

# FOREIGN INVESTORS IN SOUTH FLORIDA: Certain Buyers in an Uncertain Marketplace

**As** the world continues to shrink, foreign investors from around the world are coming to South Florida to take advantage of real estate opportunities that our local market offers. There are a number of important issues to keep in mind when representing foreign investors.

## CHOOSING AN ENTITY FOR PURCHASE

Once a property is identified, unless the property is purchased individually, foreign investors must decide on an entity for the purchase. Besides individual ownership, foreign investors have a number of options for real estate purchases if they use a United States based entity. Foreign investors, like U.S. citizens, can choose a corporation, partnership (general or limited), limited liability company, trust or land trust. Most often, a limited liability company (LLC) is chosen as it gives its owners liability protection, “pass through” taxability at the individual level in comparison to corporations that are taxed at the corporate level (S Corporations are available only to citizens and legal permanent residents), and ownership may still be transferred to foreign entities if desired.

## GENERAL TAX TREATMENT OF FOREIGN INVESTORS

As a general overview of foreign investor tax issues, foreign nationals are required to file U.S. tax returns for their U.S. business activities. Lawful permanent residents must file U.S. tax returns for all activities, but will receive a reduction for taxes paid in other countries.

## IMMIGRATION ISSUES FOR FOREIGN INVESTORS

An important issue for foreign investors is their ability to visit South Florida and their properties, and therefore, obtaining an extended visa is an important consideration. With short term visas such as normal business or tourist visa requests, there is a maximum stay permitted of 6 months. However, if a foreign investor qualifies for certain categories of business visas (i.e. E-1, E-2 Visas) the stay can be increased to 3-5 years or longer with renewals. If an E-B5 investment visa is obtained, the investor can achieve legal permanent resident status. Through these E-Visas, not only can a foreign investor and their families take advantage of the real estate opportunities presented by the U.S. market, but they can also obtain extended U.S. visitation rights.

## OTHER CONSIDERATIONS

Transactions with foreign investors almost always involve a transfer of funds into the United States from foreign banks by electronic wire transfer. For transfers to the United States, it is important to



give foreign investors both the domestic and international wire instructions to make sure transfers are effectuated properly. If wire instructions are incorrect, or if the full local bank transfer code is not given, funds may be delayed in transfer or returned. Wire instructions should also specify the type of currency to be wired and exchanged. If dollars are being transferred, a foreign investor can send funds from a foreign branch of a U.S. bank, and domestic wire instructions will be sufficient. However, if foreign currency is being transferred, it must first be exchanged to dollars and then transferred to the United States. Note that if a bank account is opened by the foreign investor, the Patriot Act must be followed to verify the funds were not transferred from an entity or individual owned or controlled by a targeted country as listed by the Office of Foreign Assets Control (OFAC).

## CONCLUSION

In today's global economy, foreign investors represent another viable client base. If you are able to service these needs, you will have an opportunity to thrive, even while your competition is not. ↱



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