

Family Limited Partnerships

A technique commonly referred to as the family limited partnership (“FLP”) is one of the many vehicles that can be used to achieve estate tax savings as well as other financial goals. Essentially, a senior member of the family will create a partnership to hold certain family assets (while retaining control over the partnership assets as a general partner) and then transfer limited partnership interests to other family members at a limited gift tax cost and without subsequent inclusion in the estate of the senior member for federal estate tax purposes. Since the transfer to other family members consists of illiquid, minority partnership interests, the donor is able to significantly reduce the value of the partnership interest for gift tax purposes by means of valuation discounts for both minority interests and lack of marketability of transferred property.

The decisions in *Strangi* and *Bongard* have created serious threats to the FLP structure itself, but they do not negate its importance and usefulness as an estate planning tool under the right circumstances. The lessons to be learned from *Strangi* include, among other: (1) keeping enough assets outside the partnership to provide cash flow for oneself, (2) establishing a clear business purpose for the partnership, (3) having all the partners actively participate in the decision-making process of the partnership before and after formation, (4) distributing income to limited partners on a pro rata basis, and (5) having the partnership agreement provide for income distributions of excess cash after consideration is given to the operating needs of the partnership. For purposes of running the FLP, it is crucial that its members actively manage its assets, hold regular meetings, and keep adequate records of management decisions in order for the partnership entity to be respected and not cause an otherwise solid partnership to be undone under Section 2036.

If you wish to discuss this type of partnership with us please call for more information.

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