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So You Want to Invest in Real Estate ...

DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.

Real estate/real property can be a great way to expand your investment portfolio and build wealth. However, it can also come with different legal liabilities depending on how you structure your investments and what you intend to use them for. This resource will provide an overview of just a few of the things to consider when getting started in real estate investment.

Building your Team

Investing in real estate is a legally complex endeavor. Before getting started it is ideal to have an attorney (read our blog "[why use a real estate attorney](#)" here), insurance broker, financial manager, accountant, and/or mortgage broker that you are comfortable working with. Each of these professionals will be able to provide insights into the nuances of each step along the way of the investment process. They are also able to provide insights into other investment opportunities, such as real estate portfolios.

Structuring your Investments and Portfolios

In many cases, when you purchase a property to live in, the property will be legally recorded under your name. You can do the same for real estate investment properties, however, the more properties under your name, the more liability you are exposing yourself to. To avoid some of this risk, many people choose to create a Limited Liability Company to hold their investment properties. Under a property holding LLC, your personal assets are separated from the investment property, so only the value of that specific property is at risk in the event there is a lawsuit filed against the property. You can choose to hold all of your investment properties under one LLC or choose to create a new LLC for every property. Creating a new LLC for each property provides the most amount of protection but requires more compliance and administrative work than operating numerous properties through one LLC. You will need to make sure you are running the LLC or LLCs separate from yourself and each company. ([See our blog about this!](#)) There are also structures where you have one "umbrella" entity that then owns subsidiary LLCs under it that each owns a property. Below are some additional considerations for holding companies:

- **LLC Expenses:** There are fees associated with creating and maintaining an LLC (and if you have multiple LLCs-multiple bank accounts, sets of books, etc.). There are also annual reports due to the state that must be submitted on time to maintain the legal status of the LLC.
- **Transfer Tax:** The state of PA views transferring a property to an LLC the same as a sale. This means that the 2% state transfer tax will apply if you choose to move a property from your personal name to an LLC. So it is good to talk to an attorney ahead of time about your entity strategy so you aren't having to transfer the

property to an LLC later. There may also be a similar local transfer tax, depending on where the property is located.

- Tax Benefits: The IRS generally views any income from the LLC as “passive income.” This means it may not be subject to social security, Medicare, and unemployment taxes, but be sure to talk to an accountant about your situation.
- Financing: Investment properties often aren’t subject to the same financing options as a primary residence, especially if you put the property in an LLC. So it is important to talk to your accountant, financial advisor, and mortgage broker about what financing options are available if you aren’t buying with cash as it may affect how you structure your property purchase.
- [Also, read our resource about separating land and liability here!](#)

Leasing/Managing the Properties

If you’re renting the property spaces or residences, it’s important to know your obligations as a property owner and/or manager, and there are additional considerations depending on what you intend to use the properties for. See a few considerations below.

- Leasing: Whether it’s commercial or residential real estate, you will want to work with your attorney to make sure the properties are being rented in accordance with requirements under the law and your needs. It’s important to have a well written lease that matches the specifics to your property and the relationships, and ensures everyone is on the same page. (Note residential leases have a few more legal requirements/obligations for landlords and [Read our resource about commercial leases](#) for a few other considerations when you’re leasing a space for business.
- Other Licenses And Permits, And Legal Requirements: Depending on the business type or how you intend to use the property, you may need other licenses and/or permits and may be required by law. For example, food and beverage establishments have very specific health code and permitting requirements and inspection requirements. Other industries, such as hair salons, may have other licensure display and health code requirements. Make sure your leases are clear as to who is responsible for obtaining such permits.
- Managing the Properties: Property management is the oversight and operation of real estate on behalf of a property owner. This could include the day-to-day maintenance of a space as well as the obligations related to finding tenants, paying taxes, and so much more. Some land/building owners pay property management companies specifically to do this work on their behalf, and others seek to do their own. If you’re in the latter, there are strategies for structuring and running your property management company separate from the company that owns your real estate so it’s important to work with an attorney to ensure you’ve set this up appropriately and in accordance with the law. **Note, you cannot manage other peoples’ rental properties without a broker’s license under Pennsylvania law.**

Zoning Considerations

Zoning is how the local government regulates land use. Some land is zoned for residential use only, commercial use only, mixed use, or may have specific restrictions on land use. For anyone looking to invest in property, it is imperative to research what the zoning restrictions are to be sure you can use the new property for your intended purpose. The City of Pittsburgh offers an [interactive zoning map](#) that can be used as a starting point for zoning research. For other municipalities you can search for zoning restrictions through your local zoning office. For example, if you are planning to use the property as a rental property, you should confirm how many units the building is zoned for. If the property

is not zoned for the desired use, you may file for an exemption to the zoning rules for that property or you can choose to use the property only as it is zoned currently.

Additional Notes

Investing in real estate touches so many areas of the law, some of these include: state and local building codes, environmental regulations, property seller disclosure laws, laws related to title and ownership interests in housing, federal and state fair housing laws, and so many more. Additionally, options for real estate related to succession planning, such as trusts for holding real estate. This is why it is so important to work with a real estate lawyer and build your team!