

## Services

### Federal Taxation

#### Practice Contacts

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We advise our clients on a wide spectrum of tax-related issues, including business planning; executive compensation; financing and equity transactions; international transactions; mergers, acquisitions and divestitures; partnerships, LLCs, joint ventures and S corporations; real estate; restructurings and workouts; tax controversies; and venture capital.

### Who We Represent

Clients for whom we have provided tax counsel include, among others, Bath & Body Works, Victoria's Secret & Co., Abercrombie & Fitch Co., Honda of America Mfg., Inc., The Scotts Miracle-Gro Company, Bob Evans Farms, Inc., M/I Homes, Inc., Big Lots, Inc., Wendy's International, Inc., Worthington Industries, Inc., JMAC, Inc., Athenian Venture Partners, Park National Corporation and Nationwide Children's Hospital.

### What We Do

#### Business Planning

Our tax lawyers advise clients at all stages of their creation and growth. Initially, we address the issue of entity choice and the ramifications of operating through a C corporation, S corporation, limited liability company, partnership or disregarded entity. We also provide ongoing tax advice on operational and management issues. Our lawyers are particularly proficient in advising clients on many operational tax issues, such as the treatment of intercompany transactions under the consolidated return rules, fringe benefits, accounting methods, structuring and tax treatment of corporate-owned aircraft, reportable transactions and disclosure (including the federal tax implications of FIN 48), and the structuring of litigation settlements. We also work closely with our clients with respect to the structuring and compliance aspects of charitable contributions, including contributions of inventory.

## Civil Penalties

Our tax lawyers regularly defend against assessment and collection of assessed civil penalties, and seek refund of civil penalties that have been paid. In several instances, we have developed and asserted legal arguments of first impression to the Internal Revenue Service that a civil penalty was not properly imposed, and have achieved refunds on that basis. We have addressed civil penalties ranging from a few thousand dollars to tens of millions of dollars.

## Executive Compensation

Our tax lawyers counsel businesses and executives regarding the structure and federal tax consequences of various forms of executive compensation. We regularly address such matters as the following:

- Golden parachute rules
- Restricted stock
- Incentive stock options
- Nonqualified stock options
- Profits interests
- Phantom stock arrangements
- Bonus arrangements
- Non-cash fringe benefits
- Withholding

## Financing and Equity Transactions

Our tax lawyers assist our clients in the structuring of public and private offerings of debt and equity securities, as well as equipment and facilities leases. We advise lenders and borrowers with respect to the tax consequences of complex borrowing transactions, including imputed interest and original issue discount, bond premium, interest rate and other derivatives, limitations on the deductibility of interest, cancellation of indebtedness, contingent payments, variable rates and cross-border issues. We also have extensive experience representing issuers, borrowers, underwriters and letter of credit banks with respect to tax-exempt financings.

## International Transactions

Our tax lawyers work extensively with foreign-based businesses with U.S. operations regarding the complex U.S. tax rules that apply to their ownership and operations. For example, we have experience advising foreign-based businesses and individuals on the formation of new U.S. entities and expansion of existing U.S. operations. We also advise U.S.-based businesses with respect to non-U.S. investors, borrowers, lenders, sellers, buyers and service providers, and the application of U.S. withholding regimes. We also have experience with respect to compliance with the U.S. transfer pricing rules.

## Like-Kind (Section 1031) Exchanges

Our tax lawyers have extensive experience in structuring and implementing tax-deferred like-kind exchanges under Section 1031. If the client is acquiring property in advance of selling the client's own property, we can structure a reverse exchange. If the client wishes to count construction dollars toward the client's exchange, we can structure a build-to-suit exchange. If the client is a limited liability company taxed as a partnership, we present alternative structures. For example, one structure is geared to the situation where some LLC members wish to do an exchange, and other members wish to cash out. We even have a structure for identifying as replacement property improvements constructed on land held by the client's affiliate. We understand that a like-kind exchange often is only a single aspect of a larger transaction, in which there may be several tax-planning opportunities. If a client is acquiring, constructing, and/or selling real property and related assets, we can structure and implement the exchange with a view toward facilitating the client's transactional and other tax-planning goals.

## Mergers, Acquisitions & Divestitures

Our tax lawyers work closely with our corporate and commercial lawyers representing public and private corporations and other entities in developing and implementing innovative, tax-efficient structures for taxable and tax-free equity and asset acquisitions and divestitures. Although each transaction presents unique planning opportunities and challenges, our collective experience with a continual flow of complex transactions serves as a foundation to take advantage of these opportunities and to overcome these challenges.

## Partnerships, LLCs, Joint Ventures and S Corporations

Our tax lawyers have extensive experience in advising clients that are classified as partnerships for tax purposes, including general and limited partnerships, limited liability companies and limited liability partnerships. Our tax lawyers have advised clients with respect to partnership/LLC roll-ups and restructurings, including mergers, divisions and redemptions of partnership/LLC interests, and restructurings in connection with workouts. We deal regularly with partnership tax issues such as income and loss allocations, disguised sales, debt-financed distributions, Section 754 (basis step-up) elections, book-ups of capital accounts, contributions/distributions of appreciated property, issuance of profits interests, conversions of partnerships to corporations, and the application of the centralized partnership audit regime. We also work closely with clients that have elected S corporation status or are classified as disregarded entities, advising them with respect to their tax planning and compliance. We have obtained favorable private letter rulings for clients that have inadvertently terminated their "S corporation" status.

## Payroll Taxes

Our tax lawyers regularly advise on all aspects of federal payroll taxes. We analyze federal employment tax withholding and reporting requirements for various transactional and ownership structures, and advise on alternative structures providing more favorable employment tax results. Where errors are discovered, we advise clients on how best to address those errors, and have defended employment tax disputes on issues such as worker classification, timing of deposits for the exercise of employee stock options, and Combined Annual Wage Reporting payroll mismatches. Our federal tax lawyers will team with Vorys state and local

tax lawyers to address simultaneously related state or municipal payroll tax matters such as state unemployment tax, workers' compensation and municipal wage taxes. We also regularly advise clients regarding federal employment tax requirements for foreign workers temporarily in the U.S. on various types of visas granted for that purpose, and for U.S.-based employees that are deployed to foreign countries by a U.S. employer.

### Qualified Opportunity Zones

Our tax lawyers are part of a multi-disciplinary team that Vorys established to assist clients in navigating the legal and regulatory framework of the Qualified Opportunity Zone (QOZ) program. We advise on the potential federal and Ohio tax benefits available to investors through the QOZ program and the requirements that investors must satisfy to obtain those benefits, on the structuring and documenting of QOZ transactions in a manner consistent with QOZ program requirements, and on ongoing QOZ project compliance.

### Real Estate

Our tax lawyers regularly represent real estate developers, home builders and owners with respect to properties from Massachusetts to Hawaii. We have wide-ranging experience advising clients concerning acquisitions and dispositions of real estate, including tax-deferred, like-kind exchanges (including complex multi-party and multi-property exchanges and non-simultaneous, reverse and build-to-suit exchanges), condemnations, and other capital gain planning techniques. Our tax lawyers also provide structuring advice with respect to real estate leasing, sale-leaseback, development, joint venture and financing transactions. We regularly help clients navigate the depreciation and capitalization rules. Finally, we have significant experience with bond-financed projects, and have worked extensively with investors and developers with respect to transactions involving federal and state historic, New Markets, and low-income housing, tax credits, as well as qualified opportunity zone tax benefits.

### Restructuring and Workouts

Our tax lawyers regularly provide structuring advice to our public and private clients with respect to such matters as the following:

- Intra-group divisions and mergers
- Recapitalizations
- Spin-offs, split-offs and split-ups
- Intra-group asset sales and licenses
- Dividend planning
- Entity conversions
- Other internal restructurings

We also counsel creditors and debtors with respect to tax issues such as bad debt deductions, cancellation of indebtedness and utilization of net operating losses.

## Special Tax Counsel

Federal tax laws are complex, frequently changing and often demand legal counsel solely focused on them. Therefore, many lawyers call on attorneys with extensive experience in federal tax law when needed. At Vorys, we often assist other law firms that serve as the principal counsel for clients on matters requiring in-depth experience in the federal tax arena. Whether we are formally engaged by the client or the principal counsel, we work collaboratively with the appropriate parties in structuring tax-efficient solutions. The principal counsel can have confidence that we understand our supporting role in these limited-scope engagements. Recent examples of transactions in which we have acted as special tax counsel include:

- Complex flow-through entity restructurings
- The sale of an S corporation with an Internal Revenue Code Section 336(e) election
- The issuance of a complex “profits interest” in a joint venture
- A private settlement agreement involving dozens of flow-through entities with substantial intercompany debt
- With respect to a hotel, a part like-kind exchange/part tax-deferred contribution and rollover to the joint venture purchaser

Examples of additional situations that would be good candidates for such engagements:

- Rollover of gain into a qualified opportunity zone investment
- A debt workout
- Structuring a complex like-kind exchange (e.g., reverse, build-to-suit, leasehold, or partners wanting to go their separate ways)
- Need to sell equity interests (due to, e.g., licenses), but corporation has unwanted assets
- Avoiding the “anti-churning” rules on a rollover
- Avoiding the “disguised sale” rules on a complex LLC or partnership formation
- Avoiding an adverse allocation of tax basis in a divestiture involving an earn-out
- A litigation settlement (e.g., tax treatment and required reporting)
- A tax dispute with the Internal Revenue Service

## Tax Controversies

Our tax lawyers represent business and individual clients in audits and other proceedings at all administrative levels of the Internal Revenue Service and in the federal courts. We have had particular success with the Internal Revenue Service Appeals Office. We can advise on whether bankruptcy or an offer-in-compromise is more advantageous for a troubled business, and have defended “responsible persons” against personal liability and collection of trust fund taxes. We regularly advise our clients regarding proper handling of notices of levy and liens, and we assist clients with lien removal in order to complete sales of encumbered property. We also have obtained private letter rulings from the Internal Revenue Service to obviate potential future controversies and have negotiated favorable “closing agreements” with the Internal Revenue Service, including through the Pre-Filing Agreement Program.

## Tax Credits

Our tax lawyers have extensive experience in representing real estate developers, non-profit organizations, syndicators, investors and lenders in transactions involving federal and state historic tax credits (HTC), federal and state low-income housing tax credits (LIHTC), and new markets tax credits (NMTC). We work as part of a team of Vorys attorneys, including commercial real estate and finance attorneys, who handle every component of tax credit transactions.

## Venture Capital

Our tax lawyers regularly counsel venture capital and other investment funds as to fund structure, including complex structuring designed to permit tax-exempt entity and foreign investment. We also advise our fund clients regarding the structure and tax implications of portfolio investments, including investments involving a partial rollover of assets by the seller into a fund vehicle, and/or a pre-acquisition "F Reorganization" of the acquired company. Finally, we advise our business clients concerning structuring issues associated with obtaining venture capital investment.

## News

[News, 10.9.2023](#)

74 Vorys Attorneys Included in 2023 *Columbus CEO's Best Lawyers*

[News, 8.24.2023](#)

Vorys Advises ATSG in \$400M Senior Notes Offering

[News, 7.22.2019](#)

Mann Quoted in *Columbus Business First* Story Titled "Opportunity Zones Primed for Business"

[News, 11.1.2013](#)

Vorys Receives 64 Tier One Rankings on 2014 *U.S. News - Best Lawyers* "Best Law Firms" List

[News, 6.3.2013](#)

Vorys Houston Office Continues Expansion With Two New Attorneys

[News, 1.2.2013](#)

Vorys Elevates 13 Attorneys to Partner

## Publications

[10.2.2023](#)

Federal Tax Bulletin: Avoiding Tax Traps in Structuring M&A Earnouts

[Client alert, 3.22.2023](#)

Treasury Finalizes Rules Mandating Electronic Filing of Certain IRS Forms

[Authored article, Fall 2022](#)

*The Evaluator*: Deadlines Looming in 5 States - Fall 2022

[Client alert, 7.7.2022](#)

Superfund Excise Tax on Chemicals Has Been Revived

[Authored article, 3.2022](#)

*The Evaluator*: March 2022 Valuation Analyses

[Authored article, 3.2022](#)

*The Evaluator*: Deadlines Looming in 9 States - March 2022

[Authored article, Fall 2021](#)

*The Evaluator*: Fall 2021 Valuation Analyses

[Client alert, 9.27.2021](#)

QOF Investment by December 31, 2021 Required to Maximize Federal Qualified Opportunity Zone Tax Benefits

[Authored article](#)

*The Evaluator*: Summer 2021 Valuation Analyses

[Authored article, Winter 2021](#)

*The Evaluator*: 2021 Valuation Analyses

[Client alert, 1.15.2021](#)

*Federal Tax Bulletin*: Congress Temporarily Expands Deductibility of Business Meals Through 2022

[Client alert, 12.30.2020](#)

Federal COVID Relief Act Expands Availability of the Employee Retention Tax Credit

[Client alert, 12.28.2020](#)

*Federal Tax Bulletin*: Retroactive Deductibility of PPP-Funded Expenses Included in Federal COVID Relief Act

[Client alert, 12.23.2020](#)

CTRA Would Extend Employer Tax Credits for Paid Leave Under FFCRA Framework

[Client alert, 12.1.2020](#)

Be Aware of the Federal Employment Tax Treatment of Holiday Gifts to Employees

[Client alert, 11.20.2020](#)

*Federal Tax Bulletin*: IRS Guidance Clarifies Non-Deductibility of PPP-Funded Expenses Where Loan Forgiveness is Reasonably Expected

[Authored article, 10.2020](#)

*The Evaluator*: 2020 Valuation Analyses

[Client alert, 8.31.2020](#)

Treasury Issues Guidance on Elective Deferral of Employee Social Security Tax Withholding

[Client alert, 8.11.2020](#)

Deferring Social Security Tax Withholding

[Client alert, 8.7.2020](#)

Court Strikes Down Key Parts of DOL's Rule on the Families First Coronavirus Response Act

[Client alert, 6.8.2020](#)

*Federal Tax Bulletin:* PPPFA Eliminates Restriction on Ability of PPP Loan Recipients to Defer 2020 Employer Social Security Tax Payments

[Client alert, 5.8.2020](#)

Treasury Relents on Employee Retention Tax Credit for Health Benefits Provided to Unpaid Employees

[Client alert, 5.4.2020](#)

IRS Releases FAQs with Additional Guidance on the CARES Act Employee Retention Tax Credit

[Client alert, 5.1.2020](#)

*Federal Tax Bulletin:* IRS Concludes That Employer Expenditures Eligible for PPP Loan Forgiveness Are Not Deductible

[Client alert, 4.14.2020](#)

Claiming Federal Relief Tax Credits and Deferring Payroll Tax Payments

[Client alert, 3.31.2020](#)

*Federal Tax Bulletin:* CARES Act Provides a Number of Tax Benefits to Businesses

[Client alert, 3.27.2020](#)

*Federal Tax Bulletin:* CARES Act Extends Deadline for Payment of 2020 Employer and Self-Employment Social Security Tax

[Client alert, 3.23.2020](#)

*Federal Tax Bulletin:* Treasury Issues New Notice on Tax Filing and Payment Deadlines, Eliminating Prior Caps

[Client alert, 3.20.2020](#)

*Federal Tax Bulletin:* Treasury Extends April 15 Deadline For Making Tax Payments and Filing Tax Returns

[Client alert, 3.20.2020](#)

Overview of Federal Coronavirus (COVID-19) Relief Bills

[Client alert, 3.19.2020](#)

The Families First Coronavirus Response Act: What Employers Need to Know



[Client alert, 1.30.2020](#)

*Federal Tax Bulletin*: Final Qualified Opportunity Zone Regulations Adopt Many Changes

[Client alert, 1.21.2020](#)

*Federal Tax Bulletin*: Retroactive Repeal of the 'Parking Tax' for Tax-Exempt Employers

[Client alert, 11.13.2019](#)

*Federal Tax Bulletin*: Key Timing Issues for Qualified Opportunity Fund Investments

[Client alert, 1.2.2019](#)

*Client Alert*: New IRS Guidance Addresses the Tax Cost of Providing Parking to Employees, Even for Tax-Exempt Employers

[Client alert, 10.4.2018](#)

*Client Alert*: Have You Recently Been Assessed Federal Civil Penalties for Late-Filed or Incorrect Forms W-2? We Should Talk.

[Client alert, 8.21.2018](#)

*Federal Tax Bulletin*: Prompt Action Urged for LLC and Partnership Agreements that Do Not Yet Address New Partnership Audit Rules

[Client alert, 4.19.2018](#)

*Client Alert*: Ohio Qualified Opportunity Zones Announced

[Client alert, 4.11.2018](#)

*Client Alert*: Carried Interests and Investment Management Fees: Certain Tax Reform Changes for Fund Managers

[Client alert, 2.19.2018](#)

*Client Alert*: Additional Guidance Available Regarding Selection of "Qualified Opportunity Zones" Ahead of Imminent Deadline

[Client alert, 2.8.2018](#)

*Client Alert*: New Federal Qualified Opportunity Zone Program

[Client alert, 1.5.2018](#)

*Client Alert*: 20% Deduction for Qualified Business Income of Individuals

[Client alert, 1.2.2018](#)

*Client Alert*: "Tax Reform" Highlights for Real Estate Businesses

[Client alert, 12.29.2017](#)

*Client Alert*: "Tax Reform" Changes Will Take Immediate Effect

[Authored article, OOGA Bulletin, 12.1.2017](#)

IRS Announces that Marginal Well Production Credits are Available for 2016 Natural Gas Production

**Client alert, 6.30.2017**

*Client Alert:* Proposed Regulations Confirm Broad Scope of New Partnership Audit Rules, Affecting Partnerships and LLCs Treated as Partnerships - Is Your Operating Agreement Ready?

**Authored article, OOGA Bulletin, 1.2017**

Enhanced Oil Recovery Credits and Marginal Well Production Credits: Potential Availability for 2016

**Client alert, 11.18.2016**

*Client Alert:* Micro-Captive Insurance Companies - New IRS Reporting Requirements

**Client alert, 11.14.2016**

*Client Alert:* Recent Changes to Federal Partnership Tax Rules Eliminate Usefulness of Bottom-Dollar Guarantees and Reduce Effectiveness of Debt-Financed Distributions to Avoid Disguised Sale Treatment

**Client alert, 5.3.2016**

*Client Alert:* Proposed Regulations Would Treat Certain Related-Party Debt Instruments Issued on or After April 4, 2016 as Stock for Federal Tax Purposes

**Client alert, 12.1.2015**

*Client Alert:* New Partnership Audit Rules Impose Federal Income Tax Liability Directly on Partnerships/LLCs

**Authored article, Fall 2015**

Ohio Supreme Court Decision on Bright-Line Domicile Creates Uncertainty Going Forward – Ohio's Bright-Line Test Is Not So Bright

**Client alert, 8.6.2015**

*Client Alert:* Changes to Federal Tax Return Filing Deadlines

**Client alert, 9.6.2013**

*Labor and Employment Alert:* Federal Tax Treatment of Same-Gender Spouses

**Client alert, 10.30.2012**

*Labor and Employment Alert:* Court of Appeals for the Sixth Circuit Decision *U.S. v. Quality Stores, Inc.* Offers FICA Tax Refund Opportunity for Some Employers

**Client alert, 1.28.2011**

*Estate Planning Alert:* Federal Gift, Estate and Generation-Skipping Transfer ("GST") Tax Changes Arising From the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 ("TRA 2010")

**Client alert, 2.29.2008**

*Client Alert re:* Performance-Based Compensation

**IRS Issues Formal Guidance on Performance-Based Compensation; New Rules Apply Prospectively**

Client alert, 2.13.2008

*Client Alert* re: Private Letter Ruling 200804004 ("PLR")

Deduction at Risk: IRS Changes Position on Performance-Based Compensation Exception Under Section 162(m)

Client alert, 10.2007

*Client Alert*

Employers Given Additional Year to Comply with Section 409A

Client alert, 9.2007

*Client Alert*

Mixed Relief for Section 409A: IRS Extends Documentary Compliance Deadline, Not Effective Date

Client alert, 9.2006

*Client Alert*

Final Regulations Issued Under Section 409A of the Internal Revenue Code

## Speaking Engagements

Event, 6.25.2023

IPT's 47th Annual Conference

2.25.2022

2022 Vorys Economic Development Incentives Conference

2.16.2021

Vorys Economic Development Incentives Conference - Virtual Edition

12.16.2020

Doing Business Between U.S. and Canada? What you Need to Know. Can I work from Here? Employment & Tax Issues with Remote Workers

12.15.2020

Doing Business Between U.S. and Canada? What you Need to Know. Crossing During COVID – U.S./Canada Immigration Strategies

4.2.2020

Vorys on Call: Coronavirus (April 2, 2020)

11.13.2019

Tax Strategies for Real Estate Transactions

1.24.2012

21st Annual Ohio Tax Conference

Presented by Manufacturers' Education Council