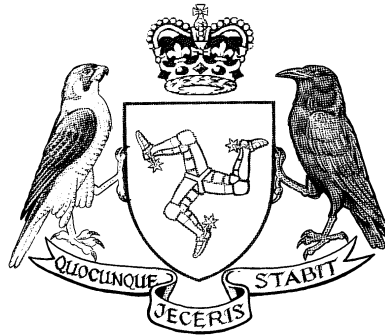


LIMITED PARTNERSHIP (LEGAL PERSONALITY) ACT 2011

Arrangement of Sections

Section

1. Short title
2. Legal personality of limited partnerships
3. Taxation of limited partnerships with legal personality



Isle of Man } Signed in Tynwald: 12th July 2011
to Wit } Received Royal Assent: 12th October 2011
Announced to Tynwald: 18th October 2011

AN ACT

to enable the general partners of limited partnerships to elect that the partnership has legal personality; to state the consequences of having legal personality; to provide for the taxation of limited partnerships which have legal personality; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1. The short title of this Act is the Limited Partnership (Legal Personality) Act 2011. Short title

2. After section 48A of the Partnership Act 1909 (place of business and address for documents) insert — Legal personality of limited partnerships

48B. (1) A limited partnership has legal personality if — [VIII p.327]
“Legal personality

(a) the general partners so elect at the time the partnership is registered; and

(b) a declaration signed by a general partner is sent by post or delivered to the Department at the same time as the statement referred to in section 50.

(2) An election under subsection (1)(a) is irrevocable and failure to so elect is final.

(3) The certificate of registration referred to in section 55 must state whether or not the limited partnership has legal personality.

(4) Without prejudice to section 50A —

(a) the name of a limited partnership with legal personality must end with “Incorporated” or “Inc”; and

(b) the name of a limited partnership which does not have legal personality may not end with “Incorporated” or “Inc”.

Transitional provisions for existing limited partnerships

48C. (1) A limited partnership already registered when this section comes into operation has legal personality if, within 6 months of this section coming into operation —

(a) the general partners so elect; and

(b) a declaration signed by a general partner is sent by post or delivered to the Department.

(2) An election under subsection (1)(a) is irrevocable and failure to so elect is final.

(3) An election under subsection (1)(a) does not —

(a) create a new partnership;

(b) prejudice or affect —

(i) the continuity of the limited partnership; or

(ii) a right, liability or obligation of the limited partnership which arose or was incurred before the election.

(4) If the limited partnership has legal personality, the Department must issue an amended certificate of registration under section 55.

(5) The certificate of registration referred to in subsection (4) must state that the limited partnership has legal personality.

(6) Without prejudice to section 50A, the name of a limited partnership with legal personality must end with “Incorporated” or “Inc”.

Consequences of legal personality **48D.** (1) A limited partnership with legal personality —

- (a) is a body corporate with perpetual succession and unlimited capacity; and
- (b) has legal personality that is separate from that of its partners.

(2) A liability or obligation incurred by a general partner in the conduct of the activities of a limited partnership with legal personality is the liability or obligation of the partnership.

(3) However, if a limited partnership with legal personality fails to discharge a liability or obligation, each general partner is personally liable to make good the default.

(4) Where a general partner executes a document on behalf of a limited partnership with legal personality, it is to be conclusively presumed in favour of a person who is not a partner of the partnership that —

- (a) the general partner has the authority under which the general partner purports to act; and
- (b) the executed document has been validly executed.”.

3. After section 2M of the Income Tax Act 1970 (taxation of members of limited liability companies) insert —

“Taxation of limited partnerships with legal personality

2MA. (1) A limited partnership with legal personality is to be treated as a partnership (and not as a corporate taxpayer) for the purposes of the Income Tax Acts and each member of the partnership is to be treated as a partner.

Taxation of limited partnerships with legal personality

[XXI p.260]

(2) Consequently —

- (a) a limited partnership with legal personality is not liable to pay income tax on its profits;
- (b) each partner is liable to pay income tax at the appropriate rate in respect of his or her whole income, including his or her share of the profits of the partnership; and
- (c) section 63 (return in respect of partners) applies.

(3) Nothing in this section —

(a) releases or extinguishes any liability of an attorney or agent to pay Manx income tax as attorney or agent of the partners of the partnership;

(b) affects the liability of a limited partnership to deduct and account for tax under —

(i) the Income Tax (Instalment Payments) Act 1974; or

[c.7]

(ii) Part 3 of the Income Tax Act 1989 (sub-contractors in the construction industry).

[c.10]

(4) In this section, “a limited partnership with legal personality” means a limited partnership (within the meaning of Part II of the Partnership Act 1909 (limited partnerships)) which has legal personality as a result of compliance with section 48B or 48C of the Partnership Act 1909.”.

[VIII p.327]