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FAMILY INVESTMENT COMPANIES

A family investment company (FIC) is a bespoke vehicle, enabling wealth to be passed on to the next generations in a tax efficient manner, whilst retaining control over those assets. They are often used as an alternative, or in addition to, a family trust.

What are the Key Features?

There are many options for the structure of a FIC but at its heart:-

- The FIC is a private limited company controlled by a board of directors.
- Family members, and possibly family trusts are the shareholders, sometimes taking different classes of shares with different rights attached.
- Bespoke articles of association and a shareholders agreement (effectively the rulebook for the FIC) ensure the FIC is suitable to operate in a family estate planning context.
- Capital is introduced by subscribing for shares or making loans to the FIC, or a combination of both.
- The FIC's profits (both income and gains) will be subject to Corporation Tax at 19%. Dividend income is Corporation Tax exempt.

What are the Main Advantages?

Inheritance Tax (IHT)

An FIC can assist with mitigating the family's IHT exposure by:-

- When the FIC is formed either gifts of cash to family members to subscribe for shares, or gifts of the shares themselves can be made without incurring any immediate IHT charges. Provided the donors of the gifts survive seven years, the full value of the gifts will fall outside of their estate, avoiding IHT.
- Unlike gifts to trusts, the amount that can be introduced to the FIC by the founders is not limited by the Nil Rate Band (£325,000). With a trust any amount gifted in excess of £325,000, is subject to an immediate IHT charge of 20%. Provided the gifts are correctly structured, these charges will not apply to a FIC.
- Even if the founders of the FIC remain shareholders and retain a minority interest in a FIC, the value of the shareholding will be discounted on death when valuing their interest for IHT purposes, taking into account the size of the holding, the rights attaching to the shares, the limitations on selling the shares. These discounts can be substantial.

Accumulation of Wealth

An FIC is a very tax efficient vehicle to accumulate wealth. As above, Corporation Tax rates are often lower than personal tax rates, and indeed rates applying to trusts. A particular advantage is dividend income being exempt for Corporation Tax rates. This makes an FIC an excellent vehicle to hold investments. Further, the lower rates allow more of the income and gains to be reinvested in the FIC to generate further capital growth.

Certain family members can hold classes of shares which attract the capital growth, ensuring the value of the founders' holdings remains minimal and allowing the accumulated wealth to be passed on to other family members.

However, when profits are extracted from the FIC, by declaring a dividend, the shareholders will be taxed at their personal marginal rates, between 7.5% and 38.1%. A dividend exemption of (currently) £2,000 is currently available to set against the dividends received.

Retaining Control

Day to day control of the FIC rests with the board of directors. They decide on the direction of the company, the investment decisions and when dividends are paid to their shareholders. Further protection can also be put in place by bespoke articles, limiting the right of shareholders to dismiss directors or transfer shares i.e. to non-family members.

Who are FICs suitable for?

Those with a significant exposure to IHT, particularly with large cash deposits and who are perhaps more familiar with running companies (as opposed to trusts) are likely to find an FIC an attractive solution to their IHT problem. However, there are a number of tax traps and pitfalls when creating a FIC and we would therefore recommend taking advice at the outset.

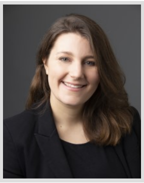
Clare Colacicchi

Partner
Northampton
01604 463317
clarecolacicchi@hewitsons.com

Elizabeth Davies

Partner
Cambridge
01223 532715
elizabethdavies@hewitsons.com

Katherine Hague



Associate
Cambridge
01223 532749
katherinehague@hewitsons.com

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