FAMILY INVESTMENT COMPANY

A family investment company is a frequently used vehicle to hold family assets. It can be used very successfully to achieve two objectives. Firstly, to be able to pass down the generations assets held by the family in a tax efficient way and secondly, it enables the parents to retain some form of control over those assets. It is sometimes considered to be an alternative to a family trust, however, it is best seen as complementary to a family trust. If used well it can be used for estate planning, protection of capital and tax efficient wealth accumulation.

General Advantages

a) **Control**
Because it is within a company structure, the parents can retain voting shares in the company and therefore control the company without necessarily having a financial interest in the company.

b) **Inheritance Tax**
Depending on the way the company is set up and the way it is financed there should be no immediate inheritance tax on gifts made in to the company, as these will be potentially exempt transfers. Unlike a trust because it is held within a company there is no 10 year periodic charge and no IHT exit charges. There may also be the possibility of permanent inheritance tax savings.

c) **Income Tax**
Because it is held within a company then Corporation Tax will apply to its income and the Corporation Tax rate is currently set at between 19 per cent and 25 per cent, depending on your level of profitability. Similarly with regard to Capital Gains Tax they will be taxed at the Corporation Tax rate rather than the normal Capital Gains Tax rate of either 10 or 18 per cent, depending on whether you are a basic, higher or additional rate taxpayer, which would be paid by an individual.

Expenses

Once again, as a company, tax can be deducted for expenses. If the company contains a property that could be very useful, especially if there are mortgages, as an individual can no longer claim mortgage relief. Further, dividend income is generally exempt.

Structure

There are a number of ways in which a family investment company can be structured. For example, a person can transfer in to the company an interest free loan or subscribe for preference shares. This will not trigger Inheritance Tax as it is simply a loan. The company then repays that loan free of income tax to the parents.

The parents can have voting shares in the company, which would give them control over the company. The value of the non-voting shares can then be gifted to the children. This would normally be done before the value of those shares rises in value. If the parents survive seven years that will be a potentially exempt transfer. Sometimes it is possible to use a trust.

It is good to include not just the children as members of the company to be holders of shares, but also to include a family trust under which the parents control the structure as both directors and trustees and that way one can be flexible in case there are future born children or indeed grandchildren that one wants to benefit. If one gives different classes of shares then one can be further flexible in terms of payment of the dividends. For example, if it were decided for whatever reason not to pay a dividend to the children but to pay the dividend to the family trust that could still be done.

Effectively this means that the parents retain control, but at the same time have passed on a valuable asset through the company in the most tax efficient way on to the next generation and beyond.

It is often asked whether it should be a UK unlimited company or a limited company and it can be either, although one has to take in to account filing requirements. One should also be aware that an unlimited company does not have the same protection as a limited company would.

Taken as an example, if a beneficiary was a In setting up the corporate structure it is important to carefully consider the composition of the board of directors, the share capital structure and the share transfer provisions, for example does one want to include pre-emption rights or stop a beneficiary transferring shares out of the family?

Summary

Although family investment companies are not a total solution, they are an important arrow in the tax payers quiver. They can be used very effectively at giving away value whilst retaining control. They have flexibility, can protect capital for the next generation and provide a framework for the tax efficient holding and transfer of family wealth.

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