

## Sharing the Family Business without Giving Up Control

*A family investment company can be a great way to lessen your estate taxes, ensure continuous family ownership and maintain control over the business and its assets*

A useful strategy for protecting assets during a down economy and minimizing estate tax liability is starting a *family investment company* (FIC).

Who can use this plan? Families who want to lessen their estate tax burden, increase asset protection, and keep assets in the family. What are the benefits? By gifting interests in the FIC to your family, you reduce your estate but retain control over the day-to-day operations.

An FIC can be either a limited liability company (LLC) or a family limited partnership (FLP). Parents own units of the FIC and can gift units to their children to take advantage of gift tax exemptions. Family members are divided into general owners (who control day-to-day business) and limited owners (who are not involved in business operations). An FIC can help ensure continued family ownership of a business and provide liability protection for the limited owners.

*Example:* Mom and Dad own five rental properties. They form an FIC and transfer the properties into the FIC in exchange for 100% ownership. They then gift units to children and grandchildren. Mom and Dad keep control of the business and its assets while reducing the size of their taxable estate.

By gifting assets via an FIC, instead of outright transfer, you should be able to gift more by using discounts, such as lack of marketability and minority discounts. You can also shift some of the business income and the appreciation of its assets to your family.

Restrictions in the FIC agreement can limit the transfer of ownership interests and ensure continuous family ownership. When you pass away, only the value of your ownership interests in the company can be included in your estate.

Because the holdings in the FIC are for business or investment purposes, it is important that you treat your FIC as a business and not as a family trust. Any payments made by the FIC must assist those business or investment purposes. If someone in the family needs money, it can be borrowed from the FIC at current interest rates or disbursed on a dividend.

- Questions? Contact attorney Ronald P. Adams

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*Adapted from the Daily Plan-It newsletter*

Hoopes, Adams & Alexander, PLC, is a Chandler, Arizona, law firm offering services to Phoenix-area clients in the areas of estate planning, entity formation, commercial and real estate transactions, and civil litigation.