

109188 - Ruling on renting a trade licence

the question

I have a licence to engage in trade that was issued by the government. Because I am too busy with other things, a trader in another country has suggested that he could take this licence and open a shop in my country at his own expense, and pay me an agreed monthly amount for using my tradename. Is it permissible for me to do this? If it is not permissible, what is an Islamically permissible way of doing that? Please note that the licence costs me money and there are stipulated conditions, and these licences are not given to anyone except citizens of my country.

Detailed answer

What appears to be the case is that it is permissible to sell or rent trade licences, because such a licence has considerable monetary value, according to what is customary among traders, and obtaining it takes time, effort and money. This is in principle.

But if the rules and regulations do not allow that, then it is not permissible to sell or rent it, because of what that could lead to of disputes and arguments in which it is difficult to verify who is in the right and who in the wrong, in addition to what the licence holder may be subject to of punishments and penalties. If any penalty is imposed on the shop – for any reason – it will affect him, because the licence is in his name.

Shaykh Muhammad Taqiy al-'Uthman said, in an essay about selling intangible rights: In the case of this licence [to buy and sell], in fact it is not something tangible; rather it is the right to import and export goods, so it is subject to the same rulings as tradenames, in the sense that this right is something affirmed for the one who has this licence, so it is permissible to pass it on in return for money. As obtaining this licence requires effort, time and money, and it gives the licence holder a legal description that is stated in a written certificate, according to which the trader is entitled to some facilities provided by the government to the licence holder, and this licence is regarded according to the customs of traders as being of great value, then in a way it is a kind of wealth. Therefore it is not far-fetched to suggest that it may be regarded as being like

any tangible item that it is permissible to buy and sell. But all of that is sound and correct provided that the government has a law allowing transfer of the licence to someone else. But if the licence is in the name of a particular person or a particular company, and the law does not allow transfer of it to another person or another company, then there is no doubt that it is not permissible to sell it, because selling it could lead to lies and deceit, because the one who buys a licence will use it in the name of the seller, not in his own name. That is not permissible unless the licence holder appoints him as a proxy to buy and sell on his behalf."(*Majallat Majma' al-Fiqh al-Islami* 5/3/2385).

The Permanent Committee for Ifta' was asked: Nowadays, in Gulf countries and in Bahrain in particular, citizens obtain trade licences which allow the holder to do trade, but what happens is that the holder of the trade licence rents it out to someone whom he brings from India. Please note that the state does not allow the licence holder to rent it out to someone else, and the licence holder is the only one who is allowed to use it. Is it permissible to rent out the trade licence when it is not something tangible that could benefit the one who rents it, as in the case of property, agricultural land, cars or other vehicles?

The committee replied: It is not permissible to rent out a trade licence to one who will use it by renting it, because the state does not allow that. The state disallows it because of what may result from disallowing it of bringing benefits and warding off trouble. And Allah is the source of strength. May Allah send blessings and peace upon our Prophet Muhammad and his family and companions. End quote.

'Abd al-'Aziz ibn 'Abdullah ibn Baz, 'Abd ar-Razzaq 'Afifi, 'Abdullah ibn Ghadyan, 'Abdullah ibn Qa'ud.

Fatawa al-Lajnah ad-Da'imah (15/71).

Based on that, if it is allowed in your country to sell or rent this licence, then there is nothing wrong with you doing that. But if that is not allowed, then the Islamically acceptable alternative is to form a partnership between you and that person, in which your role is to obtain the licence

and provide a sum of money (as capital), and to do the work that is required to obtain the licence, such as doing the paperwork, going to government departments, and so on.

As for your partner, his role is to provide a sum of money (as capital) and work in the shop.

You can agree on how profits are to be shared, so each of you will have a certain percentage of the profits, according to what you agree on, whether it is small or great.

As for losses – if they occur – they are to be borne in the same ratio as the capital which each of you has put into the business.

It is also permissible to rent to him a shop that is already licensed, with its licence.

And Allah knows best.