

## JERSEY LIMITED PARTNERSHIPS A MOORE STEPHENS GUIDE

### Principal Features

Jersey Limited Partnerships (JLP's) have five basic corporate characteristics; they are allowed unlimited duration if required, have centralised management, provide limited liability for the limited partners, free transferability of partnership interest and the capacity to operate on a variable capital basis.

JLP's must comprise, as a minimum, one general partner, who will undertake the role of managing partners, will have unlimited liability in the conventional sense, although a limited company can be a general partner. The liabilities of limited partners are, in effect, passive investors who are not permitted to take part in the management of the JLP. There will be no requirement to disclose the names of the limited partners and there will be no requirement to file copies of the partnership agreement with the Jersey authorities.

A number of features in the law distinguish JLP's from similar vehicles in other jurisdictions. There is no limit to the number of limited partners who may participate in a JLP and although no individual who is a limited partner may participate in the management of a JLP without incurring unlimited, he may act as a director of a corporate general partner or as an agent or employee of the partnership.

JLP's offer investors limited liability whilst providing a fiscally transparent vehicle in which each partner is separately assessed to tax. The limited partnership is not regarded as a distinct legal entity, the holders of limited partnership interests being treated as having a pro-rata share of each underlying asset of the partnership.

### Jersey Taxation Treatment

JLP's are not assessed to Jersey Income Tax in partnership name; the partners in JLP's are assessed in their own names thus reversing the traditional Jersey taxation of partnerships. As such, partners retain the benefit of tax credits attached to partnership income as if investment had been made directly by the partners, thereby availing themselves of the benefits of any treaty network of their home jurisdiction.

As JLP's are used principally by non-Jersey resident investors the Comptroller of Income Tax assesses JLP's in a similar manner to Jersey incorporated companies owned by non-Jersey resident shareholders, although provision is made for participation by Jersey resident partners which is not the case for exempt and international business companies.

Partners resident in Jersey are charged to Jersey Income Tax on the whole of their share of the income arising to the JLP. Non-resident partners are subject to Jersey income tax only on income or profits arising from a Jersey source (excluding, by concession, interest arising on Jersey deposits) where the activities of the JLP are investment holding only, it is unlikely that any income will be treated as arising from a Jersey source, unless the JLP invests in, for example, commercially let properties situated in the Island. As a consequence, non-resident partners will not generally be liable to Jersey income tax in respect of investment income.

Where a JLP is engaged in trading activities, it is necessary to identify any element of the trade carried on in Jersey as income derived therefrom will be subject to tax in the hands of any non-resident as well as resident partners. Those trades or parts of trades carried on outside the Island will be treated as international activities and the profits derived therefrom will not be subject to Jersey tax in the hands of non-resident partners.

It is not generally anticipated that the trading activities of JLP's will be conducted in Jersey. However, if a JLP is engaged in trading activities, wherever that might be, clearance must be obtained from the Comptroller of Income Tax to determine that all, or if not, what proportion of profits are derived from international activities. In granting such clearance, the Comptroller will have regard to the impact of the trade on the Island's resources and in general, the Comptroller will treat any activity requiring the employment of staff or the occupation of floor space specifically to carry on the trade as a trade carried on in Jersey.

It is common for the trading activities of a JLP to be conducted outside the Island with the administration of the trade conducted in Jersey, by an administrative office such as Moore Stephens.

The Comptroller of Income Tax has confirmed that he will not treat such a structure as a Jersey trade and consequently, profits derived therefrom will not be subject to Jersey income tax in the hands of non-resident partners.

If it is concluded that an element of trading profit is derived from Jersey activities, the comptroller of Income Tax will wish to agree a suitable proportion and this will be a matter for negotiation at the time the partnership is established.

The above taxation treatment applies to income only. Profits of a capital nature are not subject to tax in Jersey. Consequently, gains arising on the disposal of investments, by venture capital funds for example are not liable to Jersey income tax.

### **Possible Uses of JLP's**

JLP's have proved to be a flexible tool for both investments and trading purposes. As part of international tax planning arrangements, the fiscal transparency of the partnership offers a valuable alternative to the three corporate vehicles currently available in Jersey, which are offer employed as open or closed end investment companies and unit trusts. JLP's are particularly attractive to institutional investors, especially in the context of investment in less conventional underlying assets including venture and development capital situations. In all cases non-participating investors benefit from the protection of limited liability.

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This information sheet provides a brief outline only of Jersey Limited Partnerships and is not comprehensive as such. Should you require further specific advice, please contact either Clive Barton or Adrian Moll:

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