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SHOULD YOU FORM A NEVADA LLC FOR YOUR RENTALS?

By Victor Sy, CPA, MBA

The early 90s saw a proliferation of Nevada entities. Promoters claimed that Nevada entities protect the members from liabilities and save California taxes. True – Nevada LLCs offer liability protection. True – Nevada LLCs save California taxes - but only if your rental property is located in Nevada and you are a Nevada resident, not if you are a California resident with rental property in California.

The California Franchise Tax Board has caught up with this gimmick and the number of "Nevada" entities doing business in California dwindled. Before you get carried away by seminars and ads into forming your own Nevada Corporation to avoid California taxation, read on:

1. An LLC is considered domiciled in California if its principal office or place of business is located in California.
2. It is also considered domiciled in California if its business is managed or controlled from within California.
3. Any LLC domiciled in California has to register in California.
4. The cost of registering a foreign LLC (such as Nevada) in California is the same as that of forming a domestic LLC.
5. The only difference is that, in addition to the cost of registering in California, you also have to spend funds to form an entity in Nevada.
6. You also have to pay ongoing fees to pay an agent, maintain an address, forward telephone calls, forward mail, as well as all the hustle of making authorities believe that you do business in Nevada.
7. Then come penalties assessed on unregistered LLCs doing business in California: \$2,000 per year.
8. Then come legal issues related to the very reason for a Nevada LLC: lawsuit protection. An unregistered entity does not have a legal standing and cannot defend itself in this state. A California LLC can.
9. It also cannot file a lawsuit to protect its interests in a California court of law. A California LLC can.
10. An unregistered Nevada LLC can also have its contracts voided.

So why form a Nevada corporation to do business in California? Let's just say that the California Franchise Tax Board knows what you are up to. They deal with this subject on a routine basis. This is probably your first try at a foreign corporation. My advice to you is, unless you really, really, actually conduct active business operations in Nevada, do not create one to run your business in California. It does not work. It does not save taxes. It merely creates more headaches, more expenses, and compromises your ability to defend yourselves against lawsuits. Sorry. ☹