Family Investment Companies vs Discretionary Trusts for Property Landlords

If you own a property portfolio and are thinking about passing wealth to children or grandchildren, two common options are a Family Investment Company (FIC) and a discretionary trust. Both can support long-term succession planning, but they work in very different ways.

What is a Family Investment Company?

A Family Investment Company is a private limited company owned by family members. It can hold investment assets, including residential and commercial property. Different classes of shares can be created, allowing parents to retain control while future growth passes to younger generations.

Typically:

- Parents act as directors and retain voting shares.
- Children hold growth shares.
- Rental profits and investment growth accumulate within the company.
- Future growth can be directed towards the next generation.

What is a Discretionary Trust?

A discretionary trust is an arrangement where trustees hold assets for a group of beneficiaries, such as children, grandchildren and future descendants. The beneficiaries do not automatically own a fixed share of the assets. Instead, the trustees decide who benefits, when and by how much.

This provides significant flexibility, particularly where family circumstances may change over time.

The Key Difference

The simplest way to understand the distinction is ownership.

With a FIC:

- Family members own shares.
- Share rights determine entitlement to income, capital and growth.
- Growth shareholders genuinely own their shares.

With a discretionary trust:

- Trustees legally own and manage the assets.
- Beneficiaries have no automatic entitlement to specific assets.
- Decisions remain at the trustees' discretion.

Why Property Landlords Often Consider a FIC

For landlords with substantial property wealth, a FIC can be attractive because it combines investment management with succession planning. FICs are generally stronger for investing and compounding family wealth while retaining control.

Potential advantages include:

- Retaining control through directorships and voting shares.
- Passing future growth to children and grandchildren.
- Investing large sums without the inheritance tax entry charges associated with many trusts.
- Potential access to original funds where the company is financed through a shareholder loan.

Why a Trust May Be Better

A discretionary trust may be preferable where flexibility and asset protection are the main objectives.

Inheritance Tax Considerations

This is often the deciding factor.

A transfer into a discretionary trust is usually an immediately chargeable transfer for inheritance tax purposes. Transfers above the available nil-rate band may trigger a lifetime inheritance tax charge, and further charges can arise every ten years and when assets leave the trust.

By contrast, funding a FIC through a loan does not normally remove that money from your estate. The loan remains your asset. However, future growth may accrue to shares owned by the next generation.

Important:

Both structures are complex and require tailored tax, legal and commercial advice before implementation. We will be happy to help you in this area.