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“Tip of the Month”

The Family Limited Partnership

The family limited partnership (FLP) is an estate planning vehicle that can provide asset protection and tax benefits. In a limited partnership, the general partner manages the partnership’s assets and has all the liability exposure. The limited partners are silent, and are not allowed to participate in management though they share the profits.

In an FLP, the general partners are the parents, who put assets into the FLP. The limited partners are the children. This can allow parents to transfer shares of their taxable estate to their children over time, without giving up control of the assets. The FLP can also help protect the assets from creditors because claimants are not able to get judicial attachments (liens) on partnership assets.

Some families form several FLP’s for pieces of real estate, investment accounts, business interests, and valuable cars or collections. If financial disaster should strike one aspect of the family’s enterprises, other family assets would be shielded from the reach of claimants and creditors.

Gift taxes. Parents usually want to transfer estate values to children within the gift tax exclusion, which is now \$11,000 per year per donee. FLP share values can often be discounted when transferred to children because of the limited partners’ lack of control.

Estate taxes. Transferring FLP shares takes value out of the parents’ taxable estate. Assets might then appreciate in value, also outside the parents’ taxable estate.

Income taxes. Partners are taxed on partnership income in proportion to their share interests. Children generally have lower income tax brackets than their parents.

Compliance with IRS requirements can be tricky when managing an FLP. The IRS likes to keep a close eye on the tax angles. For example, the gift of an FLP share must be a “present interest,” that is, it must provide value now and not at some future time.

In addition, a recent Tax Court case found that where the general partner (and grantor of the gifts) kept the right to receive all the income from the partnership assets, there was no real gift. All the assets would be considered part of the grantor’s taxable estate.

If you have any questions about FLP’s, estate planning or asset protection, please give us a call at 668-1971 or contact us through the internet at *Meslaw @ aol.com*.

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