

International Tax Structures

for Americans Living Abroad

Foreign Earned Income Exclusion Structure #8

Real Estate Agent (Costa Rican SA Parent U.S. LLC Subsidiary)

A Real Estate salesman receives a salary and dividends through a U.S. Limited Liability Company (taxed as a Disregarded Entity for U.S. tax purposes), which is the subsidiary of a Costa Rican corporation parent company. This structure is ideal for real estate professionals who prefer to receive commissions into a U.S. bank account while at the same time qualify for the Foreign Earned Income Exclusion.

Summary of the the Foreign Earned Income Exclusion (\$911)

The Foreign Earned Income Exclusion (FEIE) allows U.S. citizens or resident aliens living and working abroad to exclude a certain amount of foreign-earned income from U.S. federal income tax. To qualify, you must have a tax home in a foreign country and meet either the bona fide residence test or the physical presence test.



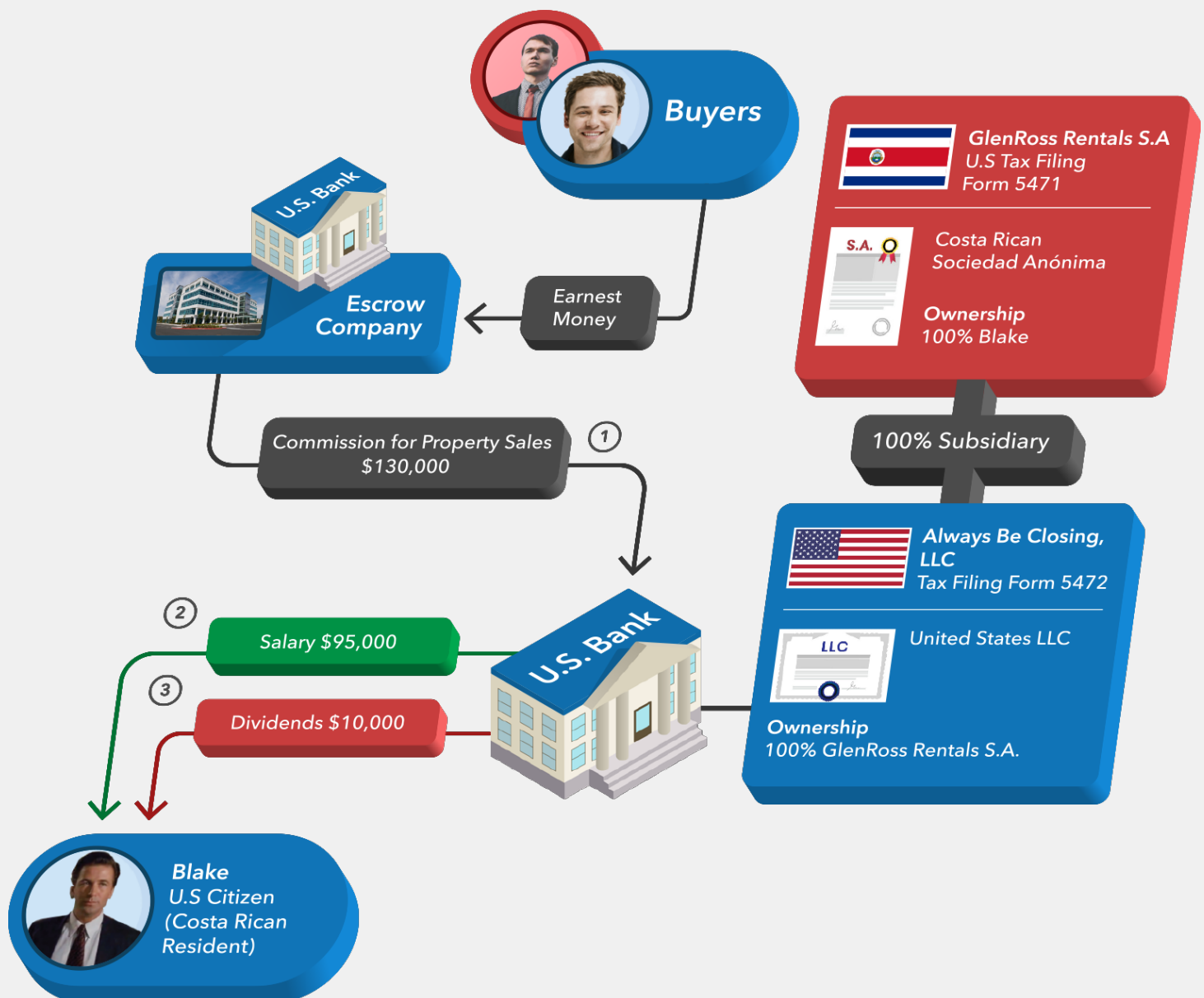
Prepared By
PACIFICOTAX

The International Tax Structures included in this publication are hypothetical structures. Read the attached Disclaimer and read our [Terms](#) to learn more.

Structure Background

Blake, a U.S. citizen and Costa Rican Resident, is the owner and manager of GlenRoss Rentals S.A. (Sociedad Anónima), which provides rental management services for Glen Ross Farms, luxury real estate units along the shoreline of Costa Rica.

Occasionally, a unit within Glen Ross Farms is sold, and Blake, being a highly motivated salesman, acts as a real estate agent for the transaction. However, the buyer is often paying in U.S. Dollars and requires escrow services to be completed by a U.S. escrow provider. As a result, a U.S. bank account is required for Blake to receive commission revenue. In order to accept payments in U.S. dollars, Always Be Closing, LLC, a Delaware Limited Liability Company, is formed as a subsidiary of GlenRoss Rentals S.A., and a bank account is opened to have funds wired to the account for commission revenue.



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Funds from this bank account also cover administrative expenses related to business activities, including sales commissions, as well as salaries and dividends paid to Blake throughout the year.

Blake did not travel to the United States during the year and qualifies for the Foreign Earned Income Exclusion under both the bona fide residence test and the physical presence test per Internal Revenue Code §911. His salary from a foreign corporation while working in a foreign country is not subject to U.S. Social Security and Medicare tax per Internal Revenue Code §3121.

Subsidiary Classified as a Disregarded Entity (DE)

As a Single-Member LLC, Always Be Closing, LLC is classified as a disregarded entity for Federal tax purposes per Treasury Regulation § 301.7701-3, and conducts no business in the United States (further explanation below).

Not 'Engaged in a U.S. Trade or Business' in the United States

The primary purpose of the United States LLC is to easily collect payment from customers in U.S. Dollars, easily pay for expenditures, and easily conduct business through the use of the domestic banking system. Always Be Closing, LLC also owns a virtual mailbox in the state of Florida in order to receive U.S. mail, as required by financial institutions. Blake performs his services related to sales in Costa Rica. Based on the circumstances, the foreign corporation is determined not to be “conducting business” in the United States solely by owning a U.S. LLC for banking and mailing purposes per Internal Revenue Code §862 and related definitions found in Internal Revenue Code §864.

The subsidiary disregarded entity or the foreign parent maintains a Permanent Establishment in the United States within the meaning of Article 5 of the OECD Model Convention with respect to taxes.

Monetary Transactions & Accounting

1. The total payments from all sales originating from the United States escrow company to the United States LLC for commission revenue was \$130,000 for the entire year.
2. During the year, the U.S. LLC compensates Blake a salary of \$95,000.
3. Additionally, \$10,000 of dividends (total Net Earnings of the LLC business activity) were also paid to Blake during the year.

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4. On its annual Income Statement, Always Be Closing, LLC earned a total of \$130,000 for commission revenue, paid \$95,000 of salary expense to Blake, had other Administrative expenses of \$25,000, resulting in Net Income of \$10,000 all of which were paid out as dividends during the current year.

U.S. Tax Filing Compliance

5. **Pro Forma Form 1120, with Form 5472 (Always Be Closing, LLC).** Foreign Owned Disregarded Entities must generally file [Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business](#) to report certain reportable transactions per Internal Revenue Code §6038.
6. **Form 1040 (Blake).** On his U.S. Federal income tax return, Blake's worldwide income is \$105,000 (Comprising \$95,000 of a salary and \$10,000 of ordinary dividends). He elects a Foreign Earned Income Exclusion to exclude his wages of \$95,000 on [Form 2555, Foreign Earned Income](#). After also claiming the Standard Deduction of \$12,000, his taxable income is reduced to \$0. He must also file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) in relation to his ownership of GlenRoss Rentals S.A. to satisfy the reporting requirements of Internal Revenue Code 6038.
 - Attached to his personal income tax return, Blanke is required to file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) in relation to their ownership of the foreign corporation, to satisfy the reporting requirements of Internal Revenue Code §6038. All earnings are paid out as dividends, and as a result of all retained earnings being paid to Matthew and Chrissy as related part dividends, there is no taxable Global Intangible Low-Taxed Income (GILTI) per Internal Revenue Code §951A.

Summarized Tax Returns and Financial Statements

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Always Be Closing, LLC Income Statement

Commission Revenue	\$130,000
Salary Expense	- \$95,000
Administrative Expenses	- \$25,000
Net Income	\$10,000

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Form 5472 (Always Be Closing, LLC)

Foreign Owned DE

Salary	\$95,000
Dividends	\$10,000

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Form 1040 Blake (Single)

Salary	\$95,000
Dividends	\$10,000
Foreign Earned Income Exclusion	- \$95,000
Standard Deduction	- \$12,000
U.S. Taxable Income	\$0

Form 5471 (GlenRoss Rentals S.A.)

Net Income	\$10,000
Related Party Dividends Exemption	- \$10,000
Taxable GILTI	\$0

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Blake is \$0, as a result of claiming the Foreign Earned Income Exclusion and Standard Deduction.



Compliance Warning. A Foreign-Owned United LLC classified as a Disregarded Entity for Federal Tax Purposes comes with compliance risks to be aware of, including:

- Failure to file the proper Form 5472 disclosure results in a penalty of \$25,000.
- Based on the activity and nature of the business, a U.S. Trade or Business could be established, resulting in negative tax implications.
- Federal banking laws identifying a U.S. person as the beneficial owner could result in improper tax reporting and other compliance issues if foreign operations exist.
- Economic substance issues may also arise, resulting in compliance issues with the IRS.

Effective Tax Rate

Gross Income from All Sources	\$130,000
Gross Expenses from All Sources	\$25,000
Total Net Income	\$105,000
Federal Income Tax	\$0
Effective Tax Rate (Married Filing Jointly)	0%

About the Author



Marcus Marcial is a seasoned tax professional with experience predominantly dealing with International Taxation. Originally from Southern California, he attended Hunter College in New York City and has resided abroad for many years.

While employed at the IRS, he learned from examining and preparing tax returns for individuals residing and businesses operating offshore. After leaving the IRS, he started his own tax firm, helping various international clients with tax compliance, accounting, and consultation.



To schedule a consultation to discuss the structures and tax law references found in this document or for a custom structure, tax filing, planning, and strategy, visit <https://pacifico.tax/schedule-consultation>

DISCLAIMER

The International Tax Structures included in this publication are hypothetical structures and set of circumstances and tax rates that do not apply to any particular taxpayer and for any purpose. The information included in this tax structure is non-transferable or reusable, as each taxpayer's situation is factually unique.

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