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Mayer Brown, LLP
Washington, DC

Rose Williams
Ernst & Young LLP
Washington, D.C.



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- Controllers, VP Finance or CFOs
- M&A tax or finance executives
- Bankers, private equity tax professionals
- CPAs and accountants

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Taxation of Mergers and Acquisitions

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Monday, April 12, 20107:00 am **Registration and Continental Breakfast**8:15 am **Welcome and Introduction-Co-chairs Comments**8:30 am **Overview of Mergers and Acquisitions**
Sean King*Williams Mullen, Raleigh, NC*

- Structuring the deal
- Overview of taxable and tax free acquisitions – reverse merger transactions
- Examples of typical transactions under Subchapter C and alphabetical classes of reorganizations – treatment of intangibles
- Role of the tax director in corporate M&A deals
- Recasting of five year income projections, analyze financial strategies and project US tax effects on client or company

9:30 am **Recent Issues Involving Deductibility of Acquired Corporate Tax Losses & Other Attributes**
Arthur Walker*Mayer Brown, LLP, Washington, DC*

- Termination of tax years
- Treatment of net operating loss carryovers
- Limitation due to a change of ownership, under Sec. 382
- Treatment of excess R&D and FTCs
- E&P and other special items
- How the rules for built in gains operate
- Conducting an analysis of the transaction costs, capitalization of operating expenses, software development and M&A costs under Sec. 263A

10:30 am **Break for Refreshments**10:45 am **M&A Issues Involving Partnerships, LLCs and Hybrids**
Stuart Rosow*Proskauer Rose, New York*

- Check the box regulations
- Single-member LLCs
- Use of LLC in corporate transactions
- Joint ventures and strategic alliances
- Partnership tax issues under Secs. 721 (c) and (d)

11:45 am **Taxation of Acquisitions Involving Distressed Assets & Bankruptcy Related Companies**
Richard Nugent*Cadwalader Wickersham & Taft, New York*

- Tax issues in the purchase or sale of asset in bankruptcies, receiverships, reorganizations, and workouts
- Debt default and restructuring issues
- Basis adjustment
- Net operating loss carryovers
- Cancellation of indebtedness income issues

12:45 pm **Luncheon**1:45 pm **Making a Sec. 338 (h) (10) Election and Strategies**
Daniel Leightman*Gardere Wynne Sewell LLP, Houston*
Rose Williams*Ernst & Young LLP, Washington, D.C.*

- When can a stock purchase be treated like an asset purchase
- What are the benefits of electing asset sale treatment
- Consideration for buyer and seller
- Purchase price allocations under Sec. 1060
- Amortization of intangibles
- Structuring and capturing the value added by a 338(h)(10) in an IPO
- IRC Section 197 issues
- “Claw back” or tax sharing agreements

3:15 pm **Break for Refreshments**3:30 pm **Tax Due Diligence**
Jonathan Stevens*Jones Day, New York***Daniel Leightman***Gardere Wynne Sewell LLP, Houston*

- Indemnification issues
- Key tax issues in reviewing acquisition documents
- Allocation of purchase price
- Tax sharing agreements
- Target's tax elections
- FTC documentation
- Valuation considerations and strategies considerations

5:15 pm **Conference Adjourns for the Day****Tuesday, April 13, 2010**8:00 am **Continental Breakfast**8:45 am **Chairperson Review of Day One & Preview of Day Two**9:00 am **Contingent Liabilities in Merger and Acquisition Transactions**
Michael Kliegman*PricewaterhouseCoopers LLP, New York*

- Taxable asset acquisitions
- Tax-free acquisitions
- Impact on buyer and seller
- Timing issues
- Tax treatment of earnouts and other contingent consideration
- Addressing the deferred revenue puzzle

9:45 am **Break for Refreshments**10:00 am **Consolidated Return Issues in Acquisitions and Dispositions**
Brian Peabody & Steven Teplinsky*Ernst & Young LLP, Washington, D.C.*

- Affiliation and consolidated group continuation
- SRLY rules for newly-acquired group members
- Excess loss accounts
- Unified loss rule

11:00 am **Review of Recent Public M&A Transactions**
Will Dixon*Citigroup Global Markets Inc., New York***Stuart M. Finkelstein***Skadden, Arps, Slate, Meagher & Flom LLP, New York*

- Transaction structures
- Considerations of the seller and of the buyer
- Stock vs asset sale considerations
- Sec. 351(g) and (e) techniques
- Financial/LBOs versus strategic acquisitions
- Public versus private targets

12:00 pm **Luncheon**12:45 pm **State Tax Aspects of Mergers and Acquisitions**
Peter Faber*McDermott Will & Emery LLP, New York*

- Treatment of “tax free” mergers and acquisitions under state law (review of key states)
- How states tax gain or loss from M&A activities-treatment of goodwill and intellectual property
- Key issues in minimizing state sales and use taxes in asset acquisition and corporate reorganizations
- Tax strategies for reducing state income tax exposure
- State transfer, excise and property tax issues

Special Issues in International/Cross-border Mergers and Acquisitions

1:30 pm **Part 1 - Outbound M&A Tax Issues**

A Panel Consisting of:

Victor Gatti

Jones Day, New York

David Forst

Fenwick & West LLP, Mountain View, California

Chris Peters

Willkie Farr & Gallagher LLP, New York

- Structuring a taxable versus a tax free acquisition under Sec.367(a)
- Section 7874, including notice 2009-78 and Treasury Regulation 1.7874-2T
- Discussion of Section 367(a)(5) and Proposed Treasury Regulations 1.367(a)-7
- Analysis of the Treasury modifications to the check-the-box regime
- U.S. tax consequences of transfers of tangibles and intangible assets under Sections 367(a) and 367(d)

3:00 pm **Break for Refreshments**

3:15 pm **Part 2 - Inbound M&A Tax Issues**

A Panel Consisting of:

Victor Gatti

Jones Day, New York

David Forst

Fenwick & West LLP, Mountain View, California

Chris Peters

Willkie Farr & Gallagher LLP, New York

- Application of section 367(b) to mergers and acquisitions of foreign companies-basis adjustments under Notice 2005-70
- Avoiding earning stripping limitation under Sec. 163 (j)
- Understanding the U.S. tax consequences of making a section 338 election
- Using an LLC or other pass-through (check-the-box) entity
- U.S. tax issues involved in selling U.S. and foreign business assets to a foreign purchaser
- Understanding the limitation of Benefit(LOB) provisions under the 2006 U.S. Model Income Tax Treaty

4:45 pm **Summary & Q&A**

5:00 pm **Conference Concludes**

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Speakers/topics subject to change

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The world of mergers and acquisitions is heating up again and attracting global attention. Major announcements of recent deals and offers, both domestic and cross-border seem to be in the news on a regular basis. New tax, accounting and regulatory developments are opening up opportunities as well as challenges and requiring practitioners to sharpen their skills in this area.

CITE invites you to learn about the latest tax strategies and techniques in structuring both domestic and cross-border acquisitions as well as the latest developments in tax regulations and regulatory pronouncements.

Our blue-ribbon faculty will explain these developments and will help you understand the numerous problems and opportunities confronting both acquiring companies and targets. The program will provide step-by-step explanations of the strategies and techniques used to reach tax efficient practical solutions. Both corporate tax department personnel, M&A specialists and public practitioners will find this conference extremely useful.

Hotel and registration discounts are available to those that act now:

Sincerely,

Robert H. Ross

Program Director

Richard L. Reinhold

Willkie Farr & Gallagher LLP

Daniel Leightman

Gardere Wynne Sewell LLP



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3rd edition by Barnett Phillips of Skadden Arps and Robert Rothman of Piper Rudnick. This portfolio can be used as a primer for the course and also contains 22 worksheets with practical aids and diagrams, illustrating efficient tax structures, as well as language for a sample tax representation and a 338(h)(10) election.

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"Great exposure to all areas that need to be considered in M&A. It has triggered some ideas that we may use at my company"

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