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Book Review: M&A Tome Answers Many Questions

by Robert W. Wood • San Francisco

Although we at *The M&A Tax Report* don't frequently review books, occasionally a book comes along that cries out for notice. Such a book is *The Art of M&A: A Merger/Acquisition/Buyout Guide* (2d Edition 1995), by Stanley Foster Reed and Alexandra Reed Lajoux. I will admit to being somewhat biased, because I remember this book in

Continued on Page 7

BOOK REVIEW

Continued from Page 6

its first edition (in fact, still have a copy). The first edition was published in 1989, and was by Stanley Foster Reed and Lane and Edson, the now defunct law firm. The second edition is updated, but to my mind has the same basic benefits of the first edition.

Tax professionals should certainly not think this is a book devoted to their own peculiar tendencies. In fact, it virtually covers the waterfront of M&A topics, addressing such fundamentals as:

- planning and finding an appropriate acquisition;
- valuation and pricing issues; financings and refinancings;
- tax and accounting considerations; due diligence procedures;
- pension, labor and compensation issues;
- how to negotiate letters of intent and acquisition agreements;
- the closing process; special issues where public companies are involved;
- workouts, bankruptcies, liquidations and more.

The sheer bulk of the book is impressive. It fills 849 pages, and is thus not meant to be slipped into an executive's ultra-thin attache. Its sheer scope is a strength, as is its down-to-earth style.

Wide Audience

Although the book might appear on its face to be a bit daunting to the mom and pop business selling out, the style is such that the book would find a ready audience with lawyers, investment bankers, business people and investors. Indeed, persons with special experience in one particular area (tax, for example) might not find important revelations in the discussion of that topic in the book, but they would doubtless find many other topics addressed that they had only dimly understood (or had never even thought about) in many of the other chapters.

What I find to be the most helpful feature of the book, though, is its question and answer format. Perhaps I have read too many Treasury Department regulatory releases in Q&A format, but I've always thought this to be an effective and, from my own myopic perspective, even entertaining manner of communicating information. Much of *The Art of*

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M&A is prepared in this question and answer format. The questions are printed in boldface and the answers range from several sentences to many paragraphs. Between the chapter organization and the index, one is readily led into areas of concern, with the Q&A format raising issues and suggesting answers. Since at least some of the topics might be seen by non-M&A aficionados as dry, I find the format makes for interesting and insightful reading.

The book answers questions such as:

- What antitrust considerations should acquisition planners consider?
- What are some of the emerging legal issues to be concerned about in a due diligence investigation—ones that a buyer might never think of but that could hurt the company later?
- What sorts of federal restrictions apply to foreign ownership of U.S. businesses?
- What problems are posed by an acquisition requiring the division of a defined contribution plan?
- How much time does a buyer have to complete the accounting under the purchase method?
- What is the bulk sales law and what effect does it have on asset transactions?
- Are subordination provisions generally the same for all junior loans?
- What bank expenses are borrowers generally required to pay?
- Under Rule 10b-5, must a tippee have a fiduciary relationship with the tipper?

Continued on Page 8



BOOK REVIEW

Continued from Page 7

- What are topping and bust-up fees?
- How does FASB Accounting Statement No. 109 treat net operating losses?
- When do senior lenders prefer lending to a holding company rather than an operating company, and how does this work?
- Should a manager in a management buyout enter into an employment agreement?
- What is the effect of ESOP ownership on voting control by management?
- What is a National Starch transaction?

Lest anyone accuse the authors of “talking baby talk” to business people, there are plenty of diagrams for transactions, and even form acquisition agreements that should make this book of value to professionals.

The Art of M&A: A Merger/Acquisition/Buyout Guide is available from Irwin Professional Publishing (800-634-3966) for a price of \$125. ■

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