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2009 GLOBAL CONFERENCE
> CASH IS KING

YOUR GLOBAL NETWORK OF LEADING TAX ADVISORS

18-20 February 2009

Plenary Session III
Real Estate Tax: Profiting in a Crisis

SUMMARY OF EUROPEAN BUSINESS CONDITIONS

- Global credit crunch is felt by European banks and economies
- European stocks are down by over 30% from their peak
- Business investment has turned negative in 2008
- European consumer confidence is at historic lows
- Unemployment rate is under pressure and starting to increase
- Real estate values are globally correcting but especially in Ireland, UK, Spain and France

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LOOKING FORWARD

- Housing
  - Protracted retrenchment among heavily indebted consumers who carry mortgages bigger than value of their homes

- Space Markets
  - Lower demand
  - Higher vacancy rate
  - Lower rents

VISION FROM A CLIENT

2009 2010 2011 2012 2013 2014

- First Wave: Financially Distressed Owners
  - Over Leveraged entities
  - Fundamentally good real estate
  - Assets sales driven by entity level financing needs
- Second Wave: Depressed Asset Prices
  - Maturity defaults of 5 years, high LTV mortgages originated in 2004-2007
  - As debt comes due, asset values at or below mortgage balance
  - Inability to refinance maturing loans will result in asset sales
- Third Wave: Economically Depressed Assets
  - Fundamentally good location assets in good quality markets
  - NOI negatively impacted by rising vacancies and falling rents
  - As recovery takes hold, opportunity to add value, increase NOI

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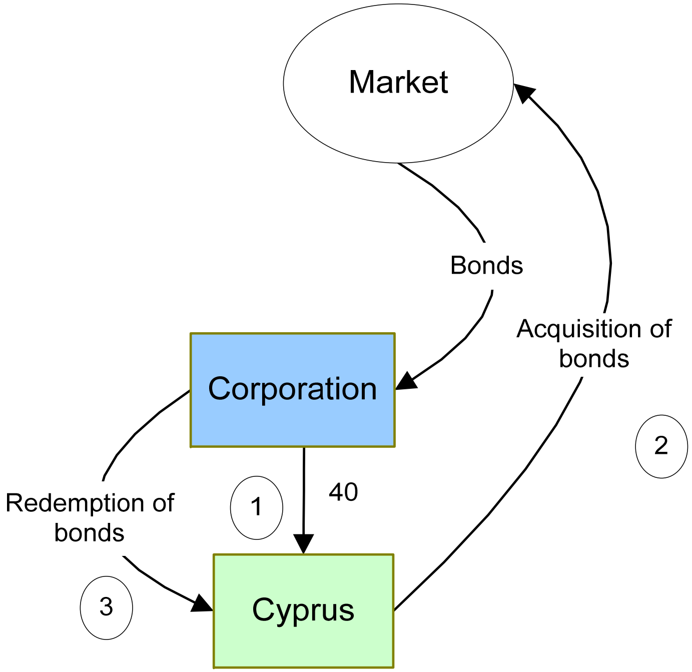
WAR STORY N°1: REFINANCING STRUCTURE

- Assumptions:
  - Publicly quoted Corporation has issued bonds for nominal 100. Bonds are currently valued at 40
  - Corporation has sufficient cash to buy back bonds and wishes to deleverage its consolidation balance sheet
- Problem:
  - Buy back of bonds may trigger taxable gain on elimination of debt



- Structure:
  - Corporation incorporates a Cyprus company with 40 as share capital
  - Cyprus company buys the bonds at market value (40) (deleveraging in consolidated accounts of 100)
  - Overtime, Corporation redeems its bonds at nominal value – Cyprus company realizes a taxable capital gain of 60
  - Cyprus pays dividend to EU corporation – exempt in many jurisdictions

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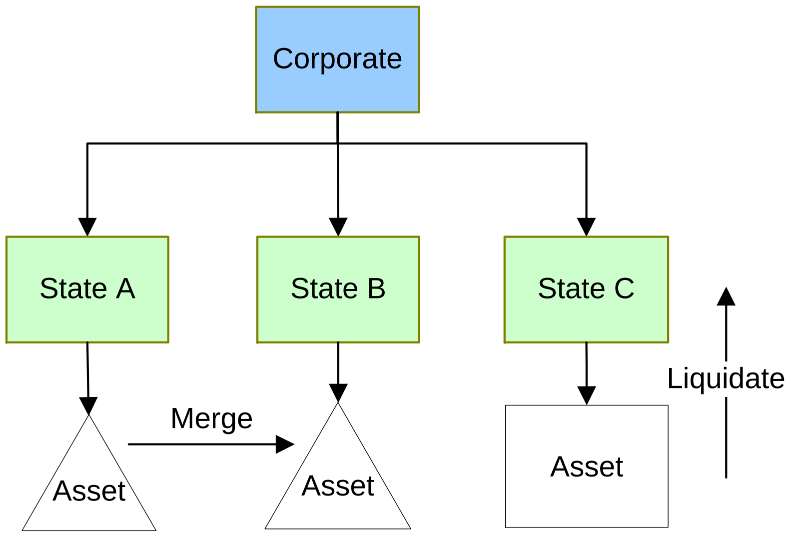
WAR STORY N°2: LOSS CONSOLIDATION

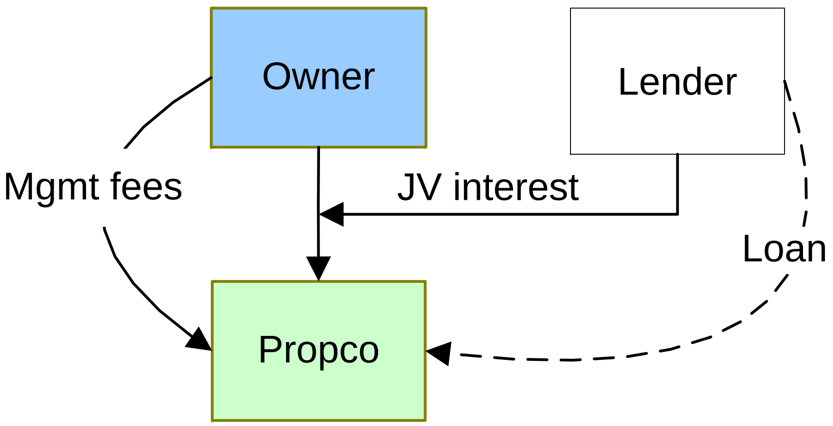
- Facts:
  - US Corporate has real estate owned in single asset entities
  - US Corporate has overall loss but is profitable in certain states paying tax in certain local jurisdictions
  - Separate entities pay state income tax without ability to apportion income



- Structure:
  - Formation of property company
  - Merger of one or more single asset operating in different state may create a more advantageous result, especially upon future disposition of real property
  - Consolidation of real estate gives US Corporate more flexibility to sell or otherwise monetize the real estate assets

WAR STORY N°3: JOINT VENTURE WITH LENDER

- Facts:
  - Market performance of Prop Co is not able to satisfy lending requirements
  - Lender recognizes that market rather than Prop Co is the problem and is prepared to restructure accordingly



- Problem:
  - Restructure of loan could result in adverse tax consequences (e.g. gain on partial write off)

- Structure:
  - Lender contributes all or portion of debt to Prop Co for joint venture interest
  - Owner receives certain management fees for service to the venture
  - Lender receives preferential “profits” distribution on its investment
  - Arrangement may avoid adverse tax consequences

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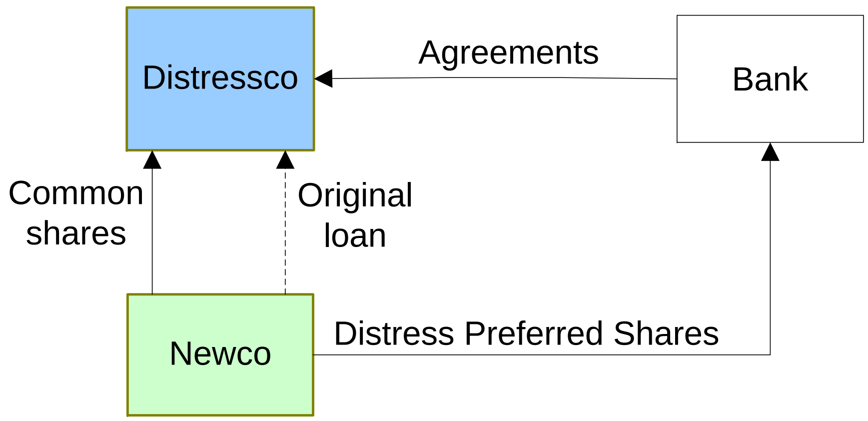
WAR STORY N°4: DISTRESS PREFERRED SHARES

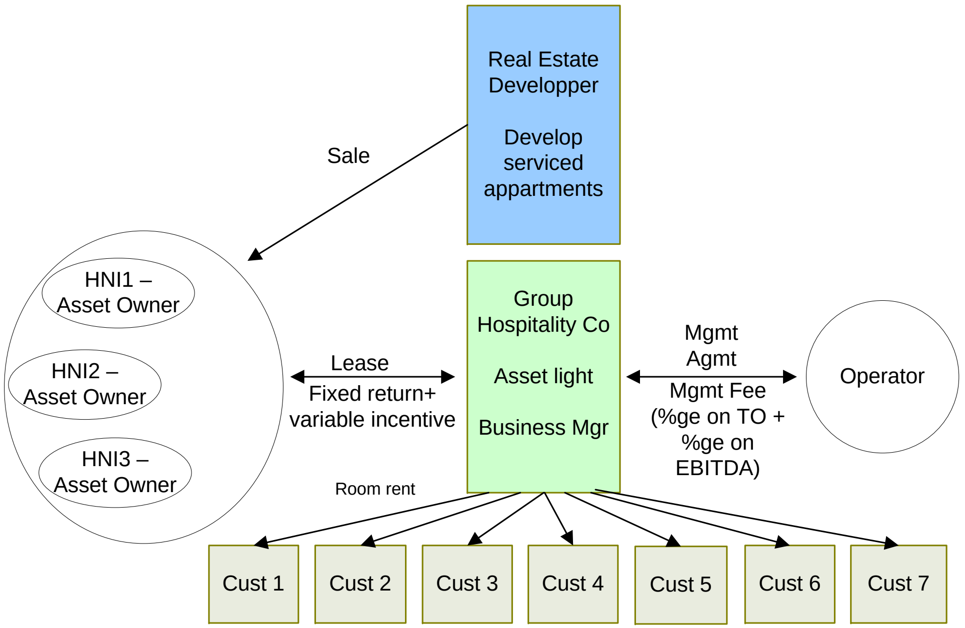


- Facts:
  - Market performance of DistressCo is not able to satisfy lending requirements
- Problem:
  - A forgiven amount generally results in taxable capital gain for the debtor
- Opportunity:
  - Bank transfer its losses to the shareholder of the distressed company in exchange for DPS
  - DPS are shares issued by a Canadian-resident corporation
    - as part of bankruptcy proposal or arrangement
    - when it is under receivership or administration, or
    - to an arm's length person when the corporation is in financial distress in exchange or substitution for debt.
  - DPS exception continues for 5 years from the date of issuance and generally enables lower cost/higher yield financing for the issuer and its creditor as the dividends on the DPS' are not taxable.

WAR STORY N°5: SALE AND LEASE BACK

Facts:

- Developer has created serviced apartments and is eligible for a tax holiday



Problem:

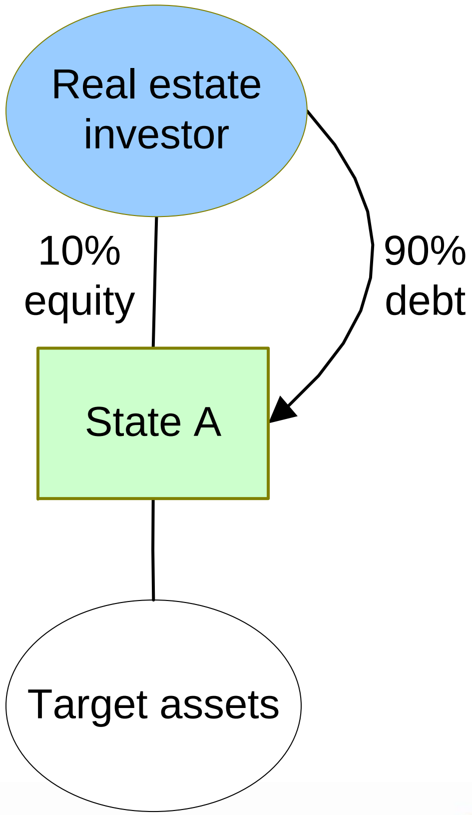
- Wishes to raise debt from retail investors with the security of the units
- Wishes to retain control on operations

Structure:

- Developer sells each unit to the investors, books profit and enjoys the tax holiday
- Investors lease back the units to the operating company for a fixed and variable return
- Operating company is asset light, yet retains control

WAR STORY N°6: BRIDGE EQUITY FINANCING

- Facts:
  - Investor has identified investment opportunity
  - Investor wishes to leverage investment with 50 bank debt
  - There is no financing currently available on the market
- Problem:
  - Future refinancing by bank will create deductibility issues
- Structure:
  - The fund acquires the assets without external financing through an SPV
  - Funding split between equity and shareholder loan
  - Once bank financing will be available on market, shareholder loan will be refinanced with bank debt allowing effective deduction of interest in future



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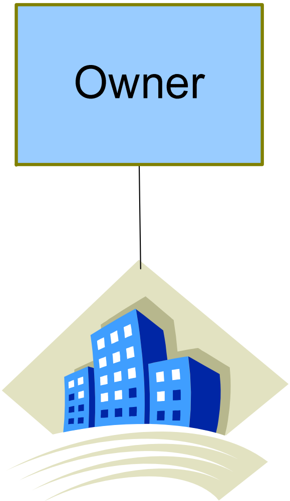
CASE STUDY N° 1: OWNER / OPERATOR

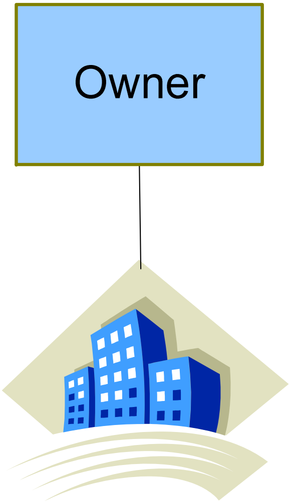
- Assumptions:
  - An economic operator owns and uses real estate property acquired 1 year ago for 100
  - The acquisition of the property has been financed by “limited recourse” debt for 80
  - The property has declined in value by 30% over the last 12 months
  - Debt is refinanced



- Questions / Discussion:
  - Deductibility of loss of 30% against business income:
    - Unrealized loss deductible?
    - Split land vs. buildings?
    - Capital / trading distinction?
    - Treatment of future reversal?
  - Impact on debt to equity ratio (if no debt refinancing)
  - Sale of assets to generate a tax loss while seller continues to manage the property through an incentive management contract. Seller may have certain rights to reacquire the property if the lender is made whole.

CASE STUDY N° 1: OWNER / OPERATOR (CONT.)

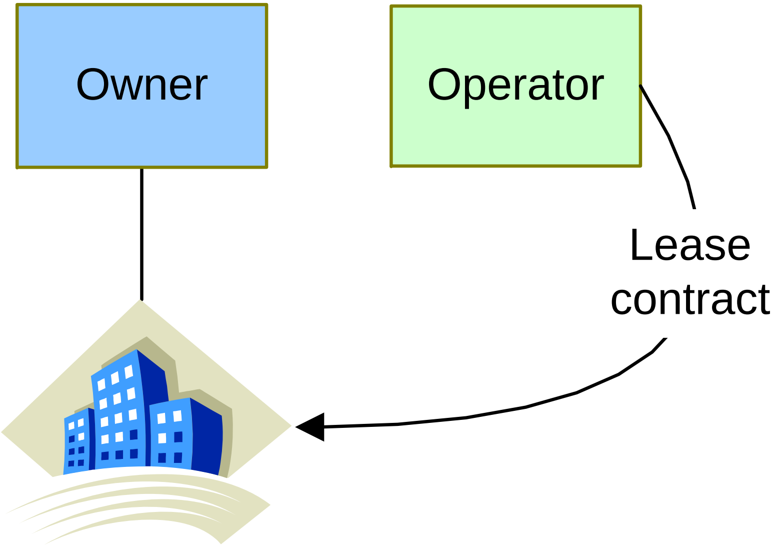
- Impact on value of debt: revalue downwards with corresponding gain?
  - Unrealized gains taxable?
  - Will renegotiating or refinancing debt trigger taxable gain, e.g. if bank agrees to reduce debt to 60 or repayment at 60



- Opportunities:
  - Other strategies (e.g. sale and lease back)
  - Strategies to refinance existing debt (debt, equity, swap, refinancing)
  - Transfer to another group company (e.g. fund dedicated to real estate) to shelter future gain
  - Spin of property into low taxed subsidiary

Note: Similar considerations apply for financial investor

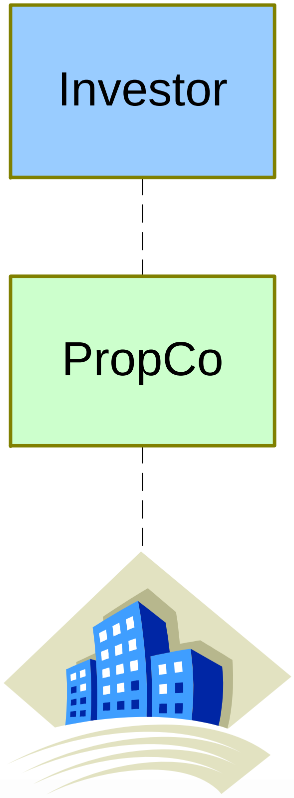
CASE STUDY N° 2: OPERATOR / LESSOR



- Assumptions:
  - An operator negotiates 15 years lease on very favorable terms (€25 per sqm)
  - Expected rent within 5 years: €35 per sqm
  - May also get rent-free periods or fit-out allowances or other incentives paid upfront
- Questions / Discussion:
  - Requirements to record a gain in future on the lease contract
    - Taxation of the unrealized gains
    - Deferral of taxation (roll over relief)
- Transfer pricing considerations
    - Estimation of the gain for tax purposes
    - Documentation requirements
- Opportunities:
  - Transfer of the lease in a tax-efficient SPV that will lease it back to the operator at a rate that is adjustable in future based on market evolution

CASE STUDY N° 3: DISTRESSED DEBT

- Assumptions:
  - An investor acquires a mortgage for 40, the nominal value of which amounts to 100. He exercises its rights under the mortgage contract. Few months later he acquires property worth 50.



- Questions / Discussion:
  - Tax on the acquisition of the debt / mortgage
    - Taxation of the gains or
    - Transfer tax
  - Tax on exercise of mortgage

- Opportunities
  - Refinancing existing debt

CHAIR SPEAKER: KEITH O'DONNELL

Keith O'Donnell

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Keith is the Taxand global real estate tax team leader and leader of Atoz, Taxand's member in Luxembourg. He has been a tax specialist for 20 years during which time he has held senior positions within Ernst & Young and Andersen. As a partner of Ernst & Young he was head of the Real Estate Industry for Continental Western Europe as well as the Tax Leader for the Asset Management team in Europe. Within Andersen he was responsible for the Asset Management practice in Europe.

Keith has advised global groups on the design and implementation of European tax strategies with particular emphasis on Pan-European Real Estate and Private Equity funds. He has been instrumental in shaping legislative change in coordination with industry bodies. He sits on a number of key international bodies including the OECD's collective investment vehicle ICG and the EU Commissions expert group on open-ended real estate funds.

Keith was educated in Brussels and Dublin, is bilingual in French and English and speaks Luxembourgish and Italian. He has a law degree from the National University of Ireland and is qualified as a Chartered Accountant and Tax Adviser.

KEY SPEAKER: VINCE IMERTI

Vince Imerti

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Areas of Expertise

- International Tax
- Corporate Tax
- Reorganisations
- Financings
- Trust and Partnership Matters
- Mergers
- Debt Restructurings
- Derivative Transactions

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Vince Imerti is the key Canadian member of the Taxand global real estate tax team and a partner of Gowling Lafleur Henderson LLP, Taxand in Canada. His primary focus is on Canadian and international corporate, trust and partnership tax matters. He has been involved in the structuring of numerous acquisitions of assets, shares, trust interests, partnership interests and real estate. He has also been involved in a number of mergers, reorganisations, debt restructurings, financings and derivative transactions. Vince has provided tax advice on the establishment of various investment structures for taxable and exempt domestic and international corporations, trusts, partnerships and pension corporations.

Vince was called to the Ontario Bar after having received his commerce degree and his LLB from the University of Ottawa. Vince received his LLM in tax law at Osgoode Hall Law School in 2005. He has written various tax-related articles, with topics including directors' liability, interest deductibility, non-resident trusts, derivative transactions, corporate dissolutions, securities lending, real estate acquisitions and tax exempt pension realty corporations.

Vince is a member of the Canadian Tax Foundation, the Canadian Bar Association, the International Fiscal Association and the International Bar Association. He is also a member of the executive of the North American Forum of the International Bar Association.

KEY SPEAKER: PEDRO SAAVEDRA

Pedro Saavedra

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Pedro is a member of Taxand's global real estate tax team and a member of Garrigues Real Estate Group and Private Equity Group, Taxand in Spain.

His areas of expertise are taxation of real estate and private equity transactions, taxation of restructurings and M&As involving national and multinational companies.

Currently Pedro advises on multinational projects involving both Spanish companies investing in the U.S. and U.S. companies investing in Spain.

Pedro has participated in various seminars and conferences on Spanish tax law, both in Spain and abroad.

Pedro is a Member of the American Bar Association and New York City Bar (in both cases as a foreign lawyer). He has degrees in Law, Economic and Business, Universidad Pontificia Comillas (ICADE – E3).

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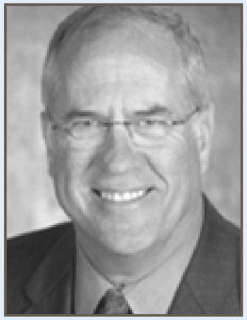
KEY SPEAKER: FRANK WALKER



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Areas of Expertise

- Real Estate Tax
- Public and Private Real Estate Investment Trusts (REITs)
- Mergers & Acquisitions (Public and Private)
- Leveraged Buyouts of Public Companies
- Portfolio Acquisitions and Dispositions
- Initial Public Offerings

Frank Walker is the key US member of Taxand's global real estate tax team and is a Managing Director with Alvarez & Marsal Taxand, LLC, our US member firm.

Prior to joining A&M, Frank spent over 30 years with Arthur Andersen, LLP. At Andersen, he was a member of the firmwide real estate industry executive team, and leader of the real estate, hospitality and construction industry team for the Southeast U.S. region. He subsequently spent over three years with the real estate industry group of Deloitte & Touche, LLP.

Frank is experienced in serving all sectors of the real estate, hospitality and construction industries, specifically hotels, resorts, marinas, golf courses and clubs, retail properties, mixed use developments, residential (multi-family and homebuilders), industrial, office and general contracting.

A graduate of the University of Florida, Frank is a member of the American Institute of Certified Public Accountants, the Georgia Society of Certified Public Accountants, and the Florida Society of Certified Public Accountants. He has been active in a number of real estate industry groups, including the Urban Land Institute, the National Golf Foundation, the National Association of Industrial and Office Properties (NAIOP) and the National Association of Real Estate Investment Trusts (NAREIT).

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KEY SPEAKER: PÄR SUNDBERG

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Areas of Expertise

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Pär Sundberg is a VAT partner of Skeppsbron Skatt, the leading independent firm of tax advisors in Sweden and Taxand's member for Sweden. He has provided advice on Swedish and international VAT for almost 20 years. While his extensive experience is within VAT in most sectors, in recent years Pär has focused on the real estate and financial sectors. His client base consists of large and medium-sized national and international companies. Pär is also often engaged to speak on VAT issues.

Pär worked as a VAT advisor at a Big 4 firm between 1992 and 2003, and was also head of that firm's indirect taxation department in Sweden for a number of years. During his time there, Pär also spent 2 years (1998–1999) in Moscow dealing with inbound investment schemes from an indirect tax perspective in an emerging market.

Pär has a degree in law.

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OTHER MATERIALS INCLUDE:

- WELCOME PRESENTATION INCLUDING THE TAXAND STORY
- SUPPLY CHAIN MANAGEMENT: ACHIEVING TAX EFFICIENCIES PRESENTATION; CASE STUDIES & PANEL Q&A
- GETTING THE DEAL DONE: A GLOBAL GUIDE TO TRANSACTION TAX CONSIDERATIONS PRESENTATION; CASE STUDIES; A TAX DUE DILIGENCE CHECK LIST & MORE ABOUT TAXAND'S GLOBAL TRANSACTION TAX TEAM & SERVICES
- EMERGING GLOBAL TAX ISSUES – A LOOK AHEAD PRESENTATION; GLOBAL DEBT RESTRUCTURING SURVEY
- NEW CONTRACT MANUFACTURING REGULATIONS: A GENTLE BREEZE BLOWING IN THE RIGHT DIRECTION PRESENTATION

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ABOUT TAXAND

Taxand is a global network of leading tax advisors from independent member firms in more than 50 countries. Our tax professionals—more than 300 tax partners and 2,000 tax advisors—grasp both the fine points of tax and the broader strategic implications, helping you mitigate risk, manage your tax burden and drive the performance of your business.

We're passionate about tax. We collaborate and share knowledge, capitalising on our collective expertise to provide you with high quality, tailored advice that helps relieve the pressures associated with making complex tax decisions.

We're also independent—ensuring that you adhere both to best practice and to tax law and that we remain free from time-consuming audit-based conflict checks. This, coupled with the compact structure of our member firms, enables us to deliver practical advice, responsively.