



FLP Do's and Don'ts

Over the past few years, Family Limited Partnerships (FLPs) have become popular financial planning tools. Typically, an individual transfers assets to an FLP and transfers ownership of limited partnership interests to family members. Because the transferred interest is normally not controlling and not readily marketable, valuation discounts apply, reducing the value for estate and gift tax purposes.

While the IRS continues to attack the legitimacy of FLPs, the courts have generally upheld them. The IRS has had the most success undoing taxpayers' plans when the FLP has been improperly administered. This has allowed the IRS to argue that there was a transfer with a retained interest, that the individual donating the assets never intended to give up personal use, or that the transaction was simply a sham.

Here are a few tips to help keep an FLP out of trouble:

- Don't put personal assets like a personal residence or an annuity into the partnership.
- Set up a separate bank account for the FLP.
- Don't commingle personal and partnership assets, and don't pay personal expenses out of the FLP.
- Make sure the partners have enough assets to live on.
- Make sure all assets are legally transferred to the partnership and held in its name.

- Make deposits directly to the partnership.
- Report income in the partnership's name on K-1s and 1099s.
- Ask vendors to bill directly to the partnership.
- Don't use partnership assets as collateral or list them on personal financial statements.
- Keep books and records in accordance with the partnership agreement.

A well-written partnership agreement and a proper valuation are also essential to stave off an IRS attack.

Our firm is very familiar with FLP rules and regulations. Please feel free to contact us if you would like to learn more about them.