

## Tax

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### Practices & Sectors

International Taxation

Partnerships, Limited Liability Companies, and Other "Pass-Through" Vehicles

Real Estate Investment Trust (REIT) Tax

State & Local Taxation

Tax Controversies and Litigation

Tax-Exempt Organizations

### Specialty Teams

Health Care Reform Team

#### Steven R. Meier

*Practice Group Co-Chair*

#### John P. Napoli

*Practice Group Co-Chair*

Clients turn to our attorneys to guide them through the quickly changing and increasingly complex federal, state, and local tax laws.

We go above and beyond traditional advice and counseling for our clients and provide innovative, cost-effective solutions that fit their ongoing business, transactional and estate planning needs.

Seyfarth tax attorneys consistently help clients structure their business and investment activities by advising on the use of pass-through vehicles such as partnerships, limited liability companies, joint ventures and S corporations, and trusts. Additionally, we work hand-in-hand with our corporate attorneys to assist our clients with the formation, operation and termination of privately held companies, and with stock and asset acquisitions or dispositions, mergers, consolidations, and liquidations. Other tax related issues can include distributions, redemptions, debt and equity issuances, bankruptcy restructurings and other workouts, asset-based financing, derivatives and financial products, and the licensing of intellectual property.

A hallmark of our practice is our deep experience in the real estate industry. We routinely represent real estate developers, investors, REITs and joint ventures on all aspects of their real estate activities, including acquisitions, dispositions, financings and refinancings and joint ventures. For instance, we assist our REIT clients with their acquisitions of real property, including contributions of real property to an UPREIT, section 704(c) lockups and debt maintenance provisions, tax-free exchanges under section 1031 and REIT qualification matters, including the gross income and asset tests, distribution requirements, the excise tax on prohibited transactions, and the dividends paid deduction. Our tax attorneys also regularly represent master and special servicers in connection with securitized real estate loans, including with respect to the continued qualification of REMICs for favorable tax status notwithstanding modifications of loan documents and potential imposition of taxes on income from foreclosure property and prohibited transaction taxes.

We assist both domestic and foreign clients in tax treaty analysis, currency translation, inter-company pricing matters, tax deferral strategies, foreign tax credit utilization and the efficient repatriation of earnings. Likewise, we advise foreign clients in the U.S. with withholding taxes, residency issues and domestic branch taxes. For our outbound clients, we collaborate closely with local counsel and accountants to achieve integrated cross-border solutions.

While we strive to minimize the risk of tax controversies, we also represent our clients in administrative hearings and litigation, and have successfully negotiated settlements that eliminate or substantially reduce taxes and penalties.

### Mergers & Acquisitions, Securities

Our corporate tax practice spans the range of issues that arise in connection with the formation, operation and termination of public and privately-held companies. We counsel corporations, their investors, and their businesses and investments. Teaming with our corporate and business lawyers from the outset of the engagement, we advise our clients and help them structure their taxable and tax-free stock and asset acquisitions or dispositions, mergers, consolidations, and liquidations to achieve favorable results. We also advise our clients as to the tax issues that may arise from the myriad of transactional and business decisions, such as dividend and redemptions; debt and equity issuances; bankruptcy restructurings and workouts; asset-based financing (including leasing, project finance, and partnership transactions); derivatives and financial products; and licensing of intellectual property. We provide our clients with practical

solutions to these issues and help our clients structure these transactions in a manner that enables them to achieve the optimal tax results consistent with their business objectives.

### **International Taxation**

Our international tax counseling addresses both foreign activities of U.S. persons and U.S. activities of foreign persons, including treaty analysis, currency translation, and inter-company pricing matters. For outbound clients we focus on, among other things, deferral strategies, foreign tax credit utilization and the efficient repatriation of earnings. For inbound clients we focus on, among other things, withholding taxes, the existence of a U.S. trade or business or permanent establishment, investments in U.S. real property, residency issues, and branch profits tax matters. We work with local counsel and tax accountants in foreign jurisdictions to achieve effective integrated cross-border solutions for our clients.

### **Partnerships, Limited Liability Companies, and other "Pass-Through" Vehicles**

For business and tax reasons, many of our clients desire to structure their investment and business activities and holdings through such "pass-through" vehicles as partnerships, limited liability companies, joint ventures, S corporations and trusts. We routinely advise our clients on structuring their special allocations of tax and non-tax items, contributions and distributions of appreciated or depreciated property (and, in particular, in a manner so as to avoid the "disguised sale" provisions), "profits" and other "carried" interests, section 704(c) lockups, debt maintenance provisions, tax-free exchanges of real property (section 1031 exchange) and similar matters.

### **Real Estate Investment Trusts (REITs)**

We regularly advise our public and private REIT clients on tax rules particular to them — including the "gross income," "asset," and "distribution" REIT qualification requirements, the 100 percent excise tax on "prohibited transactions," and the dividends-paid deduction — and help them structure their transactions and investments consistent with their business and investment objectives, but in accordance with these rules. We also advise our REIT clients on the effective use of "taxable REIT subsidiaries" and, particularly in the state and local tax area, "qualified REIT subsidiaries," business trusts and other pass-through vehicles. We keep abreast of the latest tax developments impacting REITs to provide our REIT clients with up-to-date advice and to help them structure their transactions and investments proactively to account for these developments.

### **State and Local Taxation**

With offices strategically located across the country, we deal with state and local tax issues with a national footprint. We assist our clients in matters of individual and corporate income and franchise taxes as well as unincorporated business taxes, including issues of nexus and taxing jurisdiction, allocation and apportionment of income, unitary business and combined reporting, and withholding taxes. We also assist our clients in matters of real property ad valorem, transfer and gains taxes, sales and use taxes, and other non-income taxes.

### **Tax Controversies & Litigation**

Our planning and transactional practices seek to minimize the risk of controversy with the Internal Revenue Service and with state and local taxing authorities. Where appropriate and feasible, we obtain private letter rulings or technical advice memoranda from the relevant taxing authorities. When a controversy arises, we represent our clients in administrative proceedings at the audit and appeals levels, and have successfully negotiated settlements that eliminate penalties and that eliminate or substantially reduce asserted deficiencies. If an acceptable

settlement cannot be reached, we represent our clients in litigation to contest the imposition of taxes or seek a refund of taxes paid.

### Tax-Exempt Organizations

We provide a full range of cost-effective services to the non-profit sector, including services in connection with tax-exempt organizations including 401(a) plans and government plans, formation and tax exemption, governance, and ethics. We advise tax-exempt clients on excess benefits transactions, intermediate sanctions and self-dealing, fundraising and other revenue generation activities, unrelated business income, mergers, joint ventures, intellectual property, tax-exempt financing, Internal Revenue Service and attorney general controversies, lobbying and political activities, and other corporate, labor and employment, employee benefits and executive compensation, commercial, and regulatory matters. We have significant experience with retirement plans for tax exempt organizations including tax-sheltered annuities and nonqualified deferred compensation arrangements. We represent universities, hospitals and other healthcare organizations, social service agencies, private foundations, and trade and professional associations. As professionals and members of our community, we are dedicated to helping our non-profit clients fulfill their missions.