



Tax

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OVERVIEW

Closely held businesses, local and national corporations, tax-exempt organizations, and individuals turn to AP&S to reduce their tax risks, optimize their tax profile and comply with complex and ever-changing tax and legal requirements. They know that they'll get the personal attention of knowledgeable and experienced attorneys in an area where both the law and the lay of the land are crucial.

We work with the managers, accountants and in-house counsel of public companies, financial institutions, [real estate companies](#), motion-picture producers, universities, [governmental entities](#), charities and others to resolve a variety of tax-related issues, including in the areas of business formation, compensation and benefit plans, acquisitions, financings, and IRS and state tax audits and other disputes at the local, state and federal level.

We provide sophisticated tax planning advice to both individuals and organizations. We also represent out-of-state companies with local tax problems, negotiating favorable settlements and working to avoid adverse tax consequences.

Areas of Concentration

- Federal, state and local tax issues
- Transactional matters
- Business planning
- Personal tax planning
- Tax-exempt organization issues
- [Estate planning](#) and probate
- [Litigation](#)

REPRESENTATIVE MATTERS

- In the acquisition of an outside company by two unrelated businesses, we advised utilizing a joint venture that would allow one of the companies to use its losses to offset the operating income of the acquired business.

- We advised a foreign company on the federal and state tax issues associated with the sale of a wholly-owned U.S. affiliate to that company's management.
- We advised a foreign corporation on the treatment of payments made to holders of options issued by a business it acquired in the U.S.
- For a foreign company interested in acquiring a domestic consulting company, we helped with various federal and state tax issues, including the requirement that notice of the transaction be given to various state taxing authorities and the seller's exposure for state sales taxes.
- We advised a group of senior managers on the tax and business risks associated with a plan they had entered into to acquire the debt and equity interests of a principal stockholder, and helped them negotiate it.
- We advised the parent of a Rhode Island utility on its state corporate tax exposure, negotiated a favorable settlement involving its liability and helped form a plan to limit future liability.
- In a medical practice's corporate divorce, we worked to maximize the amount by which payments made to the departing stockholder for stock would be deductible for tax purposes.
- In the acquisition of assets of an operating business, we advised as to the risks associated with acquiring "celebrity goodwill" from the principal stockholder of the selling company.
- We represented a number of movie production companies in the sale of assignable state tax credits allowable under Rhode Island, Massachusetts and Connecticut laws for motion pictures produced in those states, and advised those companies on applicable rules relating to those credits.
- We secured a private tax ruling from the Rhode Island Division of Taxation that a "loan-out company" that provided the services of its principal to a production company in a motion picture production was not covered by the Rhode Island employee leasing statute. As a result, the production company did not have secondary liability under that statute if the loan-out company did not withhold Rhode Island taxes on the salary due its principal. The case led the government to revise a prior policy.
- We secured a written determination from the General Counsel of the Massachusetts Department of Revenue that the film tax credit authorized by M.G.L. c. 63, section 38T for qualifying costs to produce a motion picture in that state would not be affected if there was an error in the amount of Massachusetts withholding on payments made to "loan-out companies" for qualifying services in the production of the film.
- For a university, we analyzed and developed a strategy to be followed if its municipality attempted to partially subject its property to property tax—which had the potential of resulting in a \$1 million annual liability.
- We worked with another university to develop a plan that would allow it, through a for-profit affiliate, to rehabilitate and lease a historic campus building and assign historic tax credits to a third party.

- For a state economic development entity, we provided counsel on implementing a program that would allow the State to acquire historic tax credits from developers at their “wholesale” value, and advised them on structuring their first acquisition of this type of credit in a project to rehabilitate the Masonic Temple in Providence.
- We advised the management and directors of a non-profit, church-affiliated hospital on the federal and state tax considerations involved in forming a non-profit holding company to control the hospital and its possible acquisition by a non-secular non-profit hospital.
- We advised a non-profit association of community mental health care organizations on the structure of a joint venture that would involve a for-profit partner.
- We counseled a university on various scenarios involving the use of management or service contracts with outside parties and the impact those agreements could have on the tax-exempt status of various obligations issued by the university.
- We helped a tax-exempt civic organization restructure its activities so it could qualify as a charitable organization, and secured a determination on its status from the IRS.

SEMINARS / PUBLICATIONS

Seminars

- Presenter, “Indemnification Recoveries in M&A: Drafting Tax Benefit Offset Provisions”, Strafford CLE Webinar, September, 2021.
- Hans Lundsten, Lecturer on sales and use tax for National Business Institute & Lorman Education Series.

Publications

- Hans Lundsten, Revisiting the Rhode Island Acquired Real Estate Company Conveyance Tax. Rhode Island Bar Journal, November, 2021.
- Co-Authored, “[Mistakes Buyers Make – Reduced Indemnification Recoveries Due to Asserted Tax Savings](#),” May/June, 2021 editions of the American Bar Association’s Business Law Today.
- Hans Lundsten, Buyer Beware: Reduced Indemnity on Account of Supposed (Mythical?) Tax Benefits, Deal Points: The Newsletter of the Mergers and Acquisitions Committee, American Bar Association, Winter 2013.
- Hans Lundsten, Author of articles on Rhode Island Tax developments for the ABA Journal.

AWARDS

- Rated Tier 1 Metropolitan “Best Law Firm” by Best Lawyers®

