

## Tax

No corporate deal can go forward without tax planning. Brownstein's highly experienced and business savvy Tax Group focuses on tax-friendly structures that both minimize your exposure and serve your business objectives. In addition to having an authoritative knowledge of tax law, we understand how tax affects the structure of business transactions and apply tax law in ways that maximize business alternatives and agility.

Our Tax Group advises clients on the full breadth of business and transactional tax issues, and has substantial experience with large, complex, corporate transactions, as well as corporate tax controversy work. Working with clients ranging from large corporations to individual investors, we counsel on mergers and acquisitions, company spin-offs, asset acquisitions, choice of entity, state and local tax concerns and working with the IRS. The group's real estate-related tax experience is extensive, and includes large-scale development projects, 1031 like-kind exchanges, REITs, acquisitions and dispositions, cross-border investment planning, limited liability, company structures, partnerships, capital gain maximization and low-income housing tax credits.

We work with a broad spectrum of businesses, ranging from the alternative and renewable energy industry to the hotel, resort, casino and hospitality industry, to companies in technology, Internet and telecommunications.

Many members of our Tax Group have advanced degrees in tax disciplines, have accounting, finance and business backgrounds, and have worked for major corporations, national accounting firms and large, money-center law firms. To offer the most comprehensive service possible, they routinely collaborate with our Corporate, Real Estate and Employment groups, bringing together varying specialties and viewpoints.

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### Contacts

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### Representative Matters

- Counsel to Alpha Milling Company, a provider of rotomilling and asphalt removal service, in its sale of all of the issued and outstanding shares of its capital stock
- Represented Jemez Technology, LLC, a high resolution security and imagery technology company, in the sale of all its capital stock to ReignRock Capital Partners, LLC.
- Counsel to Gaia in the \$145.7M sale of its branded fitness equipment and apparel business to Sequential Brands and Fit for Life.
- Counsel to Ergentus Emergency Physicians in its merger with U.S. Acute Care Solutions, a portfolio company of Welsh, Carson, Anderson & Stowe.
- Represented SC Venture Acquisition LLC, the manager of PA-SC Venture I LLC, in acquiring a majority/controlling interest in PA-SC Atlanta Project LLC, PA-SC West Palm Beach Project LLC, and PA-SC Boulder Project LLC, all distribution facilities subject to a triple net lease, which are add-on acquisitions for portfolio companies with similar purpose, by SC Venture Acquisition LLC.
- Represented SC Venture Acquisition LLC, the manager of PA-SC Venture I LLC, in acquiring a majority/controlling interest in PA-SC West Palm Beach Project LLC, a distribution facility subject to a triple net lease, which is one of many add-on acquisitions for portfolio companies with similar purpose, by SC Venture Acquisition LLC.
- Represented SC Venture Acquisition LLC, the manager of PA-SC Venture I LLC, in acquiring a majority/controlling interest in PA-SC Boulder Project LLC, a distribution facility subject to a triple net lease,

which is one of many add-on acquisitions for portfolio companies with similar purpose, by SC Venture Acquisition LLC.

- Served as tax counsel to KSE Radio Ventures, LLC, a wholly-owned subsidiary of Kroenke Sports & Entertainment, LLC, in its acquisition of Denver broadcast radio stations KIMN-FM 100.3, KXKL-FM 105.1 and KWOE-FM 92.5 from Wilks Broadcast Group, LLC.
- Served as tax counsel to Encore Consumer Capital, LP in the sale of its portfolio company, FreshKO Produce Services, Inc., a distributor of high-quality fresh produce throughout central and northern California, to C&S Wholesale Grocers, Inc., the largest wholesale grocery supply company in the United States.
- Represented an affiliate of Lion Equity Partners, a Denver-based private equity firm, in its acquisition of Homes & Land, an integrated real estate media platform, providing local real estate information throughout the U.S. and parts of Canada.
- Counsel to Regional Care Services Corporation, the parent company of Casa Grande Regional Medical Center based in Casa Grande, Arizona, in negotiating the sale of the hospital assets to Banner Health pursuant to an Asset Purchase Agreement and related transactions. Representation encompassed all aspects of this sophisticated sale transaction, including the sale process and APA, coordinating interim financing arrangements and reorganization under Chapter 11, and identifying and resolving all health care regulatory aspects of the foregoing.
- Counsel to RGS Energy in its acquisition of Mercury Energy, an east coast solar integrator.
- Assisted client in the nearly \$8 million acquisition of a distressed property for future development into a luxury hotel. Advised client regarding all aspects of the transaction, including assignment of the purchase and sale agreement, structuring of workout with previous developer and new market and federal historic tax credits.
- Represented Mexico Retail Properties and MRP Group, LP in the largest ever real estate transaction in Mexico's history consisting of the sale of 49 commercial properties and the sale of MRP Group's property management platform for an aggregate purchase price of approximately US \$2.0 Billion to FIBRA Uno, the first and largest real estate investment trust in Mexico.
- Led a multidisciplinary health care, corporate, real estate, tax and intellectual property team in providing counsel to a start-up health insurance company and participant in the Consumer Operated and Oriented Plan (CO-OP) program created under the Affordable Care Act.
- On behalf of a major real estate client, worked through an industry group to pass bipartisan tax legislation in the United States Senate.
- Led a multidisciplinary corporate, tax and health care team on behalf of a healthcare company in creating innovative new joint venture ownership structure for in vitro fertilization labs, leveraging best of breed technologies and best practices through licensing and management systems. Researched and created innovative corporate and business structure achieving business priorities while addressing competing requirements in areas of corporate, tax, insurance, consumer finance, and health care, including restrictions on corporate practice of medicine, fee splitting, self-referral, and anti-kickback.
- Represented equity owner in its sale of a 170 room full service historic Dallas hotel property including transfer of historic tax credit financing. Representation included sale negotiations and closing, tax credit financing transfers and releases and windup of management and license agreements.
- Represented DLJ Real Estate Capital Partners in its restructuring of two joint ventures with Noble House Group.
- Represents client on international tax reform.
- Represented Resorts Entertainment in the negotiations of an operation and management agreement with Mohegan Gaming Advisors for the Resorts Hotel and Casino in Atlantic City, New Jersey.
- Represented the purchaser in the \$90 million purchase of a portfolio of four apartment complexes in the

Denver - Colorado Springs metro areas. Brownstein was Colorado counsel on the acquisition agreement, title and survey review and curative work, water rights due diligence and opinion letters for financing by FHLMC (Freddie Mac).

- Represented Riviera Holdings Corporation, a Las Vegas casino operator and a portfolio asset of Starwood Capital Group, in the sale of the stock of Riviera Black Hawk, Inc. (the owner of Riviera's Black Hawk, Colorado casino) to an affiliate of Monarch Casino & Resort, Inc., in a transaction valued at \$76 million.
- Represented Airborne Tactical Advantage Company, LLC, a flight training provider to the United States military, in connection with a debt and equity recapitalization.
- Represented Four S Holdings LLC, a portfolio company of The Decatur Group and the largest franchisee of Sola Salons, in its recapitalization in partnership with John Chidsey, former Chairman and CEO of Burger King Corporation.
- Represented KSL Capital Partners, LLC as the purchaser in its \$130 million acquisition of the Royal Palm Hotel located in Miami Beach, FL, including \$90 million of seller financing. Brownstein also negotiated the purchase and sale agreement and seller financing documents, completed due diligence and closed the acquisition in less than 60 days.
- Brownstein worked closely with industry leaders, House Committee on Ways and Means members, Senate Finance Committee members and the Joint Committee on Taxation to solve existing barriers to foreign capital by successfully passing an amendment to the Foreign Investment in Real Property Tax Act (FIRPTA).
- Representation of a national solar module manufacturer in connection with tax incentives on a solar photovoltaic project in Clark County, Nevada
- Assisted Graham Packaging Company, L.P. in a \$568 million strategic acquisition of another manufacturer and supplier. In the transaction, Graham Packaging Company acquired all of the limited partnership units of the target company from the company's limited partners and all of the stock of each of the company's three corporate general partners from their stockholders. A manufacturer and supplier of technology-based, customized blow molded plastic containers for the branded food and beverage, household, personal care/specialty and automotive lubricants product categories, Graham Packaging Company is a portfolio company of Blackstone Capital Group.
- Represented Fairfax Securities Corporation as placement agent and acted as special tax counsel in a first-of-its-kind \$18 million tax-exempt lease purchase financing agreement for an early college high school for the Las Cruces Public School District in New Mexico.
- Represented Vail Resorts, Inc. (NYSE: MTN) in its acquisition of Mountain News Corporation (MNC), which operates the world's most visited online snow sports portal, OnTheSnow.com. Mountain News Corporation is the top provider of snow reports to more than 1,200 web sites throughout the world, including approximately 400 news media websites.
- Represented Merritt Equipment Co., a leading manufacturer and distributor of agricultural trailers and aluminum accessory products, in the acquisition of a Sacramento, California-based trucking accessories (fender bracket) manufacturing business owned by Z&Z Enterprises, Inc.
- Assisted Slaterpaul Architects in acquiring historic real property from the City & County of Denver and with related environmental and rehabilitation tax credit matters.
- Served as counsel to Strategic Analytics Inc., a global software and services company in the retail lending industry, in connection with the sale of all of the outstanding stock of the company.
- Led a large coalition of diverse companies and industries to pass a temporary provision in the 2009 American Recovery and Reinvestment Act that allows for a ten year deferral of cancellation of indebtedness income. The first five years will be tax free, with ratable payments in each of the last five years. This provision will apply to debt for cash, equity or other debt, and should prove to be an important tool for

companies that need to restructure debt in the midst of this severe economic down turn.

- Completed the formation of an equity incentive plan for a food industry client which will ultimately transfer 33 percent of the company from the founders to key management.
- On behalf of a wind energy producer and biofuels producers, worked with a coalition of renewable energy sources to ensure that the American Recovery and Reinvestment Act included an important provision extending the production tax credit (PTC) for renewable resources for three years.
- Successfully worked with the tobacco industry to equalize federal excise tax rates across similar products. This provision helped finance the State Children's Health Insurance Program (SCHIP).
- Served as lead counsel for Freeport LNG Development, L.P. in the structuring, strategy and development of a liquefied natural gas (LNG) receiving and regasification facility in Texas. The firm acted as lead counsel in the structuring, negotiating and documenting of financing for the construction of the facility, development of a 7.5 billion cubic foot underground salt cavern gas storage facility, and expansion of the terminal, which included approximately \$750 million in financing from ConocoPhillips Company and a \$453 million private placement note issuance. Brownstein also oversaw the negotiation of long term terminal use agreements (TUA) with Dow Chemical Company and ConocoPhillips Company. The firm continues to serve as outside general corporate counsel to Freeport and its subsidiaries in all aspects of their businesses, including pursuing the redevelopment of the project into a liquefaction and export facility at a cost of \$14 billion.
- Represented Dividend Capital Total Advisors in developing a joint venture platform for fund formation. Brownstein also handled the employee equity incentive package and tax matters related to the transaction.
- Provided strategic counsel to Bion Environmental Technologies, Inc. in establishing federal-level guidance for a nutrient trading program and in evaluating the possibility of a cellulosic-styled tax credit that would apply to Bion's process for producing cellulose-based renewable energy. Brownstein facilitated meetings with the U.S. Environmental Protection Agency (EPA), the Council on Environmental Quality (CEQ), key members of Congress and other strategic government officials to discuss the issue of basin-wide nutrient trading and energy production from Bion's integrated facilities.
- Completed the application package and negotiated plan document issues with the IRS to secure a letter of favorable determination for the qualified defined benefit pension plan sponsored by a manufacturing company.
- Represented Vail Resorts, Inc. in its \$40.5 million acquisition of Colorado Mountain Express, a resort ground transportation business. Brownstein also handled the related real estate, tax, environmental, ERISA and employment aspects of the transaction.
- Represented a large, multi-state cattle ranching operation in obtaining a favorable ruling from the IRS regarding a split-off of the business between family members.
- Obtaining for certain gaming and lodging companies the ability for their operating companies to spin off, tax free, their real estate holdings.
- Represented Naples Nephrology in its joint venture with US Renal Care.

## **News & Events**

- Will Opportunity Zones Succeed in Stimulating Investments?
- Interactive Gaming and Taxes - Critical Changes for the Gaming Industry
- Extraordinary Estate and Gift Tax Planning Window Might Close Before the End of the Year
- Brownstein Client Alert: New Tax Act Makes Significant Changes to the Estate, Gift and Generation Skipping Transfer Tax Laws
- Brownstein Tax Alert: Up to 25% of Tax-Exempt Organizations Predicted to Lose Tax Exemptions on May 15, 2010
- Brownstein Update: Federal Tax Legislation - A Year in Review

- Tax Alert: Tax Highlights in the ARRA of 2009
- Tax Alert: Colorado Business Owners Can Contest Tax Valuations of Property

**Meet The Team**

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