FOUNDER FOCUS

Patterson Belknap

Structuring a Home Purchase

Often one of the first purchases that a founder will make post-liquidity is a residence. We are frequently asked to explain the pros and cons of buying a residence through an entity versus in a founder's name.
Here are the main considerations:

- **Privacy**: Real estate records are public information, so purchasing in your own name means that people can find out where you live and how much you spent on your home. Purchasing through an entity such as a limited liability company (LLC) or a revocable trust can ensure that this information remains private. Typically, the founder will set up a new entity with an anonymous name – *e.g.* 127 Main Street Trust – to purchase the residence. Ideally, someone other than the founder should act as a signatory for the entity so that the founder's name is not associated with the entity in public records.
- **Liability Protection**: A founder should always acquire homeowners insurance and an umbrella policy to protect against liability for hazards like fire, storm damage and theft. However, if a founder plans to rent out his or her residence to a tenant, the extra layer of protection afforded by ownership through an LLC is highly recommended. Be sure to notify your insurance carrier if you plan to take ownership through an entity so that the proper endorsements can be added to the policy.
- **Tax Considerations**: The Internal Revenue Code provides homeowners with up to a $500,000 exclusion from capital gain on the sale of a primary residence. Some states also provide property tax breaks to homeowners. These tax benefits are typically preserved when purchasing through a revocable trust but may be lost in certain circumstances when purchasing through an LLC.
- **Mortgage**: Some banks may be reluctant to lend to an entity or charge a higher rate for a "commercial" loan if an LLC is used. The founder will almost always be asked to guarantee the loan to the entity, and there may be extra paperwork or steps in the loan process that should be vetted.
- **Cost & Hassle Factor**: Buying through an entity can add some minor costs for set-up and maintenance of the entity. A trust or LLC can typically be set up in a few days. If the founder is using someone else (*e.g.* a friend, relative or professional) to act as signatory to protect privacy, the founder should make sure that individual is available to sign any legal paperwork needed for closing, mortgage, permits and renovations.

Patterson Belknap has a multi-disciplinary team of lawyers who are focused on the legal needs of founders and entrepreneurs. A description of the full range of our services and attorney contacts can be found here. Please visit the Founder Focus Resource Center for more content on broad range of topics of interest to founders and their professional advisors.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact a member of the Founder Focus team:

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