A&M Taxand Scotland: An introduction to Scottish Limited Partnerships

Introduction

Offshore jurisdictions such as The Cayman Islands as well as Guernsey and Jersey in The Channel Islands have traditionally been used by both North and South American fund managers and investors as the jurisdictions to establish investment fund structures as well as feeder vehicles into investment funds based in, for example, the European Union ("EU").

Recent Trend

There has recently been a trend for these fund managers and investors to consider alternative jurisdictions to, for example, The Cayman Islands following the introduction of the EU's list of non-cooperative tax jurisdictions ("EU blacklist") in December 2017 which was introduced to improve tax governance globally, and to ensure the EU's international counterparts respected the same tax standards as EU Member States to prevent tax avoidance and harmful tax practices. In light of this, there has been a change in perception by some classes of investor towards investing in jurisdictions such as The Cayman Islands.

Scottish Limited Partnerships ("SLP")

An alternative jurisdiction is Scotland which, through the SLP, is increasingly being used by North and South American fund managers and investors as a jurisdiction for:

- Single investor vehicles;
- Feeder vehicles;
- Blocker vehicles;
- Fund of fund vehicles;
- Carried interest vehicles; and
- Investment acquisition vehicles.

Key Considerations of Scotland

- Respected jurisdiction where legal documentation can closely track legal documentation for limited partnerships in, for example, The Cayman Islands;
- Established legal system with limited partnerships based on law established in 1907; and
- World renowned financial services industry, with Edinburgh recognised as one of the leading financial centres in the EU with a pool of highly skilled professional advisors.

Key Legal Features of a SLP

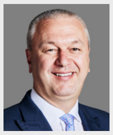
- **Legal personality** – A SLP unlike, for example, an English Limited Partnership has its own separate legal personality, distinct from that of its partners meaning that a SLP can own assets in its own names. This means a SLP can be admitted and registered as a single entity in underlying investment funds where personality is required in order to be a partner.

- **Practicality** – Establishing a SLP is relatively simple and straightforward with a SLP being able to be established quickly, with no requirement for pre-clearance from UK authorities.
- **Flexibility** – The principal requirement is that the SLP's business is undertaken with the view to making a profit. The SLP's partners then have the flexibility to agree the SLP's constitutional and operational rules. Limited partners who are not involved in the management of the SLP's business should benefit from limited liability.
- **Familiarity** – Not only can the legal documentation closely follow the usual terms of equivalent documents in jurisdictions such as Delaware, SLPs can be set up to have an all capital structure. This brings uniformity in approach for investors and managers alike.
- **Feeder vehicles** – SLPs which are designated as 'private funds' in the UK can be used for feeder vehicles because they allow feeder investors to vote at fund level without losing their limited liability.

Key Tax Features of a SLP

- **Tax transparency** – A SLP is treated as tax transparent for UK tax purposes with no UK tax payable by the SLP itself and potentially no UK tax liability or filing requirement for the SLP's non-UK resident limited partners. Notwithstanding this, US "check-the-box" elections can be made to treat a SLP as opaque for US tax purposes.

Key Contacts



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