



Tax Accounting in Mergers and Acquisitions

Glenn R. Carrington

2011 Edition



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Ernst & Young LLP



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Dedication

This book is dedicated to Gladys Marie Brown Carrington, my devoted mother, who passed in March of 2005. She instilled in me a “can do” attitude for which I am so grateful. She always told me that “if someone else did, you surely can too” and “what others have should never make you jealous, but rather challenge you.” As a result of her guidance, I have always approached life as though the glass is half full and have undertaken seemingly insurmountable challenges, including writing this book.

I want to thank my family—my sons, my father, my sister and brothers, my aunts, uncles and cousins and my line brothers—for their support and devotion over the years. Your love, affection and belief have been an invaluable source of strength to me. I also want to thank my friends, colleagues and mentors. The experience and knowledge I gained from each one of you is reflected through out this book.

Preface

All deals raise issues involving tax accounting. The tax accounting issues presented in these deals are often numerous and complex and often put a significant amount of money at stake. These issues, however, are frequently overlooked or only are cursorily considered. One reason for this is that there is very little guidance available on tax accounting issues in the context of mergers and acquisitions. This treatise is intended to provide guidance on tax accounting issues from a transactional perspective.

As noted, the tax accounting issues that arise in mergers and acquisitions are numerous and varied. In this edition of this treatise, we have attempted to cover some of the more significant tax accounting issues that arise in deals. In subsequent editions, we hope to address additional issues, such as the installment sale rules, cancellation of indebtedness issues, debt versus equity issues, and financial accounting implications of various transactions.

Glenn R. Carrington

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Acknowledgments

The subject matter of tax accounting issues in mergers and acquisitions is expansive and involves issues from a number of diverse and complex areas of tax law. In writing this treatise, I was fortunate to have substantial contributions from my colleagues who have added their considerable expertise. This treatise had genesis in an outline prepared by myself and Mark Schneider over 15 years ago and this original outline has served as the basis for this treatise. Over the years this outline has been expanded and revised, with considerable input from Amy Sargent. Her tremendous contribution continues to be reflected in the treatise.

I wish to express my gratitude for the invaluable contributions of several of my colleagues at Ernst and Young. Through the efforts of these contributing authors, the outline has evolved into the first treatise focused on tax accounting issues in mergers and acquisitions. Amy Sargent not only assisted me with the outline, but made substantial contributions to most of the chapters—especially, those dealing with capitalization and contingent liabilities and consequences from the discharge of indebtedness. Kim Golightly was a primary author of the chapter addressing the treatment of intangibles under section 197. Jane Rohrs was a primary author of the chapter dealing with accounting for transactions under sections 351, 338, 381, 721 and 1001. Brian Peabody was the principal author of the chapter dealing with corporate equity reduction transactions, a highly complex area, and made substantial contributions to the chapter addressing consolidated return issues.

Many others have contributed to the preparation of this treatise, through research, editing and reviewing. Their efforts contributed greatly to the quality of this treatise. I want to thank Pat Anderson for her assistance with the original chapter dealing with accounting for transactions under sections 351, 338, 381, 721 and 1002. I am grateful to Richard Larkins and Tom Coony for their review of the chapters dealing with debt modifications and original issue discount and to Marc Countryman's review of the chapter dealing with the consequences of discharge of indebtedness. Colleen O'Connor's review of many sections of the book dealing with tax accounting issues was also extremely helpful. I would also like to thank Lynn Edelstein, who assisted in drafting the section 197 chapter and Jeff Erickson and Robert Honigman, who provided invaluable input on partnership issues arising under section 197. Barry Tovig and Brandon Carlton's expertise on issues relating to LIFO are reflected in many chapters of the book. Matthew S. Blum's review of the sections dealing with section 163(j) contributed greatly to the quality of this book. Special thanks to Karen Messner for her assistance in proofreading many chapters of this book.

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