Family Investment Companies.

Succession and Tax Planning

A FIC is a private company, with the shareholders being members of the same family. It is typically used to hold investments such as shares, land or property.

Structure of a FIC

A FIC can be as simple as multiple members of a family owning a single class of ordinary shares of a company. These shares carry three main rights:

- A right to vote in shareholder meetings (control)
- A right to any dividends declared by the directors (income)
- A right to a payment on the sale or winding up of the company (capital)

Succession

The flexibility of using different share classes makes it easy to give away rights to some or all of the income or capital while retaining the control of the company. The controlling shares can be either directly held by selected members of the family, or within a family trust.

This gifting/succession planning can be structured over time, often as part of the family's overall estate planning, again utilising a trust (often discretionary) where appropriate.

How is a FIC taxed?

As a FIC is a company, it is liable to corporation tax. Retained profits are taxed at 19% currently, which will increase to 25% from 1 April 2023, and extraction of profits is taxed at dividend rates (0% for the first £2,000 and then 7.5%, 32.5% and 38.1%) or as salary/ pension if appropriate.

As with any company, there is the potential for a double tax charge because the FIC will pay Corporation Tax (CT) on its profits, and the shareholders will have to pay further tax to extract those profits. This can result in an effective rate of tax of up to 50.5% on profits made by the FIC if all profits are distributed to top rate taxpayers. If a long-term view is taken, the double tax charge can be mitigated over time by using lower rate taxpayers' allowances, pension contributions and other reliefs if they are available; for example:

- Dividends can be paid to individuals with lower income;
- If income and gains are accumulated, these will be taxed at the CT rate of (currently) 19% rather than the maximum rate of income tax of 45%. This allows £81 out of every £100 of profit to be reinvested, rather than £55 if held personally.
- Careful use of tax reliefs on interest and management expenses, where appropriate.

Advantages

Aside from the tax advantages outlined above, a FIC has other attractive features, particularly for family succession planning:

- The "donor" of the FIC can continue to have access to income and/or capital while gifting some of the capital if so desired, thereby assisting with the family's estate and Inheritance Tax (IHT) planning, without an immediate and absolute loss of benefit.
- The donor can retain voting rights and be a director of the company while giving away either part of the income or capital (or both) therefore retaining significant control over the FIC whilst embarking on their succession planning.
- FICs are useful IHT planning vehicles – a gift of FIC shares to an individual is not immediately chargeable to IHT, but the donor must live for 7 years. This may be more attractive than using only a trust.
- The FIC's Articles can be used to exert further control over the company, for example, by restricting shareholders to family members.
- Trusts can be used in conjunction with a FIC to allow for additional control and succession planning and greater flexibility for the future.
- The matrimonial courts have traditionally been reluctant to look through arrangements where family companies are concerned, and a FIC can therefore have benefits similar to a prenuptial settlement.

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