

Key Facts

Partnerships

There are three forms of partnership in UK law that require registration: Limited Liability Partnerships, English Limited Partnerships and Scottish Limited Partnerships.

Limited Liability Partnerships (LLP)

Key Features

An LLP resembles a limited company in two key respects:

- It has a separate legal personality.
- The liability of its partners (known as members) is limited.

An LLP is similar to a partnership in that:

- It is transparent for tax purposes.
- There are no capital requirements for formation.

Note: The LLP, though having partnership law roots, shares many of the same fiscal features of the US Limited Liability Company legislation.

Formation

- An LLP is formed by two natural or legal persons carrying on a lawful business with a view to profit.
- A standard incorporation document must be filed at Companies House confirming that the registration formalities of the LLP Act have been complied with.
- Members of an LLP are not required to enter into a formal partnership agreement.

Capital Requirements

There are no minimum capital requirements.

Public Filings

- The identity of members and People with Significant Control (PSCs) must be provided to Companies House and this information is available on public record. However, service addresses may be provided for members and PSCs.
- An annual confirmation statement and annual financial statements must be filed with Companies House.
- Any change in the registered office, members' details or registered name must be filed with Companies House

Registered Office

All LLPs must have a registered office located either in England and Wales or Scotland.

Governance

- There must be at least two designated members of the LLP.
- Designated members are responsible for preparing and submitting statutory information to the UK Revenue and the Registrar of Companies. Designated members are responsible for filing a range of statutory documents, such as the annual accounts, annual confirmation statement and details of changes in membership.

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Taxation

As a general rule LLPs carrying on a business with a view to profit will be treated as transparent for tax purposes with tax on the income and gains of the LLP being levied at the member level only.

If the sole activity of the LLP is to hold assets, this may not be sufficient to constitute a business. If the LLP is not carrying on a business, it will be treated as opaque for tax purposes and the LLP will be taxed as if it were a company.

Non-UK Members

- A tax-transparent UK LLP that has non-UK resident members and which does not carry on business in the UK or trade with the UK and does not have UK source income, will not subject its members to UK tax. The members will be treated as non-residents earning non-UK source income.
- Where the majority of the members of the LLP are not UK resident, the LLP is managed and controlled from outside the UK and is not taxed in the UK on its profits, certificates of tax residency cannot be obtained from the UK Revenue. In other words, members of the LLP cannot, in these circumstances, utilise any Double Tax Agreements that the UK may have with other countries.
- Any goods sold into the UK by the LLP may result in UK source income being earned which will be fully taxable. Such UK source income will be taxable in the hands of the non-resident partners who will be required to file self-assessment returns with the UK Revenue.
- A UK LLP may be treated as a corporate body in the country in which its members are resident. We recommend that consideration be given to the tax consequences of using an LLP and ask for a copy of the tax advice from the countries where its members are resident.

Value Added Tax (VAT)

- For VAT purposes, a UK LLP will be treated as a corporate body. As such the LLP itself will become liable for VAT registration subject to the normal registration rules.
- If a UK LLP does not have any connection with the UK there is no requirement to register for VAT.

English Limited Partnerships (ELP)

Key Features

- Does not have separate legal personality from its partners
- Tax transparent
- A common vehicle for Private Equity Funds

Formation

- An ELP is formed by at least two persons, one of whom must be a general partner and one a limited partner.
- Until an ELP is registered it will be treated as a general partnership and the limited partners will not enjoy limited liability.
- Registration of the ELP is made at Companies House under the Limited Partnership Act 1907.

Capital Requirements

Limited partners usually contribute a small amount of capital and provide the main funding by way of loans.

Public Filings

- The formation document is usually the only document that needs to be filed.
- There may be a requirement to submit accounts to Companies House if the General Partner is a limited company.

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Registered Address/Principle Place of Business

An ELP must have a place of business in England or Wales.

Governance

- An ELP is formed by two or more natural or legal persons. The number should not exceed twenty.
- At least one of the partners will be a general partner liable for all debts and obligations of the partnership. The other partners will usually be limited partners who will contribute towards the initial capital. Limited partners are only liable for the debts and obligations of the partnership up to the amounts contributed as capital.
- A person cannot be both a general partner and a limited partner at the same time.
- The general partner will manage and control the partnership and is liable for any debt the business cannot pay.
- The general partner can make irreversible (binding) decisions for the business.
- Limited partners may participate in management but, if they do so, they lose their limited liability.
- Limited partners may not draw out any part of their capital contribution during the lifetime of the partnership. For this reason, in practice, it is usual for limited partners to contribute a small amount of capital and to provide the main funding by way of loan.

Taxation

- An ELP is fiscally transparent and tax is levied at the partner level only. The business and each partner should be separately registered with HM Revenue and Customs for self-assessment.

- If all the partners are non-resident, the partnership does not trade in the UK and has no UK source income or gains then non-resident partners are not subject to tax in the UK.

- An ELP is not entitled to any tax treaty benefits.

VAT

For VAT purposes only an ELP is treated as a taxable person. As such an ELP may become liable for VAT registration subject to the normal registration rules.

Scottish Limited Partnerships (SLP)

Key Features

- An SLP has a separate legal personality from its partners.
- An SLP must have a place of business in Scotland.
- An SLP must deliver to Companies House information relating to people with significant control in relation to the SLP. This information will be available on public record.
- In all other respects the SLP is the same as an English Limited Partnership.

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