

## Contents Volume II

Italy		1
<i>Riccardo Michelutti</i>		
I	INTRODUCTION	3
	[A] Civil Law Background	3
	[B] Summary of Key Corporate Income Tax Principles	5
	[C] Taxation of Dividends	6
	[D] Anti-avoidance Rules and Rulings	7
	[E] Ruling Procedures	9
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	11
	[A] Tax on Capital Gains – General	11
	[B] Sale of Shares	12
	[C] Sale of a Business	14
	[D] Contribution of a Business	14
	[E] Acquisition of an Italian Target by a Foreign Acquiror	16
	[1] Form of Transaction	16
	[2] Consideration Used	17
	[3] Tax Treatment of Foreign Acquiror	17
	[a] Interest Deduction on Acquisition Debt	17
	[b] Tax Recognition of Goodwill	18
	[c] Interest Withholding Tax	20
	[d] Dividend Withholding Tax	20
	[e] Transfer Taxes and Responsibility for Assessments	22
	[4] Tax Treatment of Domestic Target	23
	[5] Tax Treatment of Italian Resident Shareholders of Domestic Target	23
	[F] Acquisition of Part of Domestic Target's Business by a Foreign Acquiror	24
	[1] Asset Acquisition	24
	[2] Share Acquisition	24
	[G] Acquisition by an Italian Resident Acquiror of Part or All of a Foreign Target	25

	[1] Acquisition of Shares of Foreign Target	25
	[a] Tax Treatment of Domestic Acquiror	25
	[b] Tax Treatment of Foreign Target Shareholders	26
	[c] Post-acquisition Restructuring	26
	[d] VAT and Transfer Taxes	27
	[2] Acquisition of Business Assets of Foreign Target	27
	[a] VAT and Transfer Taxes	27
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	27
	[A] Share-per-Share Exchange	27
	[B] Merger	28
	[C] Mergers of Equals	29
IV	ATTRIBUTE PRESERVATION AND USAGE	30
	[A] Losses of the Target Company or Target Business	30
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	30
VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	31
	[A] Deductibility of Interest Expenses	31
	[B] Hybrid Debt	34
	[C] Impact of EU Law	34
VII	DEALING WITH COMPENSATION PLANS	37
	[A] General	37
	[B] Deductibility to Issuer	37
VIII	GROUPING	38
	[A] Domestic Tax Consolidation	38
	[B] Consortium Relief	39
	[C] Worldwide Tax Consolidation	41
IX	PLANNING WITH INTANGIBLES	41
	[A] Operations Aimed at Delocalizing the Flow of Royalties to Another Tax Jurisdiction	41
	[B] IP Repatriation into Italy	42
	[C] IP Sub-licensing to Another Group Foreign Company	43
X	INTERNAL RESTRUCTURING INVOLVING ITALIAN TARGET	43
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	45
	[A] Like-Kind Exchanges	45
	[B] Pre-acquisition Spinoff	45
XII	TAX-FREE DEMERGERS/SPINOFF DISTRIBUTIONS	45
	[A] Demerger	45
XIII	SUBSIDIARY LIQUIDATIONS	46
	[A] Domestic Treatment	46
	[B] Special Concerns	47
XIV	JOINT VENTURES	47
XV	EQUITY AND DEBT RESTRUCTURING	47
	[A] Equity Contributions	47
	[B] Debt Restructuring	47
	[1] In General	47

	[2] Conversion into Equity	48
	[3] Debt Waiver	48
	[4] Assignment of Loan	49
XVI	CORPORATE EXPATRIATIONS	49
XVII	BUSINESS RESTRUCTURING	51
XVIII	ITALIAN CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	51
	[A] Treatment of Foreign Source Income: Foreign Tax Credit	51
	[B] Broadening of CFC Legislation	52
	Japan	
	<i>Eric N. Roose, Takeo Mizutani and Michael H. Shikuma</i>	1
I	INTRODUCTION	3
	[A] Overview of Japan	3
	[B] General Legal System	3
	[C] General Tax Environment	4
	[1] Classification of Business Entities	4
	[2] Participation Exemption Regime	5
	[3] Controlled Foreign Corporation ('CFC') Regime	5
	[4] Foreign Tax Credit Regime	5
	[D] Characteristics Unique to Japan	6
	[1] Donation Income and Expense	6
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	7
	[A] Treatment of Seller and of Target Entity	7
	[1] Consequences for Selling Stockholders	7
	[2] Japanese Real Property Interests Disposed of by Foreign Corporations or Non-residents	7
	[3] Consequences for Acquirer	8
	[4] Consequences for Target	8
	[B] Sales and Purchase of Shares and Assets	8
	[1] Consequences for Seller	8
	[2] Consequences of Asset Sale to Buyer	9
	[3] Asset Sales between Group Companies	9
	[C] Treatment of Contingent Purchase Price/Contingent Liabilities	9
	[D] Allocation of Purchase Price	9
	[E] VAT and Other Transfer Taxes	10
	[1] Consumption Tax (VAT - <i>Shouhi zei</i> )	10
	[2] Indirect Taxes: Transfer (Conveyance) Taxes	10
	[a] Real Property Acquisition Tax ( <i>Fudousanshutoku zei</i> )	10
	[b] Registration Tax ( <i>Tourokumenkyo zei</i> )	10
	[3] Stamp Tax ( <i>Inshi zei</i> )	11
	[F] Target Breakup or Other Disposition of Unwanted Assets	11

III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	11
	[A] Types and Requirements	11
	[1] Contribution In-Kind ( <i>Gembutsu Shusshi</i> )	11
	[a] 100% Shareholding Relationship	11
	[b] More Than 50% Shareholding Relationship	12
	[c] Joint Business	12
	[2] Mergers ( <i>Gappei</i> )	13
	[a] General	13
	[b] 100% Shareholding Relationship	14
	[c] More Than 50% Shareholding Relationship	14
	[d] Joint Business	14
	[e] Triangular Mergers ( <i>Sankaku Gappei</i> )	15
	[3] Share-for-Share Exchange ( <i>Kabushiki Kokan</i> ) and Share Transfer ( <i>Kabushiki Iten</i> )	16
	[a] General	16
	[b] Tax-Qualified Share Exchange	16
	[4] Change of Corporate Form	18
	[a] Types of Entities under the Company Law ( <i>Kaisha Hou</i> )	18
	[b] Conversions from One Type of Entity to Another	19
	[B] General Consequences and Objectives	19
	[C] Cross-Border Transfers	19
	[1] Issuance of Foreign Parent Company Shares to Non-resident Shareholders	19
	[2] Issuance of Shares in a Tax Haven Company	20
	[D] Transfer Taxes	20
	[1] Real Property Acquisition Tax ( <i>Fudousanshutoku zei</i> )	20
	[2] Registration Tax ( <i>Tourokumenkyo zei</i> )	21
	[3] Stamp Tax ( <i>Inshi zei</i> )	21
	[4] Consumption Tax ( <i>VAT - Shouhi zei</i> )	22
IV	ATTRIBUTE PRESERVATION AND USAGE	22
	[A] Change in Ownership in Impact on Tax Assets	22
	[1] Net Operating and Built-In Losses Following a More Than 50% Ownership Change	22
	[2] Limitation on Utilization of Net Operating Losses and Built-In Losses upon Merger	23
	[B] Allocation of Compensation and Other Deductions between Pre- and Post-closing Periods	24
	[C] Any Other Issues of Special Concern in Japan	24
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	24
	[A] Due Diligence	24
	[B] Tax Indemnifications and Other Contractual Provisions	25

VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	25
	[A] Leveraging the Taxable Acquisition, Including Cross-Border Aspects	25
	[1] General Thin Capitalization Rules and Other Limitations on the Deductibility of Interest	25
	[2] Arm's Length Interest Rate	27
	[3] Withholding Tax	27
	[4] Hybrid Financings (Double Dip Planning)	27
	[B] Debt Pushdown Strategies	27
	[C] Other Ways of Maximizing Tax Deductibility of Interest and Acquisition Expenses	28
VII	DEALING WITH COMPENSATION PLANS	28
	[A] Treatment and Issues in M&A Context	28
	[B] Any Other Issues of Special Concern in Japan	29
	[1] Transfer of Retirement Plan Obligations	29
VIII	GROUPING	29
	[A] Requirements	29
	[1] Consolidated Tax Return Filing	29
	[2] Non-consolidated Wholly Owned Group (Group Companies)	29
	[B] Consequences and Advantages	30
	[1] Consolidated Tax Return Filing	30
	[2] Group Companies: Deferral of Gains or Losses from the Transfer of Certain Assets	30
	[3] Group Companies: Donations	30
	[4] Group Companies: Dividends In-Kind	31
	[5] Group Companies: Reduction of Dividend Received Deduction by Allocable Interest Expense	31
	[C] Departure of Group Member	31
IX	PLANNING WITH INTANGIBLES	31
	[A] Local Regime (If Favourable)	31
	[1] IP Holding Company	31
	[B] Treatment of Transfers Offshore and Licensing Back (If Local Regime Is Unfavourable)	32
	[1] Migration	32
	[a] General	32
	[b] Cost Sharing	32
	[C] Any Other Issues of Special Concern in Japan	32
X	INTERNAL RESTRUCTURING INVOLVING JAPANESE TARGET	33
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	33
XII	DEMERGERS - CORPORATE DIVISION - KAISHA BUNKATSU	33
	[A] Domestic Treatment and Issues	33
	[1] General (Corporate Division - <i>Kaisha Bunkatsu</i> )	33
	[2] Tax-Qualified Division	34

	[a] 100% Shareholding Relationship	34
	[b] More Than 50% Shareholding Relationship	34
	[c] Joint Business	35
[B]	Transfer Taxes	36
	[1] Real Property Acquisition Tax ( <i>Fudousanshutoku zei</i> )	36
	[2] Registration Tax ( <i>Tourokumenkyo zei</i> )	36
	[3] Stamp Tax ( <i>Inshi zei</i> )	37
	[4] Consumption Tax (VAT - <i>Shouhi zei</i> )	37
[C]	Cross-Border Treatment and Issues	37
	[1] Issuance of Foreign Parent Company Shares to Non-resident Shareholders	37
	[2] Issuance of Shares in a Tax Haven Company	38
XIII	SUBSIDIARY LIQUIDATIONS	39
[A]	Domestic Treatment and Issues	39
	[1] Taxable Liquidation	39
	[2] Liquidation of a Group Company (Wholly Owned Subsidiary)	39
	[3] Liquidation of a Japanese Permanent Establishment ('PE')	39
[B]	Cross-Border Treatment and Issues	40
XIV	JOINT VENTURES	40
[A]	Structuring, Treatment and Issues in Cross-Border Context	40
	[1] Corporate JV	40
	[2] Partnership JV	40
[B]	Taxation of Operating Results and Distributions	41
	[1] Corporate JV	41
	[2] Partnership JV	41
[C]	Exit/Unwind	41
	[1] Corporate JV	41
	[2] Partnership JV	42
XV	EQUITY AND DEBT RESTRUCTURING	42
[A]	Debt Modifications	42
	[1] Debt Forgiveness	42
	[a] Issuer Consequences	42
	[b] Holder Consequences	42
	[2] Debt-Equity Swap	42
[B]	Equity Modifications	43
	[1] Capital Increase	43
	[2] Share Buybacks	43
	[3] Disguised Dividend	44
XVI	CORPORATE EXPATRIATIONS	44
[A]	General	44
[B]	Anti-corporate Inversion Rules	44
XVII	BUSINESS RESTRUCTURINGS	44

XVIII	JAPANESE CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN BUSINESS	44
	Republic of Korea	
	<i>Soo-Jeong Ahn, John Jangwoon Kwak and Jin Soo Soh</i>	1
I	INTRODUCTION	3
[A]	General Tax Environment	3
[B]	General Tax Rules on Reorganization	5
	[1] Main Characteristics of New Reorganization Rules	5
	[2] Transaction Tax Considerations	6
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	8
[A]	Non-Qualified Merger	9
	[1] Tax Consequences for Target	9
	[2] Tax Consequences for Shareholders of Target	10
	[3] Tax Consequences for Acquiror	10
	[4] Tax Consequences for Shareholders of Acquiror	10
[B]	Sale and Purchase of Shares	11
	[1] Tax Consequences for Seller (Transferor)	11
	[2] Tax Consequences for Buyer	12
	[3] Tax Consequences for Target	12
[C]	Sale and Purchase of Assets	12
	[1] Tax Consequences for Seller (Transferor)	13
	[2] Tax Consequences for Buyer (Transferee)	13
[D]	Treatment of Contingent Purchase Price/Contingent Liabilities	13
	[1] Earn-Out Payments	13
	[2] Clawback	14
[E]	Allocation of Purchase Price	14
[F]	Special Considerations	14
	[1] Triggering Events for Gain Realization	14
	[2] Local Tax and VAT Consequences	15
	[3] Special Status of Target	15
	[4] Loss Limitation	15
[G]	Tax Indemnification and Other Contractual Provisions	15
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	16
[A]	Merger	16
	[1] Requirements for a Qualified Merger	17
	[2] Issues to Consider in Reviewing Requirements for Qualified Merger	18
	[a] One Year Requirement	18
	[b] Continuity of Interest ("COI") Requirement	19
	[c] Distribution Requirement	20
	[d] Continuing Shareholding Requirement	21

	[e]	Continuity of Business Enterprise ("COBE") Requirement	22
	[3]	Tax Consequences	22
	[a]	Tax Consequences for Target	22
	[b]	Tax Consequences for Shareholders of Target	23
	[c]	Tax Consequences for Acquiror	23
	[d]	Tax Consequences for Shareholders of Acquiror	23
	[e]	Tax Consequences of Post-Merger Capitalization of the Gains from Merger	23
	[4]	Post-Merger Requirements and Recapture of Tax Benefits	25
	[a]	Post-Merger Requirements	25
	[b]	Effects of Recapture of Tax Benefits	25
	[B]	Comprehensive Share Exchange / Transfer	26
	[1]	Requirements for Comprehensive Share Exchange/Transfer	27
	[2]	Tax Consequences	27
	[a]	Tax Consequences for Target	27
	[b]	Tax Consequences for Shareholders of Target	28
	[c]	Tax Consequences for Acquiror	28
	[d]	Tax Consequences for Shareholders of Acquiror	28
	[3]	Post-Transaction Requirements	28
	[C]	Comprehensive Asset Transfer	29
	[1]	Requirements for Comprehensive Asset Transfers	29
	[2]	Tax Consequences	30
	[a]	Tax Consequences for Target	30
	[b]	Tax Consequences for Shareholders of Target	30
	[c]	Tax Consequences for Acquiror	31
	[d]	Tax Consequences for Shareholders of Acquiror	31
	[3]	Post-Transaction Requirements	31
IV		ATTRIBUTE PRESERVATION AND USAGE	32
	[A]	Change in Ownership Impact on Tax Assets	32
	[1]	General rule	32
	[B]	Allocation of Compensation and Other Deductions between Pre- and Post-closing Periods	32
	[1]	NOL Carryover	32
	[a]	NOL	32
	[b]	NOL Carryover	33
	[c]	Separate Accounting Requirement	33
	[2]	Carryover of Tax Reductions and Tax Credits	34
	[a]	Tax Reduction and Tax Credit	34
	[b]	Carryover of Tax Reductions and Tax Credits	35
	[3]	Tax Adjustment Carryover	35
	[a]	Meaning of Tax Adjustment Carryover	35
	[b]	Tax Adjustment Carryover	35

V		DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	36
	[A]	Due Diligence	36
	[1]	Triggering Events for Gain Realization	36
	[2]	Local Tax and VAT Consequences	36
	[3]	Special Status of Target	36
	[4]	Loss Limitation	37
	[B]	Tax Indemnification	37
VI		FINANCING AND DEBT PUSHDOWN STRATEGIES	37
	[A]	Leveraging the Taxable Acquisition, Including Cross-Border Aspects	37
	[B]	Debt Pushdown Strategies	38
	[1]	Debt versus Equity	38
	[2]	Thin-Capitalization Rule	39
	[3]	Deemed-Capitalization Rule	40
	[C]	Other Ways of Maximizing Tax Deductibility of Interest and Acquisition Expenses – Withholding Tax on Interest Payments	41
	[1]	General Rule	41
	[2]	Domestic Law Exemptions	41
	[3]	Eligibility for Reduced Withholding Tax Rates under Income Tax Treaties	42
	[a]	Residence	42
	[b]	Claiming Reduced Withholding Tax Rates under Income Tax Treaties – Applicable to Korean Sourced Income Paid from July 1, 2012	43
	[c]	Foreign Hybrid Entities and Substantive Ownership	44
VII		DEALING WITH COMPENSATION PLANS	44
	[A]	Treatment and Issues in M&A Context	45
	[B]	Tax Treatment of Retirement Income and Compensation Income	46
VIII		GROUPING	47
	[A]	Requirements	47
	[1]	Complete Control	48
	[2]	Eligible Entities	48
	[B]	Consequences and Advantages	48
	[1]	Determination of Taxable Income for each Taxable Year	48
	[2]	Consolidated NOLs	49
	[a]	Non-deductible NOLs of the Parent Company	49
	[b]	Non-deductible NOLs of the Member Subsidiaries	49
	[C]	Departure of Group Member	49
	[1]	Addition of a Member	49
	[2]	Departure of a Member	50
	[D]	Reporting Requirement	50
	[1]	Opting Out from the Consolidated Tax Return Filing Regime	50
	[2]	Cancellation of the Application of the Consolidated Tax Return Regime	50

IX	PLANNING WITH INTANGIBLES	51
	[A] Treatment of Transfers Offshore and Licensing Back (If Local Regime Is Unfavorable)	51
	[1] IP Transfer by a Korean Corporation to a Foreign Corporation	51
	[2] IP Transfer by a Foreign Corporation to a Korean Corporation	52
	[B] Cost Sharing Arrangement	52
	[C] Transfer of Know-how versus Provision of Services	54
X	INTERNAL RESTRUCTURING INVOLVING KOREAN TARGET	55
	[A] Dividend Received Deductions	55
	[B] CFC Rule	56
XI	TARGET BREAKUP OR OTHER DISPOSITIONS OF UNWANTED ASSETS	57
XII	DEMERGERS	58
	[A] Domestic Treatment and Issues	58
	[B] Non-qualified Spin-offs	58
	[1] Non-qualified Horizontal Spin-offs	58
	[2] Non-qualified Vertical Spin-offs	59
	[C] Qualified Spin-Offs	60
	[1] Qualified Horizontal Spin-Offs	60
	[a] Requirements for Qualified Horizontal Spin-Offs	60
	[b] "Independent Business Unit" Requirement	61
	[c] Tax Consequences	61
	[2] Qualified Vertical Spin-Offs	63
	[a] Requirements for Qualified Vertical Spin-Offs	63
	[b] Tax Consequences	63
	[3] Recapture of the Tax Benefits after the Spin-Offs	63
	[a] Qualified Horizontal Spin-Offs	63
	[b] Qualified Vertical Spin-Offs	64
	[D] Other Matters	65
	[1] Horizontal Spin-Off Followed by Merger	65
	[2] Vertical Spin-Off Followed by Merger	66
	[3] In-Kind Contribution	66
	[a] Non-Qualified In-Kind Contribution	67
	[b] Qualified In-Kind Contribution	67
	[c] Recapture of Tax Benefits after Qualified In-Kind Contribution	68
XIII	SUBSIDIARY LIQUIDATIONS	68
	[A] Domestic Treatment and Issues	68
	[1] Liquidation Procedure and Tax Consequences	68
	[2] Tax-Free Liquidation of Subsidiary	68
	[B] Cross-Border Treatment and Issues	69

XIV	JOINT VENTURES	69
	[A] Structuring, Treatment and Issues in Cross-Border Context	69
	[B] Tax Implications upon In-Kind Contribution of Property on Formation	70
	[1] Treatment of Built-In Gain	70
	[2] Treatment of Built-In Loss	71
	[C] Tax Impact on Ongoing Operations of JV	71
	[1] Tax to JV	71
	[2] Tax on Distribution to Shareholders (Partners)	71
	[D] Tax Implications upon Exit	72
	[1] Liquidation of JV	72
	[2] Disposition of JV Interest	72
XV	EQUITY AND DEBT RESTRUCTURING	73
	[A] Debt Modifications	74
	[1] Tax Effect on Debtor	74
	[2] Tax Effect on Creditors	75
	[B] Equity Modifications	76
	[C] Special Treatment	77
	[1] Asset Transfer	77
	[2] Acquisition and Repayment of Debt by Corporate Shareholders	77
	[3] Forgiveness of Debt by Financial Institution	77
	[4] Share Exchange	77
XVI	CORPORATE EXPATRIATIONS	78
	[A] Determination of the Domestic Corporation Status under the CITA	78
	[B] Determination of the Residence Status under the Tax Treaty	78
	[C] Corporate Expatriation as Taxable Event	79
XVII	BUSINESS RESTRUCTURINGS	79
XVIII	KOREAN CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	80
	[A] Holding Company Regime	80
	[B] Pros and Cons of Locating a Holding Company in Korea	80
	Mexico	
	<i>Jose Carlos Silva and Adalberto Valadez</i>	1
I	INTRODUCTION	3
	[A] Overview of Mexico	3
	[B] General Legal System	4
	[1] General Issues	4
	[a] Overview	4
	[b] Strategic Sectors	5
	[c] Exclusion of Foreign Investment	5
	[d] Limited Foreign Investment Sectors	6

	[e] Neutral Investments	6
[2]	Investment Vehicles	6
	[a] Overview	6
	[b] Corporate Forms	7
	[i] <i>Sociedad Anónima</i>	7
	[ii] <i>Sociedad de Responsabilidad Limitada</i>	7
	[iii] Fixed versus Variable Capital	7
	[iv] Filings	8
	[v] <i>Sociedad Anónima Promotora de Inversión</i>	8
	[c] <i>Asociación en Participación</i>	8
	[d] Branch Office	9
	[e] Mexican Real Estate Trust	9
[C]	General Tax Environment	9
	[1] Comments on 2010 Tax Reform	9
	[2] Income Tax	10
	[a] Tax Rate	10
	[b] Taxable Basis	11
	[i] Employee Profit Sharing	11
	[ii] Net Operating Losses	11
	[iii] Deductions	12
	[iv] Depreciation of Assets, Amortization of Deferred Assets and Expenses	13
	[v] Interest	15
	[c] Tax Attributes	15
	[i] CUFIN	16
	[ii] CUCA	16
	[iii] CUFINRE	17
	[d] Dividends	17
	[e] Capital Redemptions	18
	[f] Preferential Tax Regimes (Tax Havens)	18
	[g] Taxation of Nonresidents	19
	[3] Value Added Tax	20
	[a] Tax Rate	20
	[b] Creditable Value Added Tax	21
	[4] Business Flat Tax (IETU)	21
	[a] Tax Rate	21
	[b] Authorized Deductions	22
	[c] Credits	22
	[5] Real Estate Transfer Tax	22
	[6] Tax on Cash Deposits	22
	[7] Capital Taxes	23
[D]	Characteristics Unique to Mexico	23
	[1] Tax Treaties and Information Exchange Agreements	23
	[a] Treaty Network	23

	[i] Relief on Interest Withholding Rate	24
	[ii] Relief on Capital Gains	24
	[iii] Reorganizations	24
	[b] Broad Agreements for the Exchange of Information	25
II	TAXABLE ACQUISITIONS AND DISPOSITIONS OF MEXICAN ENTITY OR ITS ASSETS	25
	[A] Sale and Purchase of Shares	25
	[1] Consequences for Selling Stockholders	26
	[a] Taxation on Mexican Transferors	26
	[i] Income Tax	26
	[ii] Value Added Tax	29
	[iii] Business Flat Tax	29
	[b] Taxation on Nonresident Transferors	29
	[i] Income Tax	29
	[2] Consequences for Acquirer	31
	[a] Appraisals in Transactions Involving Nonresidents	31
	[B] Sale and Purchase of Assets	31
	[1] Implications for Seller	32
	[2] Implications for Purchaser	32
	[C] Treatment of Contingent Purchase Price/Contingent Liabilities	33
	[1] Income Tax	33
	[2] Value Added Tax	33
	[3] Business Flat Tax	33
	[D] Allocation of Purchase Price	33
	[E] VAT and Other Transfer Taxes	34
	[1] Transfer of Shares	34
	[2] Transfer of Assets	34
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	34
	[A] Types and Requirements	34
	[B] General Consequences and Objectives	35
	[1] Sale of Shares Using Tax Basis as Price	35
	[2] Merger	36
	[a] Tax-Free Merger	36
	[b] Tax Attributes	37
	[c] Transfer of Assets	37
	[d] Tax Consolidation Effects	37
	[e] Real Estate Tax	38
	[C] Cross-Border Transfers	38
	[1] International Reorganization	38
	[2] Tax Treaty Reorganizations	39
	[a] US-Mexico Tax Treaty Protocol	39
	[b] Mexico-Netherlands Tax Treaty Reorganization	40
	[c] Requirements for Implementation	40
	[3] Tax Haven Reorganization	41
	[D] Transfer Taxes	41
	[E] Issues of Special Concern in Mexico	41

IV	TAX ATTRIBUTE PRESERVATION AND USAGE	42
	[A] Change in Ownership Impact on Tax Assets	42
	[B] Allocation of Compensation and Other Deductions between Pre- and Post-closing Periods	42
	[C] Any Other Issues of Special Concern in Mexico	42
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	42
	[A] Overview	42
	[1] Due Diligence VAT	44
	[2] Income Tax and Business Flat Tax Due Diligence	44
	[B] Tax Indemnifications and Other Contractual Provisions	44
VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	45
	[A] Leveraging the Taxable Acquisition, Including Cross-Border Aspects	45
	[1] Considerations	45
	[2] Equity Financing	45
	[3] Withholding on Interest Payments	45
	[4] Reclassification of Interest Payments and Back-to-Back Loans	46
	[5] Thin Capitalization	47
	[6] Transfer Pricing	47
	[7] Disclosure Obligations	48
	[B] Debt Pushdown Strategies	48
	[C] Other Ways of Maximizing Tax Deductibility of Interest and Acquisition Expenses	48
VII	DEALING WITH COMPENSATION PLANS	48
	[A] Treatment and Issues in M&A Context	48
	[B] Any Other Issues of Special Concern in Mexico	49
VIII	GROUPING	49
	[A] Requirements	49
	[B] Consequences and Advantages	50
	[C] Departure of Group Member	50
IX	PLANNING WITH INTANGIBLE PROPERTY (IP)	51
	[A] Local Regime (If Favorable)	51
	[B] Treatment of Transfers Offshore and Licensing Back (If Local Regime Is Unfavorable)	51
	[C] Any Other Issues of Special Concern in Mexico	52
X	INTERNAL RESTRUCTURING INVOLVING MEXICAN TARGET	52
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	53
XII	DEMURGERS	53
	[A] Domestic Treatment and Issues	53
	[1] Tax-Free Spin-Off	53
	[2] Transfer of Tax Attributes	54
	[3] Transfer of Assets	54

	[B] Cross-Border Treatment and Issues	54
	[C] Any Other Issues of Special Concern in Mexico	55
XIII	SUBSIDIARY LIQUIDATIONS	55
	[A] Domestic Treatment and Issues	55
	[B] Cross-Border Treatment and Issues	56
	[C] Any Other Issues of Special Concern in Mexico	56
XIV	JOINT VENTURE	56
	[A] Structuring, Treatment and Issues in a Cross-Border Context	56
	[B] Any Other Issues of Special Concern in Mexico	58
XV	EQUITY AND DEBT RESTRUCTURING	58
	[A] Debt Modifications	58
	[B] Equity Modifications	59
	[C] Any Other Issues of Special Concern in Mexico	60
XVI	CORPORATE EXPATRIATIONS	60
	[A] Inbound Migrations	60
	[1] Legal Considerations	60
	[2] Tax Considerations	60
	[3] Exit Taxes	61
	[B] Outbound Migration	61
XVII	BUSINESS RESTRUCTURINGS	62
XVIII	MEXICAN CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	62
	The Netherlands	
	<i>Maarten J.M. van der Weijden, Margriet E. Lukkien and Mónica Sada Garibay</i>	1
I	INTRODUCTION	3
	[A] General Legal System	3
	[B] General Tax Environment	4
	[1] Corporate Tax	5
	[a] Base and Rate	5
	[b] Preventing Double Taxation	5
	[c] Interest Deductions	6
	[d] Tax Attributes	7
	[e] Recent Changes and Changes under Consideration	9
	[2] Dividend Withholding Tax	10
	[3] Dutch Revenue	11
	[C] Types/Classification of Major Business Entities	12
	[1] Main Dutch Business Entities	12
	[2] Taxation of Main Dutch Business Entities	13
	[3] Other Dutch Business Entities	13
	[4] Classification of Foreign Entities	14
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	15
	[A] Sale and Purchase of Shares	15

[1]	Consequences for Selling Shareholders	15
[a]	Seller Is a Dutch Tax Resident Company	16
[b]	Seller Is an Individual Resident in the Netherlands	18
[i]	Box 1	18
[ii]	Box 2	18
[iii]	Box 3	19
[c]	Seller Is a Non-resident Company or Individual	19
[2]	Consequences for Acquiror	21
[a]	Acquiror Is a Dutch Tax Resident Company	21
[i]	Corporate Tax	21
[ii]	Dividend Withholding Tax	21
[b]	Acquiror Is a Non-Dutch Resident Company	22
[i]	Corporate Tax	22
[ii]	Dividend Withholding Tax	23
[3]	Tax Consequences to the Dutch Target Company	25
[a]	Corporate Tax	25
[b]	Other Taxes	25
[c]	Post-acquisition Restructuring of the Dutch Target	25
[B]	Sale and Purchase of Assets	26
[1]	Taxable Purchase of Dutch Business Assets of a Dutch Target Company	26
[a]	Consequences for Seller/Dutch Target	26
[b]	Consequences for Acquiror	28
[2]	Taxable Purchase of Assets of a Non-Dutch Target Company	28
[a]	Consequences for Seller/Non-Dutch Target	28
[b]	Consequences for Acquiror	29
[C]	Treatment of Contingent Purchase Price/Contingent Liabilities	30
[D]	Allocation of Purchase Price	30
[E]	VAT and Other Transfer Taxes	30
[1]	Sale and Purchase of Shares	30
[a]	VAT	30
[b]	Real Property Transfer Tax	31
[2]	Purchase of Dutch Business Assets	31
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	32
[A]	Types and Requirements	32
[1]	Business Merger	32
[2]	Legal Merger and Legal Demerger	33
[a]	Facility at the Level of the Merging/Demerging Entities	33
[b]	Facility at the Level of the Shareholders	34
[3]	Share Merger	35
[B]	General Consequences and Objectives	36
[C]	Cross-Border Transfers	36

[D]	Transfer Taxes	36
[1]	Business Merger	36
[2]	Legal Merger and Demerger	37
[E]	Issues of Special Concern in the Netherlands	37
IV	ATTRIBUTE PRESERVATION AND USAGE	37
[A]	Change in Ownership Impact on Tax Assets	37
[1]	Availability of Loss Compensation	37
[2]	Use of Claims for Exempt Foreign Permanent Establishment Profits and Foreign Tax Credit Carry Forwards	38
[B]	Any Other Issues of Special Concern in the Netherlands	39
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	40
[A]	Due Diligence	40
[B]	Tax Indemnification	41
[C]	Tax Treatment of Indemnity Payments	41
VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	41
[A]	Leveraging the Taxable Acquisition, Including Cross-Border Aspects	41
[1]	General	41
[2]	Article 10a CTA: Anti-base Erosion Provisions	42
[3]	Article 10b CTA: Low or No Yield Loans	43
[4]	Article 13L CTA: Loans taken up for investments in qualifying participations	44
[B]	Debt Pushdown Strategies	45
[C]	Other Ways of Maximizing Tax Deductibility of Interest and Acquisition Expenses	47
VII	DEALING WITH COMPENSATION PLANS	47
[A]	Treatment and Issues in M&A Context	47
[1]	General	47
[2]	Roll-Over Provisions under Dutch Tax law	48
[a]	Wage Tax	48
[b]	Personal Income Tax	48
[3]	Cash-Out of Existing Plan	49
[a]	Wage Tax	49
[b]	Personal Income Tax	50
[B]	Any Other Issues of Special Concern in the Netherlands' Current Deductibility Rules for Equity-Based Compensation	50
VIII	GROUPING	50
[A]	Requirements	50
[B]	Consequences and Advantages	53
[C]	Departure of Group Member	54
[1]	General	54
[2]	Seller Is a Dutch Tax Resident Company	54
[3]	Tax Consequences to the Dutch Target Company	55

IX	PLANNING WITH INTANGIBLES	55
	[A] General	55
	[B] Local Regimes	56
	[1] Innovation Box	56
	[a] Qualifying Business Assets	57
	[i] Self-created Intangible Business Assets	57
	[ii] Patent or R&D Certificate	57
	[b] The Innovation Box Election	58
	[c] Effective Corporate Tax Rate of 5%	58
	[i] Lower Tax Base	58
	[ii] 'Threshold' for Development Costs	58
	[iii] Losses from Intangible Assets	59
	[d] International Context	59
	[e] Using the Innovation Box in Practice	59
	[i] Methods Used	59
	[ii] Tax rulings	60
	[2] R&D Certificates	60
	[3] Extra R&D Deduction	61
	[C] Treatment of Transfers Offshore and Licensing Back	61
X	INTERNAL RESTRUCTURING INVOLVING DUTCH TARGET	62
	[A] Treatment of Assets That Qualify under the Dutch Participation Exemption Regime	62
	[B] Treatment of Assets That Do Not Qualify under the Dutch Participation Exemption Regime	62
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	63
	[A] General	63
	[B] Alternatives for Acquiring Part of the Assets of a Dutch Target	64
XII	DEMURGERS	64
	[A] Domestic Treatment and Issues	64
	[B] Cross-Border Treatment and Issues	64
	[C] Any Other Issues of Special Concern in the Netherlands	64
XIII	SUBSIDIARY LIQUIDATIONS	64
	[A] Domestic Treatment and Issues	64
	[1] Corporate Law Aspects	64
	[2] Tax Consequences of a Liquidation	65
	[a] Gains and Losses for the Liquidating Subsidiary	65
	[b] Tax Treatment of the Shareholder in the Liquidated Subsidiary	65
	[B] Cross-Border Treatment and Issues	67
	[C] Any Other Issues of Special Concern in the Netherlands	67

XIV	JOINT VENTURES	67
	[A] Structuring, Treatment and Issues in Cross-Border Context	67
	[1] Structuring	67
	[2] Treatment and Issues in Cross-Border Context	68
	[a] Legal Personality	68
	[b] Tax Treatment of the Contributions to the Joint Venture	68
	[c] Tax Treatment of the Joint Venture Income	69
	[i] Tax Transparent Joint Venture	69
	[ii] Corporate Joint Venture	69
	[d] Tax Treatment of a Discontinuation of the Joint Venture	70
	[B] Any Other Issues of Special Concern in the Netherlands	70
XV	EQUITY AND DEBT RESTRUCTURING	70
	[A] Debt Modification	70
	[1] Write Off and Waiver of Debt	70
	[2] Purchase by a Debtor of Own Debt	71
	[3] Conversion of Debt into Indebtedness on Different Terms	72
	[4] Conversion of Debt into Equity	72
	[5] Debt Treated as Equity	72
	[B] Any Other Issues of Special Concern in the Netherlands	73
XVI	CORPORATE EXPATRIATIONS	73
	[A] General	73
	[B] Exit Taxation	74
	[1] Domestic Legislation	74
	[2] EU Influence on Domestic Legislation	74
	[C] Inversions	75
XVII	BUSINESS RESTRUCTURINGS	76
XVIII	DUTCH CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	77
	[A] General	77
	[B] Dutch Participation Exemption	78
	[1] General	78
	[2] Five Percent Ownership Requirement	79
	[3] General: Motive Test, Asset Test or Taxation Test	80
	[a] Motive Test	80
	[b] Asset Test	81
	[c] Taxation Test	83
	[4] Credit System If Participation Exemption Does Not Apply	83
	[C] No Comprehensive Controlled Foreign Company Legislation	83
	[D] Dutch Treaty Network	84
	[E] Tax Liability for Shareholder(s) of Dutch Acquisition Vehicle	85
	[F] Dividend Withholding Tax	85

Russian Federation		
Victor Matchekhin		1
I	INTRODUCTION	3
	[A] General Legal System	3
	[B] General Tax Environment	5
	[1] General	5
	[2] Russian Tax Administration and Finance Ministry	6
	[3] Tax Terminology	7
	[4] Written Clarifications	7
	[5] Foreign Investments	8
	[6] Corporate Tax	8
	[a] Base and Rate	8
	[b] Deductions	8
	[c] Net Operating Losses	9
	[d] Preventing Double Taxation	9
	[e] Interest Deduction	10
	[f] Recent Changes and Changes under Consideration	10
	[g] Dividend Withholding Tax	11
	[7] Complex and Innovative Structures	12
	[8] Application of Tax Treaties	12
	[C] Types/Classification of Major Business Entities	13
	[1] Main Russian Business Entities	13
	[2] Taxation of Main Russian Business Entities	13
	[3] Classification of Foreign Entities	13
	[D] Anti-avoidance	14
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	14
	[A] Sale and Purchase of Shares of Russian Target	15
	[1] Consequences for Selling Shareholders	15
	[a] Seller Is Russian Company	15
	[b] Seller Is Foreign Company	16
	[c] Seller Is Individual Russian Tax Resident	17
	[d] Seller Is Individual Non-Russian Tax Resident	18
	[2] Consequences for Buyer	18
	[a] Buyer Is Russian Company	18
	[i] Profits Tax	18
	[ii] Dividend Withholding Tax	18
	[b] Buyer Is Foreign Company	19
	[i] Profits Tax	19
	[ii] Dividend Withholding Tax	19
	[3] Tax Consequences for Russian Target Company	19
	[a] Profits Tax	19
	[b] Other Taxes	19
	[c] Post-acquisition Restructuring of Russian Target	19

	[4] Acquisition by Russian Company of Non-Russian Company	19
[B]	Sale and Purchase of Assets	20
	[1] Taxable Purchase of Russian Assets of Russian Company	20
	[a] Consequences for Seller	20
	[b] Consequences for Buyer	20
	[2] Taxable Purchase of Assets of Non-Russian Company	20
	[a] Consequences for Seller	20
	[b] Consequences for Buyer	20
	[c] Transfer of Business as a Going Concern	21
[C]	Treatment of Contingent Purchase Price/Contingent Liabilities	21
[D]	Allocation of Purchase Price	21
[E]	VAT and Other Transfer Taxes	21
	[1] Sale and Purchase of Shares	22
	[a] VAT	22
	[b] Other Taxes	22
	[2] Purchase of Russian Business Assets	22
	[a] VAT	22
	[b] Other Taxes	22
	TAX-FREE ACQUISITIONS AND DISPOSITIONS	22
[A]	Types and Requirements	22
	[1] Change of Corporate Form (Reorganization)	22
	[2] In-Kind Contributions	22
	[3] Mergers	23
	[4] Demergers	23
[B]	Cross-Border Transfers	23
[C]	Transfer Taxes	23
IV	ATTRIBUTE PRESERVATION AND USAGE	24
[A]	Change in Ownership Impact on Tax Assets	24
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	24
[A]	Due Diligence	24
	[1] Substance of Operations	24
	[2] Transfer Pricing	25
	[3] Input VAT	25
	[4] Thin Capitalization Rules	25
	[5] Application of Tax Treaties	25
	[6] Tax Losses	26
[B]	Tax Indemnification	26
	[1] General	26
	[2] Scope	26
	[3] Gross Up	26
	[4] Tax Indemnity Claims	27
	[5] Conduct of Tax Affairs	27
[C]	Tax Treatment of Indemnity Payments	27

VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	27
	[A] Leveraging Taxable Acquisitions, Including Cross-Border Aspects	27
	[1] General	27
	[2] Anti-abuse Erosion Provisions	28
	[3] Thin Capitalization Rules	28
	[4] FX Considerations	29
	[5] Withholding Tax	29
	[B] Debt Pushdown Strategies	29
VII	DEALING WITH COMPENSATION PLANS	29
	[A] Treatment and Issues in M&A Context	29
	[1] General	29
	[2] Rollover Provisions under Russian Tax Law	30
	[a] Wage Tax	30
	[b] Personal Income Tax	30
	[3] Cash-Out of Existing Plans	31
	[a] Wage Tax	31
	[b] Personal Income Tax	31
	[B] Other Issues of Special Concern: Pension Arrangements	31
VIII	GROUPING	31
	[A] Requirements	31
	[B] Consequences and Advantages	32
	[C] Departure of Group Member	33
IX	PLANNING WITH INTANGIBLES	33
	[A] General	33
	[B] Local Regimes	33
	[C] Treatment of Transfer Offshore and Licensing Back	33
	[D] Cost Sharing	33
	[E] Tax Treaties	34
X	INTERNAL RESTRUCTURING INVOLVING RUSSIAN TARGET	34
XI	TARGET BREAK-UP OR OTHER DISPOSITION OF UNWANTED ASSETS	34
	[A] General	34
XII	DEMURGERS	34
	[A] Domestic Treatment and Issues	34
XIII	SUBSIDIARY LIQUIDATION	35
	[A] Domestic Treatment and Losses	35
	[1] Corporate Law Aspects	35
	[2] Tax Aspects	35
	[a] Gains and Losses of Liquidating Subsidiary	35
	[b] Tax Treatment of Shareholder	35
	[B] Cross-Border Treatment and Issues	35
XIV	JOINT VENTURES	36
	[A] Structuring, Treatment, and Issues in Cross-Border Context	36

	[1] Structuring	36
	[2] Corporate Joint Ventures	36
	[3] Contract JV (Simple Partnership/Joint Activity Agreement)	37
	[B] Offshore Organization Favoured	37
XV	EQUITY AND DEBT RESTRUCTURING	37
	[A] Equity Restructuring	37
	[B] Debt Modification	38
	[1] In General	38
	[2] Conversion into Equity	38
	[3] Write Off and Waiver of Debt	38
	[4] Purchase by Debtor of Own Debt	38
	[5] Change of Terms of Debt	38
XVI	CORPORATE EXPATRIATION	39
	[A] General	39
	[B] Exit Taxation	39
XVII	BUSINESS RESTRUCTURINGS	39
XVIII	RUSSIAN COMPANY AS ACQUISITION VEHICLE FOR FOREIGN TARGET	39
	[A] General	39
	[B] Russian Participation Exemption	39
	[C] No CFC Legislation	40
	[D] No Exit Taxation	40
	[E] Tax Liability for Shareholder(s) of Russian Acquisition Vehicle	40
	[F] No Capital Duty, No Transfer Taxes	40
	[G] Short Limitation Period for Tax Audit	40
	[H] Speedy Tax Dispute Resolution	40
	[I] Russian Treaty Network	40
	Spain	
	<i>Sonia Velasco, Javier Asensio and Marti Adroer</i>	1
I	INTRODUCTION	3
	[A] General Legal System	3
	[B] General Tax Environment	4
	[C] Characteristics Unique to Spain	5
II	TAXABLE ACQUISITION AND DISPOSITIONS	5
	[A] Asset Purchase and Share Purchase	5
	[1] Asset Deals	6
	[a] Liabilities	6
	[b] Step-Up in Tax Basis of Asset	6
	[c] Third-Party Finance	6
	[d] Other Considerations	7
	[2] Share Purchase	7
	[B] Value Added Tax and Other Transfer Taxes	9
	[1] Asset Deal	9

	[2] Share Deal	9
[C]	Holding Company Structures Commonly Used to Invest in Spain	9
	[1] Conditions for Applying the ETVE Regime	11
	[2] Taxation at the Level of the Spanish Holding	11
	[3] Tax Deduction of Expenses and Capital Losses	12
	[4] Tax Treatment of ETVEs' Nonresident Shareholders	13
[D]	Treatment of Contingent Purchase Price/Contingent Liabilities	14
	[1] Beneficiary of the Payments Deriving from Breach of Tax Warranties	15
	[2] Tax Treatment of the Payments for Breach of Tax Warranties	15
	[3] Succession of Responsibilities in Share and Asset Deals: Certificate from Tax Authorities	16
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	16
	[A] Introduction	16
	[B] Principles of the Spanish Tax Deferral Regime	17
	[1] The Tax Deferral Effect: Rolling over the Tax Basis and Holding Period of the Assets Contributed	17
	[2] Territoriality Limitations in Cross-Border Reorganization Transactions	18
	[3] Universal Succession and Transfer of Carried Forward Tax Losses under Reorganization Transactions	19
	[a] Universal Succession of Tax Rights and Obligations	19
	[b] Transfer of Carried Forward Tax Losses under Reorganization Transactions	19
	[4] Applicability of the Tax Deferral Regime to Other Taxes	20
[C]	Types and Requirements	21
	[1] Merger	21
	[2] Full De-merger	22
	[3] Partial De-merger	22
	[4] Contribution of a Branch of Activity (In-Kind Contribution)	23
	[5] Share for Share Mergers	23
	[6] In-Kind Contributions	24
	[7] Transfer of SE and SCE Registered Offices between Member States	24
[D]	Other Issues	24
	[1] Anti-avoidance Provision	24
	[2] Compliance	25
IV	ATTRIBUTE PRESERVATION AND USAGE	25
	[A] Change in Ownership Impact on Tax Assets	25
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	26
	[A] Due Diligence	26

	[B] Tax Indemnification and Other Contractual Provisions	27
	[1] Usual Content of Tax Warranties	27
VI	DEALING WITH COMPENSATION PLANS	28
	[A] Treatment and Issues in an M&A Context	28
	[1] Compensation Paid to Dismissed Employees	28
	[2] Incentives to Retain Company Key Staff Members	29
	[B] Other Issues	30
	[1] Stock Options	30
	[2] Pension Commitments	31
	[3] Changes in Remuneration	32
VII	FINANCING AND DEBT PUSHDOWN STRATEGIES	32
	[A] Leveraging the Taxable Acquisition, Including Cross-Border Aspects	32
	[1] Thin Capitalization Rules	32
	[2] Arm's Length Interest Rate	33
	[3] Profit Sharing Loans	34
	[4] FX Considerations	34
	[5] Taxation on Interest Paid to Nonresidents	34
	[B] Debt Pushdown Strategies	35
	[C] Other Ways to Maximize the Tax Deductibility of Interest and Acquisition Expenses	35
VIII	PLANNING WITH INTANGIBLES	36
	[A] Local Regime: Spanish IP Tax Regime	36
	[B] Treatment of Transfers Offshore and Licensing Back	36
	[1] Transfer of Intangibles	36
	[2] License of Intangibles	37
	[3] EU Directive	37
	[4] Abolition of Taxation on Gross Income: Effect in an EU Context	38
	[5] Cost Sharing Agreements	38
	[C] Other Issues	39
	[1] Inbound and Outbound—Anti-abuse Considerations	39
IX	GROUPING	39
	[A] Requirements	39
	[1] Legal Form	39
	[2] Tax Residence	40
	[3] Shareholding and Controlling Company	40
	[B] Consequences and Advantages	41
	[C] Departure of Group Member	42
X	INTERNAL RESTRUCTURING INVOLVING SPANISH TARGET GENERALLY	42
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	43

XII	TAX-FREE DEMERGERS OR OTHER DISPOSITION OF UNWANTED ASSETS	44
XIII	SUBSIDIARY LIQUIDATIONS	44
	[A] Domestic Treatment and Issues	44
	[1] Taxation of Wound-Up Entities	44
	[2] Taxation of Shareholders	44
	[a] Stamp Duty	45
	[b] Corporate Income Tax	45
	[c] Personal Income Tax	45
	[d] Nonresident Shareholders	46
	[B] Cross-border treatment and issues	47
	[1] Taxation of Entities	47
	[2] Taxation of Shareholders	47
XIV	JOINT VENTURES	47
	[A] Partnerships	48
	[B] Foreign Partnerships	48
	[C] Other Issues	49
XV	EQUITY AND DEBT RESTRUCTURING	49
	[A] Debt Modifications	49
	[B] Equity Modifications	50
XVI	CORPORATE REDOMICILATIONS	51
XVII	BUSINESS RESTRUCTURING	53
XVIII	SPANISH CORPORATION AS OWNER OR ACQUISITION VEHICLE FOR FOREIGN BUSINESS	54
Sweden		
<i>Peter Utterström and Daniel Gustafsson</i>		
I	INTRODUCTION	3
	[A] Overview of Sweden	3
	[B] General Legal System	3
	[1] Legal Forms Available in Sweden	3
	[a] Limited Liability Company	4
	[i] Private Limited Liability Company	4
	[ii] Public Limited Liability Company	4
	[b] Partnerships	4
	[c] Economic Association	5
	[d] European Company	5
	[e] Branch of a Foreign Corporation	6
	[f] Sole Proprietorship	6
	[C] General Tax Environment	6
	[1] Anti-avoidance Rules	6
	[a] Controlled Foreign Corporation (CFC)	7
	[b] The Anti-tax Evasion Act	7
	[c] The "Transparency" Doctrine	8

	[D] Characteristics Unique to Sweden	8
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	9
	[A] Treatment of Seller and of Target Entity	9
	[1] General	9
	[2] Closely Held Companies	9
	[3] Shell Companies	10
	[4] Share-for-Share Exchange of Stock	10
	[5] Sale and Purchase of Partnership Interests	11
	[a] Consequences for Individual Partners	11
	[b] Consequences for Corporate Partners	11
	[B] Sale and Purchase of Stock	12
	[1] Consequences for Corporate Stockholders	12
	[a] General	12
	[b] The Participation Exemption	12
	[c] Shell Companies	15
	[C] Sale and Purchase of Assets	15
	[1] General	15
	[2] Price Below Fair Market Value	16
	[3] Tax Free Reorganizations	16
	[D] Treatment of Contingent Purchase Price/Contingent Liabilities	16
	[E] Allocation of Purchase Price	17
	[F] VAT and Other Transfer Taxes	17
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	17
	[A] Types and Requirements	18
	[1] Acquisitive Reorganizations	18
	[a] Mergers	18
	[i] Target Shareholder Consequences	19
	[b] Asset-for-Share Exchange	19
	[2] Incorporation/Contribution Transfers	20
	[a] Incorporation	20
	[b] Tax Free Asset Contributions	20
	[B] General Consequences and Objectives	21
	[C] Cross-Border Transfers	21
	[D] Transfer Taxes	22
	[E] Issues of Special Concern in Sweden	22
IV	ATTRIBUTE PRESERVATION AND USAGE	22
	[A] Change in Ownership Impact on Tax Assets	22
	[B] Allocation of Compensation and Other Deductions between Pre- and Post-closing Periods	23
	[1] Tax Loss Carry Forward	23
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	24
	[A] Due Diligence	24
	[B] Tax Indemnifications and Other Contractual Provisions	24

VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	25
	[A] Debt Financing	25
	[1] Limitations on Interest Deductibility	25
	[B] Shareholders' Contributions	26
	[C] Profit-Sharing Debentures	26
	[D] Participating Debentures	27
	[E] Withholding Tax	27
	[F] Income Tax Treaty Requirements for Eligibility for Reduced Withholding Tax Rates	29
	[G] Leveraging the Taxable Acquisition, Including Cross-Border Aspects	29
	[H] Debt Pushdown Strategies	29
	[I] Other Ways of Maximizing Tax Deductibility of Interest and Acquisition Expenses	29
VII	DEALING WITH COMPENSATION PLANS	29
	[A] Treatment and Issues in M&A Context	29
	[1] Employee Stock Option and Other Compensation Plans	29
	[a] Bonus Schemes	30
	[b] Restricted/Unrestricted Employee Securities	30
	[B] Other Issues of Special Concern in Sweden	32
VIII	GROUPING	32
	[A] Requirements	33
	[B] Consequences and Advantages	34
	[C] Departure of Group Member	34
IX	PLANNING WITH INTANGIBLES	34
	[A] Local Regime (If Favourable)	34
	[1] Royalty	34
	[B] Other Issues of Special Concern in Sweden	35
X	INTERNAL RESTRUCTURING INVOLVING A SWEDISH TARGET	35
XI	TARGET BREAKUP OR OTHER DISPOSITIONS OF UNWANTED ASSETS	36
XII	DEMERGERS	36
	[A] Domestic Treatment and Issues	36
	[1] Complete Demerger	36
	[2] Partial Demerger	36
	[B] Cross-Border Treatment and Issues	37
XIII	SUBSIDIARY LIQUIDATIONS	38
	[A] Domestic Treatment and Issues	38
	[B] Cross-Border Treatment and Issues	38
	[C] Any Other Issues of Special Concern in Sweden	38
XIV	JOINT VENTURES	39
	[A] Structuring, Treatment and Issues in Cross-Border Context	39
	[B] Any Other Issues of Special Concern in Sweden	39
XV	EQUITY AND DEBT RESTRUCTURING	39
	[A] Debt Modifications	39

	[B] Equity Modifications	40
	[C] Any Other Issues of Special Concern in Sweden	40
	[1] Share Buybacks	40
	[2] Reduction of Share Capital	40
	[3] Composition	41
XVI	CORPORATE EXPATRIATIONS	41
XVII	BUSINESS RESTRUCTURINGS	42
XVIII	SWEDISH CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	42
	[A] Holding Companies	42
	[1] Participation Exemption	43
	[2] Dividend	44
	[3] Capital Gain	44
	[4] Intra-group Interest Deduction Limitations	44
	Switzerland	
	<i>Raoul Stecker, Daniel Lehmann, Daniel Bader and Peter Reinartz</i>	1
I	INTRODUCTION	3
	[A] Overview of Switzerland	3
	[B] General Legal System	3
	[1] Political Institutions	3
	[2] Swiss Legislation and Decision Making	4
	[C] General Tax Environment	5
	[1] Corporate Income Tax	5
	[2] Corporate Capital Tax	6
	[3] Withholding Tax	6
	[4] Holding and Group Companies	6
	[D] Characteristics Unique to Switzerland	7
	[1] Intercantonal Tax Allocation	7
	[2] Double Taxation Treaties	7
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	7
	[A] Treatment of Seller and Target Entity	8
	[1] Sale of Assets	8
	[2] Sale of Shares	9
	[B] Sale and Purchase of and Share Asset	10
	[1] Asset Purchase	10
	[2] Share Purchase	11
	[C] Treatment of Contingent Purchase Price/Contingent Liabilities	12
	[D] Allocation of Purchase Price	12
	[E] VAT and Other Transfer Taxes	13
	[1] VAT	13
	[a] Asset Deal	13
	[b] Share Deal	14

	[2] Securities Transfer Tax	14
	[3] Real Estate Transfer Tax	14
	[4] Other Taxes and Fees	14
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	15
	[A] Types and Requirements	15
	[1] Merger	17
	[a] In General	17
	[b] Tax Consequences for Shareholders	18
	[i] Income from Participations from Private Assets	18
	[ii] Income from Participations from Business Assets	18
	[c] Tax Consequences for Merging Companies	19
	[2] Upstream Merger	19
	[3] Downstream Merger/Reverse Merger	19
	[4] Quasi-Merger	20
	[5] Demerger	20
	[a] Tax Considerations	21
	[6] Asset Transfer	21
	[a] Tax Considerations	21
	[B] Cross-Border Transfers	22
	[1] In General	22
	[2] Cross-Border Mergers	22
	[a] Immigration Merger	22
	[b] Quasi-merger	22
	[c] Emigration Merger	23
	[3] Cross-Border Demergers	23
	[C] Transfer Taxes	24
	[1] Stamp Duty/Securities Transfer Tax	24
	[2] Value Added Tax	24
	[a] Net Remittance Procedure	24
	[b] Acquisitions and Dispositions within a VAT-Group	25
	[c] Transaction with Non-VAT Group Members	25
	[d] VAT Issues with Cross-Border Restructuring	26
	[i] Export out of Switzerland	26
	[ii] Import to Switzerland	26
	[e] Transfer Duties on Real Estate	26
IV	ATTRIBUTE PRESERVATION AND USAGE	27
	[A] Change in Ownership Impact on Tax Assets	27
	[1] Loss Carryforwards	27
	[2] Old Reserves Theory	27
	[B] Allocation of Compensation and Other Deductions between Pre- and Post-closing Periods	28
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	29
	[A] Due Diligence	29
	[B] Tax Indemnifications and other Contractual Provisions	30

	[1] Asset Deal	30
	[2] Share Deal	30
	[a] Tax Indemnifications	30
	[b] Other Contractual Provisions	30
VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	31
	[A] Leveraging the Taxable Acquisition Generally	31
	[B] Leveraging the Cross-Border Acquisition	33
	[C] Double Dip Planning	34
	[D] Thin Capitalization Rules	34
	[1] Outline of Procedure	34
	[2] Qualification of Debts	35
	[3] Capitalization	35
	[E] Arm's Length Interest Rate	36
	[F] Foreign Exchange Considerations	37
	[G] Tax Treaty Usage	38
	[H] Debt Push-Down Strategies	39
VII	DEALING WITH COMPENSATION PLANS	40
	[A] New Law on the Taxation of Employee Participation Plans	40
	[B] Rollover of Existing Plan	40
	[1] Expectation Rights ('Anwartschaft')	40
	[2] Participation Rights with a Fair Market Value	41
	[3] Tax Ruling	41
	[C] Cash-Out of Existing Plan	42
	[1] In General	42
	[2] Locking Period	42
	[D] Deductibility	43
	[1] Target Company	43
	[2] Acquisition Company	43
VIII	GROUPING	43
IX	PLANNING WITH INTANGIBLES	44
	[A] Migration Generally	44
	[B] Separate Transfer of Intangibles	44
X	INTERNAL RESTRUCTURING INVOLVING SWISS TARGET GENERALLY	45
	[A] Motivation for Restructuring	45
	[B] Restructuring Techniques	45
	[C] Tax Treatment	45
	[1] Corporate Income Taxes	45
	[2] Swiss Withholding Tax on Dividends	46
	[3] Securities Transfer Stamp Tax	46
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	46
	[A] Background	46
	[B] Techniques	47

	[C] Tax Considerations	47
	[1] General	47
	[2] Spin-Off	47
XII	DEMURGERS	47
	[A] Domestic Treatments and Issues	47
	[1] Demerger	47
	[a] Types of Demergers	47
	[b] Direct Federal Tax – Corporate Income Tax	49
	[c] Direct Federal Tax – Income Tax	50
	[i] Income from Participations from Private Assets	50
	[ii] Income from Participations from Business Assets	50
	[d] Withholding Tax	51
	[e] Stamp Duty	51
	[f] Securities Transfer Tax	51
	[2] Transfer of a (Partial) Business or Assets thereof to a Subsidiary	52
	[a] Direct Federal Tax – Corporate Profit Tax	52
	[b] Stamp Duty	52
	[c] Securities Transfer Tax	53
	[d] Not Affected Taxes	53
	[3] Transfer of Participations to a Subsidiary	53
	[a] Direct Federal Tax – Corporate Profit Tax	54
	[b] Stamp Duty	54
	[c] Securities Transfer Tax	54
	[d] Not Affected Taxes	55
	[B] Cross-Border Treatment and Issues	55
	[1] Direct Federal Tax – Corporate Profit Tax	55
	[2] Direct Federal Tax – Income Tax	55
	[a] Income from Participations from Private Assets	55
	[b] Income from Participations from Business Assets	55
	[3] Withholding Tax	56
	[4] Stamp Duty	56
	[5] Securities Transfer Tax	56
	[C] Any Other Issues of Special Concern in Switzerland	56
	[1] Asset Management and Holding Companies	56
	[2] Financial and Intellectual Property Rights Companies	57
	[3] Real Estate Company	57
XIII	SUBSIDIARY LIQUIDATIONS	58
	[A] Domestic	58
	[1] Concept of Liquidation under Swiss Tax Law	58
	[2] Direct Taxes (Corporate Income Tax, Capital Tax)	58
	[a] Overview on Dissolution of Swiss Subsidiaries	58
	[b] Dissolution with Formal Liquidation	59
	[3] Withholding Tax	59

	[a] Tax Base	59
	[b] Fulfilment of Withholding Tax Obligation	60
	[i] Fulfilment of Withholding Tax Obligation by Payment	60
	[ii] Fulfilment of Withholding Tax Obligation by Way of Notice	60
	[4] Value Added Tax (VAT)	60
[B]	Cross-Border	61
	[1] Introduction	61
	[2] Withholding Tax	61
[C]	Other Issue of Special Concern in Switzerland: Liquidator's Liability	61
	[1] Scope	61
	[2] Withholding Tax	62
	[3] Direct Taxes (Corporate Income Tax, Capital Tax)	62
	[4] VAT	62
XIV	JOINT VENTURES	63
	[A] Non-entity JVs (Cooperation Agreements, Consortia, Strategic Alliances, etc.)	63
	[B] JV: Choice of Entity and Structure	63
	[C] Domestic JV	63
	[D] Cross-Border JV	64
	[E] Property Transfers on Formation	64
	[F] Treatment of Built-In Gain or Loss	64
	[G] Indemnification Provisions	65
	[H] Compensation Planning	65
	[I] Allocation and Taxation of Operating Results	65
	[J] Taxation of Distributions	65
	[K] Double Taxation Relief	66
	[L] Exit/Unwind Scenarios	66
	[M] Planning Techniques	66
	[N] Compliance	66
XV	EQUITY AND DEBT RESTRUCTURING	67
	[A] Equity Modifications (Recapitalizations)	67
	[1] Issuance Stamp Duty	67
	[2] Corporate Income Taxes	67
	[3] Federal Dividend Withholding Tax	68
	[B] Disguised Dividends or Hidden Profit Distributions	68
	[C] Debt Modifications	68
	[D] Holder Consequences	69
	[E] Share Buybacks	70
	[F] Repatriations	70
XVI	CORPORATE EXPATRIATIONS/REDOMICILIATIONS	71
	[A] Preliminary Remarks, Motivation Factors	71

[B]	Outbound Migration	72
[1]	Migration of the Legal Seat	72
[a]	Legal Framework	72
[b]	Corporate Income Taxes	72
[c]	Federal Dividend Withholding Tax	73
[2]	Migration of Place of Effective Management	74
[3]	Taxation of Shareholders	74
[C]	Inbound Migration	75
[1]	Legal Framework	75
[2]	Federal Issuance Stamp Duty	75
[3]	Direct Taxes/Corporate Income Tax	76
[4]	Federal Dividend Withholding Tax	76
[5]	Ongoing Swiss Taxation of Migrated Company	77
[a]	Holding Company	77
[b]	'Domicile' (Administration, 'Mixed' or 'Auxiliary') Company	78
[c]	'Principal' Company	78
[d]	'Service' Company	79
XVII	BUSINESS RESTRUCTURINGS	79
[A]	Inbound Restructuring	79
[B]	Outbound Restructuring	80
XVIII	SWISS CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	80
United Kingdom		
<i>Patrick Mears and Michael McGowan</i>		
I	INTRODUCTION	3
[A]	General Legal System	3
[B]	General Tax Environment	3
[C]	Types/Classification of Major Business Entities	6
[1]	Special Tax Regimes	6
[2]	Main Rate of Corporation Tax	7
[3]	Abbreviations	7
[4]	Law as at Mid-July 2013	8
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	8
[A]	Treatment of Seller, Buyer and Target	8
[B]	Sale and Purchase of Shares and Assets	8
[1]	Share Purchase	8
[a]	Consequences for Seller: General	9
[b]	Seller – Taxation of Gain/Loss: Territorial Limits	9
[c]	Seller – Taxation of Gain/Loss: Computation	9
[d]	Seller – Taxation of Gain/Loss: Substantial Shareholding Exemption (SSE)	10
[i]	SSE Rules	10

[e]	Seller – Use of Losses	12
[i]	Losses to Reduce the Chargeable Gain	12
[ii]	Use of Capital Losses	13
[f]	Seller – Taxation of Gains: Planning to Reduce Gain	13
[g]	Deferred and Contingent Consideration	14
[i]	Ascertained Deferred Consideration	14
[ii]	Contingent Consideration – Ascertainable (but Not Yet Ascertained)	15
[iii]	Contingent Consideration – Unascertainable	15
[h]	Consequences for Buyer: General	16
[i]	Buyer – Chargeable Gains	16
[j]	Buyer – Transfer Tax: General	17
[k]	Buyer – Transfer Tax: Deferred and Contingent Consideration	18
[l]	Buyer – Transfer Tax: Mitigation	18
[m]	Consequences for Target	19
[2]	Asset Purchase	20
[a]	Background	21
[b]	Seller – Taxation of Profit/Loss: Territorial Limits	21
[c]	Seller – Taxation of Profit/Loss: Chargeable Gains Regime	22
[d]	Seller – Taxation of Profit/Loss: Intangible Fixed Assets	23
[e]	Seller – Taxation of Profit/Loss: Plant and Machinery	23
[f]	Seller – Taxation of Profit/Loss – Loan Relationships and Derivative Contracts	24
[g]	VAT	24
[h]	Consequences for Buyer – General	24
[i]	Buyer – Transfer Tax	25
[3]	Deciding between a Share Sale and Asset Sale	26
[a]	Hive-Down of Business into Newco before Sale	26
III	TAX-FREE ACQUISITIONS AND DISPOSITIONS	27
[A]	Types and Requirements	28
[1]	Sections 135, 136 and 138A TCGA 1992: Roll-Over Reliefs	28
[2]	Section 135: Exchange	29
[3]	Section 136: Reconstruction	30
[4]	Section 138A: Earn-Out Relief	32
[5]	Section 137 TCGA 1992: Anti-avoidance	33
[6]	Section 139 TCGA 1992: Reconstruction	34
[7]	Section 140 TCGA 1992: Incorporation of Non-UK Permanent Establishment	36
[8]	Mergers under the EU Mergers Directives	37

	[B] General Consequences and Objectives	38
	[1] Qualifying Corporate Bonds and Non-qualifying Corporate Bonds	38
	[C] Cross-Border Transfers	40
	[1] Territorial Aspects	40
	[2] Section 140C TCGA 1992: Transfer of Non-UK EU Permanent Establishment	40
	[3] Section 140A TCGA: Transfer by EU Company of UK Permanent Establishment	41
	[D] Transfer Taxes	41
	[1] Stamp Duty and Stamp Duty Reserve Tax	41
IV	ATTRIBUTE PRESERVATION AND USAGE	42
	[A] Change in Ownership Impact on Tax Assets	42
	[1] Background	42
	[2] Trading Losses: Overview	42
	[3] Trading Losses: Change in Ownership	44
	[a] Background	44
	[b] Meaning of 'Change in Ownership'	44
	[c] Relevant Time Frame for 'Major Change in the Nature or Conduct of a Trade'	45
	[d] Meaning of 'Major Change in the Nature or Conduct of a Trade'	46
	[e] Activities Become Small or Negligible	46
	[4] Capital Allowances: Overview	46
	[a] Capital Allowances: Change in Ownership	47
	[5] Capital Losses: Overview	48
	[a] Capital Losses: Restrictions	48
	[6] Companies with Investment Business	49
	[a] Meaning of 'Significant Increase in the Amount of the Company's Capital'	49
	[b] Effect of Restrictions	50
	[B] Allocation of Compensation and Other Deductions between Pre- and Post-closing Periods	50
	[1] Group Relief: General	50
	[a] Group Relief: Apportionment of Profits on Sale	50
	[b] Arrangements	51
	[2] Usability of Buying Company's Losses by Target and Target's Losses by Buyer	51
	[C] Other Issues of Special Concern in the United Kingdom	51
	[1] Asset/Business Sales: Overview	51
	[a] Trading Losses	52
	[b] Trading Losses: Seller's Position	52
	[c] Trading Losses: Buyer's Position	53
	[d] Capital Allowances	53

V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	53
	[A] Due Diligence and Contractual Tax Protection	53
	[1] Exit Charges	54
	[2] Tax Returns	54
	[3] Deferred Tax	54
	[4] Tax Reliefs	54
	[5] Potential Liabilities under Previous Sale Agreements	55
	[6] VAT	55
	[7] Post-closing Planning	55
	[B] Contractual Protection – Tax Warranties and Tax Indemnity	55
	[1] Conventional UK Approach to Contractual Tax Protection	55
	[2] Tax Indemnity	56
	[a] Scope	56
	[b] Exclusions	57
	[c] Limitations and Time Limit	57
	[d] Overprovisions and Corresponding Benefits	57
	[e] VAT	58
	[f] Gross Up	58
	[g] Conduct of Tax Affairs of Target	58
VI	DEALING WITH COMPENSATION PLANS	58
	[A] Treatment and Issues in M&A Context	58
	[1] Key Considerations	58
	[2] When Pay-Outs under the Compensation Plans Are Due	59
	[3] How and When Income Tax and NICs Have to Be Accounted for to HMRC	59
	[4] When Income Tax and NICs Are Due under Tax-Favoured Plans	61
	[a] CSOPs	61
	[b] SAYEs	61
	[c] SIPs	62
	[d] EMIs	62
	[5] Corporation Tax Deductions and Payments under Compensation Plans	62
	[6] Shares Required to Satisfy Compensation Plans	64
	[7] New Compensation Plans after Transaction Has Been Completed	64
VII	FINANCING AND DEBT PUSH-DOWN STRATEGIES	64
	[A] Leveraging the Taxable Acquisition, Including Cross-Border Aspects	64
	[1] Acquisition Finance: Background	64
	[2] Leveraging a UK Acquisition	65
	[a] Background	65

	[b] Group Relief	65
[3]	Leveraging a Non-UK Acquisition	66
	[a] Background	66
[4]	Deductibility of Interest Expense	67
	[a] Taxation under the 'Loan Relationships' Code	67
	[b] Thin Capitalization Rules	68
	[i] Special Relationship	68
	[ii] Limit on Deductibility of Finance Costs	69
	[iii] Advance Thin Capitalization Agreements	70
	[iv] Transactions within the UK Tax Net	70
	[c] Recharacterization of Interest as a (Non-deductible) Distribution	71
	[d] Limit on Deductions for Borrowing with Unallowable Purpose	72
	[e] Worldwide Debt Cap	73
	[f] Deferral of Deductions for Late-Paid Interest	74
	[g] Structured Finance Arrangements Rules	75
	[h] Anti-arbitrage Rules	75
[5]	UK Withholding Tax on Interest	75
	[a] Background	75
	[b] Domestic UK Exemptions	76
	[c] Relief under Double Taxation Agreements	77
	[d] Interest and Royalties Directive	79
	[e] PIK Notes and 'Funding Bonds' Rules	80
	[6] FOREX Considerations	80
[B]	Debt Push-down Strategies	81
VIII	GROUPING	82
	[A] Requirements	82
	[1] Background	82
	[2] Tracing Group Relationships through Ordinary Share Capital	82
	[3] Economic Ownership	84
	[4] Voting Control	85
	[5] Anti-avoidance Provisions	85
	[6] Payments for Entering into Grouping Elections	86
	[B] Consequences and Advantages	86
	[1] Group Relief	86
	[a] Group Relief and Consortium Relief: Background	86
	[b] Group Relief: Losses	88
	[c] Group Relief: Grouping Test	88
	[d] Group Relief: Cross-Border	89
	[e] Consortium Relief	89
	[2] Chargeable Gains Grouping	90
	[a] Chargeable Gains: Background	90

	[b] Chargeable Gains: Degrouping	91
	[c] Chargeable Gains: Grouping Election	92
	[d] Chargeable Gains: Roll-over	92
	[e] Chargeable Gains: Shareholding Requirement	92
[3]	Intangible Fixed Assets Grouping	93
	[a] Intangible Fixed Assets: Background	93
	[b] Intangible Fixed Assets: Degrouping	93
	[c] Intangible Fixed Assets: Grouping Election	94
	[d] Intangible Fixed Assets: Roll-over	94
	[e] Intangible Fixed Assets: Shareholding Requirement	94
[4]	Loan Relationships and Derivative Contracts Grouping	95
	[a] Loan Relationships and Derivative Contracts: Background	95
	[b] Loan Relationships and Derivative Contracts: Degrouping	96
	[c] Loan Relationships and Derivative Contracts: Shareholding Requirement	97
[5]	VAT Grouping	97
	[a] VAT: Background	97
	[b] VAT: Eligibility	97
	[c] VAT: Group Application	99
[6]	Transfer Tax Groups	100
	[a] Stamp Duty Land Tax	100
	[i] Stamp Duty Land Tax: Shareholding Requirement	100
	[ii] Stamp Duty Land Tax: Anti-avoidance	101
	[iii] Stamp Duty Land Tax: Degrouping	101
	[b] Stamp Duty and Stamp Duty Reserve Tax	102
	[i] Stamp Duty and Stamp Duty Reserve Tax: Shareholding Requirement	103
IX	PLANNING WITH INTANGIBLES	104
	[A] Local Regime (If Favorable)	104
	[1] Background	104
	[2] Overview of UK taxation of IP	105
	[a] Intangibles Regime	105
	[b] Reinvestment Relief	106
	[c] R&D Credits	107
	[d] Patent Box	107
	[i] Qualifying IP	107
	[ii] Eligibility	108
	[iii] Relevant IP profits	109
	[iv] Electing into the Patent Box	109
	[3] International Elements	110
	[a] Withholding Tax	110

	[b] Double Tax Agreements	110
	[c] Royalties Directive	111
	[d] Migrating IP from the UK	111
	[e] CFC Rules	112
	[f] Transfer Pricing	112
X	INTERNAL RESTRUCTURING INVOLVING UK TARGET	113
	[A] Motivation for Restructuring	113
	[B] Restructuring a UK Target with CFCs	114
	[1] Tax on Transfer	114
	[2] Transfer Consequences	114
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	115
	[A] General	115
	[B] Structuring Strategies	116
	[1] Tax-efficient Unwanted Asset Transfers	116
	[2] Replacing Business Assets	116
	[3] Acquisition of Target Followed by a Hive up of Assets	117
	[4] Hive-Down of Unwanted Assets	118
	[C] MULTIPLE BIDDERS	119
XII	DEMERGERS	119
	[A] UK Treatment and Issues	119
	[1] Demergers: Some General Concepts	119
	[a] The Main Methods of Undertaking a Demerger	120
	[b] 'Direct' and 'Indirect' Demergers	120
	[2] Demergers: The Company Law Requirements	121
	[a] Distribution in Specie	121
	[b] Repayment of Capital	121
	[c] What If There Are Insufficient Distributable Reserves/Share Capital?	122
	[d] Section 110 Liquidation	123
	[3] Achieving Tax-Free Status for a Demerger	123
	[a] Demerger by Way of Distribution in Specie: 'Statutory Demergers' and 'Chargeable Payments'	123
	[i] Statutory Demergers: Direct	125
	[ii] Statutory Demergers: Indirect	126
	[b] Demerger by Way of Reduction and Repayment of Capital: Indirect Only	129
	[c] Demerger Pursuant to a Section 110 Liquidation	129
	[d] The Cross-Border Dimension	130
	[4] Demergers and Losses	131
	[a] Change in Ownership	131
	[b] Losses and Demergers of Assets	131
	[c] Demergers and Group Relief	132
	[5] Pre-demerger Reorganizations	132

	[6] Compensation Plans	133
	[a] Key Considerations	133
	[b] How Are Pay-Outs under Compensation Plans Affected by the Demerger?	133
	[c] Should Awards under Share-Related Compensation Plans Be Adjusted?	134
	[d] New Compensation Plans after the Demerger Has Taken Effect	135
	[7] Tax Sharing/Indemnification Provisions	135
XIII	SUBSIDIARY LIQUIDATIONS	135
	[A] Domestic Treatment and Issues	136
	[1] Liquidation within a Group of Companies	136
	[2] Domestic Tax-Free Liquidation	136
	[B] Cross-Border Treatment and Issues	137
	[1] UK Company Liquidates into Non-UK Parent	137
	[2] Non-UK Subsidiary Liquidates into UK Parent	137
	[3] Non-UK Subsidiary Liquidates into Non-UK Corporation	137
XIV	JOINT VENTURES	138
	[A] Typical UK Joint Venture Structures	138
	[1] Background	138
	[B] Taxation and the Joint Venture	138
	[1] Establishment of Joint Venture	138
	[a] Corporation Tax on Chargeable Gains	138
	[b] Asset Transfers	139
	[c] Degrouping Charges	139
	[d] Transfer Taxes	139
	[2] Operation (Including Funding Costs and Managing Losses)	140
	[a] Funding Costs	140
	[b] Consortium Relief	140
	[c] SSE	141
	[3] Exit	141
XV	EQUITY AND DEBT RESTRUCTURING	141
	[A] Equity Modifications	141
	[B] Debt Modifications	141
	[1] Background: The 'Loan Relationships' Regime	141
	[2] Debt Modifications Generally	142
	[3] Debt Modifications: Creditor and Debtor Unconnected	143
	[a] Release/Impairment	143
	[b] Capitalization	143
	[c] Deferral of Interest Payments, Extension of Maturity and Changes to Financial Covenants	144
	[4] Anti-avoidance Rules Relevant to Debt Modifications	144
	[a] General	144
	[b] Unallowable Purposes	145

	[c] Transfer Pricing	145
	[d] Debt Buy-Back	145
[5]	Differing Treatment If Debtor and Creditor Are Connected or in the Same Corporate Group	146
	[a] Meaning of Connected	146
	[b] Basic Symmetry Rule	146
	[c] Exceptions to Symmetry Rule	147
	[d] Use of Grouping Rules	148
XVI	CORPORATE EXPATRIATIONS	148
	[A] Background: UK Tax Residence	148
	[B] Change of Residence	149
	[C] Exit Charges	149
	[1] Exit Charge: Chargeable Gains	150
	[2] Exit Charge: Intangible Fixed Assets	151
	[3] Exit Charge: Loan Relationships	152
	[4] Exit Charge: Derivative Contracts	152
	[5] Exit Charge: Finance Bill 2013 Reforms	152
	[a] Eligibility	153
	[b] Exit charge payment plan	153
	[c] Standard instalment method	154
	[d] Realisation method	154
	[e] Compliance with EU law	155
	[D] Redomiciliation	155
	[E] Inward Migration	156
XVII	BUSINESS RESTRUCTURING	157
XVIII	UK CORPORATION AS ACQUISITION VEHICLE OF FOREIGN TARGET	157
	[A] UK Holding Company Regime	157
	[1] UK Holding Company Regime: Background	157
	[2] Foreign Entity Classification	158
	[3] Dividend Exemption	159
	[4] Double Tax Relief	161
	[5] Controlled Foreign Companies (CFC) Rules	161
	[a] Background to CFC Rules	161
	[b] Reformed CFC Regime	163
	[i] Definition of a CFC	163
	[ii] Effect of CFC rules	163
	[iii] Carve-outs	164
	[iv] The 'gateway'	164
	[v] Exemptions	166
	[vi] EU law	167
	[6] Section 13 TCGA 1992 (Attribution of Gains to Members of Non-resident Companies)	167
	[7] Substantial Shareholding Exemption	169

	[a] SSE: Background	169
	[b] SSE: The Reliefs	170
[8]	International Movement of Capital Rules	170
[9]	Transfer Taxes	172
[10]	Structuring the Acquisition	173
	[a] Financing	173
	[b] Withholding Tax	174
	[c] Repatriation of Profits	175
	[d] Utilization of Losses	175
	United States	
	<i>Peter H. Blessing and Ansgar A. Simon</i>	1
I	INTRODUCTION	3
	[A] General Legal System	3
	[B] General Tax Environment	4
	[C] Types/Classification of Major Business Entities	5
II	TAXABLE ACQUISITIONS AND DISPOSITIONS	6
	[A] Sale and Purchase of Shares	7
	[1] Consequences for Selling Stockholders	7
	[2] Consequences for Acquiror	8
	[B] Sale and Purchase of Assets	9
	[1] General	9
	[2] Consequences for Seller	10
	[3] Consequences for Acquiror	12
	[4] Liabilities (Including Contingent Liabilities) That Have Not Yet Been Incurred	12
	[a] Accrued Liabilities Not Yet Deductible by Seller	13
	[b] Contingent Liabilities	14
	[5] Special Consideration for Assets Sales between Related Corporations	16
	[C] Qualified Stock Purchase Treated as an Asset Sale: Section 338(h)(10)	16
	[1] General	16
	[2] Requirements for Section 338(h)(10) Election	17
	[3] Tax Consequences of Section 338(h)(10) Election (Assuming Target Is Not an S Corporation)	18
	[4] Section 338(h)(10) Transaction Involving Tiered Targets	19
	[5] Timing of Inclusion of Liabilities (Including Contingent Liabilities)	19
	[6] Adjustments to Purchase Price/Earn-Outs	21
	[7] State Tax Treatment	21

[D] Qualified Stock Disposition Treated as an Asset Sale: Section 336(e)	22
[1] General	22
[2] Requirements for Section 336(e) Election	22
[3] Tax Consequences of Section 336(e) Election (Assuming Target Is Not an S Corporation)	23
[4] Section 336(e) Election Involving Tiered Targets	25
[E] Sale and Purchase of Partnership Interests	26
[1] General	26
[a] Partnership as Aggregate of Partners or as Entity	26
[b] Constructive Sale and Purchase of Partnership Interests	27
[2] Consequences for Seller	27
[a] Special Considerations for Foreign Partners	29
[3] Consequences for Acquiror	30
[4] Consequences for Continuing Partners	31
[F] Indemnification Payments by Seller	31
[G] Installment Sales and the Installment Method	32
[1] Properties for Which Installment Method Is Not Available	33
[2] Limitation on Obligations Qualifying for Installment Method	33
[3] Installment Method	33
[4] Transfers and Pledges of Installment Obligation by Seller	34
[5] Special Issues Involving Sales of Partnership Interests	35
[H] Treatment of Contingent Purchase Price – “Earn-outs” and Escrows	36
[1] Treatment of Contingent Payment Sale under Installment Method	38
[2] Treatment of Contingent Payment Sale If Installment Method Not Applicable or Elected Out	39
[a] Acquiror Treated as Issuing a Contingent Payment Debt Instrument	39
[b] Open Transaction Treatment	40
[3] Treatment of Acquiror Issuing Contingent Obligations	40
[4] Escrow	41
[I] Allocation of Purchase Price	42
[1] Purchase-Price Allocation in an Asset Sale	43
[2] Purchase-Price Allocation in a Stock Sale with Section 338(h)(10) Election	45
[3] Purchase Price Allocation for Sale of Partnership Interest	45
[J] Corporate Expatriations (Section 7874)	47
[K] US Real Property Interests (FIRPTA)	47
[1] General FIRPTA Consequences	47

[2] Rules for Determining USRPHC Status	48
[a] Fair Market Value Test for Determining USRPHC Status	49
[b] Book-Value Test for Determining USRPHC Status	50
[3] Certification and Notice Requirements	50
[L] Reporting Regarding Taxable Acquisition or Disposition	51
[1] Broker Reporting	51
[2] Section 6043A Reporting	52
[M] VAT and Other Transfer Taxes: Transfer (Conveyance) Taxes	52
III TAX-FREE ACQUISITIONS AND DISPOSITIONS	53
[A] Types and Requirements: Section 368 Acquisitive Reorganizations	53
[1] Merger with Issuance of Shares of Surviving Entity (Type A)	54
[2] Forward Subsidiary Merger (Type A/a2D)	55
[a] General	55
[b] “Substantially All” Properties	55
[3] Reverse Subsidiary Merger (Type A/a2E)	56
[a] General	56
[b] “Control”	56
[c] “Voting Stock”	57
[4] Stock Solely for Voting Stock (Type B)	58
[5] Assets for Voting Stock (Type C)	58
[6] Related Party Assets for Stock (Type D)	59
[a] General	59
[b] “All Cash” Type D	60
[7] Mere Change in Form or Place of Organization (Type F)	61
[8] Bankruptcy/Insolvency Reorganization (Type G)	62
[B] Additional General Requirements for Section 368 Acquisitive Reorganizations	63
[1] Continuity of Shareholder Interest (COSI)	64
[a] General	64
[b] Signing Date Rule If the Consideration Is Fixed	65
[c] Continuity of Shareholder Interest in Type D Reorganization	66
[2] Continuity of Business Enterprise (COBE)	66
[3] Exchange of Net Value	68
[4] Plan of Reorganization/Business Purpose	68
[5] Transactions Involving Two or More Investment Companies (Section 368(a)(2)(F))	69
[C] Effect of Related Transactions on Qualification	71
[1] Historic Shareholders	71
[2] Push-Ups and Drop-Downs	72
[a] Pre-reorganization	72

	[b] Post-reorganization	72
[3]	Recharacterizations	73
	[a] Authorities Re-characterizing Stock Transfer/Liquidation or Merger Transactions	73
	[b] Reallocation of Built-In Gain or Loss	75
	[c] Authority to Respect Form	75
[D]	General Consequences and Objectives	76
	[1] Target Corporation Consequences in Asset Acquisitions	76
	[2] Acquiring Corporation Consequences in Asset Acquisitions	76
	[a] No Gain or Loss Recognition	76
	[b] Basis and Holding Period	77
	[c] Carryover of Attributes Generally	77
	[d] Carryover of Earnings and Profits	78
	[e] Restriction on Carrybacks	78
	[3] Acquiring Corporation Consequences in Stock Acquisition (Type B or Type A/a2E)	79
	[a] No Gain or Loss Recognition	79
	[b] Basis and Holding Period	79
	[4] Target Shareholder Consequences	80
	[a] Taxation Only of Boot; Gain Limitation	80
	[b] Character as Gain or Dividend	81
	[c] Tax Basis and Holding Period	83
[E]	Reporting Requirements for Section 368 Reorganizations	84
	[1] Reporting under Section 1.368-3	84
	[2] Broker Reporting	85
	[3] Section 6043A Reporting	85
[F]	Section 351 (Incorporation/Contribution) Transfers	85
	[1] Applications	85
	[2] Requirements for Qualification	86
	[a] General	86
	[b] Interaction with Section 304	88
	[3] Consequences for Transferors	89
	[4] Consequences for Corporate Transferee	91
	[5] Multiple Drop-Downs	92
	[6] Intentional "Breaking" of Section 351 Transaction	93
	[7] Reporting Requirements for Section 351 Transfers	94
[G]	Acquisitions by Entities Treated as Partnerships	94
[H]	US Person Transfers Stock in US Corporation to Foreign Corporation (Outbound Stock Reorganization)	94
	[1] Overview	95
	[2] Issues under the 50% Ownership Limitation and the 50% Control Group Limitation	96
	[a] Treatment of Stock Options	97
	[b] US Ownership Presumption	97

	[3] Issues under the Substantiality Test	97
	[a] Measure of Value	98
	[b] Effect of Passive Assets on Value	99
	[4] Meeting the 50% Ownership Limitation and Substantiality Test Where Foreign Acquiror Is Smaller than US Target	100
	[a] Meeting the 50% Ownership Limitation	100
	[b] Meeting the Substantiality Test	100
	[5] Gain Recognition Agreements	101
	[6] US Parent Transfers Stock in US Subsidiary to Foreign Corporation	102
	[7] Indirect Stock Transfers: Outbound Triangular Reorganizations of US Target and Asset Drop-Downs	103
	[a] Indirect Stock Transfers: Treatment of US Transferor	103
	[b] Coordination Rule With Asset Transfer	104
	[8] Reporting Requirements	107
	[4] US Person Transfers Stock in Foreign Corporation to Foreign Corporation or US Corporation (Foreign-to-Foreign or Inbound Stock Transfer)	107
	[1] Application of Section 367(a)	108
	[a] Inbound Stock Reorganization	108
	[b] Outbound Stock Reorganization	109
	[2] Application of Section 367(b)	109
	[a] Inbound Stock Reorganization	111
	[b] Foreign-to-Foreign Stock Reorganization	112
	[c] Foreign-to-Foreign Transfer by a Foreign Corporation with Section 1248 Shareholders	113
	[d] Anti-abuse Rules	113
	[3] Application of Section 367(b) in Conjunction with Section 367(a)	115
	[a] General	115
	[b] Exclusive Application of Section 367(b) to Certain Triangular Reorganizations	116
	[4] Reporting Obligations	117
[J]	US Person Transfers Assets to Foreign Corporation for Stock	118
	[1] Incorporation of Foreign Branch	118
	[a] General	118
	[b] Transfer of Assets to Foreign Corporation for Use in Active Conduct of a Trade or Business Outside the United States	118
	[c] Loss Recapture Rules Applicable to the Transfer of a Foreign Branch	120
	[d] Reporting Obligations	122

	[2] Outbound Asset Reorganization	123
	[a] General Rule	123
	[b] Additional Rules Applicable to Transfers of Stock or Securities by a Domestic Corporation to a Foreign Corporation in Connection with an Asset Reorganization	125
	[c] Distribution of Stock of Foreign Acquiror to Shareholders of US Transferor	127
	[d] Reporting Obligations	128
[K]	Foreign Corporation Transfers Assets to US Corporation for Stock (Inbound Asset Reorganization)	129
	[1] Income/Gain Recognition by Exchanging US Shareholders	129
	[2] Tax Attributes of Foreign Transferor	130
[L]	Foreign Corporation Transfers Assets to Foreign Corporation for Stock (Foreign-to-Foreign Asset Reorganization and Section 351 Transfers)	131
	[1] Foreign-to-Foreign Asset Reorganization	131
	[a] Treatment of Transferring Corporation	131
	[b] Treatment of Exchanging Shareholders	131
	[2] Foreign-to-Foreign Section 351 Transaction	133
[M]	Issues of Special Concern in US	133
	[1] Corporate Expatriations (Section 7874)	133
	[2] US Real Property Holding Company Target in Otherwise Tax-Free Transaction	133
[N]	Indirect Taxes Including Transfer (Conveyance) Taxes	138
IV	ATTRIBUTE PRESERVATION AND USAGE	139
	[A] Change in Ownership Impact on Tax Assets (Sections 382 and 383)	139
	[1] Overview	139
	[2] Section 382 Limitation	140
	[3] Testing for Ownership Change	141
	[a] Treatment of Options and Other Instrument as Stock or Non-stock	144
	[b] NOL Shareholder Rights Plans	146
	[4] Rules for Built-In Items	146
	[5] Special Rules for Bankruptcy and Insolvency Situations	148
	[a] Title 11 Exception	148
	[b] Alternative to the Title 11 Exception	149
	[c] Consequences of Treating Stock as Worthless	150
	[d] Protections in Case of a Chapter 11 or Similar Proceeding	150
	[6] Administrative and Legislative Actions Relating to Section 382 and 383 in Response to the Financial Crisis	151

	[B] Net Operating Loss Limitations When Corporations Become New Members of Consolidated Groups	152
	[1] Application of Section 382 to Consolidated Groups	153
	[2] SRLY Limitation	155
	[3] Loss Carrybacks to Pre-consolidation Taxable Years	156
	[4] Lonely Parent Rule	156
[C]	Section 269(a) Disallowance of Tax Benefits for Certain Tax Avoidance Acquisitions	157
	[1] Principal Purpose Determination	158
	[2] Section 269(a) Override of Section 382	159
	[3] Deductions Accrued after the Acquisition	160
V	DUE DILIGENCE AND CONTRACTUAL TAX PROTECTION	160
	[A] Due Diligence	160
	[B] Tax Indemnification	161
VI	FINANCING AND DEBT PUSHDOWN STRATEGIES	162
	[A] General	162
	[B] Thin Capitalization Rules and Other Limitations on the Deductibility of Interest	162
	[1] Debt versus Equity	162
	[2] Parent Guarantee: True Borrower	166
	[3] Section 163(j): Earnings Stripping Rules	166
	[4] Sections 163(e)(3) and 267(a)(3)	167
	[5] Arm's Length Interest Rate	168
[C]	US Withholding Tax	168
	[1] Domestic Law Exemptions	168
	[2] Income Tax Treaty Relief	169
	[a] "Interest" versus Dividends	169
	[b] Four-Part Inquiry for Treaty Relief	169
[D]	Income Tax Treaty Requirements for Eligibility for Reduced Withholding Tax Rates	170
	[1] Residence	170
	[2] Fiscally Transparent (Hybrid) Entities: Income "Derived by a Resident"	170
	[a] FTE Provisions in Treaties	171
	[b] Code Section 894(c) Regulations	171
	[c] Section 1441 Withholding Regulations	173
	[3] Limitation on Benefits (LOB) Articles	174
	[a] General Rules (US Model Treaty)	174
	[b] Derivative Benefits Provisions	175
	[4] Beneficial Owner/Conduit Financing Regulations	176
	[a] General	176
	[b] Conduit Financing Regulations	177
[E]	Hybrid Financings	179

VII	DEALING WITH COMPENSATION PLANS	180
	[A] Rollover of Existing Plan	180
	[B] Cash-Out of Existing Plan	181
	[1] General	181
	[2] Target Included in Seller's Consolidated Return	182
	[C] Current Deductibility Rules for Other Acquisition-Related Compensation	183
	[1] Simplifying Convention for Employee Compensation	183
	[2] Employee Severance Costs	183
	[3] Retention Agreements for Transition Period	183
	[D] Assumption of Pension or Deferred Compensation Obligations	184
	[E] Restricted Stock: Addition of Employment Restrictions to Stock Received in Exchange for Target Stock	184
	[F] Effect of Restricted Stock and Stock Options on Corporate Transactions and Ownership Tests	186
	[G] Golden Parachute Rules	187
VIII	GROUPING	189
	[A] Requirements	189
	[B] Consequences and Advantages	191
	[C] Departure of a Member	191
IX	PLANNING WITH INTANGIBLES	191
	[A] IP Holding Company	191
	[B] Migration	192
	[1] General	192
	[2] Cost Sharing	194
	[3] Licenses	195
	[4] Services	195
X	INTERNAL RESTRUCTURING INVOLVING US TARGET	196
	[A] Motivation for Restructuring	196
	[B] Certain Traps to Beware in Restructuring	197
	[C] Restructuring of US Target with CFCs	197
	[1] Relevance of Section 338(h)(10) Election	198
	[2] Restructuring Techniques	199
	[3] Negotiated Acquisition	202
XI	TARGET BREAKUP OR OTHER DISPOSITION OF UNWANTED ASSETS	203
	[A] General Issues	203
	[B] Strategies	203
	[1] Transfer If High Basis Assets	203
	[2] Installment Sale	203
	[3] Leveraged Partnership	204
	[4] Like-Kind Exchanges	205
	[5] Pre-acquisition Spin-Off	208

	[6] Conversion to S Corporation	208
XII	DEMERGERS	209
	[A] Requirements Generally	209
	[1] Business Purpose	209
	[2] Distribution of "Control" – Sections 355(a)(1)(A) and (D)	210
	[3] The Device Test – Section 355(a)(1)(B)	211
	[4] Five-Year Active Trade or Business – Section 355(b)	212
	[5] Continuity of Shareholder Interest (COSI)	214
	[6] Continuity of Business Enterprise (COBE)	215
	[7] Disqualified Investment Corporations – Section 355(g)	215
	[8] "Disqualified Distributions" Following Purchase of Distributing or Controlled Stock – Section 355(d)	216
	[9] Transfer of Controlling Interest in Distributing or Controlled as Part of Spin-Off Plan – Section 355(e)	217
	[B] Taxable Boot and "Hot Stock" in Otherwise Qualifying Transaction	219
	[1] Taxable Boot	219
	[2] Hot Stock	219
	[C] Moving Liquidity from Controlled to Distributing and Planning in Respect of Debt Securities	220
	[D] Tax Basis	221
	[1] General Rule	221
	[2] Rule Where Distributing Is a CFC (Section 367(b))	222
	[E] Allocation of Earnings and Profits between Distributing and Controlled	223
	[1] General	223
	[2] Special Rules Applicable to Section 355 Transactions Involving CFCs	223
	[F] Adjustment of Existing Equity-Based Compensation Plans	224
	[G] Section 355 Reporting	225
	[H] Outbound Section 355 Distributions	226
	[1] Gain Recognition If Foreign Controlled; Non-recognition If Domestic Controlled	226
	[2] Presumption of Status and Rebuttal Mechanism	227
	[3] Basis to Distributees	228
	[4] Reporting	228
XIII	SUBSIDIARY LIQUIDATIONS	228
	[A] Taxable Liquidation	228
	[B] Domestic Tax-Free Liquidation	228
	[C] US Company Liquidates into Foreign Parent	229
	[1] General Rules	229
	[2] Exceptions to Taxable Treatment	229
	[a] US Trade or Business Property Exception	230

	[b]	USRPI Exception	231
	[c]	Exception for Distribution of 80% Owned Domestic Subsidiary	231
	[d]	General Anti-abuse Rule	232
	[e]	Distributee's Basis and Other Attributes	232
	[f]	Reporting	232
[D]		Foreign Subsidiary Liquidates into US Parent	232
	[1]	Income/Gain Recognition Rules	232
	[2]	Distributee's Basis and Other Attributes	233
[E]		Foreign Subsidiary Liquidates into Foreign Corporation	234
	[1]	Income/Gain Recognition Rules	234
	[2]	Distributee's Basis and Other Attributes	235
XIV		JOINT VENTURE	235
[A]		Structuring Considerations	236
	[1]	Choice of Vehicle: Partnership versus Corporation	236
	[2]	Issues of Direct Foreign Partner in Partnership with US Business	236
	[3]	Targeted (Tracking) Interests in JV	237
	[4]	Dual JV Structure	238
	[5]	Partnership Anti-abuse Rules (General)	239
[B]		Transfer of Assets to Partnership	240
	[1]	Avoiding Gain Recognition on Dropdown of Assets and Liabilities	240
	[2]	Transfer of Assets/Stock to Partnership Having Foreign Partner	241
	[3]	Planning for Transfer of IP - Some Alternatives	241
	[4]	Partnership Interest for Services	242
	[5]	Reporting Re Acquisition/Organization	243
	[6]	Reportable Transactions	243
[C]		Capital Accounts, Profit and Loss Shares and Tax Accounts	243
	[1]	Capital Accounts	243
	[2]	Guaranteed Payments	244
	[3]	Section 704(b) Allocations of Partnership Items	246
	[4]	Section 704(c) Allocations of Built-In Items	248
	[a]	General Rules in Respect of Contributed Property	248
	[b]	Rules Following Revaluations (Reverse Section 704(c) Allocations)	250
	[5]	Section 197 Anti-churning Rules	251
[D]		Accounting for Liabilities and Distributions; Disguised Sales	252
	[1]	Partner's Share of Partnership Liabilities	252
	[2]	Distributions and Deemed Distributions, Including in Excess of Basis	253
	[3]	Disguised Sale Rules	254

[E]		Foreign Tax Credit Utilization	256
	[1]	Separate Baskets	256
	[2]	Allocation of Certain Foreign Income Taxes for Foreign Tax Credit Purposes	256
	[3]	Foreign Tax Credit Utilization: Debt Issues	257
	[4]	"Overall Foreign Loss" (OFL) Issues	258
[F]		Dual Consolidated Losses (DCL) Rules	258
[G]		Foreign Exchange Considerations for Partnership or Branch Operations Using Functional Currency Different than Owner	259
	[1]	Translation Rules for Income and Loss of Section 987 QBU	259
	[2]	Foreign Exchange Consequences of Transfers from Section 987 QBU to Its Owner	261
	[a]	2006 Proposed Regulations	261
	[b]	1991 Proposed Regulations	262
[H]		Subpart F Inclusion Regime in Respect of Partnerships	263
	[1]	General Overview of Subpart F Approach to Partnerships	264
	[2]	Foreign Personal Holding Company Income	264
	[a]	Partnership Derives FPHCI	264
	[b]	Partnership Pays FPHCI to CFC Partner	265
	[3]	FBC Sales Income	265
	[a]	Partnership Derives Potential FBC Sales Income	265
	[b]	Certain Sales between CFC Partner and Partnership	266
	[c]	CFC Partner's Affiliate Sells to Partnership and Partnership Sell to Unrelated Party: Branch Rule Risk	267
	[d]	Partnership Manufactures; Partnership Sales Branch	267
	[4]	Partnership Derives Potential FBC Services Income	267
	[5]	Issues Regarding Investment in "US Property"	268
[I]		Reporting in Respect of Operations	269
[J]		Exit Considerations	269
	[1]	Sale and Other Exit Alternatives Generally	269
	[2]	Exit: Section 754 Election/Section 734 or 743 Adjustment	270
	[3]	Exit: Section 708(b)(1)(B) Deemed Termination	271
	[4]	Exit: Anti-mixing Bowl Rules	271
	[5]	Exit: Foreign Exchange Gain or Loss Issues	272
	[6]	Sale of Partnership Interest by CFC	272
	[7]	Reporting re Exit	272

XV	EQUITY AND DEBT RESTRUCTURING	273
	[A] Modification of Terms of Debt (Debt Recapitalizations)	273
	[1] Consequences Generally	273
	[2] Issuer Consequences	274
	[3] Holder Consequences	276
	[a] Consequences on Exchange in Type E Reorganization	276
	[b] Consequences Outside Type E Reorganization Context	277
	[B] Modification of Terms of Equity (Equity Recapitalizations)	278
	[1] Consequences	278
	[2] Disguised Dividend and Section 306 Stock	278
	[C] Share Buybacks	279
	[D] Repatriations	280
XVI	CORPORATE EXPATRIATIONS	281
	[A] Scope	281
	[B] Conditions and Operation	281
	[C] Anti-stuffing and Anti-stripping Rules	283
	[D] Direct or Indirect Acquisition of Substantially All of Properties	283
	[E] Domestic Entity Owners Own 60%/80% of Foreign Corporation Shares	285
	[F] Substantiality of Business Activities in Foreign Country	287
	[G] Examples	287
	[H] Taxation of Inversion Gain of Surrogate Foreign Corporation (60%-80% Owner Continuity)	289
	[I] Excise Tax on Specified Stock Compensation of Insiders	291
XVII	BUSINESS RESTRUCTURING	292
XVIII	US CORPORATION AS ACQUISITION VEHICLE FOR FOREIGN TARGET	293
	[A] Key Tax Regime Features Relevant to US Corporation as Owner of Foreign Business or Assets	293
	[1] General	293
	[2] Controlled Foreign Corporation Regime	293
	[a] Overview	293
	[b] Subpart F Income	294
	[c] Deemed Repatriation of Earnings (Section 956)	295
	[d] Disposition of Shares of CFC	296
	[3] Passive Foreign Investment Companies	296
	[4] Disregarded Entities	297
	[5] Foreign Tax Credit Regime	297
	[a] General	297
	[b] Worldwide Foreign Source Income Limitation Applied to Separate Limitation Categories (Baskets)	298

	[c] Overall Foreign Loss (OFL) and Overall Domestic Loss (ODL)	300
	[6] Dual Consolidated Loss	300
	[7] Exit Tax on Outbound Transfers	302
[B]	Taxable Acquisition of Foreign Target	302
	[1] US Tax Consequences to Holders	302
	[2] US Tax Consequences to US Acquiror	303
[C]	Tax-Free Acquisition of Foreign Target by US Acquiror	304
	[1] Inbound Stock Acquisition	304
	[2] Inbound Asset Acquisition	304
[D]	Tax-Free Merger or Other Reorganization of Two CFCs	305
[E]	Financing the Acquisition	305
	[1] Identification of Parties to the Financing	305
	[a] General Considerations in Identification of Ultimate Borrower	305
	[b] General Considerations in Identification of Lender	306
	[c] Push-Down of Debt	307
	[2] Allocation of Interest Expense for US Foreign Tax Credit Regime	310
	[a] General Rule	310
	[b] CFC Netting Rule	310
	[c] CFC-Level Allocation of Expense	311
	[3] FTC Consequences of Debt Financing in Certain Settings	312
	[a] FTC Consequences of Interest Payments Made by CFC to US Group	312
	[b] FTC Consequences of Interest Payments Made by CFC to Another CFC	313
	[4] Hybrid Entities and Double Dip Planning	314