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What is a Family Limited Partnership?

The Family Limited Partnership (FLP) is a limited partnership created to transfer ownership of assets to family members with a minimum of tax consequences. The FLP is designed to lower the value of your investments and assets (for estate tax purposes) while still allowing you to maintain full control of your estate inside the limited partnership. It works particularly well to transfer a family business, real estate or an investment portfolio to the next generation. It helps to reduce estate taxes -- and to reduce the risk that assets would need to be sold to pay those taxes.

Here's how it works: Senior members of a family convey a family business, investment portfolio or real estate to the Family Limited Partnership. Typically, the senior family members will own the limited partnership initially. In most cases, though not all, the senior family members will begin a gifting program to make gifts of partnership interests to younger family members. The senior family members retain control of the partnership. The FLP allows elder family members to introduce younger members to the family business and investments, while limiting their liability.

In FLPs, two types of partners are involved: The General Partners, who control the partnership -- and Limited Partners, who earn a share of the profit but cannot exercise control.

The general partner is usually an entity, such as a Corporation or a Limited Liability Company, owned by you and your spouse. Usually, though not always, you will gift partnership interests to the children. The general partners control the day-to-day operations of the FLP and make investment decisions. Also, they can receive a management fee based on a percentage of the FLP's income.

Limited partners, which would usually be you, your children and maybe even grandchildren, own an interest in the FLP. They share part of the income from the FLP, calculated on the number of shares they own. But they have almost no control. When the heirs dissolve the FLP, the partner-ship's property will pass to each limited partner based on their number of ownership shares.

Discounted Value: By conveying into the FLP income-producing assets, such as rental property, the assets' value can be discounted 25% or more. This is due to factors such as the lack of market-ability of -- or the minority interest in -- the partnership shares. Gifting small interests in FLP assets during your life is an effective way to use a person's applicable federal transfer tax exclusion amount.

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Limited Liability: In an FLP, the general partners can be personally liable for the acts of the partnership, but the limited partners are not subjected to such liability. Limited Partnership statutes are written to give the limited partners limited liability for partnership activities. More important, if a limited partner is personally sued, the creditor cannot take his share of the partnership assets. Rather, the creditor is limited to a Charging Order. This remedy is of very limited benefit to the creditor. Thus, creditors usually try to avoid Charging Orders.

Unified Credit: FLPs often allow you to give your heirs more than the maximum unified credit. This is because a gift of FLP assets may be appraised at a much lower figure. This means, due to discounting, you may be able to gift substantially more to your children, who still qualify to receive the gift free from both income and estate taxes.

Because of its many benefits, the Family Limited Partnership is one of the hottest tools in estate planning and asset protection. Parents can protect their assets from liability for a child's car accident. They can shield their assets from lawsuits arising from renters and rental property. They can safeguard their assets from disputes that result from their business.

In today's lawsuit-happy world, NO business owner should be a sole proprietor because his assets are there for the taking. Every business owner must have a high level of asset protection, not only for his children, but also for himself and his spouse. And in the event the husband and wife ever divorce and remarry, the children's assets are still protected.

I urge you to look at how a Family Limited Partnership will protect your assets -- and help you transfer assets to your children and grandchildren, while paying the lowest amount in taxes.

Anthony J. Medico, Esq., *has practiced law for over 22 years. To ask a question for this column, or to receive Medico's free Estate Planning Survival Guide, visit his website at www.medicoandassociates.com, send an e-mail to Amedico@medicoandassociates.com or call (203) 661-8151. You can read most of his previous columns on his Greenwich Time estate planning blog on the internet. Just go to http://www.greenwichtime.com/blogs and scroll down until you find him under the business section. Enjoy.*