

## FAMILY LIMITED PARTNERSHIPS

### *Family Limited Partnerships for IHT Planning*

Limited Partnerships can be used as an alternative to Family Trusts for the purposes of IHT planning.

Limited Partnerships have the advantage that, under current legislation, they are not subject to the 20% tax charge introduced in the 2007 budget on assets transferred into a trust and they are also not subject to the recurring 6% charge.

As far as Inheritance Tax planning is concerned they have the same advantages as using a trust in that assets or cash can be set aside for the benefit of family members. After seven years the assets can pass to the family free of IHT on death in the same way as would happen if the assets had been placed in trust.

To be used for this purpose, the structure of a Limited Partnership has to be a little more complicated than a trust.

Instead of Trustees and Beneficiaries all the parties involved are partners. The role of the trustees is taken by a General Partner and the beneficiaries become Limited Partners.

The General Partner is required to delegate certain functions to a body authorised by the Financial Services Authority to operate collective investment schemes.

Dunadd Asset Management Ltd are authorised to carry out these functions and can arrange for the setting up and the continuing management of the partnership in compliance with the rules of the FSA and all other legislation.

### ***The Partnership in Operation***

The partnership will be set up by a deed that will specify how the partnership will operate and also the duration of the arrangement.

This can be for a fixed period or could be up to a specified event such as the death of the donor.

The General Partner will be responsible for the day to day management of the partnership and can be constituted as a limited company 100% owned by a trust set up by the donors of the assets.

This allows the donors to retain effective control over the assets they want to transfer to their inheritors.

The donor transfers cash or assets into the partnership and then gifts shares of the partnership to the persons to whom they wish to transfer their assets on death.

The persons receiving shares of the partnership are Limited Partners and do not participate in the management of the partnership.

### ***Operational Considerations***

The partnership has to be run as a business to prevent it being regarded as a trust and made subject to the tax charges on trusts. If the assets are appropriately managed this will qualify as a business activity provided that income is distributed in proportion to the partnership shares.

The partnership can hold cash, property or shares. The partners are not permitted to use property owned by the partnership but otherwise there are no restrictions on what can be done with the assets.

A limited partnership is classified as a collective investment scheme for the purposes of financial regulation and the operator of the scheme must be authorised by the FSA.

To comply with this requirement the deed would arrange for the operation of the partnership to be delegated by the General Partner to Dunadd Asset Management Ltd.

The investments must also be managed by an FSA authorised manager.

Unlike a trust which has to make tax returns a limited partnership is transparent for tax purposes and the partners include any income received from the partnership in their personal tax computation.

A variation in the partnership shares will be treated as a disposal for the purposes of capital gains tax making it advisable to create a division of the partnership at the outset that is unlikely to require changing in the future.

#### Comparison of Tax Treatment of Estate of £5M\*

	No Arrangement	Trust	Partnership
Tax Rate on Entry	-	20%	-
Tax Due on Entry	-	£1,000,000	-
Tax Rate on Death	40%	-	-
Tax Due on Death	£2,000,000	-	-
<b>Total Tax Liability</b>	<b>£2,000,000</b>	<b>£1,000,000</b>	<b>£0</b>

\* After seven years

#### *Summary of Benefits*

The Limited Partnership offers the potential to reduce the amount of tax payable to transfer assets from one generation to the next.

It allows the donor of the assets to retain a similar degree of control of the assets to using a trust.

The limited partnership structure protects the donors and the beneficiaries from any liabilities arising from the operation of the scheme beyond their share in the partnership.

While it is not possible to be certain that future changes in taxation will not affect the advantages of this type of arrangement for IHT planning, the fact that many businesses are set up as limited partnerships will make it difficult to introduce a similar tax penalty to the 20% charge on trusts.

The information on taxation is our current understanding and may change from time to time.