

# NELSON SLOSBERGAS P.A.

1110 BRICKELL AVENUE, SUITE 310  
MIAMI, FLORIDA 33131  
E-MAIL ADDRESS: [NELSON@MIAMI-INTL-LAW.COM](mailto:NELSON@MIAMI-INTL-LAW.COM)  
[WWW.MIAMI-INTL-LAW.COM](http://WWW.MIAMI-INTL-LAW.COM)

(305) 374-0030  
FAX: (305) 374-2855

## **CONSIDERATIONS FOR FOREIGNERS INVESTING IN FLORIDA REAL PROPERTY**

**1. TAX RATES.** In Florida, individuals pay up to 39% federal income tax on profits (there is no state individual income tax), and corporations whether foreign or domestic, pay a combined federal and state of approximately 40%. Dividends to foreign stockholders from Florida corporations are taxed at 30%; however, in case of a liquidation of a corporation held by a foreigner, there is usually no dividend tax. Individuals do, however, pay estate taxes on their demise after a \$60,000.00 exemption on real property or on shares of Florida corporations held in their own name.

**2. BRANCH PROFITS TAX.** A second "branch profits" tax is imposed when a foreign corporation earns income and does not liquidate, reinvest or distribute the money. Usually this occurs in a rental situation such as a shopping center, which produces positive cash flow, or if a corporation owns several properties and sells only one. Thus, if multiple properties or properties generating income are held, it may be better to utilize a Florida corporation.

**3. PORTFOLIO INTEREST.** Taxes may be reduced through use of portfolio interest loans. In this type of loan, if the parties are unrelated or if no one owns more than 9.9% in both borrower and lender, the interest can be deducted from United States federal income taxes and is not taxable to the foreign lender in the United States.

**4. ANONYMITY.** A further consideration when investing in Florida property may be anonymity. Many foreigners would prefer not to have their individual names registered either in local public records when a deed is recorded or with federal and state authorities as a result of filing of tax returns. Sometimes, however, with the use of a limited partnership some partners can hold their interests in their own names (if they prefer a lower tax rate at the risk of loss of anonymity and estate taxes) and others in a company.

**5. EXAMPLES AND SUGGESTIONS.** A few illustrations of the foregoing may be helpful.

- A. An apartment held for personal use only would generally be held in a foreign company: if rented and income received, then a Florida company would avoid the double "branch profits tax".

Purchase of a building or shopping center should generally be held by a Florida corporation to avoid a "branch profits tax". The shares of the Florida corporation may be held by a foreign company to avoid the estate tax on the value of the Florida corporation stock.

- B. If several properties are held and are to be sold separately, most likely a Florida company is best as a holding entity.
- C. Real estate development, such as construction of a building or acquiring, repairing and selling several properties, is usually undertaken in a Florida corporation. If one property is sold, frequently losses on the others can offset gains.

Naturally, structuring an investment depends on each investor's goals and is frequently more complicated than that outlined above. Detailed discussion with an attorney and/or tax advisor is suggested.