Committed to you.

Family Investment Companies

What's a Family Investment Company (FIC)?

A FIC is a flexible corporate structure allowing families to pass wealth down to future generations whilst retaining control and security.

It's a private investment company whose shareholders are members of the same family.

The company's memorandum and articles of association are tailored to the personal needs of the family regarding voting rights, rights to income and capital and assets on winding up.

This allows family wealth to move to future generations, giving the older generations, or donors, peace of mind, knowing that they keep initial control of the assets from the tailored articles of association.

Setting up a FIC

There are multiple options for funding a new FIC, including loans, direct gifts of capital to individuals or trusts to subscribe for shares or the gift of shares themselves.

There is flexibility to use just one or a mixture of all options depending on your family circumstances and what you wish to achieve.

Within the company, alphabet shares may be an option worth considering to adapt voting rights and control as required.

Where cash or shares are gifted to an individual, no immediate inheritance tax (IHT) charge will be due as they are Potentially Exempt Transfers (PET), provided the donor survives seven years from making the gift.

The FIC could be set up as an unlimited company so you wouldn't be required to file publicly available annual accounts. However, the shareholders would be liable for any debts incurred.

Advantages of FICs

When it comes to succession planning, most choose to set up a trust.

However, depending on family circumstances, this may not be the most tax efficient method since the introduction of Family Investment Companies.

Profits and gains realised within the FIC will be subject to corporation tax. The current rate is 19% for profits below £50,000, rising to 25% where profits exceed £250,000.

Depending on the assets in which the FIC invests into, one main benefit is that dividend income from UK and most non-UK companies will not be subject to corporation tax. The result of which being that significant investment income streams can be received free from income tax until they are distributed.

FIC vs a trust

The company is able to generate income from a portfolio, utilising the tax-free status of UK dividends and most non-UK dividends.

Any non-dividend income or gains are taxed at the corporation tax rate of 19% to 25%, depending on profits. This is in contrast to all income being taxed within a trust at 39.35% or 45%, depending on its type, and all gains taxed at 24%.

It's also worth noting that any management fees are deductible for taxation purposes.

Unlike with a trust, where relief is available to holdover any capital gains on the transfer of assets, a charge can be generated on the creation of the FIC if assets are gifted in. For this reason, alternative methods of creating the FIC are usually used.

When a trust is set up, IHT liabilities can arise. There's an immediate IHT charge at 20% for transfers made above a donor's available nil rate band, which is currently £325,000. FIC can be started with an unlimited amount of capital. It's also easy to add more as time goes on.

Also, for a trust, depending on the value, there's the likelihood of an IHT charge every 10 years, and asset 'exit' charges, which are currently both capped at 6%.

However, a trust can be a tax efficient tool to avoid IHT when an individual dies, providing income to beneficiaries and protecting assets.

It can also be beneficial for a trust to hold shares in a FIC, allowing trustees to retain control but have assets leave their estates. When a FIC is established, there shouldn't be any IHT implications (depending on the method used) and there won't be any ten-yearly charges or exit charges.

In addition, if the FIC ownership is properly structured, some of the growth in value can be outside the IHT estate of the person who sets it up.

> If done properly, when a FIC is established, there shouldn't be any inheritance tax implications."

Disadvantages of FICs

- **Double taxation**: The company pays corporation tax at 19% to 25% on any income and gains. In addition, individuals receiving income from the company pay income tax. Salaries paid by FICs are deductible before corporation tax is calculated.
- **CGT**: Transfer of capital assets (non-cash) to the company may be subject to CGT on the market value of the asset and Stamp Duty taxes. However, with tax planning, CGT could be mitigated by Business Asset Disposal Relief or holdover relief, providing conditions are met.
- **Costs**: The costs of setting up such a company are higher than that of a discretionary trust. Moreover, there are ongoing costs and time involved in maintaining the FIC, e.g. meeting company filing regulations.

Which option should I choose?

A FIC is certainly worth considering for succession planning purposes.

However, depending on family circumstances, a trust may be the more suitable option.

To make the most of a FIC, shareholders will need to take advantage of the corporate veil, which protects family assets and the ability to tailor the articles of association and memorandum.

Being able to retain control over such assets may give peace of mind to older generations.

We can talk you through both options to see which is best for your family.

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