

EPISODE 921**[INTRODUCTION]**

0:00:00.0 ANNOUNCER Welcome to the Real Estate Syndication Show. Whether you are a seasoned investor or building a new real estate business, this is the show for you. Whitney Sewell talks to top experts in the business. Our goal is to help you master real estate syndication.

And now your host, Whitney Sewell.

[INTERVIEW]

0:00:24.4 Whitney Sewell: This is your daily Real Estate Syndication Show. I'm your host, Whitney Sewell. Today, our guest is Kenneth Kastner. Thank you for being on the show, Kenneth

0:00:32.4 Kenneth Kastner: Thanks for having me.

0:00:34.0 WS: Yeah, you have an expertise that anyone in this business, investors and operators need to be familiar with, and so I'm looking forward to this conversation. But Kenneth grew up in Brooklyn, New York, and currently lives in Israel. During the last decade, he became hyper-focus on helping foreign real estate investors with their US taxes and founded Kastner Tax Solutions, a web-based firm serving global clients with a smile. He is a tax partner and Director of the US tax department at VBIR in Israel.

Kenneth, welcome to the show, how did you get into this business? For one, and I want us to jump in to just the implications for foreign investors that not only the investors need to know about, but also operators need to know about... How did you get into this space?

0:01:16.5 KK: Absolutely, I actually fell into this space by accident, I guess, but, you know,

everything is pretty good. I got my CPA over a decade ago when I was working in Israeli Firm is mostly doing auditing and texts for Israelis and internationally. I'm an Israeli CPA. And then afterwards, I kind of got into the US side, after I was working in EY, there two senior managers, they decided to open up their own firm and somebody's basement, famous basement kind of operations, and they took me in and they were... Their focus was only on US tax.

They had two separate things, either Israelis or people that don't live in the US, but they're US citizens and they need to file because they're expects and the other group was also people who don't live in the US, they're also not US citizens, and they need to file in the US because they have real estate investments in the US. So I kinda got into that and I saw... That's what I wanted to do. So I went and I got my EA from the IRS and learned on the job, and that's what I've been doing for the last seven, eight years. Focused, like you said, hyper-focus on this specific topic, so...

0:02:24.6 WS: Well, let's talk about... I guess let's first start out for just implications for the foreign investors, and let's talk about what they need to know as that investor, they're looking to invest in the US, we have some for investors personally and numerous others that would like to partner with us, and so we've had to learn a little about this, but personally, I would love to know more, I don't know many of the listeners as investors and operators would as well, but can you just walk us through some things that... The implications for that for an investor, things they should know... And let's dive into some of those things.

0:02:55.0 KK: There are some technical things and there are some more serious things, obviously on the technical level, planning on how they're going to structure their investment and how they're going to operate themselves, often they're gonna be passive investors because they're not physically in the US. So in terms of structuring it from a legal perspective, taking into account their home country as well as what's going on in the US in order to avoid double taxation and terrible things like that.

On the technical side is you have to get an ITIN, for example, you're not a US citizen, you don't have a social security number, they're gonna have to get an ITIN in order to file taxes at the end

of the year, and in terms of the structure also, people often... Like the structure with the LLC. It's not always the best structure for foreign individuals and depends really what country they're in and what their purpose is.

Bottomline, there's a lot of planning before they invest, and there's a lot of homework that they need to do, so I try to keep that pretty simple and straight forward by asking them a few questions beforehand just to understand what type of investor they are, what their long-term goals are, and based on that, we can build the process for them that's unique for them, because there is no one-size-fit-all.

0:04:04.9 WS: Are they able to avoid double taxation?

0:04:07.0 KK: Of course, with good planning, they can avoid it. Double taxation in general, whoever is not familiar with the term is when there are two different countries that wanna tax you on the same income... Okay, so in this case, when you have real estate rental income, that's what we're talking about, mainly. The US wants to tax that rental income because the real estate is in the US physically, and the foreign country wants to tax that income often because the person that owns the real state and getting that rental income is a resident of that country.

And in many countries, the country taxes their residents on their worldwide income, so when you have that clash between two countries that both want the same income, you have to parse if there's a tax treaty between the two countries, sometimes you have a tax treaty... Some countries don't have a tax treaty with the US, so if there is no tax treaty, it's a little more complicated and there might be double taxation in certain scenarios.

But with many countries, there is a tax treaty and pretty much the way it goes is the tax treaty, you'll say, okay, the real estate is in the US, on US soil, the US will get the first right of taxation, and then when the foreign country wants to tax them, they don't pay the full tax again, they get a credit from what they paid already in the US, and if there is any difference than they would pay the difference.

For example, if the US tax is 10% and the foreign country tax is 15%. So then they won't pay 10% plus 15%. They'll pay 10% in the US and then just another 5% in the foreign country.

0:05:38.3 WS: Okay, no, that's interesting. It's great to know that there's even a... I don't know, just to understand that both countries could potentially be taxing you if you don't set this up correctly, you talked about the need for the things that ETIN, you know, or LLC... How difficult is that to obtain for the foreign investor?

0:05:55.0 KK: It's not that difficult to open up an LLC, most LLCs can be formed online, and you don't have to go into the US for that, it might be a little more difficult to opening up a bank account 'cause they're a little more... They scrutinize every single person that comes to the bank, but that we can work around that also the ITIN is a little more... A little more difficult because in order to get an ITIN, the IRS, in theory, requires the applicant to send in a form together with their original passport... The original valid passport together with the application to the IRS by mail... Okay, not a copy.

0:06:34.0 WS: They're actual hard... The actual hard copy of their passport...

0:06:37.9 KK: Right, exactly. But they don't really have to do that because the IRS understands that people are not gonna wanna send their passport book to the IRS, and who knows when they're gonna get it back if they'll get it back, even though they're supposed to return it right away, anything can go wrong. So the IRS pointed and trained agents all over the world that can identify the applicant instead of the IRS, and these agents are called CAA, Certified Acceptance Agents.

And in every country, you'll have multiple CAAs, so the applicant, the foreign investor, can just go to one of these CAAs in person so that the CAA can identify them and make sure that their passport is valid, and then the CAA will just make a photocopy of the passport and send it to the IRS with their signature on the application, and that's how they got an ITIN, although that takes a few months also until the IRS actually issues the ITIN especially now.

Plus the IRS doesn't give out ITINs to anyone, so you have to have a reason for requesting an IIN... And the most common reason is because they need to file a tax return, so the application for the ITIN is submitted together with their first ever tax return.

0:07:51.4 WS: Okay, so that's good to know that you don't actually have to do that, I can see why you would not want to send in your hard... especially if you travel quite a bit, right, you're not obviously, you're gonna be grounded down for however long it takes Iris to get that hard copy back to you, and so... Yeah, it's a real dilemma. And what about this bank account though, how do they get those open?

0:08:10.7 KK: Right. So first of all, not every investor has to have a bank account open. Okay, they can operate with their foreign bank account, depending on what the structure is, usually, especially if they're foreign... If they're passive, I'm sorry, if they're passive investors and they're just gonna be getting... They're gonna be getting funds once a quarter, once a year, then whatever operator is handling that can just transfer the funds overseas.

But if we're talking about somebody who wants to buy real estate and have it on to their personal name or their personal LLC, and you know kind of like be a little more active in all themselves, there are always around it. Basically, the best way is if they're gonna be traveling to the US anyway, a walk into a bank and open up the bank account. There are certain banks that allow non-residents to open bank accounts from afar, but it really depends on the bank and on the situation it's not like there's a rule for all of the banks that apply for everyone, just every bank is different. But it is possible.

0:09:10.4 WS: Yeah. Well, I know the structure, like you mentioned, it's different depending on where this... For investor lives, what country they're from, could you just maybe lay out in an example structure for India or China or... I feel like those are a couple of very common countries that I know we receive investor or inquiries from, is that something you can just kinda help us to think through that a little bit, what that investor needs.

0:09:34.6 KK: Yeah. I mean, obviously the... What's close to in my backyard is Israel, where I live, so I can definitely give you a lot more examples of how things work in Israel, obviously, every country, every country is different, and before we have any investor, we look into the rules of that country, but since I focus on the US side, I'm always going to be in touch with the local accountant as well, because I can't possibly know the tax laws in every single country in the world.

So it's definitely we need to cooperate with the tax professionals in that country in order to see what pitfalls can be over there, some of the examples can be, like I mentioned before, the double taxation issue, if there's no tax treaty.

0:10:16.1 WS: No, just the structure, if you're gonna use an investor from Israel just to type to structure that they would need for example.

0:10:22.6 KK: Right, right. The other thing, 'cause I remember the other thing that you have to be aware of is estate tax, there's estate tax exposure that's very different from US citizens, as you know, even though it might change or changing all the time, the estate tax exemption for US citizens is currently, like 11 million dollars of assets per person, and for a foreign person that has assets in the US, the exemption is only 60,000 dollars, so that's definitely something that needs to be planned out ahead of time in order to avoid that structure.

Either that or just by saying, you know, you can't... You know how to die as long as you have US real estate, but if you wanna plan a little better than that, there are other ways to get around that, instead of, for example, investing as an individual. They can invest through a foreign corporation, which invests in the US that can take away the estate tax exposure and obviously they're up and downs for everything. So even though that sounds the problem with the estate tax, but they might have higher taxes, income taxes along the way because of the corporate tax and the wait structured...

0:11:31.7 WS: Yeah. No... It's some great things to think about, for sure you know, as that investor... I don't know, before we started the recording, we were talking just a little bit about

how a lot of operators are just turned off by foreign investors, like they just say, No, we're not gonna do it. No, sorry. And close the door on it. And so why on the operator side, why should they not just turn that... shut the door on that completely, what are some things they need to be aware of as operators?

0:12:01.1 KK: Obviously. I should... Like they should not shut the door because there are plenty more investors that they could possibly have all over the world instead of writing themselves to the US, obviously that's the best reason, but ultimately, if the investor has a proper tax professional that's helping them along, there's absolutely no reason to be deterred by that.

What the operator is gonna have to understand, although they're also gonna have their own accountants and tax professionals can help them with that, they can have to withhold taxes for the fare investors as opposed to US people that don't need withholding, they're gonna have to be aware of different types of withholding, not just the regular withholding from income tax, if they were talking about passive investors in a syndication, in a partnership.

But if there's no partnership, if we're talking about somebody buying real estate, buying a house from a foreign person, okay, then you have something called FIRPTA, I'm not sure if you heard of FIRPTA. FIRPTA is a law from 1980 that basically says that if you're buying a property from a non-US person, you have to withhold 15% of the sales price, not the profit, the sales price. And only give 85% to the foreign seller and 15% to the IRS.

And you know, there are a lot of different ways for the foreign seller to get that money back because it's usually too much tax.

0:13:20.0 WS: You know, that operator... How much do they need to be withholding taxes? What do they need to be doing? As you say, we have an investor that's investing in a deal and we're paying out distributions within maybe the first month or first few months, a monthly there after... What should that operator be considering?

0:13:38.0 KK: Exactly, that's exactly what they need to understand, because the IRS is relying on them, essentially to make sure that they're gonna get their taxes, because they don't rely on a foreign person, they're afraid that the foreign person is gonna run away to a foreign country, and they're never gonna see tax from that income. So they're relying essentially on the partnership or on the operator or whoever is sending the money, overseas to the foreign person.

Relying on them to withhold tax according to the proper amount by law, so that's not necessarily something that the operator has to be concerned about on a personal level, because again, that's something that's done in the back office with the tax accountants. They do the calculations, but yeah, it's definitely set... They should be aware of it at some level.

0:14:27.4 WS: We personally send out the distributions, like our accountant doesn't do that on a monthly basis. We personally do that, should we be withholding some tax money there from those forward investors, even on a monthly basis as we send those distributions?

0:14:42.2 KK: Possibly, it really depends on the tax calculation. Okay, it's not an early on the actual distribution because the distribution could be based on other things and not necessarily on how much income there was... I'll give you an example, if you have depreciation, if you especially you a cost segregation study, right? If you're familiar with the cost segregation, it's essentially accelerated depreciation and it's a tax deferral method.

So what that means is that you'll have cash in hand to distribute to the investors, but from a tax perspective, you might have a loss on the books, so if there's a loss or a lower amount of income, then there's gonna be a lower amount of withholding, so it's not necessarily the amount that you're distributing, its amount that you're distributing that's classified as income, so that's where the account that needs to be involved regarding the distributions.

It doesn't have to be with every single distribution, it's essentially a quarterly withholding estimate that needs to be sent to the IRS based on the tax calculation, so it's a quarterly calculation, but essentially what you need to understand is that the amount that you're gonna

be transferring to the IRS is also considered part of the distribution to the investor.

Okay, so if you're telling the investor, okay, I'm gonna give you whatever, 100 dollars, but you have to give 10 dollars to the IRS, you're only sending over 90. But essentially, you're giving the investor or distributing 100 dollars, not 90 dollars, because the investor will have a credit for that 10 dollars on his tax return when he files a tax return in the next year, and we'll either get a refund or or that'll just be on the account of their taxes that they owe...

0:16:22.8 WS: Yeah, great information. I definitely just some examples why our teams so important and having somebody like yourself on our team is just to better understand and sure we're doing that properly and we don't get called behind the years into it, and we haven't even thought about the... The tax implications for our foreign investors, so anything else as far as for the foreign investors specifically or for the operator working with foreign investors that you wanna leave us with before we have to move to a few final questions.

0:16:50.5 KK: I just want one more sentence about that withholding, like I said, the IRS is gonna be coming after the Americans, after the foreign people, because if if you decide, okay, you know, I'm gonna give the whole thing to the foreign people, I don't care or whatever, let the... Let them figure it out. No, it's not their problem. It's your problem, 'cause if you distribute all of the money to the foreign person you weren't supposed to, and the IRS will still come to you and say, I still want my tax withholding. Right?

So you're gonna have to figure out how do you get that money back from the foreign person or take it out of your pocket, so that is definitely something just to be aware of and take that with you the next part of this conversation.

0:17:26.7 WS: For sure, for sure. Well Kenneth, I wonder a couple or a daily habits that you are disciplined about that have helped you achieve success.

0:17:33.6 KK: I would say every day. I don't know if some people wake up in the morning early, meditate, things like that, so I guess it could be called meditation, but I make sure to pray every

morning to start off the day thinking the Creator of the world and basically putting things in perspective and that's what allows me to have a good day with the right perspective.

0:17:54.0 KK: What's your best source for meeting new investors right now, I usually ask out of operators, but they're your clients as well, how do you meet new investors right now...

0:18:01.0 KK: Right, so besides for my website, I'm quite active on LinkedIn, so people get... I think you found me on LinkedIn also. Through LinkedIn and through bigger operators that I approach or that know me for my businesses in the last whatever, five, 10 years, they have themselves a lot of investors, so if I go to the operator and say, hey, you need somebody to help you with all these for investors, especially operators that are not necessarily in the US, but they're somewhere else.

They're forming a group. There are plenty of groups like that, for example, right here in Israel, but it could be anywhere in the world, and they have all of their investors that they're helping invest in the US, all these past investors, and they need somebody to do their taxes. So I think those are the two ways that I meet new investors.

0:18:47.0 WS: What's the number one thing that's contributed to your success?

0:18:49.6 KK: Number one thing that contributes to my success, I think that would be my obsession to detail. I was always an analytic kind of person, you know, even proofreading wedding invitation, you know, looking for those typos. So I think that's something that a lot of people don't have patience for, and the fact that I have patience, I catch a lot of that stuff, make sure nothing... No, no rock unturned.

It's definitely helps my success, plus the fact that I like vegging out and watching a game with baseball, even though I live in Israel, I'm still a Net's fan at heart from my days in Brooklyn, so the fact that I can balance that, that work with that relaxation kind of thing, is definitely a que my success.

0:19:29.6 WS: That's a skill in itself right there. No doubt about it, but yeah. Thankfully, you... have a large attention to details, especially if you were specializing in taxes, that definitely a skill you need to have, how do you like to give back?

0:19:41.0 KK: Okay, well, I don't necessarily give back in the way of giving free tax accounting services, but I do have some non-profit organizations that I volunteer at here, one is the charity organization, another is in an organization that runs a community center in a synagogue, so I'm involved helping with the management and admin for that kind of thing, and I feel very good about that I'm able to give back in that way.

0:20:06.4 WS: Awesome. Kenneth I'm grateful for your time with us and giving back to us on the show today working with foreign investors is something that most people... Like we've said, just really say, you know what, I'm not ready to do that yet, or I don't wanna have to figure that out, or I don't wanna open that door yet.

But I think it's a matter of having someone like yourself on our team that can help us to ensure that we're doing it properly, 'cause we definitely wanna work with foreign investors and open that door and have that process completely legal and structured the way that's best for that investor in for our team as well, just to ensure both of our success, so grateful to know you and tell the listeners how they can get in touch with you and learn more about you.

0:20:43.9 KK: Well, the easiest way, like I mentioned before, is LinkedIn, just search my name Kenneth Kastner in LinkedIn... You'll find me there. I have some interesting things I post there to keep it entertaining, and through my website and my email that I'm sure you'll post underneath this whatever podcast information area, so people don't have to write down my email address. Life. That's the end. That's the best way to find me.

[END OF INTERVIEW]

[OUTRO]

0:21:05.6 ANNOUNCER: Thank you for listening to the Real Estate Syndication Show, brought to you by Life Bridge Capital. Life Bridge Capital works with investors nationwide to invest in real estate while also donating 50% of its profits to assist parents who are committing to adoption. Life Bridge Capital, making a difference one investor and one child at a time. Connect online at www.LifeBridgeCapital.com for free material and videos to further your success.

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