

Key Facts

Limited Partnerships

Canadian Limited Partnerships (LPs) may be established under relevant provincial legislation in Canada. LPs are frequently recommended by professional advisors as an ownership structure for non-Canadian clients with cross-border investments.

Advantages

The main advantages of an LP include:

- Protection afforded by Canadian laws and courts
- Treatment by Canada as a flow-through entity for fiscal purposes
- Favorable treatment under Canadian tax treaties
- No restrictions on the residency of partners

Structure and Formation

LPs typically comprise of:

- a General Partner (GP) which can be a Canadian or non-Canadian company; and
- a Limited Partner which can be a company, trust or individual.

LPs formed under the various provincial Limited Partnership legislations are similar in structure and enjoy the same flow-through treatment for tax purposes. There are minor differences, however, between the jurisdictions with respect to filing and disclosure of information and corporate governance.

A non-Canadian company serving as the GP is required to apply for extra-provincial registration in the province in which the LP is established.

The LP is not subject to any minimum authorized capital requirements.

Formation

As is the case with limited partnerships organized in most common-law countries, it is possible to provide, through a written agreement of partners, for allocations of income and/or deductions to be treated differently.

The name of the LP must first be approved and registered with the applicable provincial registry prior to formation and must end in "Limited Partnership". The parties would then execute a limited partnership agreement specifying the attributes of the partnership and capitalization requirements, if any. The GP would then file a short-form version of the limited partnership agreement called the "Certificate of LP" with the relevant provincial registrar. The date of the LP formation is the date of the filing of such Certificate of LP.

The information required to be supplied in the Certificate of LP is prescribed by legislation and includes:

- the name of the partnership;
- a description of the general nature of the business;
- the name of the GP, including its physical address and address for service; and
- the principal place of business in the province in which the partnership is registered.

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The Certificate of LP Registry is of public record and searchable.

Notably, while the name of the GP is filed with the registrar, the name(s) of any limited partner(s) do not need to be registered or disclosed.

Liability

A GP has unlimited liability for the liabilities of the LP.

The liability of a limited partner is limited to the extent of its financial contribution to the LP.

Taxation

LPs are not considered a separate taxable entity in Canada at either the federal or provincial level provided, however, that:

- the LP does not carry on business in Canada;
- the management and control of the LP is conducted outside of Canada, and
- the LP is not in receipt of any Canadian income.

The LP will not be subject to any Canadian income taxes nor are they required to file a Canadian income tax or information return. There are no audit requirements for LPs.

Currently LPs are most frequently used to hold investment portfolios for Latin American clients who are tax resident in countries with double-tax treaties with Canada. Those treaties normally provide for an elimination of Canadian withholding taxes and a flow-through of profits and losses to the partners of the LP allocated in accordance with the terms of the limited partnership agreement.

FATCA and CRS

Canada is a party to an Inter-Governmental Agreement (IGA) with the United States as authorized under the provisions of the U.S. Foreign

Account Tax Compliance Act (FATCA). Canada is also a signatory to the Organisation for Economic Growth Co-Operation and Development's (OECD's) Common Reporting Standards (CRS).

GP and limited partners who are U.S. citizens or residents should not be subject to reporting by Canada under FATCA as they will be reporting their income, losses and gains attributable to the LP to the US Internal Revenue Service (IRS).

The nature and extent of reporting under CRS of the income of LPs who are not U.S. citizens or residents and who are resident in a CRS participating jurisdiction in general will be determined by (i) the tax residency of the GP, (ii) the location and nature of the assets held by the LP, and (iii) the characterization of the LP under their respective domestic laws.

Professional advice regarding the application of FATCA and CRS to the GP and limited partner(s) of a LP should be obtained.

How Trident Can Assist You in Canada

Our Vancouver office provides the following LP establishment and maintenance services:

- Formation of British Columbia LPs through dedicated local counsel
- Providing professional intermediaries with appropriate statutory documents including limited partnership agreements
- Formation through dedicated local counsel of a British Columbia company as GP if required
- Attending to the extra-provincial registration in British Columbia of a foreign corporate GP
- Maintaining the corporate GP as an extra-provincial entity in British Columbia and serving as its registered agent

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- Maintaining the LP in good standing in the province of British Columbia
- Coordinating any related work in other jurisdictions within Canada

If you are interested in our service please contact us as follows:

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