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## LIMITED PARTNERSHIP

### Formation

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The formation of a limited partnership requires the filing of a certificate of limited partnership with the applicable state agency where the limited partnership is being organized. The applicable state law limited partnership rules will ordinarily be based on the Uniform Limited Partnership Act or the Revised Uniform Limited Partnership Act. The information required in a certificate of limited partnership varies from state to state.

### Operation & Management

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While less complicated than a corporation, a limited partnership is subject to certain formalities, most notably filing a certificate of limited partnership with state authorities. The limited partnership must also prepare a limited partnership agreement to be entered into by the limited partners and the general partner(s). Only the general partner can have managerial responsibilities in a limited partnership. The limited partners are passive and do not have the authority to contractually bind the partnership. The limited partnership agreement typically will contain some or all of the following:

- ◆ the firm name and the identity of the partners;
- ◆ the nature and scope of the partnership business;
- ◆ the duration of the partnership;
- ◆ the capital contributions to be made by each partner;
- ◆ the division of profits and the sharing of losses;
- ◆ the duties of each partner in the management of each partnership;
- ◆ a provision for salaries for services provided by the partners to the partnership;
- ◆ restrictions on the authority of particular partners to bind the partnership;
- ◆ the rights of a partner to withdraw from the partnership, and the terms, conditions, and required notice in the event of that withdrawal; and
- ◆ a provision for the continuation of the business by the remaining partners, if desired, in the event of the death of a partner or other dissolution, and a statement of the method or formula for appraisal and payment of the interest of the deceased or former partner.

### Taxation

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A limited partnership is not required to pay federal income tax, but must file an information return which states the name of each partner and the amount of income and loss derived from the partnership by each partner. The individual partner includes his share of the partnership income or loss in his individual tax return. Partnership income is currently taxed to the individual partners even if it is not actually distributed; a painful phenomenon known as “phantom income.” When you have phantom income, you owe the income tax even though the limited partnership did not distribute any cash that could be used to pay the tax.