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# Book Review: Private Equity Funds: Business Structure and Operations, by James M. Schell

Reviewed by Larry Bercovich • Wood & Porter • San Francisco

The last several years have seen a tremendous rise in the number and prominence of private equity funds. From garden variety venture capital funds to large hedge funds, from

leveraged buyout funds to funds of funds, there is no shortage of private equity funds. These days some funds exceed \$1 billion in capital and acquire large public companies. Mr. Schell's book is a good primer on the fundamental issues raised in forming and operating of a private equity fund, written as much for a lawyer as for investors.

After a brief introduction into typical private equity structures, Schell addresses the key economic provisions and arrangements of private equity funds. A fundamental driver is the sponsors' incentive compensation, often called the "carried interest." Using a benchmark of 20 percent, Chapter 2 addresses establishing and calculating carried interests. Issues covered include management fees and whether they are an expense in calculating profits subject to the carried interest.

Chapters 3 and 4 address domestic fund structures. Sensibly, the formation and structural issues focus on Delaware law. Typically, private equity funds are structured as limited partnerships as much for their business flexibility as for the tax transparency

(that is, tax is not imposed at the entity level; rather, tax is only imposed on the partners). Given that a general partner has unlimited liability, most funds establish a two-tier structure, where the general partner is organized as a limited liability entity. Chapter 4 discusses the use of several forms of limited liability entities.

Chapters 5, 6 and 7 provide an overview of taxation of private equity funds, their investors and general partners. This is not a resource one would use to find a definitive answer to a tax matter, but it is a good starting point to understand the general issues involved in establishing and operating a private equity fund. For instance, Chapter 6 has a nice introduction into the thorny issues of a general partner's receipt of a private equity interest. There is a good discussion of receipt of a capital versus profits interest.

PRIVATE EQUITY FUNDS: BUSINESS STRUCTURE AND OPERATIONS is a comprehensive reference book that practitioners and investors alike may find useful. It is available for \$279.00 from [www.lawcatalog.com](http://www.lawcatalog.com), or (800) 603-6571.

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