



THE ULTIMATE GUIDE U.S. LLCs for Investment Property

Formation, financing, and the estate tax nuance every foreign owner needs to understand



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About the Author

[Robert Chadwick](#) is the CEO of America Mortgages and founder of Global Mortgage Group (GMG), a cross-border mortgage and private credit platform operating across more than 23 jurisdictions. His work focuses specifically on the financing gap facing foreign nationals, U.S. expats, and international investors seeking to buy, refinance, or build a portfolio of U.S. real estate.

“An LLC is one of the best tools an investor has for liability protection. It is not, by itself, an estate tax solution — and confusing the two is one of the costliest mistakes I see foreign owners make.”

— **Robert Chadwick**



Who This Guide Is For

The guide targets individuals living domestically, expats, and foreigners planning to form an [LLC](#) for their U.S. real estate. This document will address the impact of LLC on the individual. It will further highlight whether foreigners can form an LLC. Yes, they can. This document will also shed light on the role of LLCs in financing and the estate tax matters that usually concern foreign owners. Case studies in this guide are hypothetical and composite.

This guide is educational, not legal or tax advice.

LLC formation, financing, and tax treatment are state-specific and fact-specific. Confirm the details of any structure with a qualified attorney and CPA before you form an entity or title a property.

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1. Why Investors Use an LLC to Hold U.S. Rental Property

The most important thing for which people invest in LLC is the limited liability. If someone suffers an injury at the property site, he or she will likely sue. LLC can generally restrict itself to only the assets owned by that company. In doing so, investor's personal assets can be protected against any claims made in connection with the property. The assets could be anything including the home, money saved, or other properties. People who have multiple properties use LLC for each individual property.

Investors can also consider other reasons for choosing an LLC. In some states, an LLC provides protection in terms of confidentiality of the membership. It can be easier to distinguish between your personal finances and those invested. It can be simpler for succession planning when passing on the property to the next generation.



2. LLC vs. Personal Name: What Actually Changes

Factor	What Changes With an LLC
Liability exposure	Generally limited to assets held in the entity, not the owner's personal assets
Financing	Conventional/agency loans generally don't allow LLC ownership; DSCR and portfolio loans commonly do

Income tax (single-member LLC)	No change — a single-member LLC is a disregarded entity by default; income flows through to the owner's personal return exactly as if held individually
Estate tax exposure (foreign owners)	Generally no change on its own — covered in detail in Section 8
Compliance	Annual state filings, registered agent, and potential franchise fees, on top of standard property ownership

3. Can a Foreign National Own a U.S. LLC?

Yes, this is one of the biggest myths regarding LLCs in the U.S. Citizenship or residency is not required to create or own one. Foreign individuals are allowed to create and own U.S. LLCs. There is no necessity of having a Social Security number while creating an LLC. An ITIN might not necessarily be required right away either. But generally, an ITIN is essential for some tax forms. The ITIN could also be necessary if the individual makes a personal tax return in the U.S.

EIN is required for LLC, regardless of whether the company has any employees. EIN can also be acquired by foreign individuals without SSN. No ITIN is required for filing EIN applications in some cases. But they will have to use a different application method. This involves application by phone, fax, or mail because the standard application online requires a taxpayer ID of U.S. resident.

ILLUSTRATIVE EXAMPLE

Andres Torres — Bogotá, Colombia

Andres assumed, incorrectly, that he'd need a U.S. visa or Social Security number to form an LLC for his planned Florida rental purchase. His attorney formed a Florida LLC in his name within days, obtained an EIN through the alternative process for foreign applicants, and the entity was ready to take title before his purchase even closed.

4. Single-Member vs. Multi-Member LLC

The single-member LLC is normally regarded as a “disregarded entity” from U.S. federal income tax standpoint. The IRS treats it as the same as the owner of the company. Income and expense flow through to the owner's return. This works the same way as individual ownership of property. Multi-member LLCs are normally taxed as a partnership unless it elects otherwise. It files an informational return using Form 1065. Each member gets a Schedule K-1.

The choice of LLC depends on the investor and his properties. For a foreign investor with a small number of properties, single-member LLC is preferred. For joint ownership of properties, multi-member LLC is better.

5. Which State to Form the LLC In

Delaware, Wyoming, or Nevada may be assumed to be the most optimal states to form your LLC, which is a misconception. When dealing with real estate, this is generally not the case. In many cases, it is the location of the property that counts.

The general rule: form the LLC in the state where the property is located.

If you form an LLC in Delaware or Wyoming but the property is in Florida, you'll generally still need to register that out-of-state LLC as a "foreign LLC" doing business in Florida — meaning you pay formation and annual fees in two states instead of one, for a benefit (typically privacy or Delaware's well-developed corporate law) that matters far more for operating businesses and complex corporate structures than for a single rental property.

Of course, there are always exceptions. Larger deals can benefit from having a parent entity in Delaware or Wyoming. Multi-state arrangements may also have the same advantage. When it comes to one or two properties, it is easier to just use the property's state.

6. Financing a Property Through an LLC

The traditional mortgages guaranteed by Fannie Mae or Freddie Mac typically need individual ownership by the borrower. They rarely include LLC ownership upon closing of the loan. This comes as a shock to most real estate investors. Many believe that they can use their traditional 30-year mortgage through an LLC.

[DSCR](#) and other types of investment loans not based on QM criteria can have LLC ownership. Most DSCR programs are flexible enough to allow LLCs to be owned by foreign investors. Such loans cater to investment purposes. Please refer to the accompanying guide for investors on DSCR for more information.

7. Series LLC vs. Standalone LLC for Multiple Properties

In some states, the "series LLC" structure is available for investors who have several properties. The LLC can form several "series" within the LLC. Each series is meant to provide its own liability shield. It will help to avoid forming an LLC for each individual property.

There are a few notable drawbacks to series LLCs. It is not recognized by every state and is not uniformly tested. The series LLC may also not be well-known by lenders and title companies. This can result in a possible holdup on either the financing or closing process. Liability isolation in court proceedings has been tested unevenly among different states. For smaller portfolios, standalone LLCs would be the safer route to go.

8. LLCs and U.S. Estate Tax Planning: An Important Nuance

This misconception is among the most critical in the whole article and needs to be explained clearly. There is no tax shield for US real property from US inheritance tax in a standard single member LLC. This may concern non-US nationals.

Why not?

A single-member LLC is disregarded for U.S. federal tax purposes — which means the IRS looks straight through it to the underlying asset. If that asset is U.S. real estate, it remains U.S.-situs property includible in the owner's estate at death, subject to the same \$60,000 exemption (versus

\$15 million for U.S. citizens) described in the companion Tax and Ownership Guide. Many foreign owners assume forming an LLC solved this problem. For a disregarded single-member LLC, it generally has not.

There are some structures that can alter the result. This can happen by means of foreign or domestic corporate “blockers.” Another structure could be a trust. Yet, each of these structures comes with certain tradeoffs. For example, they could cause double taxation or decrease the tax advantage available to individuals. It is necessary to select the most appropriate structure according to the value of property and estate planning strategy. This field requires expert knowledge. More information about this topic can be found in the accompanying Tax and Ownership Guide.

9. Annual LLC Compliance and Costs

- Keep a registered agent within the formation state. Commercial agencies generally charge an affordable annual fee.
- The majority of states mandate an annual report or statement. The filing fees differ from one state to another.
- Some states impose a franchise or LLC tax annually. The cost depends on income, assets, or state regulations.
- Ensure your LLC has its own bank account and bookkeeping system. Avoid commingling personal and business monies.

10. Opening a U.S. Bank Account for the LLC as a Foreign Owner

After establishing the LLC and obtaining the EIN number, the foreign shareholders will be able to open U.S. business bank accounts. The procedures for opening the account will depend on the specific bank. There are banks that require their clients to visit the bank in person to open an account. Other banks have a process that will allow foreigners to open the account without visiting the bank in person.

11. Common Mistakes When Using an LLC

- Assumption that formation of an LLC prevents any U.S. estate tax problems. Not always without further restructuring.
- Formation of an LLC in either Delaware or Wyoming just because it is done this way. Registration of the foreign LLC might be required.
- Combining personal finances and LLC finances. This could compromise liability protection.
- Assumption that a regular mortgage loan can have an LLC as a holder. Check first about the financing plan.
- Skipping state annual reports. This could result in dissolution of the business.

12. Frequently Asked Questions

Can a foreign national form and own a U.S. LLC?

Yes, there are no citizenship or residency requirements for creating a company as an LLC in the U.S. No social security number is required. Non-U.S. citizens may get an EIN via another IRS procedure.

Does an LLC protect me from lawsuits related to my rental property?

Yes, but with qualifications. The LLC mainly serves as a liability shield. The liability protection could be extended to the assets owned by the LLC. While the personal assets could be protected from liabilities of the business, there is a need for maintenance of the LLC.

Does forming an LLC avoid U.S. estate tax for a foreign owner?

No, it does not. Typically, an LLC that holds only one member is not considered for tax purposes. The IRS will see through the LLC and consider the underlying real property. The property could still be subject to U.S. estate taxes. This may require additional structuring.

Which state should I form my LLC in?

In most cases, form the LLC in the same state where the property is situated. This way, foreign qualification expenses can be avoided. Delaware or Wyoming may be preferable for portfolios. But they are typically not needed for a single property.

Can I get a conventional mortgage with the property titled in an LLC?

Generally, traditional mortgage loans that are sponsored by agencies usually necessitate individual ownership. DSCR and non-QM investment loans usually allow for LLC ownership.

Can Foreign Citizens Open a U.S. Bank Account for an LLC?

An LLC bank account should be set up separately from personal accounts. The reasons include keeping accounts neat, ensuring liability protection, and simplifying property management. Various banks in the USA provide LLC bank accounts to foreign citizens. Still, the procedures are bank-specific.

What is a series LLC and should I use one?

Series LLC exists in certain jurisdictions. It has multiple series within one parent LLC. Liability protection is the main aim of each series. It can reduce expenses in case of having large portfolios. But it is still not as proven as individual LLC. It is not accepted everywhere too. But it might be taken into account in case of having a considerable number of properties in the portfolio.

13. About This Guide

This guide is an independent educational tool for LLC structure regarding U.S. investment properties. The information is based on structure and finance expertise offered by America Mortgages. [America Mortgages](#) is a U.S. mortgage company of [Global Mortgage Group](#).

This is not legal or tax advice. The laws governing LLCs differ from state to state and from person to person. There may be changes to financing qualifications and tax situations over time. It is imperative that you get your status verified with a professional lawyer and CPA.