

Family limited partnership can be effective planning tool

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One of the more powerful planning tools available to families is what is referred to as a family limited partnership. A family limited partnership is nothing more than a traditional limited partnership where all of the partners are members of the same family. In a typical situation, the parents will transfer some portion of their assets into an FLP. Initially, the parents will act as the general partners and the limited partners of the FLP. Thereafter, under the most common and simplest form, the parents will either keep the partnership interests or sell or gift partnership interests (general and/or limited) in the FLP to their children, grandchildren or other family members.

An FLP can help families accomplish several important objectives:

1. **Asset protection.** An FLP may serve as an asset protection mechanism in the case of a lawsuit. Because the assets within a family limited partnership are not the personal property of its partners, any legal judgment against one of the partners does not include the assets held by the FLP. In Texas, creditors are only able to obtain rights against any distributions (if any) made by the FLP to the affected partner. This acts as powerful negotiating leverage with potential creditors.
2. **Avoidance of state inheritance tax.** In most jurisdictions, FLP interests are considered “intangible assets,” and thus only the state in which the partner resides will be able to impose state inheritance tax on the partnership units. For families that own real estate in other states, having your FLP own the real estate may prevent you from having to pay state inheritance tax in the state where the real estate is located.
3. **Reduction of estate tax.** In certain circumstances, the value of a limited partner interest is less than its pro rata share of the partnership assets. This can be helpful, because by reducing the value of the FLP interest, the size of the parents’ taxable estate at death can be significantly reduced, which in turn reduces the amount of federal estate taxes owed at the time of the parents’ passing.
4. **Avoidance of extra probate costs.** For families that own real estate in other states, having your FLP own the out-of-state real estate will allow you to avoid the time and expense of having to undertake an ancillary probate proceeding in another state at the time one owner passes away.
5. **Management of family assets.** In most instances, not all family members are created equal when it comes to managing family businesses or wealth. Some family members

may be more adept at understanding and managing investments opportunities, while some may have other valuable and important gifts. When this is the case, it is often helpful to have an FLP in place that can facilitate vesting decision-making authority with those who are most capable of managing the family business and investments. Not only will this protect the long-term value of these assets, but it also frequently prevents family discord.

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