

GANDER TAX SERVICES

Family Limited Partnership (FLP)

Purpose

To provide an alternative vehicle to a trust where the asset(s) to be settled are in excess of the NRB (typically, around £1.5m). Additionally, the structure allows the transferor to retain an income.

Summary

By transferring the ownership of a large asset into a FLP, an individual can remove its value from their IHT estate, whilst retaining an income and providing an income to others. Whilst it acts in a similar manner to a trust, it is transparent for tax purposes.

Method

An FLP is a Limited Partnership under the Limited Partnership Act 1907. In order to qualify, the following conditions must be met:

- there must be a general partner (“GP”) that does not have limited liability and takes charge of the managerial decisions (in order to obtain limited status, the GP is usually a limited liability company);
- the limited partners (“LPs”) must not involve themselves with management of the partnership or its business or they will lose their limited status.

In effect, the GP has a similar role to a trustee, whilst the LPs are analogous to beneficiaries.

An FLP is a collective investment scheme due to the fact that some of the partners do not take part in the day-to-day management and control. Consequently, it is necessary for the FLP to appoint FCA authorised individuals and to delegate the power to carry out investment decisions, and the promotion, establishment, operation and winding up of the FLP. An FCA authorised Investment Manager should deal with investment activities, whilst an FCA authorised Operator should take on all other functions. These can be the same person. This can be put into effect by way of a delegation agreement.



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Case study

Margaret and Dennis wish to transfer their investment portfolio into a trust for the rest of the family. However, as it is valued at £2m, the IHT charge would be prohibitive. They decide to use a FLP instead.

MD Ltd is incorporated to act as the general partner, with Margaret and Dennis as the shareholders and directors; it is not entitled to any profits, but makes managerial decisions. Each of the limited partners are family members, a trust for grandchildren and a SIT for Margaret and Dennis (see planning note on SIT).

As income arises, each limited partner is entitled to a share in accordance with the partnership agreement and taxed thereon.



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