SERIES LLC

KNOW MORE THAN YOUR ATTORNEY

IN 15 MINUTES

by Scott Royal Smith

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INTRODUCTION

OVERVIEW

The Series LLC (SLLC) is one of the most effective entities a real estate investor can own. When you take advantage of this structure, you'll not only be able to streamline and grow your business, but you'll also receive the benefits of lawsuit prevention and asset protection.

As both an investor and an attorney, I believe that the Series LLC is the best structure for real estate investors who want asset protection while they build their real estate empire.

Whoever said, "if it sounds too good to be true, it probably is," wasn't familiar with a Series LLC business structure, or SLLC.

Real estate investors around the nation are benefiting from this organizational framework. For many investors, the primary appeal lies in simplicity, safety and flexibility. Any nominal drawbacks are readily addressed, or even proved to be advantageous, here in this book.

What Is It?

The Series LLC is very similar to a Traditional LLC. The only difference is, instead of being a single company, the Series LLC is a network of LLCs.

It accomplishes this by using a parent-child structure. The parent company is just like a regular LLC, except it has the ability to create children. In fact, it can have as many children, or "Child Series," as you want.

I'll talk about why that's so useful in a minute, but first, why haven't you heard of this before?

History

Back in 1996, the mutual fund industry was lobbying the Delaware Legislature to develop a way to reduce duplicate paperwork, minimize transparency, and limit liability in matters of taxation or litigation.

Delaware eventually created a new legal vehicle in which an entity could operate as a single unit or as a collection of multiple units simultaneously. This vehicle was called the Series LLC.

Since then, another 16 states, along with Puerto Rico and D.C. have adopted some form of this legislation. And the Series LLCs can operate in all 50 states, just like LLCs or Delaware Statutory Trusts.

Benefits

Save Money

Like a normal LLC, the Series LLC allows for pass-through taxation. This lets you dodge hefty corporate taxes and file profits on your personal return for a lower tax rate. In most cases, this is going to be significantly cheaper, not to mention the benefit of expanded corporate deductions. With the help of a competent CPA, you could save thousands.

Other cost savings are relevant for Series LLC owners as well. If you had a traditional "hub-and-spoke" model, you would need to shell out hundreds or more to form and maintain a new LLC every time you want to add an asset

And speaking of saving money, I recommend forming your Series LLC in Texas! It has all the same benefits of a Delaware Series LLC, but it doesn't require you to file annual renewal fees or paperwork. It's the cheapest, most hassle-free solution on the market.

Grow Your Business

Barring any violation of law, government regulations, or public policy, the Series LLC features an Operating Agreement structure that enjoys "maximum flexibility" and "freedom of contract." This gives members extraordinary latitude when creating rules and terms for how they want the company to operate - which is important since it can quickly grow beyond a single company.

Traditional "hub-and-spoke" models require you to set up a new business bank account and create a separate accounting process to maintain each LLC. This is a great way to upsell their CPA service, but it sucks for you. And did I mention you'll have to pay state fees on each of these LLCs as well? The costs and complexity grow exponentially and you'll see your profits dwindle as you try to keep track of all the details.

The Series LLC makes it simple and affordable to add assets. All you need to do is spin up a new Child Series and transfer the asset. Your bank and accounting process don't change.

As you can imagine, the Series LLC is amazing for real estate. You can build an empire securely and efficiently. But don't think you're restricted to real estate. You can add any asset to the Series LLC – cash, gold, cryptocurrency caches, your midlife crisis Jaguar, etc…

You'll have better protection at a fraction of the price!

Protect Your Assets

A Series LLC is the foundation of a superior asset protection plan. Real estate investors especially need this structure as a starting point. It offers the single most powerful liability protection of any entity one could possibly form. The reason for this is simple: each "series" holding its own asset keeps it isolated from everything else you own.

You may think that you don't need any additional protection from lawsuits because you run an ethical business, have insurance, and try to treat your tenants and customers well.

Sadly, if you believe this, you are mistaken. Did you know that one-fourth of Americans fall prey to a lawsuit at some point in their lives? This figure is even higher for real estate investors, with estimates as high as 80% of real estate investors being sued at some point in their careers. Why? Because we tend to have more assets for litigious people to want to pursue in court.

The cold truth is that lawsuits are a ruthless, cut-throat business. And like all businesses, they're after one thing: cash. That means, the wealthier you become from your real estate ventures, the more likely someone is to try to come after your cold hard cash and any assets. Since success makes you an attractive potential payday for unscrupulous and greedy people. Insurance won't bail you out of this situation, and neither will your good reputation or even the best business practices in the world. Lawsuits don't even have to be valid or logical to cost you everything you've worked so hard for.

To avoid this fate, you will want as much protection as you can get. Fortunately, the Series LLC can have your back. In addition to being a less attractive target, the Series LLC's isolation of assets means that if you are sued, only that individual asset is on the line. When implemented properly along with other precautions, Series LLCs are the core of an asset protection plan that is powerful enough to stop lawsuits before your name is even typed out on filing papers.

Caveats

Presently, there are about 15,000 words, about 50 pages and over 600 subsections in the Texas state statutes which govern LLC's and SLLC's. No one can quantify or apply all the associated rules and regulations now in place with federal, out-of-state and foreign agencies (e.g., Canada doesn't even recognize such a legal entity. However, Canadians may participate in U.S. SLLCs.)

Yet consistently, after two decades, the innovative "Delaware Model" (Series LLC) appears to be immune to significant litigation or legal challenges. With only 5% of the world's population, the U.S. is home to 80% of the planet's lawyers. Regardless, we're still trying to find many legal cases in which Texas, Delaware or any states' similar laws have even been contested.

The only thing better than winning a lawsuit is never having one filed, despite +20 years of action.

Yes, the fundamentals are simple, safe and flexible. No, they aren't "idiot-proof". Then again, any reasonably smart business owner can avoid any pitfalls with these steps:

- Get a lawyer. Not just any lawyer, but a specialist who has the credentials, experience and expertise in this very specialized field. One whose practice is exclusive to the protection of client assets, pre-empting litigation and aggressively defending against any threats to the beehive.
- Exercise sound judgment. As your attorney will advise, do not misinterpret the simplicity or flexibility of an SLLC as a license to ignore sound business practice, your own due diligence, responsibilities or accountability.
- Nail the Operating Agreement. A well-structured and detailed Operating Agreement is secondary only to a sound business plan, reasonable expectations and absolute trust in other members' integrity. More importantly, trust yourself and a legal expert.

ASSET HOLDING STRATEGIES

There is no one solution to any problem, asset protection included. Instead, there are a variety of tools and tactics that can be used to develop strategies for a particular set of needs or goals.

When it comes to asset protection, there are a number of models that make up most of the solutions you'll find. The Series LLC is the most "cutting edge" solution.

Hub-and-Spoke

This is the "most traditional" option on the market. It's most likely what your local real estate community, CPA, and attorney recommend.

How It Works

You'll often see this sold as an Infinite (or Unlimited) LLC. It uses a central manager managed "hub" LLC to create anonymity and individual member managed "spoke" LLCs to hold assets. The Hub is the sole member of each Spoke.

Soft Assets

You can pool soft assets, like cash or stocks, in the "hub." This is a Wyoming LLC which has built-in anonymity.

Hard Assets

You should isolate individual hard assets, such as real estate properties or websites, into "spoke" LLCs. These should be formed in the state where the asset resides.

How It Compares

This is a great strategy for people who want to stick with something ultra conservative.

The Hub-and-Spoke model is the oldest and most common method of asset protection. Most people you talk to will be familiar with this model and won't give you much push back.

It will also present fewer hassles with banking, accounting, and other attorneys. The other models can sometimes require more explanations in order to get everyone on-board, so think of the Hub-and-Spoke as the easiest model to implement from a social standpoint.

Pros

This model is ideal for people who want the most conservative strategy and who want to stick to the recommendations from people in their community or other professionals who are advising them (like their local attorney / CPA).

1. "Tried-and-true" model, with the longest track record and highest number of users
2. Most conservative in terms of legal precedent and how the law could be interpreted
3. Most widely recognized and accepted among other practitioners & industry professionals (ex: banks)

Cons

This model is more expensive and more complex from an operational standpoint. You have an increased risk of making errors, which could result in an opponent piercing the corporate veil.

1. More expensive, especially as you add assets
    a. Yearly registered agent fees
    b. Yearly compliance
    c. Yearly state and federal reporting (potentially)
    d. Yearly state and federal taxation (potentially)
2. Higher complexity, especially as you add assets
    a. Multiple bank accounts
    b. Multiple sets of books

Use Cases

- Apartment investors
- Multi family real estate over 4 units
- Commercial investors

Series LLC

This is the “most cutting edge” solution.

How It Works

The Series LLC is designed to function like the Hub-and-Spoke model, but it uses a parent-child structure instead. The main benefit is the low cost of creating children, both in hard costs and in upkeep over time.

Soft Assets

You can pool soft assets, like cash or stocks, in the “parent.” This can be made anonymous when combined with an Agent Trust.

Hard Assets

You should isolate hard assets, such as real estate properties or websites, into individual “child series.”

How It Compares

The Series LLC is great for people who want to use cutting edge solutions to simplify their life and provide optimal protection.

Pros

The Series LLC is specifically designed for scalability and simplicity, which makes it the ideal solution for holding multiple assets.

1. Infinitely scalable at no additional costs
2. Streamlined banking into a single account as long as account reflects the income/expense of the individual child series with “tagging” or “classifications”
3. Only one entity to maintain with one registered agent fee
4. No court cases of anyone challenging and prevailing over the Series LLC

Cons

The Series LLC is new compared to the Hub-and-Spoke model. Some people are still concerned about the risks of using this structure and lack of precedent. You may also need to spend more time educating providers about this, such as your CPA or bank.

1. Relatively “new” with only 20 year track record
2. No court cases to definitively show the protections
3. Not all states offer this entity natively. People can form a Series LLC in one state and use it in any other state, but there are still concerns about how these other states will treat a foreign Series LLC.

Use Cases

- Single family home
- Land
- Notes

Delaware Statutory Trust

This structure offers the “most protection” of the three options.

How It Works

The DST operates with a parent-child structure, similar to the Series LLC. This offers low cost creation and upkeep, plus certain tax advantages and built-in anonymity.

Soft Assets

You can pool soft assets, like cash or stocks, in the “parent.” This can be made anonymous when combined with an Agent Trust.

Hard Assets

You should isolate hard assets, such as real estate properties or websites, into individual child series.

How It Compares

The DST is great for people looking for maximum protection without needing to use an offshore solution.

Pros

This is the premium solution with innate protections and built-in tax savings.

1. Defacto anonymous
2. Avoids franchise taxes (ideal for the California investor)
3. It is a Domestic Asset Protection Trust which are arguably stronger than LLC’s

Cons

Because the DST is a trust, it has certain limitations in terms of how it can conduct business. It’s also the most expensive solution of the three.

1. Can’t run active business dealings through DST
2. More expensive than Series LLC
3. Only designed for buy/hold investors, not for fix and flippers.

Use Cases

- Single Family Home investors
- Commercial property

SECTION I: PROBLEMS (FEATURES/BENEFITS)

ASSET PROTECTION

Personal Liability

Real estate investing is an excellent way to put your money to work. The returns consistently outperform traditional savings and common investment vehicles, with little risk and low management.

There's only one problem. We live in the most litigious society on earth. Did you know one in four U.S. citizens will be sued in their lifetimes? Real estate investors face an even greater risk of lawsuits.

For years, the wealthy and powerful have shielded their wealth within layers of anonymous companies. Now you can do the same. The Series LLC is one of the central legal structures in any asset protection plan. Let's take a deeper dive into the benefits of using one.

A Traditional Limited Liability Company Isn't Enough to Protect Your Assets

Property in your name leaves you open to losing it all; litigation doesn't even have to have anything to do with your property in order to wipe you out. If you have property in your name, or even worse, in a general partnership, and you are found liable in a car wreck or other random accident, you could lose everything. Insurance is not going to stop a plaintiff from going after anything and everything you own to repay damages for extensive hospital bills or a wrongful death action.

Property in a Traditional LLC or corporation isn't much better. You are in a little better shape if you have all your assets in one Traditional LLC or corporation. In that case, lawsuits against you personally can't normally touch your business assets. But if you have all your assets in one LLC, and there is a slip and fall at one of your properties that results in serious injury or death, a plaintiff can go after all your properties. It doesn't matter that your other properties are unrelated to the incident.

Insurance Won't Protect Your Investments

Insurance can help with minor incidents, but it's not going to save you from losing everything in the case of a big, catastrophic lawsuit. If someone falls through your floor and the court finds you are at fault because of the nature of the structure or maintenance, your insurance will likely not cover you at all. And certainly neither your property nor your automobile insurance will cover you if you are found negligent in a serious accident.

The one thing that can save you from disaster is setting up an LLC Series and Anonymous Trust. Plaintiffs can never reach all of your assets, because they are owned by separate legal entities and are never in your name.

Separation

How The Series LLC Structure Protects You

Compartmentalizes your risk.

Setting up an LLC Series Structure legally isolates your equity into separate limited liability companies inside a holding company. Even if you lose a lawsuit, the damage is limited to a single property or asset within the individual series. The Series LLC works for multiple types of investments. It's great for property management, but it is equally effective at protecting other investments such as your stock portfolio.

Hides your assets.

In a Series LLC, each of your assets are separated into individual entities. You can add an anonymous trust to each of these entities for further protection. Limited liability companies and other business entities are exposed to the public. Anybody can look up your company name and see what type of assets it contains. Trusts, on the other hand, do not need to list their holdings publicly. When combined with the Series LLC, it makes all of the individual holdings essentially invisible. The anonymous trust owns the LLC itself and serves as title trust for the real estate asset.

Isolation

How A Series LLC Protects You From Lawsuits

There are three pillars of any lawsuit: opportunity, incentive, and the judgement. Winning a judgement requires a good lawyer, a friendly judge or jury, and a little luck. Clearly, that isn't the pillar we want to focus on. Instead, asset protection strategies focus on opportunity and incentive.

Plaintiff attorneys can't sue what isn't there

An accident on your property plants the seed of opportunity, but it isn't enough to kick off a lawsuit. In order to put things in motion, the lawsuit attorney must be able to sue you.

An anonymous Series LLC can remove this opportunity in two specific ways.

First, the Series LLC can be used as a "Shell Company." You may not know this, but you can break your company into two separate companies. The first company acts as an asset holding company, which isolates assets into individual entities. The second company is an operations company, which manages the day-to-day affairs. With some minor adjustments to your contracts, you can require all lawsuits to be brought against the operations company. This acts as a shell company, which means even if you lose the lawsuit there is nothing of value to be lost.

Second, you can also use trusts in conjunction with your Series LLC. As mentioned previously, hiding your assets within trusts means your assets are invisible. Even if you could be sued, your opponent's legal team won't be able to find which company to bring the case against. This dramatically reduces the opportunity to bring a lawsuit against you, even if there was some event that could be used as justification for doing so.

Attorneys won't gamble or chase the money

Not only does a Series LLC structure legally protect your assets, because your equity is in multiple legal entities, but it also discourages most lawsuits from ever being filed. Attorneys will not take a case unless they know how they will get paid. If equity is held in multiple LLCs set up with anonymous trusts it will appear on a search that you own very little – if anything at all. Attorneys will look elsewhere for an easier pay day.

Plaintiffs need to pay at least $5,000 to even start litigation, and the amount quickly escalates to over $10,000 once discovery starts. It simply does not make sense for a plaintiff to file a lawsuit when they cannot find any assets that can be seized if they win a damage award.

Series LLCs Offer Great Tax Benefits

That's right, even Uncle Sam is kind to the Series LLC. Here are our top two tax benefits.

Save on business taxes

The Series LLC is represented only in its "home state." This means, if your Series LLC is formed in a state with no sales tax, you get to skate on sales tax. For real estate investors, this means rental payments between series aren't subject to sales tax.

The beautiful part is, you don't even have to reside in the state you form the Series LLC in. If you're itching to save on taxes, consider the Texas Series LLC. This entity will also help you save money via pass-through taxation.

Simplify your tax returns

Even though you can have as many series and assets as you want, you'll still only file one tax return for the whole shebang. The operating company, or parent company, is the only one that you're required to put on the form. Of course, you're still paying taxes on the "children" (Series), but it's all reported as a single entity.

SCALABILITY

One Entity & One Bank Account

Perhaps you are considering what entity will do the best job protecting your real estate assets. Look no further than the series limited liability company (LLC). The Series LLC for real estate investors offers a host of benefits that corporations and other types of entities do not. Read on to learn more about how Series LLCs are set up, the basics of how they work, the benefits of the Series LLC for real estate investors, and more below.

How the Series Limited Liability Company Works

The Series LLC is a unique kind of limited liability company that allows you to grow your business indefinitely at no additional cost. The entity is able to scale up indefinitely thanks to a parent-child structure. The Series LLC makes use of one "parent" entity. Beneath that parent entity are "child" entities, which function like mini-LLCs.

This infinitely scalable design makes it possible to create as many series as you have assets. Creating new series is a simple process you can complete at home, without having to restart the LLC formation process. Moreover, each series receives complete liability protections while you avoid the cost of creating an entirely new company. Similarly, a properly formed Series LLC may only require a single bank account. For these reasons, investors get the same protections as they would with multiple LLCs without the impractical and costly drawbacks.

Why the Series LLC Is Perfect for Real Estate Investors

Some of the benefits of the Series LLC that investors love the most include the following:

- Ability to grow indefinitely. Incorporating new assets into the Series LLC structure is easy.
- Separation of assets. With one asset per child series, even if a series is successfully sued, it will not affect your other assets. We tend to recommend that investors

hold only one asset per LLC. While this could get very costly with Traditional LLCs, executing this method with a Series LLC is quick and simple.

- Simple bookkeeping. The Series LLC generally allows you to continue using the same LLC bookkeeping measures you likely already have in place. Managing multiple series can be done easily with traditional methods, even those as simple as an Excel spreadsheet.
- Tax treatment flexibility. When you use a Series LLC, you have your choice of how series entities are taxed. Perhaps one of your deals will work best taxed as an S-Corporation, while the remainder work better with pass-through treatment. As long as you have your assets separated, this type of arrangement is possible. You can choose the tax treatment that makes the most sense for your deal.
- Ability to pair with Anonymous Land Trusts for greater anonymity. We will go into greater detail about the power of the Series LLC and Anonymous Trust combo later in this book.
- Available to investors in every state. You need not have a local Series LLC option to take advantage of the Series LLC.
- Ability to pair with a shell company or use alone. See the example in the next section for more information.

Using a Series LLC for Real Estate Investment Protection

The Series LLC has been around since 1996. It originally started in Delaware but eventually spread through a number of states. This allows you to form a Series LLC in these states and use the company in any other state.

As we have explained, the Series LLC operates much like a parent-child type of relationship. You might have one Series LLC and name the company something like “Worldwide Investments LLC,” for example. It will actually be filed in a state where Series LLCs are permitted, let’s say the state of Texas, and it will have its certification of formation and all of those formal documents established in that state. These documents certify that it is a legitimate LLC inside of the state.

Series LLC Formation

Series LLCs have special provisions inside of a formation as well as an operating agreement which gives it the ability to have children, as many children as it would like in fact. Each child is known as its series. So to begin with, we’ll have series A. Later you can form series B, which is separate legally from the first. The best part is, you can have unlimited series within a Series LLC. This is advantageous because each series is treated individually for liability purposes, just as if it were its own limited liability company.

This means that if you have multiple properties, each property should be held in an individual series, which is what I'd recommend. We should be compartmentalizing our assets as investors because if there's a lawsuit regarding series A, it won't affect series B, C, and D for every asset that we have. Each series works much like a single purpose LLC.

Series LLC Taxes

Series LLCs are also advantageous because they allow a single EIN number that's filed underneath this company name. This allows us to streamline our tax preparation so that we're not having to do individual company filing for each property.

Legal Considerations

Now, there is some apprehension in the industry regarding whether a Series LLC set up in another state would be recognized in a state that doesn't formally have statute that governs Series LLCs. I personally believe that there are good reasons to think that, due to the growing trends nationally, these companies will be recognized if ever challenged. There is not a lot of case law on this subject though, but there are a ton of sound reasons and precedent that other states typically recognize companies formed out of state. Practically always, Idaho will recognize a Texas company.

A Series LLCs is just like any other LLC. Just with one small caveat: that it can create tiers. But, for the more conservative investor that has any apprehension, I would recommend using a traditional single purpose, limited liability company for each property.

One Tax Filing

Series LLCs Offer Great Tax Benefits

That's right, even Uncle Sam is kind to the Series LLC. Here are our top two tax benefits.

Save on business taxes

The Series LLC is represented only in its "home state." This means, if your Series LLC is formed in a state with no sales tax, you get to skate on sales tax. For real estate investors, this means rental payments between series aren't subject to sales tax.

The beautiful part is, you don't even have to reside in the state you form the Series LLC in. If you're itching to save on taxes, consider the Texas Series LLC. This entity will also help you save money via pass-through taxation.

Simplify your tax returns

Even though you can have as many series and assets as you want, you'll still only file one tax return for the whole shebang. The operating company, or parent company, is the only one that you're required to put on the form. Of course, you're still paying taxes on the "children" (Series), but it's all reported as a single entity.

Costs Of Operating an LLC vs. a Series LLC For Real Estate

You will have to pay for the tax preparation for each one of your Traditional LLCs at the end of the year. With a Series LLC, you will have to pay taxes for each series, however, all the properties held in series are taxed as a single entity. For your Traditional LLC, you'll have to pay for the formation, operations, management, and registered agent of each of the LLC companies, which can lead to hundreds of dollars extra per year. Additionally, you're going to have to pay the overall complications and operations of each company. With a Series LLC many of these operations are streamlined and you will pay a fraction of the cost.

So you have to weigh your odds and how you feel about the Series LLC versus the single purpose limited liability company. My opinion is that the Series LLC is the way to go.

SECTION II: OWNERS MANUAL

HOW TO SET UP

Basics

When it comes to creating your own business or even forming one that already exists and putting it under your name, there are a few things you need to know.

You may want to form your business under an LLC or a Series LLC. An LLC stands for Limited Liability Corporation and it is slightly different from a Series LLC. The only difference between the two LLCs is that a Series LLC is protection for multiple LLCs. (Note: A Series LLC is sometimes called an SLLC.)

When forming a Series LLC, the first thing you need to do in most states is to register with the Secretary of the State you are in. This filing will cost you a fee. However, there is much more to it than that. Read on!

Getting Started

Although not all states accept Series LLCs, those that do accept them require a few things before you get started:

- You need a name for your LLC
- You need the address of the LLC you are creating
- You need the resident name and address of the agent who is creating the Series LLC
- You need to designate the member or manager who is managing the LLC
- You need the name or names of the manager or managers of the Series LLC
- You need to know how long the LLC will be in operation. If you don't know the exact date of the Series LLC ending, or if it will go on as long as possible, state that it will be ongoing or in most states, you can use the term 'perpetual'
- You need to know what the business is that is going to operate under the LLC. In many states, a general business can say something along the lines of "all legal business activities"

- You will need to file separate forms for each cell associated with the Series LLC and each manager who you are using. This is a requirement in Illinois.

One other thing you must do when forming a Series LLC is to make it clear that you are creating a Series LLC. However, it does differ from each state when registering and whether or not you have to notify them that you are filing for a Series LLC. In certain states like Utah, Texas, Delaware, Tennessee, and Oklahoma, it is a requirement that you notify officials that you are creating a Series LLC with seperate rights on each one. However, how much detail you do have to provide for it will depend on the state you are filing for one in.

Once all of your documents are filed on your LLC, you are officially in business.

Structure

By now you know, the Series LLC will work much like a parent/child structure. At the very top, you'll have your parent entity, the Series LLC. The state assigns an EIN number and an official formation document for the state (Delaware, Nevada, Texas, etc).

Below the Series LLC, you have the actual individual series. You'll have series A, series B, etc. Therefore, these are what I refer to as the "children."

A parent Series LLC can have as many children series it wants. Each one of these series is going to be treated as if it were its own LLC, for liability purposes. So, we hold an individual property or asset in each given series. In the case there is a lawsuit resulting in action against a house in series A, it won't affect the house in series B, C, etc.

Now you may have the need to be able to do joint ventures as your real estate business grows. These function just like LLCs. Due to that series C could be a joint venture agreement with as many people as you would like. It'll have its own EIN number, tax return and its own operating agreement to conduct the business of that JV agreement.

With a Series LLC, what it will allow you to do is to expand your business in a very professional way, protecting your assets. So with all of these companies and all of these assets that you own individually, this will pass straight up through the series to have one tax return. Which means thousands of dollars a year in tax preparation savings for you.

Eligibility & Regulations

In this section, we will now take a closer look at eligibility requirements for forming this entity and which rules and regulations apply to it. Let's learn more about the finer points of Series LLC rules, eligibility, how they are formed, and what regulations apply to this entity.

Eligibility

Almost any investor is eligible to form a Series LLC. Laws governing the Series LLC are dictated at the state level, just like the laws for other types of limited liability companies. The major eligibility criterion that is consistent across all of them is that one must be 18 years of age or older to create the entity.

Even the documents required to form a Series LLC are fairly consistent from state to state. To create a Series LLC, you will need the following:

- Articles of Incorporation.
- Operating Agreement.
- Membership Information.
- The appropriate filing fee. Regardless of where you form, this is a one-time payment. The amount will depend on where you form your Series LLC.

The Series LLC is an incredibly versatile tool. There are no rules about what type of business you must run to take advantage of the entity. Each series can hold any type of asset you choose. While most investors use the Series LLC as an asset-holding company for real estate, other types of assets may be safeguarded within the entity as well. Similarly, there are no eligibility restrictions based on geography. Even if you live and invest in a state which does not offer its own Series LLC, you can always form an out-of-state Series LLC in the jurisdiction of your choosing. Investors can strategically pick which state to form their Series LLC in based on the requirements and regulations of that state.

Rules & Regulations

Internally, Series LLCs are governed by their Operating Agreements, just like Traditional LLCs. The Operating Agreement spells out important details like how profits and losses are divided, how business decisions are made for the entity, and what procedures must be followed for selling the assets within the entity.

Series LLCs must also comply with state and federal laws. The most important regulations to be aware of are the following:

- State regulations for Limited Liability Companies. These state laws will determine, for instance, the cost of your Series LLC's filing fee, which state taxes (if any) must be paid annually, and more. Your attorney is a valuable resource for learning more about these state laws. Keep in mind that one of the benefits of the Series LLC is that if you don't like one state's laws, you can simply choose to form the Series LLC in another state.
- State laws about the status of child entities. Again, these may vary from state to state. A Delaware Series LLC, for instance, considers the parent structure the entity itself. The child series within it are not legally separate entities. While they may have many of the same powers, such as the ability to sue or be sued, child series may be limited in other ways. An example of this is that a child series may not enter into a merger.
- Federal tax law. You have choices to make regarding how your Series LLC is taxed. Many investors choose to have the Series LLC classified as a disregarded entity, meaning taxes will "pass through" and be reported on your personal income tax return. However, you have other options for the taxation of your child series entities, including S-Corporation and Partnership status. We will get into that more in a later section. Consult with your attorney and CPA to determine which tax structures are best for you.

Member vs. Manager

There are two ways to structure the management of your Series LLC. For a member-managed Series LLC, the owner(s) run the business. For a manager-managed LLC, a designated member or non-member is responsible for the running of the business. Let us take a closer look at the differences below.

- Member: Series LLCs can have one or more members. In its most simple form, the word member, when used in relation to a Series LLC, means owner. Most often, Series LLCs are formed by small businesses that do not need extensive management structures. Because of this, member-managed LLCs are the most common type of management structure used.
- Manager: Manager-based structures are used typically when there are members who only want to act as passive investors in the business. It is also used when a business is too large or diverse for members to co-manage. Manager-managed structures are also often used when members themselves lack managerial skills and want expert outside help to ensure their business remains profitable.

Lifespan

Here, we'll address how the Series LLC holds up over time. So, can your Series LLC live on forever? Why would you want a company that could achieve such longevity? We'll answer these questions and more below.

Can the Series LLC Have an Unlimited Lifespan?

The short answer is yes, it absolutely can. Traditional LLCs can also have unlimited life-spans under some circumstances. What does this mean in practice?

Some types of companies have laws that require them to re-file with the state to continue existing beyond a certain point. Otherwise, these companies will be required to dissolve within a specified timeframe. By contrast, the Series LLC has an unlimited lifespan, also referred to as a perpetual lifespan, automatically. When you use this structure, you won't have to worry about re-filing, or other paperwork hassles.

Why Should I Care About My Company's Lifespan?

There are several advantages to having a company with an unlimited lifespan. The most obvious of these is that you'll save money. Re-filing with the state isn't free. You have to pay fees when you re-file to prevent the dissolution of a company with a concrete lifespan. The Series LLC, however, is immortal. You pay once, when you establish it, and you're done. Some other perks of perpetual lifespans include the following:

- Freedom to run your company and assemble your board/members as you see fit. Other types of companies will require annual board meetings or specify different aspects of management. You're free of these obligations when you use a Series LLC.
- Ability to add members without interference from the state. Since company's with a measurable lifespan have board requirements, they don't enjoy this luxury.
- Separation between you as an individual and the assets within your Series LLC. In theory, the company could outlive you. That said, if it does, you'll have to anticipate changing membership.

Drawbacks

The Series LLC is a remarkably powerful tool, but it isn't a panacea. Few things in life are perfect, and the Series LLC is no exception. No entity, legal tool, or strategy is one-size-fits-all. Let's discuss some of the drawbacks of using a Series LLC.

Series LLCs Aren't Cheap

Forming a Series LLC costs money–usually several hundred dollars. Those costs can go up depending on if you need additional features for asset protection purposes. The Series LLC isn't unique in this regard. In reality, forming any company is going to cost you money. But forming a company correctly is difficult to do on your own, unless you're an attorney. If you aren't an attorney, you'll almost certainly need the guidance of one.

Lawyers aren't cheap, but if you want a correctly-formed entity you can rely on, this is an expense worth paying for. The alternative is doing it yourself, which means you risk making mistakes that your business will end up paying for in the end. You could lose liability protections, or even fail to register properly. The consequences of these mistakes are generally more costly than employing an attorney to oversee your company formation in the first place.

That said, Series LLCs do save immensely on start-up costs. This is because you're only going to file and pay fees once. If it comes down to using multiple Traditional LLCs or the Series LLC, the Series LLC actually is cheaper. How much you will pay is going to depend largely on what type of business you're running.

Series LLCs Require Detailed Banking

If banking isn't your forte, you may be initially confused by the banking requirements for Series LLCs. For the Series LLC to adequately protect the assets it holds, each series must have its own unique bank account. This can add up to a lot of paperwork, and for companies with many Series, quite a bit of labor and time spent on accounting.

Series LLCs Are Newer Business Structures

The Series LLC is a young entity compared to other corporation options. This means there hasn't been as much law made specific to the Series LLC. Courts operate on precedent, or previous rulings from other courts and prior changes in law.

When a legal concept or structure is as new as the Series LLC, it becomes difficult to predict what outcomes you'll face in certain situations. This is simply because you're entering barely-charted territory.

Bankruptcy

Bankruptcy is one example of where the Series LLC's newness can become problematic. If you're unfortunate enough to end up in bankruptcy court, your Series LLC may protect the items in your series. But it isn't certain.

Because there is little precedent on how the courts treat the Series LLC, it's impossible to say whether each Series would be treated as a unique entity. Similarly, we just don't know how the entity as a whole will be regarded by these courts. It's literally going to be up to the judge, and some business owners don't like this unpredictability.

The law is ever-changing, and the future is uncertain. For now, however, Series LLC protections have been able to withstand legal scrutiny and many attempts to breach its protections.

Ultimately, understanding how a Series LLC works and whether the Series LLC is right for you is going to depend on your business needs.

Benefit of an Attorney

Entering the business world through establishing your own company can be a scary, but exciting time. There are papers to file, fees to pay, and regulations to abide by. For small business owners, a limited liability company (LLC) is often an ideal option. A Series LLC can be even more appealing. These LLCs allow owners to file separate assets under different business entities, protecting each from any debts or lawsuits that may be brought against the others. In other words, assets assigned to each sub-LLC are shielded from each other's liabilities. Nevertheless, what are the legal requirements of a Series LLC?

What States Allow The Use Of Series LLCs

State laws permit, limit, or restrict the formation of Series LLCs. Some states, including Delaware, Illinois, Nevada, Texas, and Utah, allow owners to establish Series LLCs. Other states, such as California, do not allow Series LLCs to be formed within their borders but do permit those formed legally in other states to register and conduct business. Still, a few do not recognize Series LLCs at all.

Legal and Professional Help On Your LLC

If permitted by the laws of their state, anyone can establish an LLC. A lawyer is not needed to do this. However, it is highly advisable that anyone considering establishing a business consult with a lawyer and a tax professional. A Series LLC comes with a lot of freedoms other business models do not. However, as with most things in life, laws and regulations still apply.

- Articles of Formation. For example, filing a Series LLC is quite similar to filing a more Traditional LLC. Both require owner(s) to file Articles of Formation with specific government entities.
- Operating Agreement. With these Articles of Formation, an Operating Agreement is either required or highly recommended. (Check your state laws or consult with a lawyer to find out what your state explicitly requires!) For a Series LLC, your operating agreement most likely will need to expressly authorize the primary LLC to form subsidiary-like LLCs.

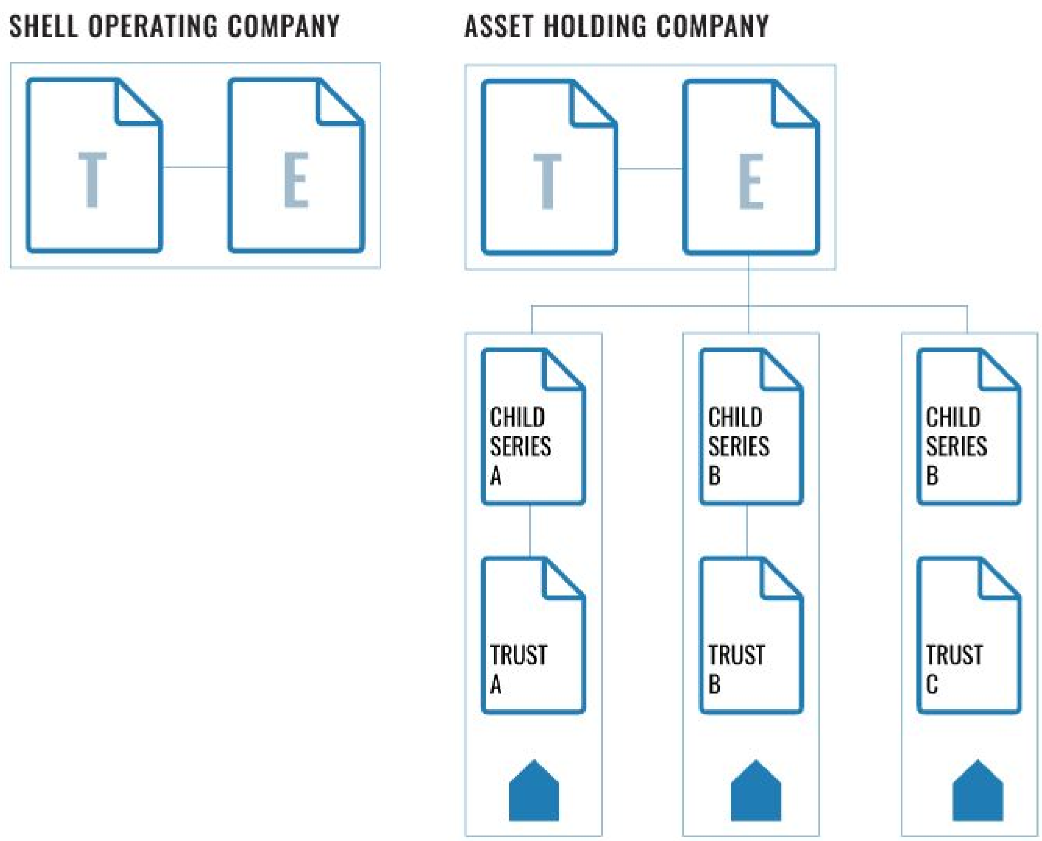
- Fees. Fees to set up your LLC or Series LLC will vary by state. Some may require a fee for each series, some may not. Your local laws dictate the requirements for the state, or even county, you file your Series LLC in.

With all the paperwork, fees and state requirements – it is likely in your best interest to consult with a lawyer in the very least.

HOW TO MANAGE

Series Document

If you own or are considering purchasing a Series LLC, you'll quickly become familiar with the importance of the Series Document. To get the full benefits of your Series LLC, it's absolutely crucial to have effectively crafted and legally compliant documents for each of your Series entities. Remember that the Series LLC uses a parent-child structure to separate and protect your assets. Take a glance at the chart below for a hypothetical example of how this structure works.



As you can see, the parent company operates everything. This is also known as an operating or even "shell" company because it does not contain any assets on its own. It's the “boss” of the structures, or series, beneath it. We’ve dubbed it “Big Daddy” in our example to make the point that it can have as many children as it likes. However, unlike most biological children we know, there is no waiting period and these kinds of children won’t cost you money. They will make you money.

This structure is the most effective when each “child” or series has a single asset within it. But the beauty of this entity is that each series comes with complete liability protections identical to those of a Traditional LLC. Think of them as miniature LLCs. Legally speaking, these offer the same protections as having four totally separate LLCs, only in a cheaper and infinitely more manageable framework. For much more information on the incredibly useful features of the Series LLC, check out our free educational resource on the nuts and bolts of how the Series LLC works.

Why You Need a Real Estate Attorney for Your First REI Series Documents

As with any legal structure, it’s only as good as its paperwork. Ensuring that the Series Documents are formatted appropriately and legally binding is essential to getting the most out of your Real Estate Investment Series LLC. The accuracy of these documents is also critical for tax reasons. With professionally crafted Series Documents, you won’t pay a penny more than necessary on your tax returns, and of course, will keep our friends at the IRS happy. Check out our free educational resource to learn more about your tax options for your Series entities and how to properly account for them on your returns.

How the Series LLC Benefits Real Estate Investors

One of the many reasons investors love the Series LLC is how simple it is to create a new, fully-functioning “child” LLC within the structure. This process is quick and easy. Let’s suppose you decide to buy a new rental home for passive investment income. Incorporating into the structure is as easy as notifying your attorney, letting him or her draft and sign your Series Document, and getting a copy.

Account Management

This information about LLC bookkeeping below applies to both the traditional and Series LLCs.

As great as the Series LLC's parent-child structure is, it's no substitute for sloppy bookkeeping. If you, as a business owner, fail to abide by State requirements regarding LLC statutes, you will essentially be violating your agreement with that State. This leaves you vulnerable to lawsuits.

LLC bookkeeping can be complex since the rules and regulations vary between States. We strongly recommend hiring a seasoned professional to help in this area. Here, we'll cover four of the most common mistakes business owners make with Series LLCs.

Mistake #1: Failing to Maintain Separation

A Series LLC is multiple, individual LLCs. Each LLC within the series is distinct and needs to maintain its own records. Once you know how to start an LLC, you know that a series isn't that much more complicated (and often brings you added protections).

The purpose of the series structure is to make it easier to manage multiple businesses. It streamlines the management process. However, you should not try to combine the different accounting records of your LLCs. Doing so can invalidate the series structure, leaving you unprotected, among other things.

Mistake #2: Not Naming a Registered Agent

Most states require your company to name an LLC registered agent, which is a physical address within the state. If this is one of the requirements in the state you filed your business, then foregoing that responsibility will invalidate your LLC and leave you unprotected.

Mistake #3: Being Unlicensed to Manage a Series LLC

Some states require you to have a special license in order to manage properties held by another entity or to run a property management company. Violating that specific state's laws can put your Series LLC in jeopardy and result in a costly lawsuit.

Mistake # 4 Not Having Separate Bank Accounts

This should be something that everyone already knows since a Series LLC is several, individual LLC businesses. Since you are already keeping the records separate for each cell in a Series LLC, you should probably also have a separate bank account for each individual LLC in the series. By doing this, you will ensure you are being as careful as possible with everything in each LLC that is under a series.

Make sure you understand each of these Series LLC record keeping rules for your Series LLC. Also, make sure to abide by all of them and other rules there may be beside these main ones above.

Record Keeping

Protecting the series structure of an LLC is much like protecting multiple LLCs. Each series of a Series LLC is treated just like an individual LLC.

This is something you need to remember when you're running your LLC business. Let's imagine you have a Series LLC with five different series underneath it. You have to treat each series as if they were five different LLC's.

Keep Adequate Records to Protect Your Series LLC

There's a few things you need to do to protect your Series LLC.

One is you must track the money for each different series separately. You must keep those records as if the series are their own LLC.

As stated earlier, you should also consider having separate bank accounts for each series. While this isn't a requirement, having separate bank accounts will make the accounting process so much easier.

What Happens if You Fail to Keep Adequate Records?

What happens is that all your series will be merged together by the court as if they were all one company. This completely defeats the purpose of the series.

It's not that your LLC will completely go away and then you end up with no protection. It's just now all of your money is in one pool. This cripples your asset protection strategy. Remember, the reason you have a Series LLC is to minimize the amount of money anybody can come after at any one time.

Let's say you find yourself in a lawsuit and the court decides to treat all the series you've made as one company. If all of your series get treated as one company you better believe the attorney for the other side is going to do everything in his or her power to win that lawsuit.

After all, the more assets you have for the taking, the more money an attorney can earn from suing you. Then let's say you actually lose the lawsuit. That's the equivalent of someone winning the power-ball, with the prize pool being all of your assets!

On the other hand, if your series hadn't all been merged together, the majority of your wealth and assets would have been untouched.

So remember: keep separate bank accounts, keep adequate records, and make sure you're doing your part in managing your assets!

HOW TO FUND

Personal Loans

When you are ready to start your own business and place it under a Series LLC, you're going to need to put money into it to make it a profitable one. When funding your Series LLC, you will be better off putting the money into a bank account for your business. There is more than one way to fund a Series LLC.

Open a Bank Account

When funding your Series LLC, the first and most important thing to do is to open a bank account for it. Your very first deposit will be to pay for the equipment you need for your business. Such equipment includes office equipment and supplies, office furniture, and whatever else you will need for your business. There are two ways you can do this.

Invest in Your Company

The first funding option for your business is to invest in it. However, if it is a Series LLC business, you will not be the only person investing in the company. Although there will be more than one owner if more than one person invests in it, make sure to bring them into the company at the same time. You don't want to bring in other investors and owners at different times. Also, don't forget that investing in a business has to go under both federal and state laws. Another thing to remember is to not bring in other business owners without proper legal advice first.

Loan Yourself Money for Your Business

The other way to fund your Series LLC is to loan yourself money for your business. You should do this for startup and operating expenses. You can always put the money back in after you start making a profit. Or, you can make payments back into the business to pay it back. Because the Series LLC doesn't think of this as income, you will not have to report this to the IRS for tax purposes. However, if this is the option you choose to fund your Series LLC, you will have to keep records of the transaction. The best way to record the loan and the repayments is to write out a Promissory Note as well as a resolution statement from the other members of the LLC saying that they approve of your loan.

The final thing about using the second option to fund it is that you will have to add interest to your own loan. The reason for this is because if you don't, the IRS can do it themselves. This could mean that it will end up being taxable income for the lender, but without an offsetting expense on it.

Financing Options

Many business ventures will fail in the early stages, often because of funding issues at the outset. Surviving the startup phase requires sufficient capital to cover expenses and a business plan to entice potential investors. The question then becomes: how can you approach LLC funding beyond simply having a good idea and a winning smile? Here are a few ideas beyond using your personal capital.

Peer-to-Peer (P2P) Lending Sites

Social lending websites now represent one of the most popular ways for startups to crowdfund their ventures. Sites like these provide lending platforms for entrepreneurs, providing them with easy access to both individual and institutional investors. As an alternative to traditional lending institutions, P2P crowdfunding sites are growing quickly, and represent an excellent opportunity for entrepreneurs to secure additional funds for their startup.

Initial Coin Offering (ICO)

This is a complex process, but it's gaining popularity as awareness about cryptocurrencies grows. An ICO, also known as an Initial Coin Offering, is similar to a cryptocurrency insofar as it uses distributed ledger and blockchain technology to offer potential investors something analogous to an IPO. Determining whether this option is right for you will require careful consideration. Nonetheless, funding a startup in this manner is becoming more accessible and popular.

Government Sponsored Grants and Loans

Every once in a while, Uncle Sam does something useful. Government sponsored lending programs offer incentives to traditional institutions like banks and credit unions. They target three main areas:

1. Industries where they want to see growth (*e.g.*, green energy or energy efficient products)
2. Individuals of a certain demographic (*e.g.*, military veterans)
3. Certain locations (*e.g.*, struggling economic areas)

For those interested in pursuing this avenue, have a look at the Small Business Administration's search tool.

Credit Cards

It's not an abnormal practice to utilize credit cards for short-term financing for your LLC, especially if you are new to the game and don't have a lot of experience under your belt. Traditional methods of securing loans, such as banks and credit unions, may be wary about lending to inexperienced investors. Nonetheless, entrepreneurs have started ventures as massive as Google using only personal credit cards.

There is another option as well. Credit cards can be taken out in the business's name, which is an option well worth looking into. One caveat here is that you want to avoid racking up too much credit card debt. Ideally, credit cards can be used as an option to bolster pre-existing capital.

Utilizing Your Personal Network

You've got friends and relatives. Don't be afraid to ask them for loans. Just make sure you pay them back!

Loans Against Collateral

One last option for those that are new to the game and are striking out with traditional institutions like banks or credit unions is to take out a loan against your personal assets. Collateral-based loans should be easier to obtain, but failure in your venture will result in the forfeiture of your assets. For some folks, the risk will be worth it.

HOW TO HANDLE TAXES

Filing

The Series LLC comes with so many awesome features for real estate investors that some of us think it's darn-near magical. While it's certainly a powerful structure with plenty of useful applications, even the Series LLC is forced to acknowledge a power greater than itself.

No, we aren't talking about you. We're talking, of course, about the Taxman.

Admittedly, this isn't the sexiest topic in the world, but it's essential knowledge for responsible members of a Series LLC. We'll make this as painless as possible. Here, we'll go over how Uncle Sam views the series within your Series LLC and what you have to do to stay on his good side.

How Uncle Sam Treats The Series LLC

For tax purposes, the Internal Revenue Service treats the Series LLC very similarly to a Traditional LLC. The major question I get about this topic is whether each individual series is taxed separately.

For now, the IRS regards the Series LLC as one big entity. This means, each series within the structure is not considered separate companies and therefore does not require separate returns. Of course, you will have to declare any income you've gained from your Series LLC, and we'll elaborate on that below.

It's important to note that the Series LLC isn't without its tax advantages. Its status as a pass-through entity will save you money and spare you from excessive corporate taxes that you would pay for other types of companies.

How to File Taxes for Your Series LLC

Your operating company (also called the "shell" or "master" company) is what will appear on your tax return. Provided the series that made money for the relevant tax year share common ownership, you can take advantage of pass-through taxation and simply report all income on the Schedule E portion of your personal tax return.

There are ways you could file separate returns for each cell, but this is typically not recommended for Series LLC owners whose income is mostly coming from passive investments like real estate. We do, however, recommend that Series LLC owners keep thorough, separate records for their series to ensure liability protection and simplify the tax process. This applies regardless of how you choose to file.

How to Ensure You're Filing Properly: Get Help

Please keep in mind that this information about Series LLC tax treatment relates only to taxation at the federal level. State law can change more frequently, and your state may implement or already have state tax requirements specific to the Series LLC.

This is one of many reasons that smart Series LLC owners use qualified CPAs and attorneys to help them handle their taxes. Don't wait until the Taxman comes knocking! Make sure to keep in contact with your trusted legal representation.

Joint Ventures

Each new entity in your Series LLC, or “child series”, can have separate membership interests, assets, operations—and treatment for tax purposes.

Tax Protection for Real Estate Investors

As we noted earlier, one of the primary benefits of using a Series LLC is you only have to file the articles of organization one time. To add another series all you need is an operating agreement.

This cuts down on the state fees required to open and maintain separate LLCs and reduces the administrative burden of managing multiple LLCs.

For these reasons, Series LLCs are popular among real estate investors and business owners who own multiple properties with different partners and structures.

Series LLC Tax Treatment: One Example

You are a real estate investor and professional property manager. And often purchase over 10 properties a year with multiple different partners.

You open up a Series LLC and use one as a property management company that is taxed as an S-Corp. Whenever you purchase a property with a partner, you create another series owned by you and that partner, and it’s taxed as a partnership. When you purchase a property yourself you simply have it taxed as a disregarded entity.

Using the Series LLC helps you reduce the filing and administrative fees associated with opening and maintaining a new LLC each time you buy a new rental property.

Tax Risks of Series LLCs for Real Estate Investors

There is some uncertainty around the federal tax treatment of Series LLCs as there are no laws or official guidance provided by the IRS.

But unofficial guidance from the IRS and a Tax Court decision are available. Both indicate that, at least in certain situations, treating each “child series” as a separate entity with different tax elections is appropriate

The Bottom Line

Generally, LLC's are not used primarily for their tax benefits, but rather their liability protection.

However, due to the ease of adding additional series, liability protection, and flexibility in the tax treatment of each individual series, Series LLCs make sense for real estate investors who operate businesses and purchase real estate with different partners under multiple structures.

And since there is no official laws or guidance from the IRS, it is important to work with a qualified CPA and attorney to ensure you're following all the rules and regulations to maintain the liability protection of each series.

S-Corp

For many entrepreneurs, limiting their liabilities is an important factor when establishing a business. Because of this, most start with a comparison of a limited liability company (LLC) and an S corporation.

Similarities

There are many similarities between an LLC and an S corporation.

- Pass-Through. Both the LLC and S corporation are typically used because they are pass-through tax entities. For pass-through entities, income taxes are not typically filed at a business level. Any profits or losses felt by the company, however, are “passed-through” and filed with their owners’ personal returns. In other words, if taxes are owed, they are paid by the individual, not the business. (Note, however, that S corporations are required to file business tax returns. LLCs only need to if they are owned by multiple individuals.)

- Protection. Both types of businesses protect their owners. Through their limited liability protection, both types render their owners not personally responsible for any debts or liabilities related to the businesses.

- Separate Entities. LLCs and S corporations establish separate entities for their owners. This is what creates the legal barrier that prevents owners from being personally responsible for debts and liabilities. Once the business is filed with the state, the inherent laws and regulations become viable. For LLCs, this same separation of entities applies to Series LLC versions as well. Series LLCs enable a company to divide its assets between different, sub-companies. Legally, under a Series LLC, each sub-company’s assets are protected as if they were the only entity.

- State Requirements. Both a LLC and an S corporation are subject to state requirements. This can include filing requirements, related fees, and other state-mandated regulations.

Differences

However, there are some significant differences between LLCs and S corporations.

- Formalities. S corporations have several internal formalities that must be fulfilled in order to maintain their limited liability. Bylaws, stock issuance, meetings and meeting minutes are all required on the part of an S corporation. This is not so for a LLC or any of its series. (The Internal Revenue Service (IRS), however, does recommend that LLCs have an operating agreement, member shares, and annual meetings. They also recommend LLCs document all major decisions.)
- Management. An S corporation is required to have a board of directors and officers. For an LLC, however, owners can choose to manage their business or they can elect to hire an outside person to act as manager.
- Ownership. The IRS has several restrictions for S corporation ownership. For example, an S corporation cannot have more than 100 owners or shareholders. In addition to this, all shareholders or owners must be US citizens or residents. They may not be owned by LLCs, partnerships, C or S corporations, or many types of trusts. None of this is true for LLCs. In fact, not only can LLCs have an unlimited number of owners, they are also allowed to have unlimited subsidiaries or series.

Series LLCs

A Series LLC has the same regulations as that of a regular LLC. Therefore, the similarities and differences above are equally as applicable to a Series LLC.

HOW TO RESPOND TO LAWSUITS

Reduce Risk

Lawsuits Against a Series LLC vs. a Traditional LLC

The more money you have located inside of any individual LLC, the more attractive it's going to be for someone to sue you. It makes sense, right? Lawsuits are all about how much money can I get out of somebody, and if there's a million dollars sitting inside of an LLC in equity or cash, well, that might be something that I really want to go after.

It's for this reason that my colleagues and I think you should limit the equity of any individual LLC to $200,000.

This is not the case if you're using a Series LLC for real estate, because Series LLCs allow you to compartmentalize those assets. So, you don't have the same worries there that we do inside of a Traditional LLC. However, I think that usually a few million dollars inside a Series LLC makes it reasonable to be able to create a new entity just in case. Why not? Expenses that you're being able to incur by having to create a new Series LLC, are far less than the amount of risk that you pose when you're risking millions of dollars in equity.

Examples

There is no business model that provides complete immunity from market reversals, natural disasters, or changes in laws and regulations. Stuff happens to everyone, in every business.

And when even the best-laid plans of talented and successful business people go awry, the polygamous marriage among companies, creditors, or customers often end up in court. Unlike holy matrimony or other business models, Series LLCs can protect all parties in advance.

Most often, with the right lawyer as “best man” or “maid of honor” chaperoning the courtship, the headaches and heartache of divorce court can be avoided altogether.

When the Series LLC Saves the Day: Two Examples

The first example comes from real life: the premier, if not only, case in which a federal bankruptcy court upheld the concept and validity of SLLCs and denied a creditor’s attempt to game the system in their favor. The second is hypothetical, but has real-life implications. After all, “happily ever after fairy tale marriages” are exactly that: fairy tales.

Regardless, all levels of state, local and federal government (courts, legislatures, regulatory agencies, the I.R.S. itself) are interpreting and enforcing myth as reality. Judges, politicians, and bureaucrats don’t like change. They love inertia, momentum and precedent—campaign speeches notwithstanding.

Example 1: In Re Dominion Ventures, LLC, No. 11-12282 (Bankr. D. Del.)

Now, it’s impossible to get two lawyers together without getting lost in a gigantic bowl of word salad or a maze of rabbit holes. Put them in a courtroom in front of a judge (who’s also a lawyer) and things actually get simpler. The focus and facts are limited to a relevant Reader’s Digest version. Legalese will be kept to minimum.

Dominion, a legitimate and reputable group of businessmen, established an SLLC in full compliance with state law. Both the “parent” company and each of the “children” cells operated independently, maintained separate accounting, and did everything “by the book." That included using sound business practices. One thing led to another and Dominion needed some help on credit and cash flow. "Creditor X" to the rescue!

All that was required was a change in the original Operating Agreement and absolute veto power over all operations and decision making. Well, the bailout didn't prevent the boat from sinking and ultimately everyone ended up in Bankruptcy Court. Now remember, the issues had nothing to do with SLLC legislation. Things just didn't work out. "Creditor X" claimed that its after-the-fact position prevented SLLC protection and that all assets of all "children" should be consolidated to satisfy the debt.

Maybe "Creditor X" should have retained a lawyer who had the experience and expertise to advise against the unenforceable loan at the altar. At the end of the day, the assets of Dominion, its members (owners), and all other respective creditors of the individual "parents" and "children" were protected.

Example 2: Moldy Mary vs. Larry Landlord, (S) LLC

Larry Landlord bought his first duplex just after his graduation from high school. The property wasn't much to look at, but it was cheap and he was handy with his hands. Four years later, a complete repainting of the exterior, and a brand new roof had improved the curb appeal. The kitchens were remodeled. The flooring, plumbing, and paneling were upgraded. Weeds and dirt had been replaced with immaculate landscaping. Prospective tenants had to get in line on a waiting list.

So, he bought another rental property. And another. And another. All under the protection, as independent series, of an SLLC. Tenants clamored for a space in his well-maintained, well-managed rental properties. As many investors were knocking on the door to participate in the next project.

Eventually, Larry had expanded operations to include 14 properties (and 14 segregated series), to include 5 apartment complexes and 10 members (owners). Each was fully compliant with state law requirements for documentation, maintaining separate bank accounts, tax filings, and accounting. Some participants were members of a dozen common projects. Some had invested in only one. According to sound business practice, common sense, and the exercise of due diligence, the group hired a highly reputable building inspector. He gave the building a comprehensive evaluation for each unit.

A sixth property, a high-rise apartment complex costing as much as all other holdings combined, came onto the market and Buster Bankroll contacted Larry. Knowing nothing about real estate or property management, Buster wanted to invest as an absentee landlord. Negotiations went well. Occupancy was at 94% after the first month.

Moldy Mary was one of Larry Landlord's very first tenants. She'd been living in the same apartment, owned by a different series, for about 8 years. A few years previously, after a particularly heavy rainstorm, she'd noticed water spots on her walls and a peculiar smell in her bedroom. The next day, Larry Landlord's maintenance crew arrived, replaced a section of roofing shingles as well as some interior sheetrock.

Fast forward to 6 months later. Mary got sick. Really sick. So did her husband and three kids. Medical bills exceeded insurance limits. Neither spouse could work and lost their jobs. The entire family was forced to leave the apartment and move in with relatives.

But to prove a point, when the family contacted Louie Litigator, lawsuits were filed the same day. Multiple, massive lawsuits. Fortunately for Larry and Buster and all other members (including those who owned Mary's series), the SLLC was on their side.

Based on every legal protections provided to the Delaware SLLC structure the following are true:

1. The members of the series who own Mary's apartment have no exposure beyond their investment.
2. The very specific language of statutes and growing legal precedent will not threaten the assets Buster or Larry or all other members of any and all other series (or Larry Landlords, (S)LLC).

HOW STATES DIFFER

Overview

After going through this book, you should know why the Series LLC is beloved by investors and business people for its versatility and broad range of benefits. However, it isn't a universal structure yet. Not all states allow in-state formation of Series LLCs. Below, we'll go over which states do not permit Series LLCs. We'll also tell you what you can do if you live in one of those states. Don't worry—you can still form a Series LLC even if the formation of a SLLC isn't permitted in your state.

States that Offer Series LLCs

The Series LLC was initially pioneered by Delaware, a famously pro-business state. Even today, Delaware remains a popular state for entity formation. Other states followed in Delaware's footsteps, and today you can get a Series LLC in Texas, Tennessee, Utah, Nevada, Illinois, Oklahoma, and Iowa.

Though not technically a state, residents of Puerto Rico also have the option to form a Series LLC without ever leaving the island.

States that Don't Permit Series LLCs

As of this writing, the only state that doesn't allow the formation of an in-state Series LLC is California. California has specific and strict regulations governing business in general, and there is currently no such thing as a California Series LLC. Traditional LLCs are common, as are other types of entities and agreements. We've written about special considerations for California real estate investors before.

If your state doesn't offer a Series LLC, don't slam your hand down on the panic button just yet. There's a way to get around the restrictions of your location, easily and 100% legally.

How to Form a Series LLC From Any State

Fortunately, your Series LLC doesn't have to be formed in your state of residence. This means, provided you're a U.S. citizen, you can form an out-of-state Series LLC.

The following are the most popular states for forming a Series LLC:

- Delaware
- Texas
- Nevada

Each of these options comes with specific operational, judicial, and tax benefits. Which option will be best for you depends on which features and perks you'll get the most out of. For more details, refer to our article on the best states for forming a Series LLC.

After you've selected a state and formed your LLC, you will be able to register the company with your state of residence. Even California allows its residents to register a Nevada or Texas Series LLC and conduct business within California. Of course, these laws will vary based on where you live. Each state will have its own regulations that dictate what you and your company must do to be in compliance with the law. You can get an idea of what you'll need to do by doing some basic research online.

However, the wisest course of action is to seek the guidance of an attorney with experience in entity formation, and ideally, experience with Series LLC in particular.

Alabama

Entities form the basis of asset protection plans. With all of the advantages a Series LLC offers real estate investors, it is only natural to wonder if your state offers this option. But that isn't the only factor to consider. Here you will learn more about taking advantage of the Series LLC as an Alabama investor.

Does Alabama Offer a Series LLC?

Not every state offers its own Series LLC, nor are all Series LLCs created equally. Alabama began offering its Series LLC in 2017 with the passage of updated LLC legislation.

That said, Alabama's Series LLC is a newer entity that is less established, which may give some investors pause. Further, Alabama investors are not confined to using the Alabama Series LLC. In fact, there is no particular advantage to doing so. Other jurisdictions, however, provide Series LLC options with known benefits.

The Texas Series LLC has existed since 2009 and has proven to be a useful tool for investors across the country. Some advantages of the Texas Series LLC include a low, one-time filing fee, the lack of a state income tax affecting the LLC structure, charging order protection, and more. The Delaware Series LLC is another excellent option. Some investors opt for the Delaware Series LLC for the tendency of the state's court systems to treat these entities favorably. Fortunately, both of these options are available to Alabama investors.

Alaska

In this section you will learn more about what the best options are for Alaskan real estate investors hoping to take advantage of the Series LLC.

Is There Such Thing as an Alaska Series LLC?

At the time of this writing, Alaska does not offer a Series LLC. Alaska, like all other 49 states, does offer a Traditional LLC, but we do not recommend that owners of multiple properties rely on the Traditional LLC alone for asset protection. Those who do are risking all of their properties in the event of a lawsuit–a problem the Series LLC can help you avoid.

However, just because you reside in Alaska does not mean that you are not stuck with the Alaska LLC as your only asset protection option.

How Real Estate Investors in Alaska Can Take Advantage of the Series LLC

There is some good news: real estate investors in Alaska can still have a Series LLC. In fact, an investor in any state can always form a Series LLC in a jurisdiction that does allow for one. We do, however, have some preferences and recommendations about the best states for forming Series LLCs.

Both Texas and Delaware offer Series LLC options that offer some of the greatest protections of any of the Series LLC entities in the country. Both the Texas Series LLC and Delaware Series LLC are low-cost entities that an investor can take advantage of, regardless of where they live or which states they own property in. You never have to even have set foot inside the state where you form your new entity to reap the Series LLC's many benefits.

California

For most real estate investors, experts recommend you consider investing through a series limited liability company (LLC). However, in the state of California, you should consider using a Delaware Statutory Trust (DST) instead. Why? Let's take a look.

The Series DST

DSTs are not new. A DST is considered to be a statutory entity. As such, it is created through filing a Certificate of Trust with the Delaware Division of Corporations in addition to paying any regulatory fees required by the law. However, Delaware does not require the actual trust agreement to be filed. This means the trust's owners, duties and responsibilities remain confidential and do not appear on any official state documents.

The Benefits of a DST

For California real estate investors in particular, the DST is highly beneficial.

- Avoid unnecessary state penalty taxes: California has been notoriously uncooperative with attempts to bring outside LLCs and Series LLC into the state. In fact, while most states permit outside Series LLCs, California will charge you $800 for each series, every year. Depending on the amount of properties you invest in, or the profits or losses you incur, this sum can add up quickly.
- Disregarded entity: The Internal Revenue Service (IRS) recognizes certain businesses as "disregarded entities". To qualify, your business must abide by three rules. First, the DST must have only one owner. This is because the IRS only recognizes "sole-proprietorships" as a disregarded entity. Second, the business itself must be separate from the individual. This is for liability purposes. (We'll talk about how this applies to a DST below.) Third, the business is taxed through your personal taxes (Schedule C). The DST abides by all three rules and, therefore, is considered to be a disregarded entity by the IRS.
- Unlimited compartmentalization: For many investors, the Series LLC offers a seemingly unique opportunity to protect investments. However, a DST can offer this same protection. A series DST allows you to establish one, "parent" trust. Beneath it, you can create an unlimited number of "child" trusts as well. Most

experts will recommend that you put each investment property into a separate "child" trust to ensure all liabilities are self-contained.
- Anonymity assured: As stated above, with a DST, your identity is not published when the trust is filed with the Delaware Division of Corporations. (To do this with a Series LLC, you first need to establish an Anonymous Land Trust.)

Asset Protection with DST

You may wonder how a DST helps to protect your real estate investments from lawsuits. This is where the DST really stands out. In addition to complying with California and federal tax laws, the DST provides you with an innovative legal barrier that can prevent a lawsuit before it even makes it into court.

Above, we talked about how the DST provides you with unlimited compartmentalization and anonymity. These two features inherently discourage lawsuits. When you invest in each property through separate "child" DSTs, you restrict the finances available for a court settlement. Like a Series LLC, the DST wraps each property in a liability barricade. Any lawsuit brought against one property can only take into account the value of that investment. Your personal assets, and those that are contained within other "child" DSTs, are untouchable. (As a general rule of thumb, most lawyers will not accept a real estate lawsuit that will not settle for $50,000 or more. In this sense, the DST discourages lawyers from accepting a case against you.) However, because of the blanket of anonymity created through the private nature of a DST itself, a lawyer may refuse a case against you outright. After all, to build a legal case against you, the lawyer would first need to identify who you are. The legal anonymity established with the DST makes this incredibly hard, and often, not worth the time for a lawyer to pursue.

When you combine the reduced net worth of an investment owned by a "child" DST and the difficulties of an anonymous owner – the majority of lawsuits end before you ever have to step foot in a courtroom.

Colorado

For real estate investors in Colorado, asset protection can help prevent lawsuits. If you are new to real estate investments, you may have considered using a limited liability company (LLC). While an LLC is a good first step, real estate investors in particular should strongly consider the use of a Series LLC.

How a Series LLC Works

A Series LLC has a “parent-child” structure. It starts with the formation of the parent LLC. From there, you can form as many “child”, or series, LLCs beneath it. For real estate investors in Colorado, this is important because of the limited liability protection it provides for each investment property.

A Series LLC is easy to file. Unlike filing for separate LLCs for each property, a Series LLC only requires the initial filing of the Articles of Formation with the appropriate governing entity. (In most states, this document must specifically state that additional series are permitted as needed.) As you add a Series LLC to the chain, you would simply amend your master operating agreement instead of repeatedly having to file a new Articles of Formation document.

Why File a Texas Series LLC

Not every state allows for the formation of a Series LLC. However, most will allow a Series LLC from another state to file as a “foreign” entity and permit it to do business within its borders. While Colorado will allow you to form a Series LLC, filing a Texas Series LLC may be a better choice.

While filing a Series LLC in Colorado is possible, we ensure you can maintain your anonymity and further protect yourself from lawsuits. We know anonymity is vital to lawsuit prevention. Why? Because a lawyer has to find you first before they can file a claim against you. To do this, it is extremely helpful to file an Anonymous Land Trust that will act as your Texas Series LLC owner. Because of the inherent nature of a land trust, your name is never publicly filed in association with your trust or Series LLC. You can then use our Texas address for any legal paperwork, which provides yet another legal layer of protection.

Connecticut

There's no denying that citizens of Connecticut are innovators, with nearly 400 years of history dating all the way back to Colonial times. While most Americans are aware the state is deeply interwoven with early American history, the actual achievements of the Constitution State are not always recognized. After all, Connecticut is both one of our original 13 colonies and home to both the world's first telephone book and the world's first nuclear submarine. So we know not to underestimate the sheer brainpower and drive of our Connecticut REIs.

Here's the real skinny on the Series LLC for Connecticut real estate investors.

Is There a Connecticut Series LLC?

Connecticut has yet to join the club and adopt the Series LLC. They've held out on this issue while 17 other states and Puerto Rico adopted their own. We're not surprised to see the state that Colt Firearms calls home resisting, but you can still have your entity.

Fortunately, neither your hands or finances are bound by your state's borders. You can form your Series LLC in any state that permits one.

What's the Connecticut Investor Who Wants the Series LLC to Do?

Recall the state motto of Connecticut: "He who is transplanted still sustains." Well, in the case of real estate investing, the individual who willingly transplants their real estate company to another state. Just because you live or own property in Connecticut does not mean that you are stuck there legally. You're a United States Citizen, so enjoy that freedom and wander into a better jurisdiction for real estate investors and business owners.

You, like any investor, can actually select the Series LLC of your choosing based on the benefits that are available in your chosen state of formation. Studying some of the Series LLC options can be helpful in making this decision.

What Are the Connecticut Investor’s Series LLC Choices?

So of our current Series LLC choices, which ones are the best for you?

At the time of this writing, we consider these states to some of those we advise investors to consider for their Series LLC formation include:

- Texas. State-level income taxes are common, but Texas doesn’t. From an asset protection view, it’s a strong choice. Enjoy the savings and the other pro-business legislation the Lone Star State has to offer.
- Wyoming. Though a newer kid on the Series LLC block, Wyoming boasts strong asset protection laws. You’ve got added anonymity too, as there is no requirement to record names of members or managers on the public record.
- Nevada. The state has fewer legal requirements for LLC owners generally, and like Texas also doesn’t charge income or franchise taxes. The state offers investors flexibility in operations and strong laws modeled after our final state, Delaware’s Chancery Courts.
- Delaware. The granddaddy of all Series LLCs. Delaware was the first U.S. state to codify the Series LLC into the ordinary LLC legislation we’d find in every state. Not only did Delaware pioneer the Series LLC, but they also have business-specific courts (where judges are all business law experts) called Chancery Courts. They have a reputation for being friendly, but not biased towards, business owners.

Research these states, and compare their benefits and drawbacks. Of course, a legal professional familiar with asset protection will be best suited to help you, but coming in with ideas can save time and money.

Delaware

As a refresher, the concept of a Series LLC (Limited Liability Company) was created by the Delaware Legislature back in 1996. It's still considered the "granddaddy" of a hybrid "parent-child" (or a brood of children) business structure in use today.

The structure boasts many benefits. Asset protection may be the top priority among many participants and of special appeal to both rookie and professional real estate investors alike. Additional advantages include anonymity, simplicity, and flexibility.

As we described at the beginning of this book, this legal innovation is a business model unique among sole proprietorships, partnerships, corporations, non-profits or any other LLCs. But it does share similarities to all other organizational structures.

Your Delaware Series LLC Is Like a Honeycomb

Consider the beehive and honeycomb analogy from earlier. In a Series LLC (SLLC), one master entity (the honeycomb) includes as many or as few "cells" as the "members" of the colony decide to create. Each is independent, or each can be codependent. The extent of the relationship is determined solely by the bees (investors, members, "owners").

Ignoring all the other potential advantages and benefits of an SLLC, the focus here is on minimizing or avoiding tax liabilities by legally exploiting local, state, and federal regulations. But before we start, a few ground rules:

1. There are no residency requirements for members. While increasing legislation in 16 states, D.C. and Puerto Rico – with much more on the horizon – has adopted some version of the original Delaware Model in the past few years, there is no residency requirement for participation as Founders or Members. This is true whether the business, entity or individual is based in another state, territory, Canada, or Antarctica.
2. Tax concerns are complex and ever-changing. There are innumerable municipal/local taxes, over 3,000 county taxes, 50+ state tax categories (fuel, sales, excise taxes, as well as "fees, assessments and levies" and hidden costs in the conduct of business and investment. The "smoke and mirrors" continue in dealing with the IRS, where the average effective or, "Actual Tax Rate" (ATR) is not 35%…more like 22%.

3. These are just the basics. The following overview is not, cannot be, anything but an outline of considerations. We always recommend discussing your individual circumstances and objectives with experienced experts who specialize in the field of SLLCs and tax planning.

But, understandably, most folks pay most attention to the impact that the IRS makes on net revenues and income. Since the feds are the biggest and most commonly shared threat to putting money into the bank, let's focus on the 800-pound bear in the room.

Uncle Sam's View of Series LLCs

Think of the Taxman like a bear who wants to raid our beehive. Maybe it's a "chicken or the egg" paradox, but regardless of the money ("honey"), the bees and the entire beehive suffer when the IRS gets involved.

The good news is that Papa Bear/Uncle Sam has consistently issued letters, opinions, and directives that incorporate language in support of protecting the legal rights of SLLC's and their participants. Even with those cases wherein the treatment of each series was not at issue, U.S. Tax Courts have classified each series as a separately-regulated investment company.

Although the case at hand involved a "trust" participating in a "series trust," the message was clear in creating solid steel walls, rather than just wax, between each cell of the honeycomb. Whenever well-documented accounting procedures, a clear Operating Agreement, and sound business practices support the integrity of an SLLC, any and all tax benefits are due the participants.

While banks, insurance companies, statutory entities (or those owned by any government or political agency) cannot be registered as an SLLC, the IRS itself has stated that, "Generally, LLCs are not automatically included in this list, and are, therefore not required to be treated as corporations." In other words, any LLC can file the right tax form to elect their business classification. Further provisions allow for changes of category, with 75 days notice.

Moreover, unlike most other business structures, multiple options are available to taxpaying members. Each can choose independent classifications as a non-profit, corporation, individual or as part of the "parent" LLC itself. "Check the Box" and "pass-through" returns are options available to all, as mandated by state and federal law.

With the advance guidance and advice of experts during the planning stages, individual circumstance allows for individual strategies, regardless of fellow members' decisions.

Constitutional provisions require other states to give, 'full faith and credit" to taxpayers who reside elsewhere. If the legal entity is domiciled in, for example, Texas or Delaware, then Connecticut and Wyoming are obligated to honor the controlling tax laws of sister states. As the popularity of SLLCs continues to grow exponentially, lawmakers and taxing agencies have been hard-pressed to maintain the pace. At the same time, such states as New York (through its Department of Taxation and Finance) has already issued the opinion that, "… for the purposes of personal income tax, all of the series will be treated as 'partnerships', which the authors interpret to mean that each series is to be treated as a separate LLC."

We'd be lying if any claim were made that there is a universally-applicable "silver bullet" or magical solution to the tax ramifications of any investment or enterprise. One size does not fit all. But no matter what your federal tax bracket, your local and state tithes, may be—whether building your 1st home or investing in a casino on the Las Vegas Strip, even if you've owned a "mom & pop" family business for 3 generations—SLLC's are worth exploring.

Do the homework. Consult experienced experts who specialize in SLLC law and tax planning. Protect the honey.

Series LLC for Investors in Delaware

Investors in the state of Delaware are fortunate to live in one of the best states for forming a Series LLC. This famously pro-business state is a wonderful place to form a Traditional LLC or Series LLC. For real estate investors in Delaware, the Delaware Series LLC provides more protection while also boasting some benefits that Series LLCs formed in other jurisdictions do not.

About the Delaware Series LLC

Since Delaware pioneered the Series LLC, other states have looked to Delaware's legislation when creating their own Series LLC options. The entity has stood the test of time, and today the Delaware Series LLC remains one of the strongest asset protection tools available to investors nationwide.

Advantages of the Delaware Series LLC

The Delaware Series LLC confers the many benefits that characterize Series LLCs generally. All Series LLCs offer a unique way to limit liability, protect the equity of your assets, separation of assets, flexibility with tax treatment, and a mechanism for concealing your assets from prying eyes. You can learn more details from our previous piece on the benefits of Series LLCs for real estate investors.

There are, however, certain benefits that are specific to the Delaware Series LLC. Some of these benefits include:

- Low-cost single filing fee. Filing a Series LLC in Delaware costs only $300 at the time of this writing. This fee does not change based on the number of series within the entity.
- Lower tax costs. The Delaware Series LLC must pay a franchise tax annually. However, at only $300, this is a relatively inexpensive in-state tax. While states like Texas may have no in-state tax at all, states like California would require $800 per Series. The Delaware Series LLC will pay the same $300 regardless of the number of series, just like its filing fee.
- Judicial benefits. Delaware uses a Chancery Court. The Chancery Court's judges are specifically experts in business law. The Court has a reputation for providing fair rulings in keeping with the state's pro-business reputation.
- Clear legislation. State law in Delaware specifies the Delaware LLC's asset protection benefits–including the insulation of assets and liabilities within and between Series. Similarly, Delaware law has clarified that Series may sue or be sued, enter into contracts, and hold title to real estate assets without exposing the entire structure.

Florida

Real estate investors get excited when learning about the benefits of a Series LLC for real estate investors. Florida investors are no different, and often first want to know whether there is a Florida Series LLC. Continue reading to learn more information about the best way to establish a Series LLC as an investor in Florida, which entity structures may be most useful to the Florida-based real estate investor, and more details about protecting your rental properties with a Series LLC.

Is There Such a Thing as a Florida Series LLC?

At the time of this writing, Florida does not currently offer a Series LLC. But this does not mean you are forced to pick from Florida's entity offerings. Investors can actually pick which State's "rules" they'd like to play by when they select which state to form their entity in. Naturally, this leaves many of you wondering which State is best for the Florida investor.

Out-of-State Series LLCs Offer Solutions For Florida Investors

If you know the Series LLC is likely to be the best entity for you, take heart in the fact that you can form one outside of Florida. Why limit yourself to in-state details when forming elsewhere could save you thousands?

The Texas Series LLC is an ideal solution for many investors. You don't have to own property, nor ever even travel to Texas to use a Texas Series LLC. While we all know that the Series LLC is inherently beneficial, here are some perks that are special to Texas's Series LLC.

- Cost savings. Your fees are limited to a single filing fee with a low rate of $300, which is among the cheapest in the country.
- Tax savings. Everything is bigger in Texas, except our state income tax. That's because the State of Texas does not have a state income tax. Moreover, Texas does not tax your Child Series, or even your business annually as other states may with a Traditional LLC. Come business tax time, your main job is to file "no taxes due" with the State's Comptroller, which is about as easy as taxes get. Our firm can even take care of this service for our Legal Concierge subscription clientele.

- Operational perks. If you're using a traditional bookkeeping system, you can carry on business essentially as usual. We've had clients run their records with a simple Excel sheet and attention to detail.

While the Texas Series LLC is our first choice for Florida investors, you may also take the time to research the Delaware model. It is similar in protections, albeit a bit more expensive for many investors as the state does have an income tax.

Maryland

Maryland is a lovely and lush state full of natural beauty and honest, hard-working people. Our Mariyland investor friends often write in with their questions about their best real estate asset protection options. Perhaps they already know that most REIs can benefit from the Series LLC, or they're trying to figure out whether Maryland offers a Series LLC.

Is There a Maryland Series LLC Option for Investors?

Unfortunately, Maryland investors cannot yet use a Maryland Series LLC for the simple reason that it doesn't exist. Just under 20 states currently permit the Series LLC, and Maryland isn't on the list. But you've got no reason to fret: you can still have your Series LLC.

Which Series LLC Is Best for Maryland Real Estate Investors?

Fortunately, the Maryland investor isn't bound to playing by Maryland's rules. One of the beautiful things about the American real estate industry is that you can choose which state's "rules" you don't mind playing by. We've gathered up a few of our top choices for Series LLCs for your convenience. Here are some of the states whose rulebooks we like:

- Texas. Easy, cheap formation. No state-level income taxes on your business. Some save thousands by picking states with this feature.
- Arizona. Their Series LLC has operational perks that help some investors.
- Delaware. They pioneered the Series LLC.
- Wyoming. A recent addition to states offering Series LLCs, and dirt-cheap in mid-2019.

Any of these states will deliver a fine Series LLC, and then it's your responsibility to use it correctly.

Massachusetts

Real estate investors in Massachusetts always want to know whether their state offers the Series LLC first. Here, we'll go into greater depth about the best ways for you to form your Series LLC as a Massachusetts real estate investor.

Can I Get a Massachusetts Series LLC?

Massachusetts currently has no Series LLC legislation. An understanding of how a state adopts a Series LLC may be helpful. Like all LLCs, the Series LLC is controlled at the state level. All fifty states, including the Commonwealth of Massachusetts, offer a Traditional LLC. So typically, when a state adds a series option, all they need to do is incorporate the Series LLC and the rules it must follow into their existing LLC legislation.

Massachusetts hasn't, but that's okay. One of the beautiful things about the Series LLC is that if your state doesn't offer it, or you don't like your state's rules, you can play by a different state's rules instead. Let's dive into that a little more.

The Texas Series LLC: The Smart Solution for the Massachusetts Investor

No matter where you live, you always have the option to form a Series LLC elsewhere. A Series LLC is as strong as the state it's formed in, precisely because the state laws discussed above determine how well the entity protects your assets. Fortunately, we've gone ahead and done the research on all fifty states, and of course, their pros and cons.

This research and our years of experience forming and implementing the Series LLC in a real estate context have shown us that the Texas Series LLC is generally the best option for Massachusetts investors. Considering you have your pick from the entire country, why not go with the best?

The Texas Series LLC is dirt-cheap, with one filing fee of $300 and no state income tax. Texas has some of the mightiest asset protection laws in America and strong charging order protection. All that's on top of the fact that it's the last asset-holding entity you'll need to buy, since you can add assets and grow indefinitely. It's convenient, too.

Nevada

The Series LLC is a flexible structure that is fortunately accessible to real estate investors all over the nation. While the option is not yet available in every state, investors may choose to form Series LLCs out-of-state. Of course, it's natural to wonder whether your state offers setting up an in-state Series LLC as a Nevada investor.

Does Nevada Offer a Series LLC?

Nevada is indeed among the states that offer a Series LLC. The state began offering the Series LLC with changes to its LLC legislation in 2005. Nevada is a great state for forming a Traditional LLC as well, as it has strong protections for Traditional LLCs that we have written about in greater detail before.

Series LLC Alternatives for Nevada Investors: Texas and Delaware

While Nevada has its own option for Series LLCs, it is important for investors to recognize that the Series LLC can be stronger or weaker based on the jurisdiction it is formed in. For this reason, it is smart for investors from Nevada or anywhere else to fully examine out-of-state options as well.

While it is true that Nevada's LLC options are certainly better than average for the United States, it can be enlightening to compare it to another pro-business state's offering. We have found in our professional experience that the Texas Series LLC is a great option for investors nationwide. This entity is freely available to any investor, including Nevada real estate investors, to use.

The Texas Series LLC may offer these and other advantages:

- Cost savings. Texas requires only a single filing fee of $300.
- Fewer fees. Our firm arranges Texas Series LLCs so you won't even pay foreign registration fees by using trusts.
- No state-level income tax.

Delaware can also make a great choice. If you study the Series LLC, you will quickly learn it has a strong history in the state. Delaware also makes use of Chancery Courts, which are overseen by judges who specialize in business law. The judicial benefits of Delaware Series LLCs make it a popular, and smart choice.

When deciding where to form your entity, always ask about taxes and fees you may owe. A wise investor can easily make a pro and con list about their desired state of formation to aid in decision making. As a bonus, this is also a great way to come up with questions to ask your attorney.

New York

Here we'll go over more about whether there is an in-state Series LLC option for New Yorkers, which Series LLC options will likely be best for the New York investor.

Is There a New York Series LLC Option?

State law will provide whether a certain state has a Series LLC option. While all states have some form of Traditional LLC that you can form within its borders, the State of New York does not have a Series LLC offering. However, this does not mean that New York investors are limited only to the New York LLC. Investors in New York may still take advantage of a Series LLC. All they must do is select one formed in a different state.

Out-of-state Series LLCs for the New York Investor

Fortunately for the New York investor, there is nothing stopping you from forming a Series LLC in a state that does permit one. This entity offers separation of assets, flexibility with tax treatment, creditor protection, and more. But not all Series LLCs are created equally. You want a Series LLC that is cost-effective with strong legislation to back it up.

We have written in the past about which are the best states for forming a Limited Liability Company, and the information in that article holds true for the Series LLC as well. Of the states that do offer Series LLCs, we tend to recommend the Texas Series LLC for investors all over the country. You need not own property, nor ever even have been to Texas to take advantage of this entity. Some benefits specific to the Texas include:

- A low, one-time filing fee. Regardless of how many Series entities you have, your Texas Series LLC will only cost $300 to file.
- No state income tax. Series LLCs formed in other states may be subject to franchise and other in-state taxes. This is not the case with Texas. Your only obligation is to file "no taxes due with the State's Comptroller once annually for your business–you don't actually pay anything in taxes.
- Operational perks. The Texas Series LLC works effectively with the traditional bookkeeping methods you are likely already using.

For those who want a second Series LLC option, the Delaware Series LLC offers similar benefits and some others. Although the State does have an income tax, this tax is fairly low at only $300 per year and the Delaware Series LLC also confers some judicial benefits.

Ohio

Here will give you the very basics on what you need to know about setting up a Series LLC as an Ohio investor. We will go over in-state and out-of-state options, while answering some frequently asked questions and providing tips for how you can get the help you need from your paid professionals.

Is There an Ohio Series LLC?

Each state has its definitions about which entities may be formed within its borders. Ohio is not yet among these forward-looking states. Whether this will be the best entity for you will depend on a variety of circumstances, both personal and business. There are good reasons for the Ohio investor to form a Series LLC out-of-state.

Sometimes these reasons are obvious, such as cost. Ohio investors may want to form out-of-state is to take advantage of the stronger asset protection laws in other states or to make use of certain types of trusts not allowed by Ohio law. To help you understand your option, below we will compare the Ohio Traditional LLC with its counterparts from other states with forgiving LLC laws for investors.

Series LLC Options for Ohio Investors: Texas and Delaware

Although Ohio is a great state for forming a Traditional LLC, we recommend the Series LLC for asset protection. There's a danger to "pooling" multiple assets into one Ohio LLC. If that LLC is ever sued, everything in it is vulnerable to seizure.

The Texas Series LLC is an ideal solution for many investors. You don't have to own property, nor ever even travel to Texas to use a Texas Series LLC. While we all know that the Series LLC is inherently beneficial, here are some perks that are special to Texas's Series LLC.

- Cost savings. You pay the state once to file, but have the luxury of having as many Series as you like. Texas's $300 filing fee is on the very lowest end of the price spread for the country at the time of this writing.
- Tax advantages. Texas has no income tax, so your only duty for Tax Season will be filing "no taxes due" with the State Comptroller. At Royal Legal Solutions, we offer a subscription service where we take care of this part for you.

- Use of Anonymous trusts in conjunction with your Series LLC is possible for greater asset protection.

Delaware offers similar benefits, but is more expensive.

Texas

The Lone Star State is a great place to live, love, and work. In fact, we like this state so much that our firm is based deep in the heart of Texas in Austin. If you've lived in Texas long enough, someone has inevitably told you about how everything is bigger here. It just so happens that the same is true of Series LLC benefits.

Texas Series LLCs Are Among the Strongest

The Series LLC isn't universally structured. The entity is defined and legally controlled at the state level. In fact, not all states have Series LLCs. But Texans are fortunate to have a local option for the Series LLC. If you live in Texas, you won't need to pay any additional fees that non-Texan investors would expect.

How Does the Texas Series LLC Benefit Real Estate Investors?

We think this entity kicks ass for a few reasons. Here are just a few of our favorites:

1. Texas Series LLCs are protected by strong state laws. You can't be held liable for the actions of your LLC and vice versa.
2. Forms the core of your asset protection plan by limiting liability and compartmentalizing your assets into Series.
3. Stops lawsuits dead in their tracks. You don't own assets. The entity you control, your Series LLC in this case, does.
4. Streamlines business dramatically. Organizing and bookkeeping is simple, too. You can normally keep doing whatever you were before.
5. No special requirements for meetings, minutes, or other red tape.
6. No state income taxes–at all! You'll have to let the Comptroller know once a year that you have "no taxes due."

Get Your Texas Series LLC Sooner Rather Than Later

If all of this sounds fantastic to you, we advise proactivity. So even if you're brand new to investing, it's not too early to start constructing your asset protection plan. We've said it before and we'll say it again: the law truly favors the proactive. If you wait for a lawsuit threat to strike, it’ll be too late to get your assets into the safety of the Series LLC structure.

Utah

Utah has scenery that we can confidently call serenity embodied. Whether you reside (or invest) in the bigger cities, near the brilliant Great Salt Lake, or in one of the state's many tranquil rural areas, we absolutely understand the appeal of the Beehive State. Investors in Utah have multiple options when it comes to protecting their real estate assets, including their in-state Series LLC. Those of you who want a Series LLC often want to know if the Utah Series LLC is always best for Utah investors. The answer is "not necessarily," because it depends on the investor. Utah investors aren't forced to use Utah Series LLCs. Learn all about picking Series LLCs for Utah investors in this quick explainer.

How Does Utah's Series LLC Compare to Other States?

The Series LLC is an entity you can form in over a dozen places, including Utah. As we have already told you, you have the freedom to travel wherever you like to form a company. And you don't even have to physically travel to your destination state, so long as your signature on paperwork does. It can help to seek legal counsel with a presence in your state-of-formation–but an attorney in Utah may still help you form Series LLCs in other states. If one lawyer won't or can't, another can and will.

You can even ask your attorney their opinion on our favorite states for forming the Series LLC. In order, we're big fans of:

- Texas.
- Delaware.
- Wyoming.
- Arizona.

These are our top four picks as of Summer 2019, although investors should recognize that the law is always evolving. Changes in law can add more states to the pool of selections, change how a state's Series LLC works, and cause many other rapid developments that change the legal landscape. It's always best to check with someone qualified and aware of your personal situation before establishing any company for asset protection. Even if you don't have a lawyer, you can get a consultation with one.

How Can Investors Pick The Best Series LLC?

Picking the best Series LLC will depend on you doing several basic things:

1. Performing good research. Of the above four options, can you think of your personal pros and cons for each? If not, keep digging for more information about these Series LLC choices.
2. Getting professional help. Only a lawyer can establish a Series LLC for asest protection, assist you with the necessary paperwork and property transfers, and give you personalized advice. If you want your Series LLC to do its job, an attorney's your best bet.
3. Making good judgments. What does your business need most? If you save loads by skipping on state income taxes, focus on states like Texas that lack it. Strong asset protection laws are also found in Texas and the other states above, but of course they vary. Which protections matter most, and where do you think your business should be based out of? Essentially, you're going to pick which rules you'd like to follow.

If you do those three things, you are ready to move on to establishing your Series LLC. The same is true if your attorney says it is, because above all, that's your point person on Series LLCs for real estate asset protection. When in doubt, ask for help. Until then, enjoy your new Series LLC and the freedom from worry about lawsuits. Life is calmer once you're protected.

Virginia

Where you live certainly can influence your Series LLC options, and which states you should consider forming your company in. If you plan to use a Series LLC holding company, you may have in-state options–but whether these are worthwhile, let alone your best, is a decision that must be made with the help of an attorney.

The truth in Virginia is the same as everywhere else. In reality, the Series LLC for Virginia investors offers many benefits and can take many forms.

Is the Series LLC Offered in Virginia?

The Series LLC isn't ubiquitous by any stretch. Not all U.S. states have legislation defining this entity, therefore many investors will necessarily form beyond their state's borders. This is a common, valid, and safe strategy.

For Virginia investors, the first question is typically whether there is a Virginia Series LLC. In short: no. But you need not be confined simply because your state's business legislature has yet to get with the program.

Which Series LLC Structures Are Great for Virginia Real Estate Investors?

Let's just begin with the assumption that the Series LLC will be helpful to you, either now or in the future. It is for essentially any investor who has multiple assets or plans to scale up over time. You still have some choices to make.

You can choose which state's "rules" you'd like to play by. We have some pretty well-known opinions on the best states for forming LLCs, but will elaborate a bit here with the Virginia real estate investor in mind.

- Texas Series LLCs are highly useful entities for investors in most states, including Virginia. Some basic benefits include no state income tax, a single low, one-time filing fee, and the availability of legal support services for this structure.
- There is no particular benefit to forming an entity within Virginia unless you only intend to hold a single asset within it or use it as a shell company. In these cases, speak to a lawyer about your plans to ensure your goals will be met. A chat with a CPA may also be prudent.

- Take a look at the options in other states to compare. California, for instance, will be far more expensive than say Texas, Nevada, or Wyoming. But understand that Series LLCs are not universal. Delaware is a state that has a strong, legally protected option as well. Formation anywhere is possible but you may have to pay registered agent fees. Given how affordable these are, most investors don't mind for the peace of mind of not having to worry about lawsuits. An in-state registered agent can be accomplished for a low monthly or annual fee.

Weigh your options, and above all, get the opinions of the experts you trust most.

Virginia Investors: Get the Series LLC That Is Right for You

Your Series LLC should above all be tailored to you and formed with the assistance of a qualified real estate asset protection attorney. If asset protection is even a partial motive in setting up your company, it's best to work with an expert. In the meantime, you can always educate yourself. We like educated clients, and find investors who are more informed about the structure advocate better for themselves as well.

Washington

Whether you're in the big city of Seattle, overlooking the Puget sound, enjoying the highest quality-of-life in America on Bainbridge Island, walking past the wildflowers of Burien, or somewhere else amidst the greenery, there's no shortage of beautiful views and beautiful homes in Washington State. So the Washington investor is often a sophisticated, intelligent one–the kind of investor who not only knows they need asset protection, but is pretty sure they need a Series LLC. It's safe to say you're highly intelligent folks, and we'll address you as such. So Washington investors, please enjoy your personal guide to using the Series LLC for real estate investing.

Does Washington State Have a Series Llc?

Washington is not yet among the states to adopt Series LLC legislation. That means there's no such thing as a Washington Series LLC. The state does, of course, have Traditional LLCs available if you're determined to get a local entity. But if you want to get a Series LLC, you'll have to play by the laws of a different state. But don't worry, we'll show you how.

How Should Washingtonian Investors Defend Real Estate Assets?

No matter where you live, asset protection strategy stays the same. You need to compartmentalize your assets and maintain your anonymity, and you can use a variety of legal tools as a means to this end. The ideal asset protection plan accomplishes both of these goals.

The Series LLC is a critical component of such a plan because it allows the investor to compartmentalize and grow without extra expense. The good news, Washington investor, is that you get to take your pick of any of these great states for forming LLCs:

- Texas. Come on down to Texas for low formation fees, no state income tax, and rock solid asset protection laws.
- Delaware. If you're committed to staying in the North, Delaware did originate the Series LLC. It's pricier than TX to maintain, but you do have advantages like the special Chancery courts, which are presided over by business law expert judges. It's a pro-business state, for sure.

- Wyoming. As of Summer 2019, Wyoming's one of the newest Series LLCs that just happens to be among the cheapest. Its laws are modeled after other states with strong asset protection legislation.

Really, you can pick any state. But we recommend Texas above the rest, because that's the place to go if you want to send this message: don't mess with my assets. The Texas Series LLC is a great solution for the Washington investor with multiple properties, or even aspirations of owning multiple valuable assets. Other businesses may also be placed within your Series LLC structure to protect you from liability issues.

How Do Washington Investors Pick a Series LLC?

You can establish your Series LLC easily. Get in touch with an attorney who has experience forming these entities, let them know exactly what you want, and a competent attorney can lead the way from there. Welcome to the club of real estate investors who can sleep easier at night, never worrying about bogus lawsuits threatening their assets.

West Virginia

Aside from getting to live in "almost heaven," West Virginia investors really do have something special. And we're not just talking about the local real estate markets. From an asset protection standpoint, West Virginia investors also have more options. For instance, did you know that you can use an in-state Series LLC as a component of your asset protection plan? You can also use one from a different state if you choose. So yes, West Virginia investors can have it all when it comes to Series LLCs and asset protection.

Is There a West Virginia Series LLC?

West Virginia joined the club of states permitting Series LLCs fairly early on. They've offered an in-state option that's a decent investment vehicle. At the very least, it's better for investors with multiple properties or those who intend to acquire more than one property. The West Virginia Series LLC is one way you can compartmentalize assets in-state. But it's far from your only option.

You Said West Virginia Investors Can Shop in Other States. How Does That Work?

That's correct, you can. And it's pretty easy. Basically, all you do is a little bit of research. You can use some of our favorite states as a starting point

- Texas. Zero state income tax, strong asset protection laws, ultra-cheap formation fees.
- Delaware. The state that originated the Series LLC craze is still popular for it's famously pro-business legal system and simply being the pioneer in this area of asset protection.
- Arizona. Arizona's benefits are similar to Texas', though at the time of this writing, slightly more expensive to form.
- Wyoming. This new kid on the Series LLC block is proving effective and cheap, with low fees attracting investors from around the country.

The reality is that you can form your Series LLC anywhere, and it doesn't have to have anything to do with West Virginia. If you love your state's offering, go ahead and take it.

But don’t forget to also research these other options thoroughly if you’re really trying to establish long-term lawsuit prevention strategies and effective asset protection.

What Else Should West Virginia Investors Know About Series LLCs?

Aside from your freedom of choice, West Virginia real estate investors should know that the Series LLC is great regardless of where you form it. It allows you to scale up easily, add new “child” series from the comfort of home, and simplify your real estate business’s books and taxes. You can also learn more about how to strengthen your Series LLC with other legal protections such as Anonymous Land Trusts. The strength of this entity may surprise you, but when used correctly, you can also count on it to cover your assets and keep you out of court.

Wyoming

We love hearing from our fellow investor friends in Wyoming for a few reasons. Not only do citizens of the Cowboy State tend to be good, honest salt-of-the-earth folk, but also sharp real estate investors. So it's no small wonder we get tons of questions about the Series LLC for Wyoming investors. It is a mighty entity. Wyomingites, here's your quick and dirty guide.

Does Wyoming Have a Series LLC?

Wyoming is actually one of the newest adoptees of the Series LLC. They became the 18th state to legislate the entity into their existing LLC law in 2018. Big Wyoming has long been known for the powerful protections the state offers Traditional LLCs, and they extend to the Series.

That said, you need not assume that living in Wyoming means a Wyoming Series LLC is your only or best option. You can form your Series LLC in any state that permits one.

How Effective Is Wyoming's Series LLC?

We will admit that here at Royal Legal Solutions we have said we believe some states have better Series LLCs. That said, we haven't always given Wyoming a completely fair shake. People usually ask for our top three picks, and Wyoming being such a new kid on the block has meant this is our first occasion to write in depth about the state's entity. Generally, when folks ask us which three states we like, these are our go-to responses and reasons:

- Texas. Low-cost to form with no state tax.
- Delaware. This state invented the first Series LLC, and well, everyone loves the original. Local protections are strong and investors have stronger chances of being treated by their unique and notoriously pro-business Chancery Courts. Such courts are composed of judges who are experts in business law, presiding solely over business law affairs. Rulings tend to be favorable to investors.
- Nevada. It's also cheap to form in Nevada.

But Wyoming actually offers a very strong Series LLC. State-level asset protection laws are rather investor-generous, meaning it can be considered a top contender for some investors.

What’s the Best Series LLC for the Wyoming Investor?

We believe your Series LLC should be formed wherever serves you best personally. Wyoming investors cannot be generalized. The drawbacks and benefits of a Wyoming Series LLC vs. the alternatives we discussed above will actually vary heavily from individual to individual. What’s good for the REI goose seeking judicial protections isn’t necessarily great for the REI gander who’s content to rely on Wyoming’s strong asset protection laws.

SECTION III: BIGGER PICTURE

Comprehensive Protection

A proper asset protection strategy lets you sleep easy at night even if you are sued. Below, I will share with you the secrets that will let you go about your business as usual even if you're threatened by a lawsuit. With asset protection on your side, you'll barely even worry about the fears that are giving other investors grey hair overnight. After implementing a proper strategy, lawsuits will never even get filed and the problem is gone before it even starts.

Asset Protection for real estate investors is premised on two parts:

1. Isolating the assets for liability purposes inside of a Holding Company and
2. Hiding the assets from being connected to you or the Holding Company.

Additionally, the company structure we use is scalable at no additional costs or fees, streamlines your taxes, can be used in conjunction with traditional financing, and allows for the traditional recording keeping you are likely already using. After it is set up, you won't even notice it's there in your normal course of business.

Which Type of Company Should I Use to Hold My Real Estate Investments?

As we've already detailed in this book, we believe the best holding company for real estate asset protection is the Series LLC. Each series is typically designated with its own letter, beginning with series A. The picture below can help you understand the structure. This means that if a lawsuit is filed against series A, it cannot impact series B, series C, etc. A lawsuit against series A can only affect the assets held in Series A.

In the diagram above, the LLC has three Series. Each Series holds only one property. REI Asset Holding LLC—series A owns a single asset, a piece of Real Property located at 123 Main st. If someone filed a suit over that property, it would not jeopardize the properties located at 456 Main st. or 789 Main st.

Moreover, if there was a lawsuit against the owner of the parent LLC, that lawsuit could only collect against the assets of the owner—not against the assets of the LLC. Lawsuit against the owners of LLCs structured this way can only impact the owner's personal property. We recommend never holding property in your own name. This way, if a lawsuit is directed at you personally, it cannot affect your assets. They are secured inside the Series LLC structure.

How to Stop A REI Lawsuit Before it Even Starts

The Series LLC limits our downside risk in the event of a lawsuit since it limits the maximum amount we can lose, which is only the amount held in the Series. However, limiting the amount of the lawsuit is our last resort. What we want is a protection system that stops the lawsuits before they are ever filed. This can be accomplished in three simple steps.

Step One: Understand What Motivates Real Estate Lawsuits

To stop a lawsuit before it is filed you have to take out one of the three essential pillars of a lawsuit. The essential pillars of a lawsuit, or what attorneys need to make a case worthwhile, are:

- The law,
- The facts, and
- The recovery.

The law and the facts are generally easy to fabricate, and any decent lawyer can find a basis for a lawsuit that will survive summary judgment. The asset protection system we put in my place for our clients attacks the third leg, the recovery.

Step Two: Attack the Recovery Phase

Recovery is the ability to seize assets and get paid after winning a judgment. A judgment is worthless on its own: it's only a piece of paper. Judgments are only as valuable as the assets that can be seized with it. So, before a case is filed, an attorney will always research whether there are assets to seize from the defendant after victory in court. If it appears that the defendant has very little or no assets, then the lawsuit isn't worth the attorney's time and effort.

The vast majority of the time, this piece of the asset protection plan alone stops the suit dead in its tracks. There are rare exceptions, such as when the client coming for your assets is angry enough to spend thousands simply to satisfy personal self-righteous spite. But in the real world, most people aren't willing to drop that kind of cash on rage alone. The wheels of justice really do rind slowly. Lawsuits take months, sometimes even years, to unfold. Anger tends to burn off far quicker.

Step Three: Make The Other Attorney Lose All Hope of Recovery with Anonymous Trusts

To show the opposing side that there will be no recovery from the lawsuit, we hide the assets using Anonymous Trusts. These Anonymous Trusts can own the LLC itself as well as serve as Title Holding Trusts for the real estate asset. The LLC typically must disclose the members of the LLC on the filing instruments called the Articles of Incorporation. However, the member listed on the filing can be an Anonymous Trust. Since the Anonymous Trust is a private document and it is not filed with the state, anybody researching the Owner or Beneficiary of the Trust will be unable to find that information in the public records.

Additionally, anyone researching the owner of the real estate asset by searching the County Clerk records will only find the name of the Anonymous Land Trust. Typically, the property owner's name is listed on the County Clerk's records, but in this case the owner of the property would be listed as the 123 Main St. Trust. Since the owner of Trust and the beneficiary is not registered with the state, they cannot find out that the Series LLC is the beneficiary of that Trust. For more clarity, I refer to the Anonymous Trust used for filing the LLC itself as the "Filing Agent Trust" and the Trust used for holding the real property as the "Anonymous Land Trust". The Filing Agent Trust in the below example is the actual owner of the Series LLC.

Bottom Line: A properly implemented Anonymous Trust and Series LLC structure can give you total anonymity. Your name won't appear anywhere, making even filing a lawsuit incredibly difficult.

What Should I Expect for Tax Planning?

The tax structure with the above entity is typically done in one of two ways depending on the number and type of owners. If the owner is a single individual or a married couple, then the entire structure is a pass-through entity. In these cases, you (and possibly your spouse) simply report the income on your personal income tax return under Schedule E. In cases of unmarried investor-owners, the LLC will need to file a partnership tax return.

Financing inside of a company structure should only be done once traditional personal financing is exhausted. Traditional financing typically has better, cheaper terms than the commercial financing required if the property is purchased directly in the name of the LLC.

Once the property is purchased in your personal name, the property will need to be deeded into the company structure. Deeding the property into the company structure will violate the Due On Sale clause located in the mortgage. However, we have not seen a bank foreclose based upon the Due On Sale clause since before 1960 as long as the payments are made. I hear of lots of threats, but I have not seen any banks actually do it.

How Do I Keep Records and Make Sure My LLC Will Not Be "Pierced?"

There are several things you must do to keep an LLC from being pierced. These include filing franchise tax, having an operating agreement, and managing the money correctly. Where I see most of my clients drop the ball is on money management and record keeping.

The recording keeping for the structure is likely very similar to what you already do for your basic accounting of the investment. For any investment, you need to know the profitability of the particular asset purchased, so you need to have records which reflect the amount of capital invested into the asset, the amount earned buy it, etc.

The Series LLC structure above will require you to maintain the records of each series separately just as if they were separate companies. In many cases, all this requires is for you to "tag" the entries in Quickbooks so that the entry is shown in correlation to the specific company. If you do not use Quickbooks, you can get the job done with an Excel spreadsheet. But be sure to add a new entry any time you add or withdraw money from the bank account for the company. If you forget to do this a few times, it's not the end of the world. You can always go back after and "catch up" on the accounting. Court will allow this as long as it is "reasonable." Nobody expects you to be perfect, but don't abuse it.

Layering in Anonymity

One day you're living life, enjoying the profits from your real estate investments. The next day you're trying to figure out how you got sued. That's life.

One in Four Americans Will Be Sued

According to a Clements Worldwide study, Americans face the greatest risk for being sued. The risk is even higher if you own real estate. Are you willing to roll the dice on your future? Investing in real estate without asset protection is like betting against the house. You might come out on top, but you're more likely to lose everything.

Asset protection was a tool of the rich for generations. Regular folk usually weren't aware of strategies to protect wealth (such as the anonymous trust LLC), or they were unable to afford it. Today these techniques are accessible to everyone, thanks in large part to the introduction of two new legal structures.

The Series LLC Structure

In the past, investors held companies under their name or a single entity. This created a jackpot scenario, where successful litigators could access the person's entire wealth. Savvy investors would spread assets between multiple entities, but creating and maintaining a host of businesses proved too expensive for most.

The Series LLC changed the way assets are held. It makes it possible to spread assets across multiple holding companies, but reduces the filing and management expense to that comparable with a single LLC. After reading this far, you should have a good grasp on the basics of the LLC structure.

The Anonymous Trust LLC Structure

The problem with a Series LLC is that you can still be sued one property at a time. It doesn't make you invisible. This is where an Anonymous Trust LLC comes into play.

Using a trust in this manner allows you to hide the ownership information of your company, including its assets. As a result, plaintiffs are unable to identify you or target you based on whatever juicy assets may be ripe for the picking. That information is invisible.

A Lawsuit Can Affect More Than One Property

Just because your assets are wrapped up in a Traditional LLC doesn't mean you're protected. Unlike the Series LLC, where your assets are spread out individually, a Traditional LLC groups assets into one basket. While there are some legal benefits to a Traditional LLC, it still leaves you vulnerable to attack.

In any case, here's a short list of what you should and shouldn't do.

Asset Protection "Do's and Don'ts"

1. Don't hold property under your name: Individuals have the least protection of any entity. Maintaining ownership status as yourself is the worst possible scenario and leaves you open to the maximum level of risk. A simple mishap, such as someone slipping while on your property and being denied insurance coverage, could result in a devastating legal battle and even wipe out your life savings. It's essential to create a company structure to hold your assets separate. This will make your legal person litigation bullet proof.
2. Don't hold all property in a Traditional LLC: While this is a much better scenario than personal ownership, it still leaves you exposed to losing everything under the LLC's ownership. Which means you could lose all your assets, not just one. A Series LLC, on the other hand will offer twice as much protection.
3. Don't leave yourself exposed because you're a "good person": Lawsuits have nothing to do with whether you mean well. Instead, most lawsuits are based on accidents and misunderstandings, not fraud or malicious intent. The purpose of asset protection is to provide coverage when things don't go as planned. Ask yourself: "would I be comfortable giving them access to my bank account or credit card?"
4. Do get professional legal advice: It's hard to tell if your LLC was filed correctly, but there are some common areas that account for the majority of mistakes:
    a. Was the LLC properly formed and maintained (requires an operating agreement and yearly state filings)?
    b. Did you properly sign for all the contracts and business dealings?
    c. Have you filed the appropriate franchise taxes to maintain good standing?
    d. Are all records, including accounting and banking information, current and accurate?

A single technicality can invalidate your protection, which is why we always recommend consulting a specialist in the field.

Insurance Won't Protect Your Investments

Insurance companies are in the business of collecting premiums, not protecting their clients. They routinely look for ways to deny coverage as a way of lowering their costs.

It's always a good idea to have an insurance plan, but you shouldn't assume they will pay by default. There are a variety of ways your coverage can be reduced or denied. These range from state and local policies to your payment status or specific instances surrounding your claim.

Are You Sure You Can Count on Your Insurance Company?

Successful investors are experts and managing risk. Purchasing insurance is a good example of this, but having a Plan B takes things to the next level.

Let's go through a fictional scenario. Imagine one of your newly acquired properties has a rotting staircase and someone accidentally trips and breaks their toe.

Most people would expect the insurance company to cover this unfortunate incident, but this time the insurance company fights back. They claim you exhibited gross negligence and are individually responsible for your guest's injury.

This lands you in a tricky situation. The best case scenario is to endure a series of stressful negotiations and come out on top. Unfortunately, this doesn't always occur and you could be left holding the bag, exposing your life savings and assets in the process.

Smart risk management requires good up front decision making, such as purchasing a solid insurance plan. But it also includes having a plan for when tragedy and the unexpected strikes. In this case, it means not only carrying insurance, but protecting yourself from potential failure of your insurance.

You Can Be Fully Protected Within a Week

Did you know it's possible to create a scalable company plan in as little as a week? This plan includes both the company setup and the transfer of properties to the new legal structure, and the benefits are legion.

Compared to traditional structures, our asset protection plan provides a layered defense against lawsuits. Not only do we split your assets across various holding companies, but we veil your wealth in anonymity. This strategy makes you unappealing to most would-be plaintiffs and makes your assets inaccessible to the rest.

Most people struggle to pay the upfront costs of a lawsuit and agree to split the winnings with their attorneys. Lawsuit prevention is important, but cobbling together a complex network of business entities can be difficult and expensive. Each LLC requires its own filing expenses and management. It adds up fast and the maintenance doesn’t scale.

FAQS

Asset Protection

How Does the Series LLC Protect My Assets?

The Series LLC allows you to efficiently and affordably protect your assets from liability by isolating them into their own “box”. Without the Series LLC you would have to pay to establish individual LLCs for every asset.

Why Would I Need Anonymity?

The best protection is achieved by shielding yourself from becoming a target. When people think that you or your company don’t own anything, they won’t be motivated to sue you. This is how anonymity stops lawsuits before they even start.

How Can I Minimize My Losses in a Critical Case?

If a lawsuit were to ever be filed, the Series LLC business structure reduces your losses to the lowest possible dollar amount. Only one of your assets will be at risk, not all of them.

Which Real Property Should Be Held in the Series LLC?

Any real property that you own should be held in the Series LLC. We recommend that all property be held anonymously through a land trust – if someone can find it they might sue for it.

What Types of Assets Can Be Held in the Same Series LLC?

The Series LLC has one EIN number and should be treated for tax purposes as if it were one entity (though it has the liability protections as if it were many separate entities). Typically, only one type of income should be held in each Series LLC (e.x. rental income from investment properties should be held in a separate Series LLC than active “fix and flip” income).

Is the Series LLC the Only Asset Protection Tool I Need?

The answer to this question depends on the level of protection you want. Some investors are comfortable using the Series LLC as an asset-holding company alone, then doing any business that requires contact with the outside world personally. Examples of business that involve the public include collecting rental payments, hiring contractors, etc.

Investors seeking a higher level of protection may opt to use a shell company. A shell company is typically a Traditional LLC. This company would be responsible for any operations, but would not actually own anything. In fact, if someone does decide to sue you, this is the company we want them to sue. You can think of it as the “fall guy.” If a lawyer researches your shell company, he or she will realize suing you is a waste of time because it does not own any assets to seize upon judgment.

For an even greater level of protection, you have the option of incorporating Anonymous Land Trusts.

Will A Series LLC in One State Hold Up in Another?

The presumption in American business is that legal entities (such as LLCs and corporations) of one state should be upheld in the other states.

Banking

If We Want a Different Bank Account for Each Property That We Acquire in the LLC, Do We Open Them in the Name of the Parent LLC or the Series LLCs?

A Series can have its own bank account and credit card IF, AND ONLY IF, you are accounting for the money separately for each Series. If you think you are going to get sloppy with your accounting, then it is important to have separate bank accounts and separate credit cards. If the Series is operating under a DBA, then the DBA name can be used for the bank account.

Will I Need to Do Complicated Banking or Change My Bookkeeping?

Fortunately, the answer to both of these questions is “no.” But allow us to elaborate on why. Contrary to some of the misinformation out there about the Series LLC, there are ways to bank effectively with a Series LLC that will only require a single bank account and card. Similarly, the Series LLC is an entity that easily lends itself to traditional bookkeeping. If you are already using traditional bookkeeping methods, fantastic! You won’t have to change anything. We have seen clients effectively keep records for their Series LLC by using an Excel sheet with multiple tabs–one for each Series.

Does Each Series Need its Own Bank Account and Credit Card?

This will depend on your own record keeping abilities. A series can have its own bank account and credit card if, and only if, you are accounting for the money separately for each Series.

Control

Who Controls the Series LLC?

The Series LLC is legally controlled by the anonymous trust, through a trustee. Any money generated by the company is split by the “beneficiary(s)” designated in the trust. This way, one partner can manage the company while the other partner(s) split profits evenly.

What Will Be My Title Within the Series LLC?

You are the Trustee of your Series LLC.

Do I Need to Take Any Special Considerations with Naming My Series LLC?

One of the main benefits of the Series LLC is that it makes maintaining your anonymity much easier. Anonymity is crucial to preventing lawsuits. Anyone looking to sue you will hire a lawyer pretty much immediately. The first thing that an attorney will do is look to see who owns the property. By having the name of an entity like a Series LLC recorded as the owner of your property rather than using your own name personally, you become a much less attractive target.

But that benefit can be undermined if you fail to name your Series LLC in such a way that preserves your anonymity. To best preserve your anonymity, we suggest that you avoid using any version of your first and last name, business names already well associated with your name, or any other information that clearly links you to the property. To foil the business end of the lawsuit industry, we want an entity that is difficult to tie to you personally. The only other naming concern to take into consideration is whether the name you want is already in use by another business. We have found that a little bit of internet research and creativity can address this concern, as can having your attorney check for you when you form your entity.

Costs

Is There a Cost Advantage to Using the Series LLC?

Absolutely, particularly if you compare the Series LLC with an equivalent amount of Traditional LLCs. Optimal asset protection is achieved by maintaining a single asset per LLC. For owners of multiple properties, the Series LLC is a no-brainer. The Series LLC requires only a single filing fee, and you receive a single EIN to make matters easier come tax season. Traditional LLCs, on the other hand, require a fee for each LLC created. When you can simply create a series for free with a Series LLC, it makes no sense to fumble around with multiple LLCs and all of the record-keeping required to maintain them.

How Will I Report My Taxes from My Series LLC Asset Holding Company?

The Series LLC structure we use is either a disregarded entity (individual or spousal ownership) or is classified as a partnership (if two non-spouse co-owners). A disregarded entity will simply report the income on the Schedule E of the personal income tax return of the solo owner. If there is non-spousal co-owners, then a partnership return must be filed on behalf of the LLC.