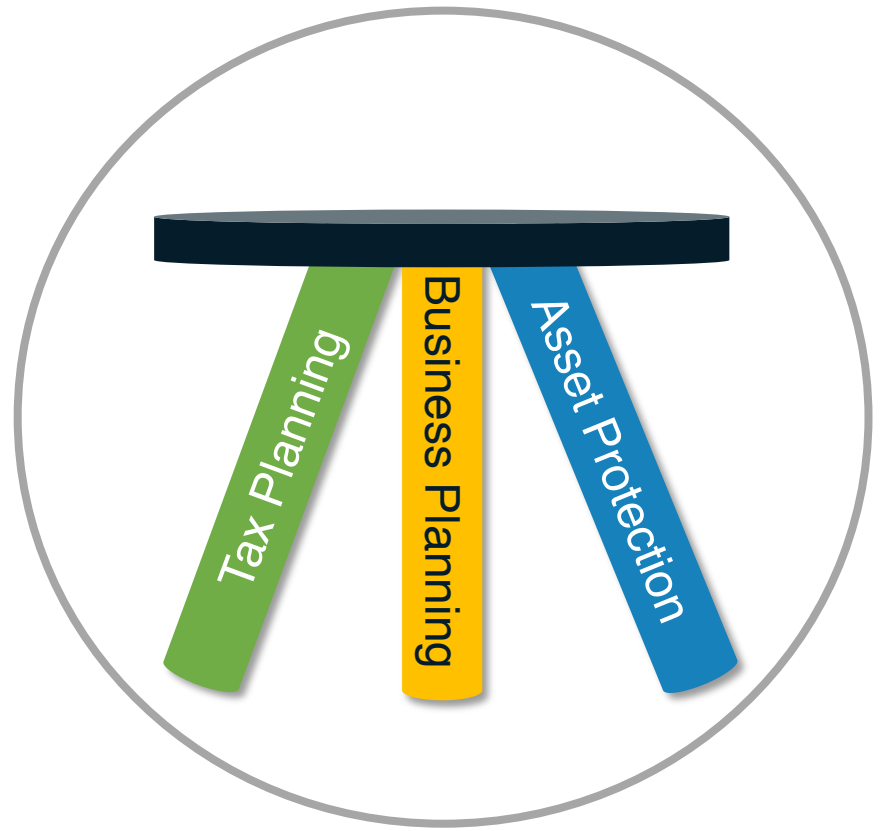


How to Properly Set Up and Use LLCs for Real Estate

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Anderson Business Advisors



3 Keys to Planning with LLCs for Real Estate




Asset Protection

To minimize risk we need to understand the 2 types of protection we need:

1. Outside protection
2. Inside protection

The difference between these 2 concepts deals with where the threat materializes.



Outside Liability



California Charging Order

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subdivision (a), the court may do any of the following:

(1) **Appoint a receiver of the distributions** subject to the charging order, with the power to make all inquiries the judgment debtor might have made.

(3) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, **foreclose the lien and order the sale of the transferable interest.**

Charging Order

6. Del. C. § 18-703

(b) A charging order constitutes a lien on the judgment debtor's limited liability company interest.

(d) The entry of a charging order is **the exclusive remedy** by which a judgment creditor of a member or a member's assignee may satisfy a judgment out of the judgment debtor's limited liability company interest and attachment, garnishment, **foreclosure or other legal or equitable remedies are not available to the judgment creditor**, whether the limited liability company has 1 member or more than 1 member.

...

A charging order constitutes a lien...The charging order lien may not be foreclosed on under this code or any other law.







Inside Liability



LLC Formation

Considerations when establishing your LLC:

What is its purpose?

Flip

Buy and Hold

Tax Deeds

Private Lending

How many members?

Who will control?

Common Mistakes

Member managed setup

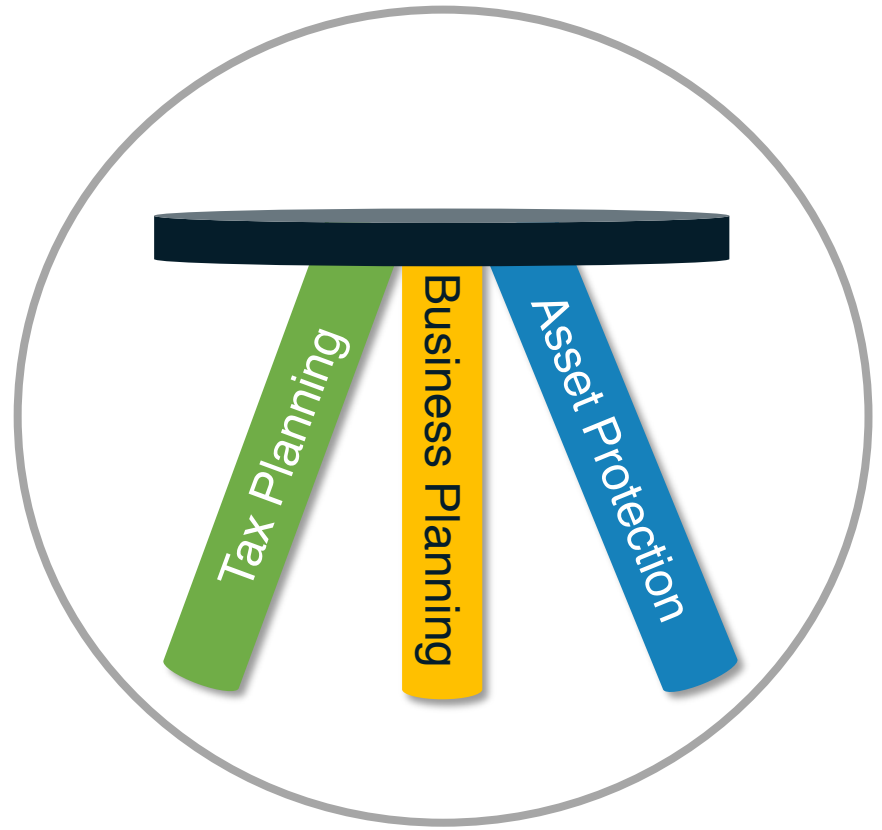
Forced distributions of income

Inability to engage in competing ventures

Lack of buyout provisions or partner removal

No Joint Venture protections

Tax Planning



Taxation of LLCs

The LLC is classified as a hybrid entity free to elect how it will be taxed

- C-Corporation

- S-Corporation

- Partnership

- Disregarded

Choice of taxation will depend on your activity and assets

Corporation Tax Status

The following activities benefit from having the LLC treated as either an S or C corporation

Flipping

Wholesaling

Private lending

Residential assisted living

Partnership Tax Status

The following activities benefit from having the LLC treated as a partnership

- Buy and hold with more than one partner (other than spouse)

- When tax payor desires a cleaner 1040

- When acquiring commercial or multi family with intent to sell within 5 to 10 years

- Syndications

Disregarded Tax Status

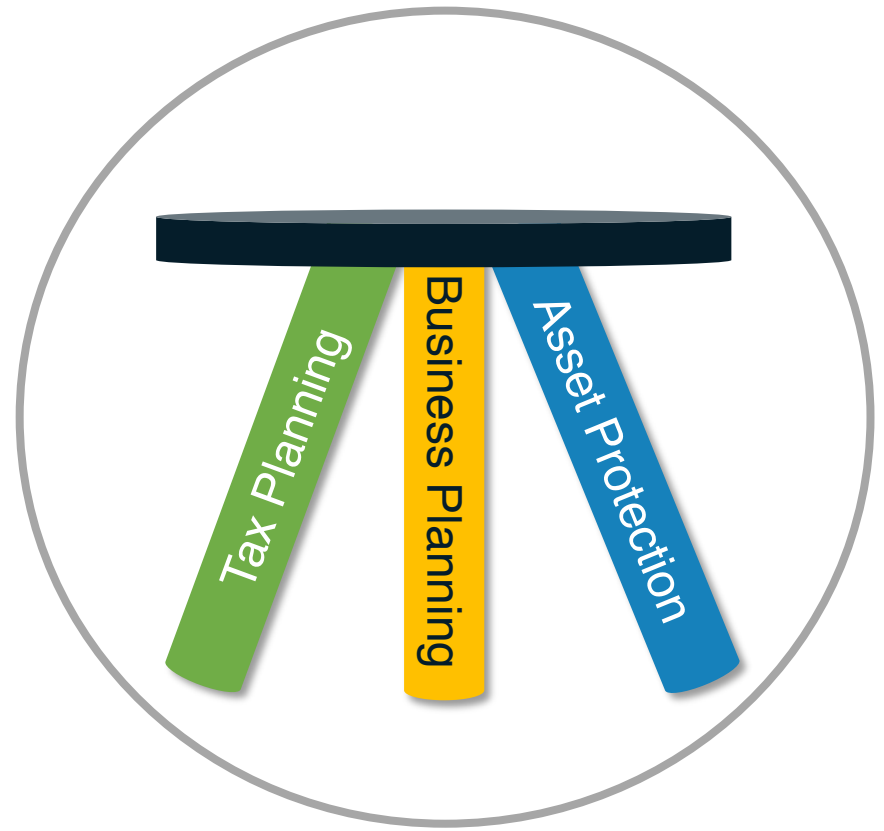
The following activities benefit from having the LLC treated as disregarded

- Flipping to isolate activity back to corporate entity

- Buy and Hold with multiple LLCs or Series

- When the primary purpose is asset isolation

Business Planning



What Is Your Goal?



More money after tax

Ability to borrow

Desire to fund a retirement plan

Control over your receipt of income

Business Planning

When planning for your business it typical requires having your LLC taxed as a C-Corporation or establishing a traditional corporation

- Flat tax rate of 21%

- Activity of business does not show up on your 1040

- You take your income via a salary



Series LLC

A series LLC is an LLC that allows for the unlimited segregation of assets into independent series

Each independent series (or cell) can have the following:

- Different members
 - Different managers
 - Different tax status
 - Different distribution rules
-

Benefit of Series LLC

Reduced filing fee

Ease of setup of individual series

Anonymity of ownership

Drawback of Series LLC

Great accounting

File DBA if operating business out of a series

Establishing separate bank accounts

Only should be use in state that recognizes this entity

Cloud of title

Naming the proper insured under policy



A blurred background image showing two men in a meeting. One man is wearing a brown sweater and the other is wearing a light blue shirt and glasses. They appear to be looking at a laptop screen.

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