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Family Investment Companies: the latest bee in HMRC's bonnet

The 'breaking news' in the FT last weekend that HMRC has set up a 'secret' team to investigate the use of family investment companies (or FICs) has certainly set the hares running, but is it really cause for concern?

FICs are simply a term given to limited companies that are set up for the purpose of holding a family's investments. They are increasingly a preferred option to the traditional family trust for a number of reasons: tax is often one of them, driven, ironically, partly by the Government's key policy of reducing corporation tax, but there are a number of other benefits to FICs. In particular, families like the concept of staying in control of the board, compared to the appointment of independent trustees with their own raft of fiduciary duties. From our experience, the overriding advantage of a FIC to many, is the ability to protect the family wealth by enshrining parity of ownership in future generations using restrictions on share transfers in a way that is very difficult to achieve through a trust. They are also viewed as an important educational tool for developing and empowering the next generation.

The terminology used in the FT article was certainly emotive: referencing "an estimated $1tn-plus of wealth held by family offices" against "growing concern about inequality" is enough to make any politician sit up, but is it fair?

HMRC's focus at this stage is to carry out a "quantitative and qualitative review into any tax risks... with a focus on inheritance tax implications", but FICs are taxable entities in their own right, and at all times the full value of the FIC sits in someone's estate for inheritance tax purposes. Bearing in mind a FIC is no different to any other form of limited company, it seems difficult to argue that the tax advantages inherent in the structure should be available to corporate organisations (which hold far in excess of $1tn in wealth) but not to private families.

So is this ‘new news’? One suspects not – the team in question was constituted back in April 2019. The only reason we are now hearing about it is as a result of a freedom of information request served on HMRC. One suspects there are any number of things that HMRC look into from time to time; not many of them result in action being taken. Let’s hope that common sense prevails on this occasion.

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