
Is M&A Merely Private Equity Now?

By Robert W. Wood • Wood & Porter • San Francisco

Sometimes, private equity seems to be a ravenous snake with a jaw that can unhinge to accept virtually any sized deal. Sometimes it seems capable of swallowing up all the rest of M&A combined. Hyperbole aside, private equity tax issues are only one flavor of M&A, and that was quite evident when the Institute for International Research (IIR)

recently held its Venture Capital & Private Equity Tax Practices Conference in Palo Alto. This two and one-half day event assembled a huge list of speakers and presented an equally huge list of topics.

Held on October 23 and 24, 2007, in Palo Alto, California, IIR's 6th Annual West Coast Program for Venture Capital Private Equity Tax

Practices was targeted to appeal across a wide spectrum. In fact, although there were clearly advisors in the audience, the idea was to appeal to the general partners, limited partners and international investors themselves. Although the first day and second morning presented unified sessions, the second afternoon split into a general partner track and a limited partner track. Although the two tracks were somewhat arbitrary in their offerings, with issues that could be of concern across the GP versus LP aisle, the idea is a good one.

One helpfully grounding session for everyone the first morning was a general structuring session, and many of the other sessions would build on the fundamentals discussed there. In addition to this primer, topics covered in the general sessions the first day included UBTI and effectively connected income in PE Funds, and tax issues in making outbound investments. Plus, there were three separate sessions

on the legal and investment hurdles one encounters in Europe, China and India. These offered a mix of business, legal and investment thoughts.

The second day included financial accounting compliance, a session on the topical tax issues affecting private equity (including the inevitable speculation about whether carried interests may at some point be treated as ordinary income), sessions on inbound transactions and a session on issues faced by CFOs and COOs. In the split GP versus LP tracks in the afternoon, the sessions again hit some up-front structuring issues, different approaches for managing allocations and distributions, *etc.* There was also a session on valuation, one on exit strategies and even one on estate planning ideas.

The last morning hit ERISA, 409A concerns and U.S. tax planning and cross-border investing. Those interested in this event should visit www.iirusa.com/vctax.

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