

Corporate Taxation Through the Lens of Mergers & Acquisitions

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Corporate Taxation Through the Lens of Mergers & Acquisitions

**Including
Cross-Border Transactions**

Samuel C. Thompson, Jr.

PROFESSOR OF LAW, UCLA SCHOOL OF LAW
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Dedication

This book is dedicated to Professor Bernard Wolfman, who first introduced me to this subject in his Corporate Tax course in my third year at the University of Pennsylvania School of Law and to Professor James S. Eustice who deepened my understanding of this subject in his Advanced Corporate Tax Problems course in the Graduate Tax Program at the NYU School of Law.

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Preface

I have long thought that the most interesting issues in corporate taxation revolve around the treatment of taxable and tax free mergers and acquisitions. This is particularly true now that a uniform 15% maximum rate applies to long term capital gains and to dividend income. Thus, this book approaches corporate taxation through the lens of the merger and acquisition provisions of subchapter C of the Internal Revenue Code, which deals with the tax treatment of corporations.

To ensure that the reader has the appropriate background to explore merger and acquisition concepts, Chapter 2 provides an introduction to the basic provisions of subchapter C, including:

- Section 351, which deals with the organization of a corporation;
- Section 301, which deals with the treatment of shareholders on the distribution of property;
- Section 302, which deals with the treatment of shareholders on the redemption of their stock;
- Section 311, which deals with the treatment of the corporation on the distribution of dividends;
- Section 331, which deals with the treatment of shareholders on receipt of a liquidating distribution; and
- Section 336, which deals with the treatment of a corporation that makes a liquidating distribution.

Because of the globalization of business activity, it will be virtually impossible for any law student today who goes into a corporate tax practice to avoid dealing with cross border issues, and for this reason, this book also introduces many of the issues under the Federal income tax affecting both inbound and outbound cross-border mergers and acquisitions.

I want to thank my research assistants for their excellent help in the preparation of this book: Robert Allen Clary, II, a graduate of the University of Miami School of Law and the Graduate Tax Program at the NYU School of Law and now with the Kennedy Covington law firm in Charlotte, NC; Matthew Sgnilek, a 2004 graduate of the UCLA School of Law; and Daniel Davis, a third year student at the UCLA School of Law. Thanks also go to my assistant at the UCLA School of Law, Rachel Ryan, for her superb help with the manuscript and administrative matters generally.

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