Tax indemnity insurance.

M&A... Navigating the tax issues

MARKEL

Markel Tax indemnity insurance is a specialist product designed to indemnify your client against any potential tax liability that may be identified by due diligence in the event of a business sale or restructure.

The opportunity: Our tax indemnity insurance provides protection during the merger and acquisition process.

The product has been developed to assist parties during the merger and acquisition process or a company restructure, where agreement cannot be agreed on the allocation of risks. When this situation arises it will complicate the deal, often lengthen negotiations and even cause the deal to fall through.

Situations where tax indemnity insurance can prove to be invaluable:

- Potential liability issues identified during an acquisition or disposal where the acquirer is concerned about the historic tax position
- To protect a group's tax position after reorganisation
- Intra group transfer or reorganisations and the resulting CGT liabilities
- Payroll tax issues resulting from equity participation by management in an MBO
- Where parties are unable to obtain tax authority clearance due to timing or confidentiality issues

Our experienced and dedicated team will provide a seamless service throughout the process of reviewing each case, underwriting, due diligence and placing the risk with our parent company Markel International.

We want your client to have peace of mind throughout their sale or restructure.

We have handled numerous confidential and sensitive enquiries relating to this specialist insurance and, dependent on the circumstances, cover can sometimes be placed even after the transaction has completed.

What is the process?
We insure the 'tax risk' (the amount of additional tax that could become due in the event of an adverse ruling by the tax authorities) and premiums are usually based on a percentage of the 'tax risk' involved.

As each transaction is unique, premiums are determined case by case on specific risk factors including:

- The nature of the transaction giving rise to the potential tax issue
- The taxpayer's particular circumstances, representations made and insurance limit required
- Relative strength of, and legal basis for, the tax position taken

CASE STUDY

Extended limitation period

One of the larger shareholders of a target company in a proposed sale was a private investment fund. While the fund was willing to provide a tax indemnity in the form of a tax deed for any exposure that was identified during the first 12 months after the transaction closed, the buyer required an indemnity for seven years in respect of all pre tax liabilities.

A seven year tax indemnity policy was put in place which enabled the private investment fund to continue with the transaction; otherwise the company might have had to have been liquidated after the initial 12 month post transaction period.

If you have a client that you believe may benefit from tax indemnity insurance, simply call us on 0345 223 2727 for an informal discussion. We will be happy to assist you.

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