A cautionary tale
Ray Goodman discusses incorporating dental practices

A transfer utilising the partnership provisions often used to enable GDS Contracts to be transferred is not available where one party is a limited company, as the drafting of the GDS regulations precludes partnerships between companies and individuals.

The only strategy to enable this contract to be sold involved all of the assets in the limited company, other than the practice to be sold to our client, being transferred out of the company to a new company. This involved significant additional cost, time and stress. As a result of the continuing potential risks to the buyer, it was necessary for the sellers to discharge all debts of the business on completion, to have a significant proportion of the sale price held back by way of a retention against future claims, and to incur the further cost of preparing additional sets of accounts in order to ascertain the true balance sheet position on completion.

As a direct result of the lack of foresight on incorporating the practice both the seller and the buyer were subjected to a lengthy period of stress. The sellers were forced into a situation whereby they had to discharge all debt relating to their business, when they otherwise would not have wished to, and the legal and accountancy costs were increased significantly from what they would have been, had the practice not incorporated or been incorporated into a separate company from the other practice and laboratory.

Incorporation can, in the right circumstances, be highly beneficial to a practice. However, there are consequences other than tax saving. It is essential that before making the decision to incorporate, legal and accounting advice from dental expert lawyers and accountants is taken and that the incorporation is properly documented with all ancillary issues dealt with to avoid significant problems in the future.

### About the author

Ray Goodman: Goodman Lawyers for Dentists. For more information please contact Ray Goodman on 0151 707 0090 or email mg@goodmanlegal.co.uk

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