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The United States as an “Offshore Tax Haven”

Most financial experts agree that the United States is a primary location for international business. The presence of good banks, advanced infrastructure, a consistent legal system and a stable government are all characteristics of the United States that are often taken for granted. However, many people do not realize the enormous tax benefits given to “non-resident aliens” making passive income in the United States, or earning income outside the United States and simply using the USA as their own personal “offshore tax haven.” The United States does not tax non-resident aliens for any interest income or dividend income derived from investments inside the United States. There is zero capital gains on profits from investments. There is zero tax on income earned outside the USA. Only active United States derived income is taxed. Also, various tax treaties give a United States company certain tax advantages when doing business outside the USA.

The Definition of “Resident”

One of the most important issues is that of maintaining a “non-resident” status. Unfortunately many people confuse the immigration definition of resident with the tax definition of resident. Under the immigration laws of the United States, a resident is only someone who has been given a permanent residence visa. But under the tax laws a resident can also be someone who has maintained a “substantial presence” in the United States regardless of immigration status. There is a specific formula as to when someone meets the “substantial presence” test based upon the number of days they have been present in the United States for a given year and the two prior years, but to be safe, the non-resident should stay in the United States no more than 182 days in any given year.

The “Pass Through” or “Disregarded” Tax Entity

The best way for a non-resident alien to take advantage of these tax benefits is to use the Limited Liability Company (LLC). A Limited Liability Company is an entity that has the same limited liability characteristics as a corporation, but the ease of management characteristics of a partnership.

If properly structured, the Internal Revenue Service (I.R.S.) views the LLC as a “disregarded” tax entity which means that the I.R.S. disregards the existence of the LLC and treats the income as if it were earned by the members or shareholders. If there are two or more members of the LLC, then it is treated as a partnership and must file a partnership tax return. If it has only one member who is an individual then it is treated as a sole proprietorship. For a non-resident alien, this means that the LLC is disregarded by the I.R.S. and income of the company is taxed at the more beneficial non-resident rates, and unless it earns active income derived from U.S. source income there is no reason for the LLC to even file a Federal tax return. Yet for all other purposes the LLC will be treated as

a “domestic” entity. As far as banks and other parties are concerned, the LLC is a US domestic entity.

There are many states in which you can form an LLC, but we suggest the use of an LLC in a “low” tax state such as Texas. Traditionally, Delaware has been the jurisdiction of choice. The most commonly stated reason is that Delaware law is more mature and developed. This may have been the case 50 years ago, but is no longer the case. Delaware law is primarily defined by court cases (case law), and no longer has any real advantage over other states. In many cases it has a real disadvantage since it involves subjecting a business to often vague and unclear court rulings. Over the past 25 years, the Texas Legislature has committed itself to codifying Texas business law, and has made great efforts to simplify and clarify Texas business law to be more business friendly. The commitment of the Texas Legislature to resolve important business issues by statute rather than by lawsuit is a significant advantage. Texas is pro Business, and Texans pride themselves on a reputation of "rugged individualism". Texans do not believe that the government should get involved in anything other than the most basic of issues. There is no income tax in Texas, and businesses face a much lower level of regulation than in other states. Annual reporting requirements for companies are minimal. Texas laws and business climate also promote Privacy and Asset Protection. Texas does not require companies to disclose the names of individual shareholders, and never requires disclosure of individual tax identification numbers.

How can a U.S. LLC Help You?

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

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

Advanced Planning Techniques

There are other more advanced ways of using the US LLC, often with other entities, that can further enhance privacy, asset protection and tax reduction. One method is to have a specially designed Belize Privacy Trust serve as the owner of the LLC. If properly structured and maintained (and depending on the jurisdiction of the client), the Belize Privacy Trust will act as a bullet proof asset protection and probate avoidance vehicle (two very reasonable goals that will defend against “sham entity” accusations) while at the same time serving as a very strong tax reduction strategy (Belize is a “No Tax” jurisdiction). Also, because of the way in which the Belize Privacy Trust is structured, without court order it will be very difficult to discover the true ownership of the US LLC (and even then it will probably need to be a Belize court order).

In some Jurisdictions, particularly those whose legal systems is based on European Code, the Belize Privacy Trust may not be enough. For those clients it is important to have a corporate entity own the US LLC, since the Code does not treat trusts in the same manner as British based Common Law systems. In these cases we advise our client to utilize the Belize International Business Company (IBC) which acts as the ideal intermediary for the structure, and is readily accepted in Code Jurisdictions as a separate entity apart from the client. In turn, it is often advisable to then have a Belize Privacy Trust own the Belize IBC to add additional privacy to the structure.

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

NOTE FOR US CITIZENS/RESIDENTS:

There has been a growing number of individuals who reside in the USA or who are US citizens contacting us asking, “How can this system work for me?” It is possible to arrange the system in such a way as to give residents and citizens of the USA the same benefits as those described herein. However, it is very important that the system be established with great care. Only *The Advanced World Commerce Package* is appropriate for residents and/or citizens of the United States of America, and even then special care must be shown to insure that the structure meets stringent criteria, much more so than for individuals from other jurisdictions. Furthermore, the system will only prove effective in regards to “non-US Source Income” and/or certain types of “Passive Income” which are highly technical issues. If you are a resident or citizen of the USA, and you are looking to establish a system that will allow you to use US banks while benefitting from non-resident status, please contact us for further information.

List of Additional Services

- Charles Schwab One Account for trading stocks, bonds and mutual funds. This will include a check book and visa debit card that can be drawn against balance on the account. Management services available upon request. \$400.00 US
- Ongoing Manager Services, Annual Fee (note owner must first qualify). Other fees will be billed on an hourly basis. \$150.00 US
- Annual Fee for Registered Agent and Office. \$150.00 US
- A Belize Privacy Trust that acts as owner of the US LLC in order to obtain added privacy, asset protection, probate avoidance, and tax reduction. \$500.00 US
- A Belize IBC (where trusts are not advisable) that acts as owner of the US LLC in order to obtain added privacy, asset protection, probate avoidance, and tax reduction. \$1,500.00 US
- Virtual Office Headquarters including mail drop and fax number. \$300.00 US annually
- A detailed legal evaluation and legal opinion regarding tax structure and status of US LLC. \$2,500.00 US and up
- Telephone line with voice mail. \$ 25.00 a month plus usage and initial activation fees
- Internet Services such as web-hosting and emails. Varies
- Application to establish whole life insurance policy with paid up premium, or annuity. Varies

ORDER FORM
The US as an "Offshore Tax Haven"

CLIENT: _____ DATE: _____, 20__

ADDRESS: _____

BUS. PHONE: _____ FAX: _____

EMAIL: _____ OTHER: _____

I agree to retain Hay & Associates, PLLC to provide the following services:

- US "Offshore" LLC** **\$2,000.00 US**
Includes a Texas LLC, a company bank account with online banking, checks, and debit card, the first year Annual Registered Agent and Office fees of \$150.00, the first year Nominee Manager services of \$150.00, and the first year Virtual Office HQ of \$300.00. Client will be the named owner of the Texas LLC.

- Belize Privacy Trust** **\$500.00 US**
A Belize Privacy Trust, assistance in personal structuring of the trust in order to provide maximum asset protection and estate planning benefits, and the first Annual Trustee Fees of \$250.00. The Belize Privacy Trust will be the owner of the Texas LLC.

- Belize IBC** **\$1,500.00 US**
Includes a Belize IBC which will own the Texas LLC, providing added security and privacy where required. This includes the first year Annual Registered Agent and Office fees of \$750.00, and the first year Nominee Manager services of \$250.00. Usually the Belize IBC owns the Texas LLC, often in conjunction with the Belize Privacy Trust owning the Belize IBC.

- The Advanced World Commerce Package** **\$6,000.00 US**
This Package includes the Texas LLC, the Belize Privacy Trust, and the Belize IBC, as described above. The Belize IBC will own the Texas LLC, and in turn will be owned by the Belize Privacy Trust. In addition, this Package includes a comprehensive Legal Opinion Letter prepared by an experienced Tax Attorney in the USA (normally a \$2,500.00 fee). This is the ultimate structure for complex tax planning where parties work with or in a Code based legal system. *(If the Legal Opinion Letter is not required simply deduct \$2,500.00 from the price.)*

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

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

Preferred Name for the **Belize IBC** (e.g., ABC Holdings Ltd. *or Corp., Inc., etc.*):

I acknowledge and agree to the above fee arrangement: **X** _____

CLIENT SIGNATURE

PAYMENT INSTRUCTIONS

- Print document and complete data in clear block letters. Then sign.
- Fax to The Squire Organization, LLC at: 419-710-4339 (USA Number).
- Upon receipt of fax we will send you an invoice with payment instructions and more information on formation procedures.
- Upon receipt of final payment we will confirm and complete the package with any additional details required as requested.

MISCELLANEOUS

1. Work foreseen in this agreement will include only the preparation of the paperwork, telephone calls, and shipping and delivery of documents.
2. This case is being accepted subject to review by supervising attorneys. Upon review it may be declined. If declined, any fees accepted will be refunded.
3. The retainer is non-refundable and represents the minimum fee for accepting this case. Failure to keep account up to date may result in withdrawal of representation by attorney.
4. Client shall keep attorney informed of any changes of address and/or phone numbers.

6. Client must respond within a reasonable time to requests for information, documents, etc.
NOTE: This system may not immediately work if there are prior creditors and liabilities. It would be best if the system was in place before such liabilities are incurred rather than after. Otherwise, there may be a time period before the transfers are safe from creditors, depending upon state laws and regulations. If you intend to sell certain real property, this system may be inappropriate.