

# Tax Practice Group

## Creating Value For Our Clients

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### Providing Practical Solutions To Complex Problems

Whether a client is going through a major transition such as a merger or acquisition, working on a high-stakes deal, or just starting up, complex tax issues—and not just federal tax issues, but state and local tax issues as well—often pervade the situation at hand. In fact, nearly every business decision is likely to raise one or more tax issues. These tax issues are further complicated by the fact that the tax rules are not static, but ever-changing. As trusted tax advisors to our clients, we help them navigate these tax issues proactively and provide experienced and practical tax counsel.

### Team Description

The Tax Practice Group of Seyfarth Shaw LLP provides tax advice that fits the circumstances, challenges, and objectives of our clients. We work closely and seamlessly with our clients, their internal staffs and outside accountants, and our colleagues across the firm to design and implement practical solutions. We have become trusted tax advisors to clients by combining innovative thinking and efficiency with careful analysis and sound judgment.

### Seyfarth Shaw Service Offerings

**Corporate and Securities Tax Practice/Mergers and Acquisitions.** 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 deal with corporations, their investors, and their businesses and investments. Working hand-in-hand with our corporate/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. 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 redemption distributions; 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 non-tax business objectives.

**Real Estate Tax Practice.** We have a broad and varied real estate practice, together with the tax experience needed to address the many tax issues and concerns that our clients have when engaging in real estate transactions. We provide our clients with practical solutions to the many tax and tax structuring issues and concerns that often arise in connection with the construction, development, acquisition, financing and re-financing, operation, conversion (into cooperative or condominium form of ownership) and disposition of all types of real estate and real estate-related assets and interests, including office properties, hotels, shopping centers and other commercial real estate, mortgages, easements, residential cooperative and condominium buildings and units, residential rental real estate, as well as interests in REITs, REMICs, and real estate partnerships/LLCs. We represent developers, operators, and real estate investors, including individuals, insurance companies, pension funds, and public and private REITs located in all regions of the country and abroad.

Our comprehensive approach includes teaming with the firm's real estate lawyers on appropriate matters from the outset. Whatever the tax issues that arise in a given real estate transaction, we provide practical solutions to these issues to help our clients structure their real estate transactions in a favorable manner.

**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, disregarded entities under the so-called "check-the-box regulations," and S corporations. We routinely advise our clients, including those of our REIT clients that employ the UPREIT partnership structure,

to advise them 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) lock-ups, debt maintenance provisions, and similar matters.

**Real Estate Investment Trust (REIT) Tax Practice.** We routinely 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% 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.

**Employee Benefits and Executive Compensation.** We have substantial experience advising public and large private companies with Internal Revenue Code and ERISA compliance of qualified retirement plans of all types including pension, profit sharing, ESOPs, stock bonus, and cash or deferred plans. We regularly represent clients before the Internal Revenue Service, the Department of Labor, the Securities and Exchange Commission, and the Pension Benefit Guaranty Corporation. We advise employers and executives on the design, taxation, and implementation of executive and equity compensation plan matters including nonqualified deferred compensation and retirement plans, incentive and nonqualified stock option plans, restricted stock plans, stock appreciation rights and phantom stock plans, excess benefit plans, and change-in-control and golden parachute arrangements.

**Estate and Individual Tax Planning.** Our estate and individual tax planning practice seeks to minimize federal, state and local income, estate, inheritance, generation skipping transfer, and gift taxes to achieve the accumulation and transmission of wealth at the lowest tax cost consistent with the personal, family, charitable, and business objectives of our clients.

**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, and unitary business and combined reporting. 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.

**International Taxation.** Our international tax practice 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, FIRPTA, 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.

**Tax Controversies and 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 prevent the imposition of taxes or obtain 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 formation and tax exemption, governance, and ethics. We have significant experience with retirement plans for tax exempt organizations including tax-sheltered annuities and nonqualified deferred compensation arrangements, 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 represent universities, hospitals, social service charities, trade and professional associations, grantmakers, private foundations, and other tax exempt organizations. As professionals and members of our community, we are dedicated to helping our non-profit clients fulfill their missions. ■

## About Seyfarth Shaw

Seyfarth Shaw was founded in 1945 by three lawyers and has grown to more than 800 lawyers across ten offices. We handle issues for our clients in all key areas including commercial litigation, construction, corporate and finance, employee benefits, environmental, government contracts, intellectual property, labor and employment, litigation, real estate, securities litigation, trade secrets, trusts and estates, and workouts and bankruptcy, among others.

Our success is the result of a constant, unrelenting focus on the needs of our clients. Our commitment to excellence and our belief in the strength of a team-based approach to the delivery of our services offers an atmosphere of creative and innovative thinking.

Our clients are our partners in business and we are committed to listening to their needs and to aligning the skills and abilities of our people to respond to those needs. Our clients range from *Fortune* 100 to midsize companies, and include publicly traded and privately held companies. We represent clients of all sizes across all industries and we are diligent in providing the same level of commitment to each client.

## Breadth. Depth. Results.

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