

## Limited Liability Partnerships

### What is a UK LLP?

A UK LLP is a partnership formed under The Limited Liability Partnerships Act 2000. Under the terms of this act, the UK Limited Liability Partnership (or LLP) is formed with the status of a body corporate for company law purposes, so that it has a legal personality separate to its partners (called members). The LLP has the ability to enter into contracts, own assets and will continue in existence in spite of any change in membership (although there should always be at least two members). It also submits accounts to Companies House, in much the same way as a UK company would (albeit in a slightly different format).

Except as provided in the LLP Act or in regulations made under the Act, the mutual rights and duties of an LLP and its members are governed by a Partnership Agreement. The agreement is a private agreement which is not disclosed to the outside world. The agreement can be tailor made to suit the members in terms of decision making, management, provision of working capital, profit sharing, determining what to do if losses are incurred etc. The agreement can be completed prior to incorporation.

### Why use a UK LLP?

Although the LLP is a legal entity for company law purposes, for UK direct tax purposes (i.e. income tax, corporation tax & capital gains tax) it is treated like a partnership. Therefore no direct tax is assessed on the LLP but profits are allocated directly to the members.

Accordingly, if a member is a non-UK entity, provided it/ the LLP does not trade in the UK and has no UK source income, no UK direct tax will be applicable. Thus it can be possible to create a structure with the look and feel of a UK trading vehicle, for international trading transactions, but which is not in fact subject to UK direct tax. Note, though, that any UK resident individuals involved in such partnerships could be subject to different rules and would require separate detailed advice.

The UK LLP does in principle limit the liability of its members to the amount they provide in capital for the LLP, although not unlike the position for the director of a company, there are some circumstances in which this protection can be lifted.

Often, though, the members of the UK LLP would be corporate entities in their own right anyway. There is no requirement for the members of a UK LLP to be registered in the UK, so it is entirely possible, say, for two non-UK companies to form a UK LLP to trade outside of the UK.

## **What transactions are UK LLP's best suited to?**

The main uses for UK LLP's in international tax planning are where:

- The members and beneficial owners are non UK resident
- There is no UK source income of the LLP
- There are no gains realised on UK assets

There is therefore scope for the LLP to be used as an intermediary in transactions in a similar manner as the former 'non resident UK Company' or 'non resident Irish Company'. However, as the UK LLP is not subject to UK direct tax in its own right, it should be noted that it is not generally entitled to use the UK's double taxation treaty network, or to obtain a certificate of UK tax residency; if any such certificate were to be issued, this could only be in respect of the status of the members of the LLP, so for an LLP with non-UK resident members, no such certificate would be obtained. For situations where the UK's double taxation treaty network is needed, a UK Principal Company can often instead be the solution. The UK LLP is, though, able to register for VAT in its own name in the UK, and can therefore be used to trade in goods internationally.

*Disclaimer: In order to be of the widest possible use, this note has been written in general terms by UK and International Tax specialists. It is intended as a guide only, and its application to specific situations will depend upon the particular circumstances involved. Accordingly, it is recommended that the reader seeks proper professional advice regarding any problems encountered, and this note should not be relied upon as a substitute for such advice. While all reasonable care has been taken in the preparation of this note no responsibility is accepted by Minerva for errors which it may contain, whether caused by negligence or otherwise, or for any loss, howsoever caused, occasioned to any person by reliance on it.*