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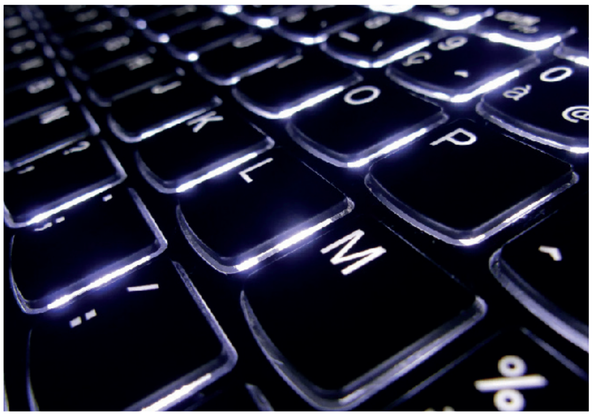
Dentons Pensions

Intellectual property.

A case study



Intellectual Property refers to 'creations of the mind' such as inventions, symbols, names and images and is split into two categories: intellectual property e.g. patents, trademarks, software and designs; and Copyright, e.g. films, artistic works and performing artists.

The facts

- Mr Brown owns his own company, Bertiget, which has been progressively expanding over the last 5 years
- Bertiget now offers franchises and issues licences for each franchise, providing a reliable stream of income
- This adds goodwill and value to the company's name and helps to promote the brand
- The registered trademark of the brand can be considered as intellectual property
- Mr Brown wants to use his Dentons SIPP funds to purchase the intellectual property of his company.

The process

- Independent market valuations of the trademark and the annual licensing fee are obtained from an ISO 10668 company
- An independent valuation of the trademark must be undertaken using a specialist intellectual property valuer. This is crucial to the process and creates an appropriate open market valuation. In other words, showing that connected parties are not involved in influencing the worth of the asset
- The proposal and valuation is forwarded to Dentons and is reviewed by our Investment Committee*
- The terms of the proposed transactions and valuations are agreed by all parties
- Solicitor is appointed to convey the ownership of the trademark from Bertiget to the SIPP trustees
- Solicitor produces a licensing agreement between the SIPP trustees and Bertiget at the market rate
- Mr Brown will continue to promote the brand which could generate more sales for Bertiget and enable a greater licence fee to be charged by the SIPP trustees in the future subject to it being at market rate as confirmed by an independent valuation
- The only other times an independent valuation of the trademark will be required are when Mr Brown wants to take retirement benefits, dies or the trademark is to be sold or transferred to another pension scheme.

The result

- Income paid to the pension scheme from the licence of the intellectual property should be treated as tax free income and any capital gains are also tax free, making the investment very tax efficient
- Each new franchise that licenses the trademark will provide an additional source of licensed income
- Good opportunity to align a business owner's pension to their business interests.

Notes

- This case study is for Financial Adviser use only and not for use by retail clients
- *Dentons Investment Committee is made up of experienced members of senior management and compliance. Using this level of expertise, along with internal investigation and external analysis where applicable, forms the basis of Dentons' decision making process in confirming that investments can be held within the SIPP and comply with HMRC requirements and regulatory standards. The Committee continually reviews its practices in light of increasingly sophisticated investments and regulatory good practice.
- Care must be taken to ensure no trading is undertaken by the SIPP as this can create a tax charge by HMRC
- Should Bertiget be sold then the intellectual property will often need to be sold as part of the 'going concern'. At this point, a further professional valuation of the trademark will need to be undertaken to determine the correct proportion of total company / intellectual sale proceeds
- Dentons requires a minimum fund size of £200,000 and a retained cash balance of £5,000 to support ongoing fees for intellectual property purchases to be considered. Investment in intellectual property cannot exceed 50% of the net market value of SIPP assets, at the time it is acquired. The minimum investment in any event is £100,000.
- We will require indepth information about the business to consider intellectual property as suitable investment within a SIPP such as the background and nature of the business including a market review and a financial review including the business turnover
- All statements concerning the tax treatment of products and their benefits are based on our understanding of the current law and HM Revenue & Customs (HMRC) rules. These are for general guidance only and do not constitute professional advice. The tax treatment depends on the individual client circumstances and may be subject to change. Whilst every effort has been made to ensure accuracy, no liability can be accepted for any errors or omissions
- If VAT may be applicable, you should seek specialist advice
- Whilst the names used in this case study are fictitious, the processes described have been used in actual cases
- Every care has been taken to ensure that the information provided is correct and in accordance with our understanding of current law and HMRC rules, which are both subject to change.

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