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Practice Area: Business and Corporate Law

Some of the world's largest companies operate under holding company structures. Warren Buffet's Berkshire Hathaway, Apple and banks are a few examples. For owner-operated businesses, the holding company structure also offers key advantages over holding assets and operations in a single company.

Holding Company Structure

At its simplest, a holding company owns all of the shares or units of one or more subsidiaries. Individuals or their trusts then own the shares of the holding company itself. Operationally, the subsidiaries and the holding company act as separate companies. For example, each subsidiary would have separate bank accounts and ledgers and the subsidiaries would enter into agreements with each other (*e.g.*, the operating subsidiary would lease assets from its sister subsidiary). Separate subsidiaries may own physical assets, intangible assets, or real estate. One or more subsidiaries may run or manage the company's operations.

Example

Suppose a company has two key product lines in disparate industries and valuable patents that it wishes to license to third parties. To create a holding company structure, the company could create three new companies: the parent holding company and two new subsidiaries, one to hold one product line (the second product line could stay with the existing corporation) and one to hold the patents. The company would transfer the product line and patents to the parent holding company, which would then assign the assets to the appropriate subsidiary. If necessary, the subsidiary with the patents could license the patents to its sister subsidiaries.

Advantages

This structure would provide the company with important advantages over operating under one business entity. These advantages include the following:

- **Risk Management**
Assets are segregated into separate companies. When properly administered, product-liability claims can be limited to a single subsidiary's assets. Riskier operations, such as trucking, can be similarly segregated.
 - **Tax Advantages**
100% owned subsidiaries can be treated as disregarded entities for tax purposes. This can mean that no separate tax returns need be filed, and yet corporate and limited liability (LLC-type) protections can be maintained for business purposes.
 - **Ease of Transfer/Confidentiality**
The structure provides for easier sale of a product or service line. One line may be sold by selling the subsidiary. Without the holding company structure, a sale may require more extensive due diligence for the buyer or may reveal trade secrets unrelated to the product or service line.
 - **Licensing**
Licensing of patents and other intellectual property can be broken down by industry or territory. In this manner, such property could be licensed for multiple purposes to different entities.
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