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# **Tax Insurance: Increasing Certainty**

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# Polling Question 1

Have you used tax insurance?



Tax Insurance **protects** you in the event that a tax position fails to qualify for its intended tax treatment.



**Tax Insurance** is designed to make the insured whole in the event of a successful challenge by a Taxing Authority by transferring risk of loss to an A-rated insurer. Similar in effect to a private letter ruling, tax insurance brings certainty regarding the treatment of U.S. federal, state, local, and foreign tax positions.

**Alliant** is the preferred tax insurance advisor for many of the world's leading firms, sponsors, and Fortune 500 companies. Our market-leading team of tax lawyer-brokers have placed more than \$30 billion of coverage (70%+ of the market). Alliant's tax experts offer a broader scope of services and deeper understanding of key tax issues.

Tax Insurance provides financial cover for:

- Losses (including interest and penalties) arising from a tax assessment, including state, local, federal, and foreign.
- Defense Costs arising from legal and professional advisors' fees in response to a challenge, and
- Gross-Up for tax due on insurance proceeds.



# Polling Question 2

Can Tax Insurance be used to insure matters in controversy?



## Inside M&A Transactions

- Replaces the need for specific indemnity or escrow and avoids price chipping;
- Streamlines negotiation by replacing an unknown or uncertain tax liability with an inexpensive one-time premium; and,
- Can reduce or eliminate risk related to historic tax positions taken as well as tax issues arising from the transaction itself.

## Outside M&A Transactions

- Removes uncertainty from tax planning and internal transactions that are part of the company's ongoing operations;
- May replace the need for a private letter ruling, or insures the outcome of an ongoing tax controversy matter; and
- Can insure unknown risk associated with a corporation or partnership's income tax return.



# EXAMPLES OF INSURABLE RISKS

## Qualification & Exemptions

REIT, S-Corp, ECI, USTB, Treaty Qualification, USRPHC, PFIC, Substance, Withholding Tax, FIRPTA, 338(h)(10), Indirect Transfer Tax, LTCG

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## Deductions

Debt / Equity, Worthless Stock Deduction, NOL Availability / 382 / 384 Limitations, Ordinary deduction versus Capital loss

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## Credits

ITC, PTC, LIHTC, 45Q, FTC, State Tax Credits

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## Reorganization and Deferral

Acquisitive / Divisive Reorganizations (Spin-Off, Split-Off & Split-ups) Like-kind exchanges (1031), Deferred Compensation, 409A

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## State and Local

Controversy, Gross Receipts, Nexus, Property Tax Abatements, Residency, State Apportionment

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## Valuation

Valuation & Cost Segregation, 311(b) gain, NOL Carryforward / GILTI / Subpart F Inclusions, 83(b) Elections, Qualified Basis for Tax Credit



## Policy Limit

(Equal to the estimated tax liability)

**\$20,000,000**

## Deductible

(Generally applicable only to defense costs)

**~\$50,000**

## Premium

(% of Policy Limit)

*Low-Risk*

*High-Risk*

**1.75  
%**

**5.0%  
+**

## Total Cost

(Exc. Taxes + Fees)

*Low-Risk*

*High-Risk*

**\$350,000**

**\$1,000,000  
+**





Efficiently allocate the economic risk of a tax loss



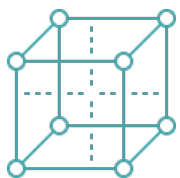
Avoid or reverse the financial statements impact of FIN 48 reserves



Address the small probability of significant loss



Extend or add to the survival of the seller's escrow and indemnity for a buyer's benefit



Achieve certainty absent a private letter ruling from the IRS



Mitigate counterparty credit risk in tax indemnity agreements



Unlock trapped cash by replacing or reducing escrows or holdbacks



Obtain approval needed to pass investment committee



# Process | Obtaining a Policy

**1.** Initial Consultation with Alliant's Tax specialists.

**3.** Alliant receives indicative terms from insurers and provides the client with a comprehensive report, including a recommended insurer.

**5.** The insurer reviews all information made available to it as part of the underwriting process.

**7.** The fully negotiated and final policy is issued.



**2.** Alliant analyzes information and markets the risk to all potential insurers.

**4.** The client selects an insurer and executes an agreement to incur underwriting costs.

**6.** Alliant, the insurer and client negotiate the policy wording and coverage position.

## Timeline | 2-4 Weeks



**Questions?**



# Speakers:



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