does IPG exist?

Both an EIN and ITIN are essential for a US property purchase (assuming you set up an LLC) and the lovely bureaucracy of the US, coupled with (sometimes) poorly trained IRS staff and complex IRS documents, makes both of these difficult to set up. As an example, you can't set up an ITIN without purchasing a property, you can't purchase a property without an LLC, you need an LLC to get an EIN, but to get an EIN for your LLC you MUST have an ITIN number.

To get the ITIN number you'll need to be in the US physically to set up a bank account, to get a letter from the bank stating that you require an ITIN number for tax purposes from the IRS – wait; now the bank is saying that it can't set you up with a bank account without a Social Security Number (SSN) or ITIN. What!!! This is why IPG exists.

### What does IPG do?

IPG has identified the major services required to create a complete and working property portfolio for the foreign real estate investor looking to acquire US property assets. Our packages and products offer great value and allow the foreign investor to pick and choose according to their individual needs.

We help clients protect themselves from litigation, also ensure clients set up and comply with US federal and state tax laws and ensure investors treat their real estate property as a 'business' rather than simply accumulating individual assets.

As a result of this need, IPG was established in 2011 to create that connection between international investors and specialized Accountants, Attorneys, Banks and Insurance companies all coming together to provide the exact services foreigners need to create and run a real estate portfolio business in the US.

## What problems do IPG solve?

1. What type of entity should you consider for your property?
2. Where should you incorporate?
3. What ownership structure do you need in place?
4. What legal registration requirements are there in the US?
5. Can you minimize your tax liability?
6. Do I need to file a US Tax Return?
7. How will you ensure that you are complying under state and federal laws?
8. How do I open a US Bank Account without travelling to the US?
9. How do I get access to my money?

## LEGAL AND STRUCTURE REQUIREMENTS

### What is an LLC?

A LLC -limited liability company's basic features are that its owners have limited liability for the entity's debts and obligations, similar to the status of shareholders in a corporation, and its income and losses are normally passed through to the owners as if it were a partnership. It is probably most like a limited partnership, without the requirement that there be at least one general partner liable for the debts and obligations of the partnership.

### Why form an LLC or Incorporate?

Generally, if you do not file to form your business as a specific entity type, one is assigned to it by default. If there is only one owner, it is a Sole Proprietorship and if there are multiple owners, it is a General Partnership. Minimal paperwork can be an advantage with these entity types, but they also leave your personal assets at risk. Filing to form an LLC or Corporation separates your personal assets from your business. Plus, with an "LLC" or "Inc." after it, your business instantly looks more professional to customers, vendors, and peers.

### Why do most foreign property investors choose to form an LLC to hold their US property portfolio?

Let's say for example you hold three properties in your own name and one of your tenants files a lawsuit against you. If your liability insurance doesn't cover the damages, all three properties and personal assets that you own are in danger of being taken by the courts.

You can however form a company to hold your properties. This company is treated as a separate entity and so if liable for damages, only the company's assets can be taken. You have several choices for types of company, depending on your preference for tax treatment and structure.

## Which entity type is best for my business – LLC or Corporation?

That's a question that ultimately only you can answer. Corporations have been around for hundreds of years, so the paperwork to form and maintain them can seem archaic at times. LLC stands for Limited Liability Company. The reason is that LLCs were designed to offer the personal asset protection of Corporations, but with fewer initial and on-going requirements.

## What are the advantages and disadvantages of buying in the name of an individual?

Currently, long term capital gains tax rates are 15% for individuals and there is no capital gains treatment for C corporations. Federal corporate tax rates can be as high as 35%. What this means for the foreign buyer is a tax savings on the capital gains on the sale of the property if it is held individually as opposed to a standard corporation. However, these taxes can be avoided, and the foreign person can obtain the Federal capital gains tax rate of 15%, by creating an LLC. LLC's allow individuals to be taxed at their own individual tax rate, instead of being subject to the high corporate tax rates of 35%. As a result, there is not a significant advantage in tax treatment to a foreign buyer if they own a property individually.

While there is not a significant difference in tax treatment between owning the property individually or through an LLC, there is a difference in liability protection. Owning a property individually can subject the foreign buyer to lawsuits in the U.S., whereas, an LLC can protect the foreign buyer's assets outside those owned by the LLC from liability. An LLC can also provide the foreign buyer with additional privacy protections, as purchasers of property in a lot of states are required to register their ownership with the city and state and these registries are accessible to the public in online databases in LLC name only.

If a foreign person wishes to purchase the property individually, they can create an irrevocable trust to hold the property. An irrevocable trust will avoid estate tax when the foreign person dies. In addition, a trust can provide similar privacy protections to a corporation.

## What are the advantages and disadvantages of buying in the name of a US corporation or LLC?

Owning a property through an LLC or US corporation can provide liability protection and additional privacy to the foreign buyer. Unlike a corporation, an LLC provides the foreign person the ability to be taxed at their individual rate, as opposed to corporate tax rates. However, owning the property through an LLC alone, will not avoid estate tax. In order for a foreign person to avoid estate tax, they can create an LLC in addition to a foreign holding corporation. Provided the foreign holding corporation is the member of the US LLC, the foreign person can avoid estate tax on US owned property. Under this structure, the IRS views the ownership of the property as an intangible asset, which is not subject to estate tax.

## What are the most common terms of an LLC?

**Articles of organization** - this is the document in most states is filed with the appropriate state office to form the limited liability company.

**Manager** - A person whether or not a member of a manager-managed company, who is vested with authority to manage the affairs of the limited liability company.

**Member** - A person who becomes a member of the limited liability company upon formation of the company or provided in the operating agreement.

**Operating agreement** - is the agreement concerning the relationship among the members, managers and Limited Liability Company.

**Registered agent** - A person who is an agent for service of process on the limited liability company who is appointed by the limited liability company and whose address is the registered office of the limited liability company.

**Registered office** - The office maintained by the limited liability company in a state at which any process, notice, or demand required or permitted by law may be served upon the registered agent of the limited liability company.

## Can I buy in individual names/sole proprietorship?

Of course you may, as a sole proprietor you will have lower start up costs, have no annual reporting compliance, no accounting difficulties and hence ease of tax preparation. These advantages of simplicity and cost do come with some major disadvantage. Primarily, liability, meaning the sole proprietorship owner is personally liable and therefore may limit the ability to raise further capital with assets potentially subject to the claim of personal creditors, but it is also likely that any transfer of business assets will be impeded as assignment to another entity is not permitted within contract.

## Can I be a sole owner of a US Company? Can I be the only shareholder of a US LLC or Corporation?

Yes! You can be a sole member or the only owner of a US Company. It means that an LLC can have only ONE owner = one member. A Corporation can also have only one shareholder. Both LLC & Corporation's can have only one owner and this one owner can be a non-us-resident without social security number. One person (U.S. or foreign) can also be the President, Secretary, Treasurer and Sole Director of a Corporation, without disclosing the name or names in the Certificate of Incorporation. (Note: the Director or Directors are allowed to amend the bylaws of the Corporation).

## **I own a company in my country. Can the company be the shareholder of the US Company? Can the US Company be a subsidiary of my local company?**

Yes. Your local company can be the owner of the US Company, therefore the US company will be a subsidiary of your local company. You may have an issue opening up a US Bank account in a foreign entity. IPG can provide this service for you (but you must register as a foreign entity and apply for an EIN number (which IPG can arrange for you).

## **Are there any tax issues?**

Yes, with Sole Proprietorships and General Partnerships, there is little legal separation of the owners from the businesses. So the owners are taxed on all money that their businesses make. Corporations are taxed on all money that they make, then additionally, the owners are taxed on all money that they pay themselves from the Corporation. This is commonly known as "double taxation". Some states allow you to file to be a special type of Corporation called an S-Corporation, in which taxation is the same as with Sole Proprietorships and General Partnerships. LLCs are the opposite. By default the taxation is the same as for Sole Proprietorships and General Partnerships. Or some states allow you to file to have the taxation be the same as the default for Corporations, where the LLC is taxed on money it makes, then additionally its owners are taxed on money that they pay themselves from it.

## **What structure does my SMSF (from Australia) from Australia have to use to pay Australian audit?**

This is possible plus you can borrow in the US, utilising a US lender. Another report will go into a lot of detail about SMSF.

## **What is an S-Corporation?**

An S-Corporation is a special type of Corporation available in some states. They are different from traditional Corporations in that they avoid the issue of "double taxation". Specifically, the business does not pay tax on its revenues. Instead, the owners pay taxes on all business revenues. S. Corporation has some limitation in regards to the shareholders:

1. Ownership is limited to 75 stockholders.
2. Owners cannot be corporations, partnerships, pension plans, charitable organizations, certain trust.
3. Non-US-Resident aliens cannot be shareholders.

## **Where is my LLC formation or Incorporation filed?**

These filings are at the state level, typically with the Secretary of State's office. Some states also require publication of an announcement of the LLC Formation or Incorporation in specific publications.

## **How do I choose in what state I should register my US Company?**

The US is a federation of 50 States and District of Columbia (D.C.). You can register your US company in any state you want. The basic rule is: incorporate in the state in which you are doing business. If you don't have any physical presence in any state (physical office or employees) you can choose to incorporate your US Company in any state you want. Corporations that do business in more than one state, or corporations that may eventually "go public", may wish to consider the benefits of incorporating in a state with more favourable corporate laws than the state in which they are headquartered. A corporation that is incorporated in the laws of one state, but does business within another state, is considered to be a "foreign corporation" in that second state. Corporations must register to do business in each state in which they operate, and there are filing requirements and fees associated with registration.

## **Are any words prohibited in the business name I choose?**

There are restrictions on the words that your business name can contain. However, most of the restrictions are in place to ensure that your name does not mislead the general public or imply that the business is a different type of entity than it actually is. For example, you cannot make your LLC name,

"ABC incorporated" because that implies that you are a Corporation. Likewise, your name cannot include "LLC" if you are a Corporation.

## **Does a formation filing expire?**

Generally, the state your filing is with will require some type of annual renewal for your LLC Formation or Incorporation filing to remain in good standing. Address changes are therefore quite critical to be made in a timely manner.

## **Do I need to be present in the US to form the LLC or incorporate a US or Delaware Corporation? Do I need to come to the US to register a US LLC or Corporation?**

No! You don't need to be present in the US or come to the US to register a US Company, LLC or Corporation. All the communication will be done via email. We will forward you all the documents you will need to sign as PDF files. You will have to print, sign, scan and email the documents back to us to enable us register your US company, obtain EIN (tax ID number) and issue all the corporate documents which will also be emailed to you as electronic files.

## **Do I need to have a US Address to form a US LLC or incorporate a Corporation?**

No! You don't need to have a US Business address. We can provide you with US or Business Address and Resident Agent Service to enable you form an LLC or Incorporate a Corporation.

## What is a Registered Agent?

A Registered Agent is also known as a Resident Agent. Their job is to receive any legal correspondence sent to an LLC or Corporation after it is formed. But since a business's Registered Agent name and contact information is publicly listed, many prefer the privacy of using a third party company as their Registered Agent. Third party Registered Agents typically charge an annual fee, and they simply forward any legal correspondence received on behalf of their clients. The only role of the registered agent is to receive legal documents on behalf of your company and forward to you. The agent is not a director or officer of the company and has no power or rights in the company. If you hire a third party Registered Agent but then later choose not to renew, it is important to remember to update your Registered Agent records with the state so that your business never misses any legal correspondence intended for it.

## Do I need to complete the formation filing before I can begin doing business as "LLC" or "Inc."?

Yes. If you haven't successfully filed an LLC Formation or Incorporation, your business is not an LLC or Corporation so your business name cannot contain "LLC" or "Inc." Likewise, most banks will not allow you to open an account for a business with "LLC" or "Inc." in the name if you cannot provide documentation of a successful formation filing in that name.

## What steps are involved in the formation filing?

While the steps involved in an LLC Formation or Incorporation filing vary for each state, the main steps are usually:

- Complete and submit the LLC Formation or Incorporation Application.
- We file all necessary papers with the applicable agency and submit payment for fees.
- We monitor the status of the filing and once complete, we coordinate any required publishing and submit payment to the publications on your behalf.
- We send you a record of the successful filing and any publication documents for your records.

## What are the publication requirements?

Like all filing requirements, publication requirements vary by state. Some states require that the formation filing is announced in specific newspapers for a specific timeframe. In some cases states even require proof of that publication.

## What are the main required registrations to start and maintain a business in the USA?

Application for Federal Identification Number from IRS called an ITIN (Individual Taxpayer Identification Number). It is a tax processing number. Each corporate entity (LLC) is required to register for an EIN number (employer identification number). Application for Qualification/Authority in each state (where you intend to operate a business i.e. Purchase a property)

## What is EIN?

EIN stands for Employer Identification Number. Employer Identification Numbers can also be referred to as Federal Employer Identification Numbers (FEIN), Tax Identification Numbers, and Federal Tax Identification Numbers (FTIN). EIN=Tax ID Number = FEIN = FTIN.

## When do I need to obtain a Federal Tax ID (EIN)?

A business generally needs to obtain a Federal Tax ID if any of the following are true: you have started a new business; the business has just formed an LLC or Incorporated; there are one or more employees; a business bank account is needed; or corporate credit is needed; or you are a foreign person and need an EIN to comply with IRS withholding regulations, including claiming tax treaty benefits.

## Do I need a Federal Tax ID (EIN) before forming my LLC or Incorporating?

Typically, it is the other way around. You first form your LLC or Incorporate at the state level, and then obtain your Federal Tax ID at the federal level, because the federal level sometimes validates your application against the state databases.

## How long does it take to complete an LLC formation or Incorporation filing?

This varies for each state. In some, we can have it completed for you in as little as one week, in others it can take up to 8 weeks. We will regularly update you on individual status.

## Can an LLC formation or Incorporation filing be expedited?

Yes, many of our incorporation packages include expedite incorporation services that be done within 48 hours. There is a small fee of \$100 to ensure expedition.

## Are there any ongoing filings to complete?

There may be other filings for you to perform both before and after starting business. As a courtesy, we've listed some below:

- Internal administration - LLCs require fewer administrative formalities than Corporations, but both require some. For example, LLCs must write and keep a document called an Operating Agreement which outlines basic ownership and management information.

- Federal government filings - The IRS needs to know how to tax your new business. Filing forms such as IRS 8832, IRS 2553, and IRS 1023 can accomplish this. Other IRS filings, and filings with other Federal government agencies may be required as well.
- State government filings - Each state you do business in will have filing requirements such as state tax ID numbers, state tax returns, foreign business entity registration (if it is not the state you formed your LLC or Incorporated in), and annual business entity reports.
- Local government filings - Each local jurisdiction you do business in may have filing requirements such as licenses, permits, etc. Offices in each jurisdiction such as the County Courthouse and City Hall can help you determine which ones apply to your business.
- Insurance and trade requirements - Depending on the nature of your business, other non-government filings such as obtaining insurance may be necessary to comply with all applicable laws.

## What are 5 Key reasons to form an LLC?

1. Liability: LLC holds the property, so if the property is sued, only the LLC can be named in the action
2. Lower Taxes: LLC owners get same access to write-offs and deductions as US Investors
3. Easy to transfer: LLC can be transferred to heirs, family members without disturbing the title to US assets
4. Privacy: LLC is the owner of property, not an individual. Land search records show LLC, not underlying owner always (depends on state).
5. Flexible: An LLC need not hold Annual General Meetings and keep a record of its Minutes.

## ACCOUNTING

Many investments are considered initially through advice from an accountant with an aim to achieve limitation of taxation commitments. Investing in the US may make you subject to US taxation obligations which you must remain aware of and balance into the equation of making effective investment decisions. In the US there are two major tax levels:

1. Federal Level (Internal Revenue Service)
2. State Level (State Tax Department)

Every US Entity (Individual or Corporation) is subject to the Federal & State Tax laws.

## What can be tax deductible in the US for property investment?

- Loan Interest
- Taxes - rates on the property's
- Insurance – Hazard, Liability, Landlords, Home Warranty
- Utilities – Water, gas (if applicable)
- Property Management Fees – 10%
- Property re-letting fees
- Repairs
- Business Expenses – subscriptions, dues, fees
- Professional Accounting Fees
- Yearly company registration fees
- Depreciation – The US government allows the owners of investment property to depreciate the purchase price and the non-financing related closing costs over 27.5 years. For example, if the buyer purchases a property for \$1,000,000 and has non-financing related closing costs of \$25,000 (\$1,000,000 times 2.5% noted above), the buyer could deduct \$37,273 per year, or \$3,106 per month, as depreciation. This is a significant non-cash expense that can be deducted from rental income. Normally you could include 80% of the purchase price as the depreciable building component.
- Extra Depreciation – Fixtures & Fittings (Heating, Cooling, hot water heaters, plumbing, light fixtures)
- Amortisation - The US government also allows an owner of an investment property to deduct the amortization of the financing portion of the closing costs over the term of the loan. This is also a non-cash expense that can be deducted from rental income.
- Travel and inspection trips

## How Foreign Nationals (Internationals) are taxed on US rental property?

**International Tax** - Non-residents are taxed only on their income from US sources.

**Tax on Rental Income** - The Standard withholding tax rate is 30% on rental income, by filing form W8-ECI will allow your US rental agent to pay gross rental income to you. If a US return (Form 1040NR) is filed claiming property expenses and mortgage interest and depreciation allowance then the income will be taxed at progressive US rates from 15% through to 35%. In some states, State Income Tax returns will be also required.

## Why should Foreign Buyers Consult with Their Home Country Tax Specialists?

A Foreign Buyer's overall tax liability may be different than that of a US resident depending upon the buyer's home country's tax treaty with the US, if any. Therefore, it is best to consult a local tax advisor that is familiar with the tax treaty. For instance, the capital gains rate for US residents is between 15% and 35% (if the property was owned for more than one year). Foreign Nationals, however, could be required to pay a higher rate, depending upon their **home country's tax treaty with the US and how they structure their purchase**. A local tax lawyer who is familiar with your home country's treaty would be the best resource for answers to these questions.

## Am I treated differently for tax purposes if I buy a property?

A foreign person is not treated differently when they buy the property for tax purposes. However, buying a property in the name of a trust or a foreign holding corporation such as a company can avoid estate tax in the US and provide additional liability and privacy protections. However, purchasing a property through a trust or an offshore company will not avoid Federal capital gains tax or FIRPTA withholding tax on the sale.

## What are the basic tax issues of LLC's?

When you form your LLC, unless you tell the IRS otherwise, all the profits or losses pass through the LLC to its members. For tax purposes the IRS treats Single Member LLC's as sole proprietorships and Multi Member LLC's as partnerships. With multiple members the Operating Agreement defines the percentage of profit or loss each member has.

If your LLC makes a lot of profit that is kept in the LLC, then it can be advantageous to have your LLC treated like a corporation for tax purposes instead.

## What are the 6 main types of US taxes?

1. Local Taxes - the local tax amount is on the assessed value of the property but is likely to be about 75% of the market value, depending on your state. The good news is that in 2006 ten US states decided to review local taxes in order to decrease them to more affordable levels.
2. Tax on Rental Income - all rental income is subject to USA tax. A standard withholding tax rate of 30% is applied to all rental income and is paid locally. In some countries a double taxation agreement exists between the country and the US, eg. Australia. Tax on rental income can be very low if handled correctly by your financial professionals, as generous allowances are in place, including mortgage interest relief as well as the cost of inspection flights.

3. Inheritance Tax - these relate to gifts or transfer of ownership either while you are alive or upon your death. Both federal and state inheritance taxes will apply while there are great differences between the states relating to how your estate is taxed upon your death.
4. Sales Tax - this tax is not always imposed on the purchase of property. However in 36 US states a property transfer tax of between 1% and 5 % is charged on the assessed value of your property.
5. Stamp Duty – this tax is a charge made when a mortgage has been obtained for the purchase of the property and consists of documentary stamps calculated on the total of the loan. In states such as Florida, stamp duty is charged at a rate of 35 cents per \$100 of mortgage. In addition to stamp duty, investors must pay an Intangible Tax at 0.002% on the mortgage amount. Therefore, if you obtain a \$100,000 mortgage, \$350 in Documentary Stamps and \$200 in Intangible Tax will need to be paid. It is important to note that neither of these taxes will be charged if you cash is used to finance the property purchase.
6. Capital Gains Tax - Capital Gains Tax also varies according to state, but if the property is owned for more than a year, the rate can amount to anything between 8% and 15%.

### Foreign Buyer Must “Elect” to Pay US Income Taxes on Net Rental Income

The US government requires that the Foreign National “elect” to pay US income taxes on any net income (rental revenues less expenses) derived from rental property. If this election is not made in a timely fashion (e.g. US income tax returns not filed), a tax of 30% of the gross rental income will be assessed. Under this scenario, the investor would not be able to deduct any expenses such as depreciation, interest, property taxes, common charges, etc. Even if the Foreign Investor is incurring tax losses in the beginning years of their investment, and, therefore, doesn’t owe any taxes to the government, they still must file their tax returns in a timely manner in order to make the election.

### How does Capital Gains Tax affect the International Investor?

#### Capital Gains Tax (CGT)

The US tax code provides for both short term (less than one year) and long term (greater than one year) capital gains. The rates for short term are significantly greater (taxed as ordinary income rates from 15% through to 35%) than long term capital gains with a maximum rate of 15%.

Under US tax law the purchaser or their agent, (usually the Title Company), must **withhold 10%** of the gross selling price and pay that amount to the IRS on account of any Capital Gain or other tax that might be due from a non-resident seller. A 'Withholding Certificate' application can be made to expedite refund of the majority of the withholding, but strict rules on timing and handling of the application apply.

### How can you defer Capital Gains Tax indefinitely?

#### S 1031 Exchange

The IRS provides an important exception to capital gains taxation, made-to-order for real estate investors: If you own an investment property, you can sell your property at a profit and roll your money over into another property within 180 days without having to pay capital gains taxes at all – a transaction known as a Section

1031 exchange. It has to be a property of “like kind.” You cannot swap your rental property for a personal residence, or vice versa.

### What are some of the rules of S1031 Exchanges?

The exchanged property must be identified within 45 days. All proceeds of the initial sale must be re-invested in the like kind property within 180 days of that sale. When exchanging property, you must do so if like kind. Real property has to be exchanged with real property, not personal property.

1031 Exchanges can only take place with investment property, commercial property, personal property or trade property (no personal residences).

### What happens if you have negative cashflow?

Ultimately, with all the deductions (both cash and non-cash noted in the expenses section above) that the US government allows, in the beginning years, an investor who finances their real estate purchase will have negative taxable income (or tax losses). This is not to be confused with cash losses, since with a 40% down payment, an owner is likely to break even for cash purposes (e.g., generate neither cash income nor losses), this will depend upon a lot of factors. These tax losses can be carried forward to years when the property is making income for tax purposes, offsetting such income and eliminating taxes for those years. Over time, however, cash income will grow as will the value of the property.

### What is FIRPTA?

FIRPTA is a withholding tax required of a foreign seller. The FIRPTA withholding tax amounts to roughly 10% of the gross sales price. If the seller is current on all of their other taxes owed to the IRS (i.e. income taxes, capital gains tax, etc.) then they should receive a refund of the 10% that was withheld at the sale.

Trusts with foreign beneficiaries and foreign corporations that sell a US property must withhold 35% of the amount realized on the sale.

### What is a Tax Treaty and how will that affect my tax liability?

The US has tax treaties with many foreign countries. Under these treaties, foreign residents are taxed at reduced rates, or are exempt from U.S. taxes on certain items of income. These reduced rates and exemptions vary from country to country. Many of these treaties also cover Federal estate tax and provide certain residents of foreign countries a pro-rated amount of the Federal Estate tax exemption of 5 million dollars for individuals.

If there is not a treaty between the buyer’s country and the U.S., or if the treaty does not cover Federal estate tax, then a foreign person is subject to Federal estate tax on the value of the property over \$60,000 when they die. The IRS currently has copies of the tax treaties between the U.S. and foreign countries available on its website:

<http://www.irs.gov/businesses/international/article/0,,id=96739,00.html>

## What is the Death Tax and do foreigners have to pay this?

Foreigners may have to pay death tax if they own property in the US when they die. Any tangible or personal property located in the U.S. and valued over approximately \$60,000, requires the filing of a state estate tax return when the foreign person dies (depending upon the state).

Foreign persons are also subject to Federal estate tax on property owned in the U.S. when they die. Currently the estate tax rate can be as high as 35%. U.S. citizens are given an individual exemption from the tax up to 5 million dollars. Married couples are currently exempt up to 10 million dollars. However, non U.S. citizens are not granted the exemption, unless a treaty exists with their country. See the discussion on treaties below. As a result, property valued above \$60,000 is subject to estate tax. Discussed below are suggestions of vehicles that can be created to avoid Federal Estate tax including an irrevocable trust and a foreign holding company.

## What are the 2013 US Tax scales for Individuals?

Tax Rate	Single Filers	Married Filing Jointly
10%	Up to \$8,925	Up to \$17,850
15%	8,926 – 36,250	17,851 – 72,500
25%	36,251 – 87,850	72,501 – 146,400
28%	87,851 – 183,250	146,401 – 223,050
33%	183,251 – 398,350	223,051 – 398,350
35%	398,351 – 400,000	398,351 – 450,000
39.6%	400,001 or more	450,001 or more

## Is it possible to pay No Income Tax for the first 10 to 15 Years When Financing Real Estate Purchases?

Foreign buyers who finance their purchases with a 40% to 50% down payment will likely not pay income taxes on the net rental income for the first 10 to 15 years, since the US government is very generous when it comes to those expenses that are allowed to be deducted from rental income. Since mortgage interest, common charges, property taxes, depreciation of the asset over 27.5 years, insurance, and amortization of closing costs are all deductions against income, in the early years the property will generate negative taxable income. In future years, when the apartment is generating taxable income, such income can be offset by the prior year's negative taxable income (a.k.a. tax loss carry forward). This results in no income taxes for many years.

That is an example of how much tax I could pay?

	Single Home	10 Homes
Residential Home	80,000.00	800,000.00
Land	20,000.00	200,000.00
<b>Total Purchase Price</b>	<b>100,000.00</b>	<b>1,000,000.00</b>
Annual Rent Income	14,400.00	144,000.00
Real Estate Taxes	2,000.00	20,000.00
Insurance	600.00	6,000.00
Management	1,440.00	14,400.00
<b>Total Cash Expenses</b>	<b>4,040.00</b>	<b>40,400.00</b>
<b>Net Cash Proceeds</b>	<b>10,360.00</b>	<b>103,600.00</b>
Depreciation	2,962.96	29,629.63
<b>Total Expenses</b>	<b>7,002.96</b>	<b>70,029.63</b>
<b>Net Income</b>	<b>7,397.04</b>	<b>73,970.37</b>
Exemption	3,800.00	3,650.00
<b>Taxable Income</b>	<b>3,597.04</b>	<b>70,320.37</b>
Federal Tax	373.00	13,813.00
Georgia Tax	215.83	4,219.22
<b>Total Tax</b>	<b>588.83</b>	<b>18,032.22</b>

**What is an ITIN?**

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service. It is a nine-digit number that always begins with the number 9 and has a range of 70-88 in the fourth and fifth digit, example 9XX-70-XXXX.

IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration (SSA). ITINs are issued regardless of immigration status because both resident and non-resident aliens may have a U.S. filing or reporting requirement under the Internal Revenue Code. Individuals must have a filing requirement and file a valid federal income tax return to receive an ITIN, unless they meet an exception.

### **What is an ITIN used for?**

ITINs are for federal tax reporting only, and are not intended to serve any other purpose. IRS issues ITINs to help individuals comply with the U.S. tax laws, and to provide a means to efficiently process and account for tax returns and payments for those not eligible for Social Security Numbers (SSNs). An ITIN does not authorize work in the U.S. or provide eligibility for Social Security benefits or the Earned Income Tax Credit.

### **Who needs an ITIN?**

IRS issues ITINs to foreign nationals and others who have federal tax reporting or filing requirements and do not qualify for SSNs. A non-resident alien individual not eligible for a SSN who is required to file a U.S. tax return only to claim a refund of tax under the provisions of a U.S. tax treaty needs an ITIN.

### **How do I know if I need an ITIN?**

If you do not have a SSN and are not eligible to obtain a SSN, but you have a requirement to furnish a federal tax identification number or file a federal income tax return, you must apply for an ITIN. By law, an alien individual cannot have both an ITIN and a SSN..

### **How do I apply for an ITIN?**

Use the latest revision of Form W-7, Application for IRS Individual Taxpayer Identification Number to apply. Attach a valid federal income tax return, unless you qualify for an exception, and include your original, notarized, or certified proof of identity and foreign status documents.

### **When should I apply for an ITIN?**

You should complete Form W-7 as soon as you are ready to file your federal income tax return, since you need to attach the return to your application.

If you meet one of the exceptions to the tax filing requirement, submit Form W-7, along with the documents that prove your identity and foreign status and the required supplemental documents to substantiate your qualification for the exception, as soon as possible after you determine that you are covered by that exception.

You can apply for an ITIN any time during the year; however, if the tax return you attach to Form W-7 is filed after the return's due date, you may owe interest and/or penalties. You should file your current year return by the prescribed due date to avoid this.

### **How and when can I expect to receive my ITIN?**

If you qualify for an ITIN and your application is complete, you will receive a letter from the IRS assigning your tax identification number, usually within six weeks.

### **How can I obtain an ITIN from abroad?**

International Portfolio Group will assist alien taxpayers who need an Individual Taxpayer Identification Number (ITIN) to secure one from outside the United States.

### **Are ITINs valid for identification?**

No. ITINs are not valid identification outside the tax system. Since ITINs are strictly for tax processing, IRS does not apply the same standards as agencies that provide genuine identity certification.

ITIN applicants are not required to apply in person, and IRS does not further validate the authenticity of identity documents. An ITIN cannot be used as proof of identification to obtain a state drivers licence.

### **Are ITINs valid for work purposes?**

No. ITINs are for federal income tax purposes only. Getting an ITIN does not change your immigration status or your right to work in the United States.

### **What is an ITIN Acceptance Agent?**

An ITIN Acceptance Agent is an individual, business or organization (college, financial institution, accounting firm, etc.) authorized by IRS to assist individuals in obtaining ITINs. Certifying Acceptance Agents review applicants' documentation, complete a certificate of accuracy, and forward the certificate and application along with a tax return to the IRS for processing. Some Acceptance Agents may charge a fee. IPG only uses IRS acceptance agents.

### **What information is available for Foreign Property Buyers/Sellers?**

Foreign buyers and sellers of U.S. real property interests need Taxpayer Identification Numbers (TINs) to request reduced tax withholding when disposing of the property interest, and to pay any required withholding. Individuals who do not qualify for Social Security Numbers may obtain Individual Taxpayer Identification Numbers (ITINs) to meet the requirement to supply a TIN.

## **BANKING**

### **As a Non US Resident can I open a business bank account for my US Company?**

Yes. There are a few banking options available to Non US Residents to open a business bank account to their US LLC or US Corporation. We offer Bank Account Introduction and submission service to open a business bank account. The process of opening a US Bank Account for a Non US Resident / Citizen is more challenging than before, however not impossible.

### **What type of bank account can I open?**

Checking Account is your main, day by day operating bank account. You can use checks, wire transfers, cash withdrawal and debit card payment as the primary instrument for withdrawing money.

With a Checking account you can make purchases, pay bills, and give money to anyone you choose. You can also use a check to transfer money from your checking account to a bank account at a different financial institution. Usually, financial institutions allow account holders to make as many deposits and withdrawals as they wish.

We can open checking accounts for foreigners in a range of entity structures including personal, LLC's and C-Corp's.

### **What are the main features of the US Bank accounts?**

- Visa/Mastercard debit card (can withdraw funds worldwide)
- No ongoing bank account fees (if minimum monthly balance is maintained – generally \$1,500)
- Free Billpay (pay any bills via internet for free)
- Wire capabilities (domestic and international)
- Full Internet Banking capabilities
- Personal Bankers appointed

### **Can I open a US Bank Account without coming to the US in person?**

Yes, we have a bank verification process which has enabled us to provide bank opening services without the need to travel to the US and complete in-person.

### **What are the documents required to open a business bank account for my US Company?**

In order to apply for a business bank account you may need to supply to the bank most of the following documents:

1. Valid Passport (account signer)
2. Proof of Address (account signer)
3. Certified Articles of Organisation
4. LLC Operating Agreement
5. EIN Confirmation Letter
6. US Business Address
7. Utility Bill

### **Are there any ongoing fees with my bank account?**

If you keep a minimum balance of generally \$1,500 for personal accounts and between \$1,500 - \$5,000 for business accounts, you will qualify to have your fees paid.

## INSURANCE

### What are some of the insurance policies that a foreign can take out on a US rental property?

#### 1. What is homeowner's insurance?

Protects your property against disaster and liability based issues. This insurance protects you and the lender's investment in your property. You are required to be insured against unexpected hazards (such as fire) and expensive personal liability claims (injury to others while on your property).

#### 2. What is Liability Insurance?

This covers any awards of damages given to a member of the public because of an injury or damage to their property *caused by you* or your business. If you or your business injures a third party or their property, PL insurance provides financial protection against damages that might be awarded in a lawsuit (and, depending on your policy, legal fees etc.)

This insurance protects against the negligence of tenants.

Tenant negligence includes disasters such as kitchen fires, electrical fires or surges, frozen pipes, and internal flooding. This cover includes:

- Coverage for Loss of Rental Income.
- Coverage for Property Damage Repairs.
- Personal Property Coverage for Non-Negligent Tenants.

\*Max Payout of \$25,000 per Incident

### What is Replacement cost v Actual Cash value?

Replacement Cost (RC):

- Replacement Cost coverage allows partial loss claims to be settled without depreciation.
- *EXAMPLE* – The value of a partial loss is determined to be \$40,000. The deductible is \$ 3,000.

The insurance company will pay no more than \$37,000

Actual Cash Value (ACV):

- Actual Cash Value settles losses with depreciation.
- *EXAMPLE* – The value of the damage is determined to be \$40,000. The damage is determined to be depreciated by 20% because of age. The deductible is \$3,000.
- Step (1): Step(2): Step(3):
- 20% of \$40,000 = \$8,000 (Depreciation levied) \$40,000 -\$8,000 =\$32,000 (Depreciated value)  
\$32,000 -\$3,000=\$29,000 (Settlement less deductible)

The net settlement is \$29,000

## Does the US have any sort of Landlords Policy to safeguard against skipping tenants?

Rent Protection – designed to provide rental income following tenant non-payment:

- Up to 6 months' rent recovery for non-payment of rent from property abandonment, eviction or stops paying rent
- Up to 3 months' rent recovery upon the death or military deployment of a tenant, or early lease termination, or hardship of tenant
- Up to \$1,000 for legal expense (to remove tenant)
- For monthly rental up to \$1,200 – premium \$250 pa
- Deductible – 1 month's rent

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