

Trump Gets Chance for Tax Cut Moving Trademarks to Delaware



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- More than 110 trademarks assigned to new company, records show
- 'It's sort of too complicated to explain,' lawyer says

As Donald Trump prepared for the Republican primaries, he transferred dozens of his most prized assets, the “Trump” trademarks that adorn everything from hotels to ties to his U.S. golf courses, into a new Delaware-based company -- a move that offers him a chance to cut his income-tax bills.

By shifting more than 110 registered or pending trademarks to Delaware, Trump consolidated them in a state that doesn't tax income from royalties on intellectual property. Among the trademarks he moved are his own name and those of some of his best-known properties, including “Trump National Golf Club,” “Trump Tower” and “Mar-a-Lago,” his private club in Palm Beach, Florida, according to records from the U.S. Patent and Trademark Office.

He also shifted some of his less prominent trademarks, including “Trumptini,” a martini made with pink lemonade, and a design of a Scottish crest that he applied for and received in 2012. The crest shows a lion, a two-headed eagle and the Latin phrase “Nunquam Concedere” which means “Never Give Up.”

Moving the trademarks to his new company, DTTM Operations LLC, will enable Trump to avoid other states' income taxes on royalties paid for their use -- an income stream worth perhaps tens of millions of dollars or more, according to a federal financial disclosure form he filed this month.

'It's Confidential'

“If he contributes all of that IP to a Delaware entity, that's a fairly big tax break and a fair amount of change,” said Robert Reilly, a certified public accountant and managing director at Willamette Management Associates, a Chicago firm that specializes in the valuation of businesses and intellectual property.

The chief custodian of Trump's trademarks declined to discuss why his boss, who previously owned the trademarks personally, made the change.

“I can't get into that; it's confidential,” said Alan Garten, the executive vice president and general counsel of the Trump Organization. He added later: “It's sort of too complicated to explain.” After an initial brief telephone interview, in which he said Trump still personally owned some foreign-registered trademarks, Garten didn't respond to repeated telephone and e-mail requests for comment.

No Returns

Much of Trump's tax planning remains a mystery. After initially saying he'd release his federal income tax returns, he then defied decades of tradition by [declining](#) to do so. Trump has said his returns are being audited by the Internal Revenue Service, and that he'll keep them private until the audit is over. The IRS has said there's no rule barring people from releasing returns that are under audit.

Trump's campaign chairman, Paul Manafort, said last week that he'll be "surprised" if Trump ever releases his tax returns. "I wouldn't necessarily advise him to," Manafort told The Huffington Post. "It's not really an issue for the people we are appealing to. His tax returns are incredibly complicated."

Trump has said repeatedly that he works hard to avoid paying taxes.

"I fight very hard to pay as little tax as possible," Trump told ABC News on May 13. Corey Lewandowski, his campaign manager, told CBS News last week: "Mr. Trump is proud to pay a lower tax rate, the lowest tax rate possible."

Given that position, some tax lawyers questioned why Trump didn't move his trademarks to Delaware sooner. In a November deposition, Garten testified that Trump personally owned more than 500 trademarks -- theoretically exposing his income from them to the top federal income tax rate for individuals, 39.6 percent.

Unusual Approach

"It's unusual for an individual to hold trademarks," said Angelo Bufalino, an intellectual property lawyer at Vedder Price in Chicago. Pamela Chestek, an IP lawyer in Raleigh, North Carolina, said she was "surprised that he owned them personally until now -- it seems like they are very high-value assets for someone as financially sophisticated as Donald Trump to own personally."

Garten explained in his deposition that Trump's personal ownership of the trademarks was arranged "for tax-planning purposes."

"I'm not a tax guy, but -- yeah," he said in the deposition, part of a trademark dispute brought by an investment firm that wants to call its online marketing service, "Trump Your Competition." The case is on hold at the patent office's Trademark Trial and Appeal Board, pending a motion Trump filed last week to dismiss it. Garten offered no further explanation of Trump's tax planning in his testimony, or in the brief interview.

Irish Control

It's possible that Trump had previously assigned control of his trademarks to a company or companies he created in a low-tax jurisdiction like Delaware, but the January transfer is the first large-scale assignment he recorded with the patent and trademark office, according to agency records. (Trademark owners who assign their rights to others aren't required to report the transactions to the agency.)

For example, at least three Trump-related trademarks -- all for "Doonbeg," the name of his Irish golf resort -- are held by an Irish company, TIGL Ireland Enterprises Limited, according to records from Ireland's Patent Office. (Trump owns TIGL -- like the new Delaware company -- through other entities, his disclosure shows.)

That means any Doonbeg-related royalties are taxed at Ireland's 12.5 percent corporate rate, which falls well below the top U.S. corporate tax rate, 35 percent, and even further below the top U.S. personal tax rate.

It's entirely possible for Trump to assign all his trademarks -- including the ones he just moved to Delaware -- to an Irish company now, said Brian Conroy, an intellectual property lawyer in Dublin, said in an e-mail.

'Biggest Problems'

While that kind of move would almost certainly cut Trump's federal income taxes in the U.S., it might also subject him to some of the same criticism he has leveled at others. For example, Trump has criticized corporate inversions, in which U.S. companies merge with foreign firms and shift their tax addresses offshore to lower-tax countries, including Ireland. "It's one of the biggest problems our country has," he said during a Jan. 14 Republican debate.

News reports have questioned the value Trump has assigned to his many trademarks -- which he has registered for an array of goods and services that includes lingerie, wines and flush-mount ceiling lights. In February, Trump -- who built his initial campaign success on a pledge to build a [wall](#) along the Mexican border to control undocumented immigration -- registered trademarks in Mexico for bricklaying, air-conditioner repair and street cleaning.

Last year, in a one-page, unofficial "financial summary," Trump valued his trademarks, licensing, branding and "other intellectual property activities" at more than \$3.3 billion. In a 104-page federal financial disclosure that his campaign filed this month, he reported income from royalties -- excluding book deals -- that ranged from just \$10.1 million to \$56.1 million. Federal rules require filers to report their income in ranges.

Golf Revenue

That range is dwarfed by more than \$300 million that Trump reported from golf resorts around the world -- though his disclosure appears to conflate revenue with income, meaning it doesn't subtract regular business expenses from his reported amounts.

It's not known how Trump handles the use of his trademarks by his own companies, including those that own the golf courses. They might pay licensing fees to his new company, creating tax-deductible business expenses for them and moving more income into tax-free Delaware.

But it's more likely that Trump's businesses use a "relief from royalty" approach, said Joseph Kettell, a managing director at Appraisal Economics in Paramus, New Jersey, an independent valuation firm for intellectual property. Under that strategy, the golf properties wouldn't make royalty payments, but Trump could ultimately deduct the equivalent of such payments, which are supposed to be estimated at arm's-length prices, from his own taxable income.

Delaware Companies

Trump is no stranger to Delaware, which has an international reputation as a tax haven. Most of the 542 entities listed on his May 16 financial disclosure form are registered there. Companies choose Delaware for various

reasons in addition to its tax laws; it has a specialized court system, scant disclosure requirements and strong legal protections against liability.

Democrat Hillary Clinton, Trump's likely opponent in the November presidential election, has also registered a Delaware company, ZFS Holdings LLC. The company is organized as a pass-through; she receives earnings from her speeches and royalties through it. Hillary Clinton's campaign has said that ZFS hasn't helped her or her husband, former President Bill Clinton, save anything on their federal, state or local taxes, according to a report published last month in Britain's *The Guardian*. The campaign didn't respond to a request for comment.

'Easier' Loans

Trump's new company affords him flexibility in other areas, according to 11 tax and intellectual-property lawyers and specialists contacted for this story: He can leverage the consolidated trademarks' value as collateral for bank loans, for example -- a common financing mechanism for intellectual property.

Pulling the trademarks into one pile makes it "much easier" to get such loans, said Nigel Eastaway, a chartered certified accountant and tax lawyer specializing in intellectual property at MHA MacIntyre Hudson in London.

Shifting the trademarks may also simplify estate planning. Trump, who turns 70 next month, could simply transfer ownership of the new company's equity to his heirs, said Lynn Fowler, a business-tax lawyer at Kilpatrick, Townsend & Stockton in Atlanta.

"The heirs could then benefit from any appreciation in the trademarks without paying gift or estate taxes," he said.

(Updates with material on Trump's tax returns in ninth paragraph.)

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