



## Debt Instruments

Since debt is the most common financing method, Chapman and Cutler LLP attorneys are particularly concerned about tax issues associated with various types of these transactions. We understand that tax characterization requires a careful balance of factors. Transactions documented as loans may, under specific circumstances, be characterized for tax purposes as something else, such as the sale of underlying collateral, equity in the borrowing entity or an option to acquire ownership of assets in the future.

**We regularly provide structuring guidance, tax disclosure and opinions and partner with other Chapman counsel to give clients optimum legal counsel.**

Most tax issues are complicated. Their resolution may depend on whether an instrument is characterized as debt for tax purposes. Once an investment has been determined to be debt, we consider issues related to the exempt or non-exempt character of the interest and the timing for accrual of interest or original issue discount.

Additionally, we investigate and resolve the treatment of market discount and bond premium, source and allocation of interest, withholding obligations, qualification under portfolio interest rules and the impact of such interest on other obligations (such as the obligation to pay rent).

### Publications

- Frost, Steven G. and Paul D. Carman: "Federal and State Tax Consequences of Synthetic Leasing--Multiple Benefits, Minimal Risks." *95 Journal of Taxation* 361, December 2001.
- Gnazzo, Melanie J.: "Off-Balance Sheet Financing of Leases and Residual Values: Different Structures for Different Leases--Legal and Accounting Requirements Applied." *The Securitization Conduit* (4-1), 2001.
- Gnazzo, Melanie J.: *Legal and Tax Issues in Lease Securitizations*. Amembal and Halladay, 1993.

### Attorneys

Paul D. Carman  
David J. Cholst  
Brent L. Feller  
Colleen A. Kushner

### Related Practices

Asset Securitization (Tax)  
Certified Capital Company Finance (CAPCOs)  
Common Trust Funds  
Corporate Finance (Tax)  
Credit Tenant Loan Finance  
Cross-Border Institutional Private Placements  
Derivatives Transactions  
GIC Providers  
Governmental Institutions and Agencies  
International Transactions  
Investment Trusts and RICs  
Leveraged Leasing (Cross-Border and Domestic)  
Limited Liability Companies  
Mergers and Acquisitions  
Mortgage-Backed Securities  
Municipal Bond Tax Controversy  
Not-for-Profit and 501(c)(3) Organizations  
Offshore Funds

## Representative Transactions

- The Tax Department assists in planning refinancings to address the recognition (or non-recognition) of gain and creation of original issue discount.
- We also undertake planning with respect to withholding on cross-border loans.
- We give structuring and tax advice on tax-exempt obligation securitizations intended to create investor securities that evidence tax ownership of the tax-exempt obligations and not debt secured by such obligations.
- The firm provides structuring and tax advice on various financings of a pool of interest-only securities intended to qualify as either debt or a notional principal contract for tax purposes.
- We are very familiar with the application of high yield discount obligation rules to debt private placements.
- Our practice attorneys structure loans to partnerships and LLCs in situations where debt is issued with warrants or equity interests in the borrower.
- Our department regularly provides in-depth structuring and tax advice to clients involved with numerous synthetic lease transactions.

Partnerships

Public/Municipal Finance

Real Estate Investment Trusts (REITs)

Real Estate Mortgage Investment Conduits (REMICs)

Special Tax Counsel

State/Local Tax Issues

Synthetic Lease Finance

Tax Lobbying

Taxation