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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

When a family sets up a FIC and the initial capital from the older generation has been transferred to the company, the shareholders will be able to gift an allocation of shares to their family members, creating shareholders (alphabet shares may be an option worth considering here to adapt voting rights and control as required).

No immediate inheritance tax (IHT) charge will be due on the gift of shares as they are a Potentially Exempt Transfer (PET), provided the donor survives seven years from making the gift of shares.

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.

Any profits and gains created in the FIC will be subject to corporation tax at 19% (this rate is expected to increase to 25% from April 2023).

Bearing in mind that dividend income from UK and most non-UK companies will not be subject to corporation tax, this may mean that significant income streams avoid tax until the company distributes them.

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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 gains arising are taxed at the corporation tax rate of 19% (expected to increase to 25% from April 2023), rather than the trust rates for accumulated income of 39.35% or 45%, depending on income type, and a maximum of 28% for capital gains tax (CGT).

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

Regarding CGT, 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.

Also, for a trust, 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.

On the other hand, 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.

> 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% on any income and gains. In addition, individuals receiving income from the company pay income tax.
- **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 entrepreneurs' 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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