

*“Knowledge and Experience You Can Trust”*  
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## KALO LEGAL NEWSLETTER

### HELLO AND WELCOME!

*By Ramona Kantack Alcantara*

We would like to introduce you to our new periodic newsletter! We plan to introduce multiple issues covering a variety of topics including Real Estate, Business Law, Estate Planning, and Homeowner Association governance. At Kantack Alcantara Law Office, P.C., (“KALO”) we take professional pride in our reputation as a trustworthy law firm that offers efficient legal services tailored to meet our clients' unique needs. Our goal is to make this newsletter a valuable resource in both your professional and personal life. Therefore, if you have any suggestions on possible topics, please let us know!

Located on South Padre Island, our law firm is led by veteran attorney Ramona Kantack Alcantara, who has more than 34 years of legal experience as well as certification by the Texas Board of Legal Specialization in both residential and commercial real estate.

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### NON-US PROPERTY BUYERS BEWARE!

*By Francisco Orozco, Associate Attorney*

Mexican investment in particular plays a pivotal role in the long term success of the Rio Grande Valley. However, foreign investment often contains hidden and unexpected legal and tax implications of which few investors and their attorneys are aware. Residency status, transfer tax liability, and income classification complicate the implications of owning many U.S. based assets.

If not properly advised, foreign property buyers could subject themselves to exorbitant estate taxes. Generally, the first \$5.3 million value in the estate of a U.S. citizen or resident alien is exempt from U.S. death taxes; however, only a measly \$60,000 exemption is available to non-residents for their “U.S. situated” assets. Thus, for most non-residents, the value

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*“If not properly advised a foreign property buyer could subject themselves to exorbitant estate taxes”*

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## THE SERIES LLC – A TOOL FOR PROPERTY INVESTORS

*By Francisco Orozco, Associate Attorney*

LLCs are common in today's business world. However, a relatively new form of LLC could be of great use to Texas property investors. The Texas Series LLC provision was added to the Texas Business Organizations Code in 2009, and offers a unique twist on the ability of an LLC to diversify its overall holdings while limiting its liabilities.

A Series LLC essentially has the ability to create separate "series" or cells which may have different assets, members or managers, and distinct business purposes and objectives. If certain formalities are maintained, the debts of one series may not be recovered from the general assets of the LLC or any other series. More simply, a series can function as if it were its own LLC and protect itself from the liabilities of other series and the "parent" LLC as well.

A series has the ability to contract, hold title to assets, grant liens and security interests, and sue and be sued. Thus, a series can operate much like a traditional LLC while still affording the parent LLC the enhanced liability protection. For investors looking to pass on responsibility to family members, this feature can offer many possibilities.

An example of using a Series LLC is as follows: An upstart property investor decides he would like to purchase multiple properties in the Rio Grande Valley. If the investor creates a standard LLC, all the properties would be purchased in the name of the LLC and comprise the LLC's overall assets. However, under this form of ownership, every property is exposed

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*"...a series can function as if it were its own LLC and protect itself from the liabilities of other series and the "parent" LLC as well."*

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### ***Hello and Welcome! from page 1***

We have built our successful law practice on a commitment to serving both our local and broader communities with skill and dedicated attention to their legal needs. Our community involvement does not end when our work day is over. Our lawyers are also actively involved in public service in several arenas in and around Port Isabel, South Padre Island and Brownsville. In our practice, we focus on using legal strategies to manage risk and avoid costly litigation. At the same time, we maintain relationships with several reputable South Texas litigation firms. These relationships give us ready access to attorneys with the skills and community ties necessary to litigate effectively in Cameron County, Hidalgo County and other South Texas courts.

From all of us at Kantack Alcantara Law Office, PC, we truly hope that this newsletter will serve you in both your professional career and personal life. Should you ever need our services do not hesitate to call!



*"Knowledge and Experience you can Trust"*

## SAVE TIME AND MONEY WITH A PROPERLY-DRAFTED WILL

*By Kantack Alcantara Law Office, PC*

Without a properly-drafted Texas Will, administering your estate will be time consuming and expensive. Texas has a unique system of “independent administration” that makes the cost of probating an estate relatively inexpensive. But this independent administration process is available only if you have a properly-drafted Will that contains the necessary language. With a properly-drafted Will, a single court filing and appearance can lead to issuance of documents that authorize your administrator to pay your debts and dispose of your assets. In many cases, the administrator never has to go back to court. The administrator simply files an inventory or affidavit once the debts have been paid and the assets transferred.

If you do not have a properly-drafted Texas Will, the person charged with paying your debts and distributing your assets must obtain court approval for most everything associated with probating your estate. Repeated court filings and appearances to obtain this approval are both time-consuming and expensive. In addition, your assets may not end up with the people you want to receive those assets.

What if you do not have much and simply want everything to go to your spouse and children? Isn't that enough? For the small estate, the cost savings from a properly drafted Will can save the estate from being completely depleted by attorney's fees and court costs. In addition, your legal advisor can assist you in properly titling your assets during your lifetime to avoid unnecessary risks or the possibility that the cost of administering your estate after your death depletes what little there is.

### **Non-US Property Buyers Beware! from page 1**

of their U.S. situated assets that exceed the \$60,000 exemption may be subject to an estate tax as high as 35% to 40%.

While the estate tax consequences for foreigners owning U.S. real property may be severe, proper estate planning can help reduce or even eliminate these consequences. The creation of business entities to own the assets, or the establishment of special trusts, are among the many tools that advisors can use to minimize estate tax liability. Therefore, it is particularly important for the non-citizen, the non-resident alien, and even the resident alien with assets outside the U.S., to meet with counsel to discuss the tools and techniques available.

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*KALO Staff and Family Members attend a local Harlingen Art show*

### The Series LLC from page 2

to the liabilities of the LLC in general. Therefore, if a lawsuit arises out of an occurrence on one property, a judgment could be collected against the other properties held by the LLC.

To protect the other properties in the series against this result, the investor could instead create a Series LLC. Assuming that all the formalities are met, if the investor keeps each property in a separate series, the liability of each

series is limited to the assets held within the name of that particular series (i.e. the single property in this example).

Series LLCs require special considerations, and it is advisable to speak with an attorney knowledgeable in the nuances of dealing with this type of business entity. However, if properly drafted and administered, the Series LLC may present great advantages for those looking to invest in Texas.

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## KALO Practice Areas

In all that we do, we emphasize the importance of creating strong legal solutions to protect our clients' interests and provide positive results. Our areas of practice include:

- **Real estate and financing.** We assist in all aspects of real estate transactions, from negotiating terms and drafting documents through closing.
- **Business law and asset protection.** We serve for-profit and nonprofit corporations, cooperatives, associations, general and limited partnerships, limited liability companies (LLCs) and limited liability partnerships (LLPs).
- **Business organizations and planning.** Our attorneys can help you choose the type of business organization that will help you achieve your goals, reducing future liability and tax burdens.
- **Contracts.** Contracts are the lifeblood of any business, providing a framework for all business relationships and agreements. It is critical that you have legal guidance to assist in drafting and negotiating contracts that comprehensively protect your interests and help to advance your business' growth.
- **Estate planning and Probate.** From simple wills to complex estate plans, we guide our clients through the estate planning process.
- **Home Owners Associations.** Condominium and other owner associations on South Padre Island and throughout Cameron County and South Texas come to Kantack Alcantara Law Office, P.C., for reputable, sophisticated and efficient legal counsel regarding governance, collections, foreclosures and other condominium law and property law issues.



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