

Using a US Limited Liability Company to Establish Your Own US “Tax Haven”

Most financial experts agree that the United States is a primary location for international business. The presence of good banks, advanced infrastructure, a consistent legal system and a stable government are all characteristics of the United States that are often taken for granted.

However, many people do not realize the enormous tax benefits given to “non-resident aliens” making passive income in the United States, or earning income outside the United States and simply using the USA as their own personal “offshore tax haven.”

The United States does not tax non-resident aliens for any interest income or dividend income derived from investments inside the United States. There is zero capital gains on profits from investments. There is zero tax on income earned outside the USA. Only active United States derived income is taxed. Also, various tax treaties give a United States company certain tax advantages when doing business outside the USA.

The Definition of “Resident”

One of the most important issues is that of maintaining a “non-resident” status. Unfortunately many people confuse the immigration definition of resident with the tax definition of resident.

Under the immigration laws of the United States, a resident is only someone who has been given a permanent residence visa. But under the tax laws a resident can also be someone who has maintained a “substantial presence” in the United States regardless of immigration status.

There is a specific formula as to when someone meets the “substantial presence” test based upon the number of days they have been present in the United States for a given year and the two prior years, but to be safe, the non-resident should stay in the United States no more than 182 days in any given year.

The “Pass Through” or “Disregarded” Tax Entity

The best way for a non-resident alien to take advantage of these tax benefits is to use the a “pass through” or “disregarded” entity. The single entity which I like to use is the US Limited Liability Company (US LLC).

A US LLC is an entity that has the same limited liability characteristics as a corporation, but the ease of management characteristics of a partnership.

If properly structured, the US Internal Revenue Service views the US LLC as a "disregarded" tax entity which means that the respective taxing authority disregards the existence of the entity and treats the income as if it were earned by the members, partners or shareholders.

In the case of the US LLC if there are two or more members of the US LLC, then it is treated as a partnership and must file a partnership tax return.

But if it has only one member who is an individual then it is treated as a sole proprietorship. For a non-resident alien who is the sole member, this means that the US LLC is disregarded by the I.R.S. and income of the company is taxed at the more beneficial non-resident rates.

In fact unless it earns active income derived from U.S. source income there is no reason for the US LLC or the non-resident to even file a Federal tax return.

Yet for all other purposes the US LLC will be treated as a "domestic" entity. As far as banks and other parties are concerned, the US LLC is a US domestic entity.

There are many states in which you can form an LLC. In the past we suggested the use of a Delaware LLC. Delaware has traditionally been the jurisdiction of choice due to the fact that Delaware case law is more mature and developed. However, in recent years, Delaware has suffered some serious set-backs. It is now considered a "suspect" jurisdiction by many countries, and is undergoing further scrutiny by US Federal authorities. As such we now suggest Texas which provides similar legal benefits. Depending upon your circumstances there are other states that might also prove helpful.

How can a U.S. LLC Help You?

There are a lot of ways a non-resident alien can benefit by using a US LLC:

- An investor looking to invest in stocks, bonds or other types of investments in the US will pay no tax on the income earned, and will also avoid withholding.
- Investments in U.S. real property can be done with no capital gains, and with careful treatment, no withholding. (We often advise the additional use of a Limited Partnership – feel free to contact us if this is of interest.)
- An investor can use the LLC to do business outside the USA since it will be outside the jurisdiction of the I.R.S. yet gain valuable tax reduction benefits that may accrue to U.S. entities.
- An investor may be able to reduce non-U.S. taxes since the U.S. has tax treaties that often give very favorable treatment to U.S. entities. (An example would be the US LLC owns land or other property in a jurisdiction with a tax treaty with the US - this will often reduce capital gains to zero.)
- Some investors are able to obtain tax benefits by using "transfer pricing" strategies that transfer otherwise taxable income from a high tax jurisdiction to the no/low tax US LLC. (An example would be a non-U.S. buyer of goods and or services using the US LLC as a middleman for purely export purchases – as long as the US LLC avoids certain pitfalls there will be no taxes on income earned from such transactions.)
- Finally, the US LLC may just be a very nice way of protecting assets in a private and secure manner by simply depositing funds into a US bank account, brokerage

account, or insurance policy.

Simple Yet Flexible Solutions

When setting up the US LLC there are many ways to structure the entity to maximize asset protection, legal tax reduction, and privacy.

For the US LLC, in order to maintain the “disregarded” tax treatment there can be only one owner. The easiest way to do this is to name the client as the sole owner. There are many advantages to being named as the sole owner, but privacy may not be one of them. Also, as the sole owner of the US LLC you may be legally required to declare and/or pay taxes on the income of the US LLC in your home country.

To provide greater privacy, asset protection, and better tax treatment, I suggest that the client obtain an International Privacy Trust to own the US LLC. In this case the Trust will be listed as the owner of the company, not the client, and if the Trust is properly structured the client may be able to legally avoid paying taxes on the income earned by the US LLC and the Trust in his home country.

Please feel free to contact us if you would like to discuss these matters further.

NOTE FOR US CITIZENS/RESIDENTS:

There has been a growing number of individuals who reside in the USA or who are US citizens contacting us asking, “How can this system work for me?” It is possible to arrange the system in such a way as to give residents and citizens of the USA the same benefits as those described herein. However, it is very important that the system be established with great care. We encourage you to contact us in order to arrange a private evaluation with one of our licensed US attorneys.

List of Additional Services

- Charles Schwab One Account for trading stocks, bonds and mutual funds. This will include a check book and visa debit card that can be drawn against balance on the account. Management services available upon request. \$1,000.00 USD
- Company Paypal Account facilitation. \$250 USD
- Virtual Office Headquarters including mail drop and fax number. Contact us for more information.
- A detailed legal evaluation and legal advisory regarding tax structure and status of US LLC. \$2,500.00 US and up
- Telephone line with voice mail. Please contact us for more information.
- Internet Services such as web-hosting and emails. Varies
- Application to establish whole life insurance policy with paid up premium, or annuity. Varies

ORDER FORM
The US Limited Liability Company Options

CLIENT: _____

DATE: _____, 20__

ADDRESS: _____

BUS. PHONE: _____

FAX: _____

EMAIL: _____

OTHER: _____

I agree to retain Connex International Services LP to provide the following services:

- US "Offshore" LLC** **\$ 1,500.00 US**
Includes a US LLC and all necessary documentation to open a company bank account, the first year Annual Registered Agent and Office fees of \$250.00, and the first year Nominee Manager services of \$250.00. Client will be the named owner of the US LLC unless instructed otherwise.

- International Privacy Trust** **\$ 500.00 US**
A International Privacy Trust (usually in the Bahamas), assistance in structuring of the trust in order to provide maximum asset protection and estate planning benefits, and the first Annual Trustee Fees of \$250.00, and the first year Annual Protector fees of \$125.00.

- Establish US Bank Account for US LLC** **\$ 1,000.00 US**
Includes a US small business bank account with online banking, checks, and debit card, etc.

- The Advance US LLC Package** **\$ 5,000.00 US**
This Package includes the US "Offshore" LLC as described above, the International Privacy Trust properly structured to act as the legal owner of the US LLC. In addition, this Package includes a comprehensive Legal Advisory Letter prepared by an experienced Tax Attorney in the USA (normally a \$2,500.00 fee).

Preferred Name for the US "Offshore" LLC (e.g., ABC Holdings LLC):

Preferred Name for the International Privacy Trust (e.g., ABC Holdings Trust):

I acknowledge and agree to the above fee arrangement: _____
CLIENT SIGNATURE

PAYMENT INSTRUCTIONS

- Print document and complete data in clear block letters. Then sign. Include a clean scan copy of your passport ID.
- Fax to Connex International Services LP at: 419-710-4339 (USA Number).
- Upon receipt of fax we will send you an invoice with payment instructions and more information on formation procedures.
- Upon receipt of final payment we will confirm and complete the package with any additional details required as requested.

MISCELLANEOUS

1. Work foreseen in this agreement will include only the preparation of the paperwork, telephone calls, and shipping and delivery of documents.
 2. This case is being accepted subject to review by supervising consultant. Upon review it may be declined. If declined, any fees accepted will be refunded.
 3. The retainer is non-refundable and represents the minimum fee for accepting this case. Failure to keep account up to date may result in withdrawal of representation by consultant.
 4. Client shall keep consultant informed of any changes of address and/or phone numbers.
 5. Client must respond within a reasonable time to requests for information, documents, etc.
- NOTE: This system may not provide immediate asset protection if there are prior creditors and liabilities. It would be best if the system was in place before such liabilities are incurred rather than after. Otherwise, there may be a time period before the transfers are safe from creditors, depending upon the laws and regulations of the jurisdiction. If you intend to sell certain real property, this system may be inappropriate.