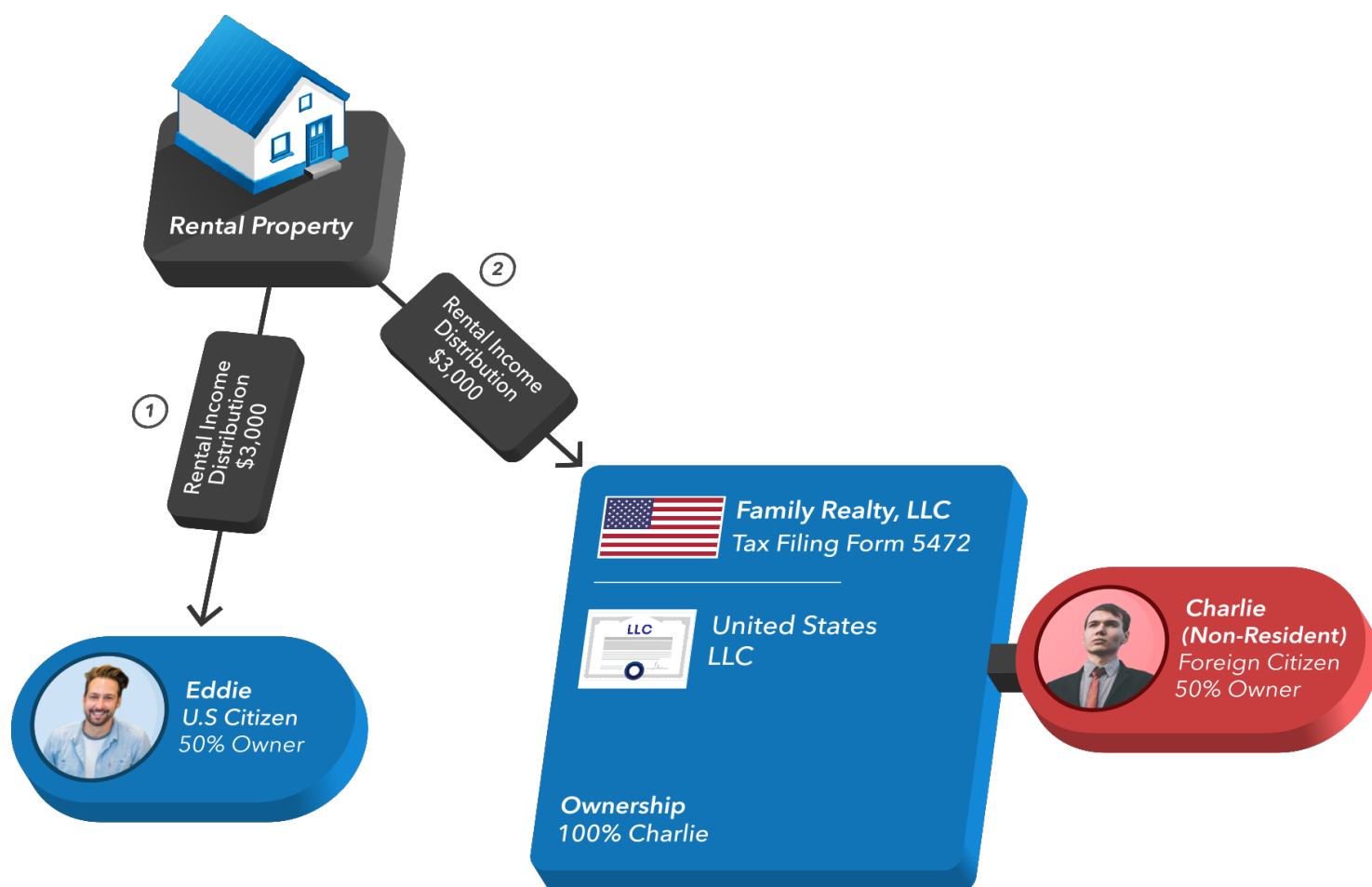


Real Estate Rental ECI Election (No Withholding)

Tax Structures of United States Foreign-Owned LLCs - Structure #5

Structure Summary

A rental property partially owned by a U.S. citizen and a Limited Liability Company wholly owned by a Non-Resident Alien, elects to treat the rental income as Effectively Connected Income with a U.S. trade or business. By making this election, the LLC/Non-Resident owner avoids U.S. Fixed, determinable, annual, or periodical (FDAP) tax withholding.



Co-Ownership FIRPTA Withholding

Structure Background

A United States Real Estate Property is owned equally as 50% owners between Eddie (a U.S. citizen) and Family Realty, LLC, a U.S. Limited Liability Company wholly owned by his brother (a Non-Resident Alien of a country that does not have a U.S. tax treaty).

The home is rented during the year, and by default, a 30% withholding applies on the rental income distribution to Family Realty, LLC. However, [Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States](#), is filed, and the withholding is exempt under Internal Revenue Code §871(d).

Monetary Transactions & Accounting

1. During the year, the total Net Income of the rental property is \$6,000, after deducting expenses and other relevant costs. A Rental Income distribution of \$3,000 is paid to Eddie's Brother with no withholding.
2. A Rental Income distribution of \$3,000 is also paid to Family Realty, LLC \$3,000 (no withholding as well)

U.S. Tax Filing Compliance

3. **Form 1040 (Eddie).** Based on his personal income tax rate of 10%, the tax due resulting from the rental income is \$300.
4. **Form 1040NR (Brother).** Based on his personal income tax rate of 10%, the tax due resulting from the rental income is \$300.



Foreign-Owned LLC Disclosure Requirement. Although the LLC may not necessarily be reported on Charlie's Non-Resident Personal tax return, there is a requirement to 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 disclose foreign ownership of United States LLCs and also certain reportable transactions per Internal Revenue Code §6038.

Co-Ownership FIRPTA Withholding

Summarized Tax Returns and Financial Statements

1

Real Estate Property Gain	
Rental Income	\$30,000
Cleaning	- \$7,000
Property Taxes	- \$4,000
Repairs	- \$5,000
Depreciation	- \$8,000
<hr/>	
Net Rental Income	\$6,000

4

Form 1040	Eddie
Rental Income	\$3,000
Income Tax Rate	(10%)
<hr/>	
Tax Due	\$300

5

Form 1040NR	Charlie
Rental Income	\$3,000
Income Tax Rate	(10%)
<hr/>	
Tax Due	\$300

Resulting Tax Implications

As a result of this structure, Charlie's U.S. income tax liability is \$300, to be paid either during the year or after the tax return is prepared (as no withholding applies).