



Tax Practice



For more than 175 years, Baker Botts has been among the leading law firms in the world. Today, with 725 lawyers based in 14 offices around the world, the firm ranks among the largest global law firms in scope and influence.

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Baker Botts tax lawyers assist some of the world's largest corporations, partnerships, other joint ventures and independent businesses with their tax problems.

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"They understand the totality of the business operations we have and we get outstanding and timely service."—*Chambers USA 2015*

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# WHO WE ARE

Baker Botts tax lawyers assist some of the world's largest corporations, partnerships, other joint ventures and independent businesses with their tax problems.



Baker Botts tax lawyers help some of the world's largest corporations, partnerships, other joint ventures and independent businesses with their tax problems. We advise on topics ranging from corporate tax issues, employee benefits and executive compensation matters to tax controversies and state and local taxation. In addition, we counsel individuals, families and entrepreneurs on wealth transfer, succession planning and other estate tax issues.



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# WHAT WE DO

Corporate Tax | International Tax | Tax Controversy and Tax Litigation | Transfer Pricing | State and Local Tax | Partnership Tax | Master Limited Partnership Tax | Financial Instruments | Oil and Gas Tax | Private Equity Financing and Funds | Regulatory Advocacy | Employee Benefits and Executive Compensation | Private Clients



## CORPORATE TAX

The firm's corporate tax lawyers provide the requisite tax advice to clients in transactions involving investments in projects, mergers, acquisitions, divestitures, restructurings and financings, including asset leasing. We have particular experience advising clients in the following industries:

- Global energy, including upstream oil and gas, pipelines, liquefied natural gas, alternative energy, power and petrochemical projects
- Real estate
- Oilfield services
- Technology
- Mining
- Manufacturing
- Marketing
- Telecommunications

Tax lawyers from Baker Botts have been pioneers in developing tax strategies for many different situations. For example, we regularly do work that entails capturing the value of prior tax losses, examining structures demanded by other governmental regulatory requirements for tax

consequences and preparing analyses of the tax situations of proposed targets for acquisition. Our corporate tax lawyers deal with all aspects of subchapter C, including tax issues related to the energy and power sector, financial instruments, and the oil and gas industry.

## INTERNATIONAL TAX

The firm's international tax lawyers provide the requisite tax advice to clients engaged in cross-border transactions. These transactions involve investments in projects, mergers, acquisitions, restructurings and financings. Our lawyers advise U.S. and international investors in their investments in companies, ventures and projects around the world, as well as international investors in their investments in U.S. companies, ventures and projects. Baker Botts international tax lawyers seek to minimize the worldwide taxation of a client's earnings from an investment, to restructure the investment and to eventually dispose of the investment. This often requires familiarity with the tax laws of several countries and bilateral and multilateral tax treaties, as well as the U.S. tax laws.



## TAX CONTROVERSY AND TAX LITIGATION

Baker Botts' tax controversy and litigation practice lawyers for decades have represented clients across the country in all manner of substantial, complex tax controversies before the Internal Revenue Service, at its Examination and Appeals divisions and its National Office, the Department of the Treasury, the Tax Court, Court of Federal Claims and federal district courts and courts of appeals and the Texas Comptroller of Public Accounts, the taxing authorities of Texas localities and the taxing authorities of other states.

We thoroughly evaluate the merits of complex tax issues and develop creative arguments in defense of proposed adjustments.

Our lawyers prepare detailed responses to the IRS' proposed adjustments and written protests for those examinations that proceed to IRS Appeals and have represented clients in a number of mediations, including post-appeals and fast-track mediations. Where a resolution of a tax controversy cannot be achieved administratively, our lawyers have substantial experience in tax litigation in all forums.

Most cases are settled without the necessity of trial, however, we have tried many large cases involving sophisticated issues and hundreds of millions of dollars in controversy.

## TRANSFER PRICING

Our tax lawyers regularly work with our clients' economists and valuation advisors to comply with the intricate U.S. transfer pricing rules. We counsel companies on the range of available methods to determine a transfer price and the documentation that must be collected. We have particular experience on issues affecting the development, transfer and exploitation of intangibles, including IP rights. We help our clients negotiate advanced pricing and related agreements and regularly assist in implementing intercompany cost sharing arrangements for the development of intangibles and shared services arrangements with respect to covered services. We participate in competent authorities' proceedings, and we defend transfer pricing issues before the IRS on examination and before Appeals.



## STATE AND LOCAL TAX

Baker Botts has a dynamic state and local tax section providing state and local tax planning and controversy services throughout the U.S. We work closely with our clients to develop plans, structures and instruments that permit them to administer their business objectives while minimizing state and local taxes and compliance burdens. We have received numerous advance determinations from various states and their taxing jurisdictions and have handled significant tax controversies throughout the U.S.

Our state and local tax lawyers represent and assist clients in the following matters:

- unclaimed property
- administrative redeterminations
- litigation
- economic development incentives
- multistate planning
- Nexus studies
- audit defense and refund claims
- legislative efforts



## PARTNERSHIP TAX

We address thorny questions relating to the allocation of tax benefits (including various tax credits), liquidation mechanics, the proper role of capital accounts and recourse and nonrecourse debt allocations.

We assist with complex formation, allocation and distribution questions that arise under partnership and limited liability company (LLC) agreements. We counsel clients on the prudence of using partnerships, LLCs and other flow-through structures to administer their business objectives with particular experience with flow-through vehicles for the acquisition, development and operation of real estate, from both the developer and investor perspective. We provide the same counsel to oil and gas assets from the perspectives of the operator, working interest investor and royalty owner.

## MASTER LIMITED PARTNERSHIP TAX

We are skilled at counseling on transactions involving master limited partnerships (MLPs) and other publicly traded partnerships and have been instrumental in this process since the inception of MLPs in the early 1980s. Our capabilities are nationally renowned for creating specific tax efficient structures for MLPs.

We represent:

- IPO issuers and underwriters
- private equity
- conflicts committees
- financial advisors
- institutional investors

We assist our clients with:

- qualifying income analyses
- MLP capitalization issues (including “disguised sale” issues for the sponsor)
- analysis of remedial allocations
- tax shield projections
- state income tax withholding issues



## FINANCIAL INSTRUMENTS

Baker Botts tax lawyers routinely advise clients on the tax consequences of financial instruments. We have extensive experience in the straddle, wash sale, hedging and interest disallowance rules. We have acted as counsel for companies and underwriters on sophisticated exchangeable and convertible financial instruments and are able to use our experience and knowledge of the complex tax rules in this area to help our clients administer their business objectives.

## OIL AND GAS TAX

With a focus on serving companies in the energy sector, Baker Botts has a long and rich experience advising on tax issues unique to the oil and gas industry. Clients understand the importance of selecting advisors who appreciate the history and evolution of oil and gas tax issues, given the sparseness of Code provisions and judicial decisions setting forth the peculiar rules and concepts unique to the industry. Our lawyers have the depth of experience that clients need when dealing with the intricacies of the details of the depletion or



intangible drilling cost rules and transactions involving tax partnerships to conceptual issues such as the pool-of-capital doctrine or the essence of the economic interest.

### PRIVATE EQUITY FINANCING AND FUNDS

Baker Botts tax lawyers are experienced with the tax issues incident to the formation and operation of private equity funds. We suggest structures for investment in such funds, and we advise on issues related to recapitalizations and buy-outs of interests in such funds. Our lawyers develop structures that minimize unrelated business income tax (UBIT) issues related to tax-exempt investors, and we have particular experience with tax issues affecting real estate investment trusts (REITs). We advise clients on issues from both a domestic and an international tax perspective and have served as tax counsel to several funds created in Europe and Russia.

### REGULATORY ADVOCACY

We routinely submit private letter ruling requests to the IRS and provide comments to the Treasury on proposed tax regulations. Baker Botts tax lawyers know the ruling and commenting processes, and we have utilized that experience and knowledge and received favorable outcomes for our clients on a prompt basis. We have assisted clients on numerous occasions in preparing comments on proposed Treasury regulations on a myriad of topics and will submit comments on behalf of a single client, a group of clients, or a trade group, depending on the circumstances. Our team strategizes an approach for the case at hand.

### EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION

We have a substantial practice in Employee Benefits and Executive Compensation, assisting clients with all aspects of compensation and benefit plans and programs under the Internal Revenue Code and ERISA, and with the myriad legal issues that impact employee benefits under federal labor and securities laws and state laws.



We advise clients regarding standard, innovative and nontraditional design and funding approaches and asset protection vehicles used in connection with such arrangements. Our lawyers are well versed in the tax, accounting, securities law, corporate governance, institutional shareholder issues and issues associated with maintaining stock-based or other types of equity compensation arrangements. Our lawyers are skilled in analyzing the implications of severance, change in control and 280G excise tax gross up arrangements for all parties involved in a corporate transaction. Our lawyers also routinely assist clients in addressing the 409A issues that arise in connection with corporate transactions, including developing or modifying arrangements to minimize any negative tax implications. We also advise on complex investment fund issues and issue opinions on plan asset, fiduciary liability, real estate and venture capital operating companies, prohibited transactions and unrelated business taxable income.

## PRIVATE CLIENTS

We have a nationally prominent Private Clients practice, much of which is devoted to handling tax issues. Our attorneys advise very high net worth individuals in all aspects of estate planning and administration, as well as tax litigation and fiduciary litigation. We focus on extremely complicated situations or those involving vast amounts of wealth, or both. Our team has developed skills in the areas of family business structuring and restructuring, family limited partnerships and advanced asset transfer techniques, as well as the defense of those techniques against IRS challenges.



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## OUR ACCOLADES

“Offers outstanding advice on tax matters arising in the energy and technology sectors. Demonstrates particular expertise in oil and gas transactions, corporate spin-offs, cross-border transactions and investments, and master limited partnerships.”

—*Chambers USA 2014*



“The tax lawyers at Baker Botts know the subject matter and are the most responsive lawyers I deal with.”

—*U.S. News & World Report's Best Law Firms 2014*

“They understand the totality of the business operations we have and we get outstanding and timely service.”

—*Chambers USA 2015*

“Baker Botts houses a number of experienced tax experts, and is particularly noted for its expertise in the oil and gas space.”

—*Chambers Global 2014*  
Tax: Corporate & Finance

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