
Book Review: MERGERS, ACQUISITIONS AND BUYOUTS: A TRANSACTIONAL ANALYSIS OF THE GOVERNING TAX, LEGAL AND ACCOUNTING CONSIDERATIONS, by Martin Ginsburg and Jack Levin

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Readers of the M&A TAX REPORT need no introduction to Martin Ginsburg, Professor of Law at Georgetown University, and Jack Levin, a Senior Partner at Kirkland and Ellis, LLP. Ginsburg and Levin go together like M&A. It is therefore no surprise that they have done it again.

In their recently published July 2005 edition of MERGERS, ACQUISITIONS AND BUYOUTS: A TRANSACTIONAL ANALYSIS OF THE GOVERNING TAX, LEGAL AND ACCOUNTING CONSIDERATIONS, they have updated their legendary encyclopedic treatise. In what would seem to be an impossible task—to make a previously complete treatise yet more complete—the authors have succeeded with aplomb.

Admittedly, this treatise is not small. Subchapter C is a big topic area, of course, and they even reach outside Subchapter C to cover this multi-generational topic. It therefore should be no surprise that this is a big book. In fact, it has expanded to its current four-volume format.

But with precision, Ginsburg and Levin seem to pack in more material than is contained in the Code itself. It almost goes without saying that MERGERS, ACQUISITIONS AND BUYOUTS is, unlike the Code, easy to read, full of practical examples, diagrams and history garnered from decades of experience, both in practice and in academia.

Helpful Features

Purchasers of this treatise will find numerous thoughtful handiwork included. For example, the chapters are written in plain English so that practitioners unfamiliar with a particular topic can quickly get up to speed. But this is not a lightweight summary of the rules. Each page is heavily footnoted with references to the Code, regulations, rulings, case law, *etc.* so that primary authority can be easily accessed.

Perhaps just as important is that there is a glossary of terms in Chapter 1 so the reader will never have to search for technical jargon. Another more blasé yet practical feature is that each volume contains a full table of contents.

Readers who know other multi-volume sets will appreciate this immensely.

The July 2005 edition contains many new updates. The following list highlights a few:

- Consolidated return built-in gain loss disallowance regulations
- Environmental remediation costs
- E&F reorganization regulations regarding continuity of interest and continuity of business enterprise
- A reorganization proposed regulations regarding international mergers
- Net value proposed regulations for Sections 332, 368 and 351 and continuity of interest issues
- Spin-off plus acquisition regulations finalized
- Internal Revenue Code Section ("Code Sec.") 338(h)(10) elections where the Target is an S corporation
- Net Operating Loss rules, including the effect of family attribution and value fluctuation rules
- GAAP accounting for stock-based compensation
- Service provider's receipt of partnership or LLC interest
- Code Sec. 409A deferred compensation rules
- Accounting for acquisitions
- Hart-Scott-Rodino pre-acquisition notification rules
- Cash escrowed to secure representations and warranties

- Carve out IPO where Parent disposes of its Subsidiary through a multi-step sale program (including an IPO) while obtaining stepped-up asset basis for Subsidiary's assets

MERGERS, ACQUISITIONS AND BUYOUTS is available in both print and CD formats. Aspen Publishers has been kind to those anachronistic professionals who, like me, prefer print media: they have included a CD with the printed treatise which contains all sample agreements. This deserves a round of applause, as the entire volume four contains a plethora of sample agreements. While some may be thinking that providing the sample agreements on CD is analogous to buying a car that includes the wheels, in my experience, not all authors are willing to provide electronic copies of sample agreements to those of us who are old-school, preferring to work in regular book format.

MERGERS, ACQUISITIONS AND BUYOUTS is a treatise that no tax library should be without. A word about updates: Many tax professionals may already have a prior version in their library. It can be tempting to think that you can skate by without the latest version. However, this can be penny wise but pound foolish. The updates provided in the July 2005 edition make this edition invaluable to every professional who needs to remain current in our ever-changing tax system. The treatise is available from Aspen Publishers (www.aspenpublishers.com) for \$400 in hardcover (which includes all sample legal agreements on CD), \$415 on CD and \$615 for both.