

## **The Nevada LLC. Is it Right for You?**

by Michael K. Elson, Attorney at Law

Many of my clients interested in protecting their assets have inquired about the State of Nevada Limited Liability Company (LLC) and if it will provide greater benefit and less cost than a California LLC. Initially, the Nevada LLC seems particularly attractive because Nevada requires payment of only a \$100 annual "business" tax, but has no annual franchise tax fee or state income tax. Additionally, the names of owners or shareholders of Nevada LLCs are not a public record. Also, shareholders, directors, and officers need not be residents of Nevada.

If your income property is located in California, however, the benefit of the Nevada LLC is diluted. By Federal law, an LLC of any state must be recognized by any other state.

Also, for a real estate investment, business is necessarily transacted in the state where the property is located. Consequently, for the Nevada LLC to operate in California, it must be registered with the California Secretary of State (Ca Rev & Tax Code Sec. 17941, Ca Corp. Code Sec. 17050). This means the Nevada LLC will pay the initial California registration fee and \$800 annual franchise tax, along with California income tax. For these reasons, in most cases there is little or no financial benefit to forming a Nevada LLC for your rental property located in California.

For other types of business ventures, where the business is not necessarily transacted in California, the Nevada LLC/Corporation may be an attractive alternative for California investors.

Nonetheless, this in no way detracts from the significant benefits the California LLC can provide to you or your investors:

- Create a risk barrier which encourages apartment ownership, yet shields the owner's personal assets from lawsuits and seizure
- Elimination of double taxation and the extensive formalities inherent with traditional corporations
- When legal action such as an eviction is required against a tenant, it is the LLC, rather than the individual owner, that is pursuing the claim

For owners of multiple income properties, the Delaware Series LLC may offer significant tax, accounting, and legal cost savings over multiple California LLCs. A single Delaware "Series" LLC can hold multiple independent properties (business cells) which are compartmentalized or kept separate for liability purposes. The profits, losses, and liabilities of each property within the series are legally separated from the other properties. Yet the Series LLC is treated as a single entity for tax purposes, thereby avoiding multiples of the California \$800 franchise tax. California real estate investors who desire a separate LLC for each rental property should consider a State of Delaware Series LLC.

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