



TRANSACTION LIABILITY

TAX INSURANCE FOR INVERSION TRANSACTIONS IN INDIA



Inversion transactions—where a foreign corporation acquires a U.S. company and relocates its tax domicile—are subject to a complex statutory and regulatory scheme under Internal Revenue Code §7874.

These rules can trigger significant tax liabilities if certain thresholds are met. We work with you to craft bespoke tax insurance solutions that provide protection against these risks, enabling deal certainty and financial security.

Risks that could trigger reclassification covered by tax insurance

- Status of acquirer as surrogate foreign corporation
- Substantial business activities test
- Ownership threshold calculations, including treatment of disqualified or disregarded stock and application of look through rules
- Status of assets as qualified property
- Aggregation of transactions
- Non-ordinary course distributions
- Anti-avoidance rules
- Loss of control rules
- Recharacterization of predecessor entity relationships
- Partnership interests and the implications of partnerships in the legal entity structure

RESULTING TAX LIABILITY: INVERSION GAIN EXPOSURE

WHAT IS TAX INSURANCE?

Tax insurance transfers the risk of a known potential tax liability from a company's balance sheet to an insurance company.

Benefits of tax insurance

TAX INSURANCE OFFERS A FINANCIAL GUARANTEE for a position where there is at least a “more likely than not” level of comfort.

TAX INSURANCE CAN BE USED TO REPLACE or backstop an indemnity in transaction agreements for a specific tax risk.

TAX INSURANCE MAY BE AVAILABLE without a formal tax opinion.

TAX INSURANCE MAY BE A MEANS TO MITIGATE the financial statement impact of a FIN 48 (ASC 740-10) reserve.

LOCKTON TRANSACTION LIABILITY

Lockton's Transaction Liability team stands ready to support your tax insurance needs by delivering specialized expertise, responsive service, and collaborative risk solutions.

With a deep understanding of transaction dynamics and tax-related exposures, our team partners seamlessly with tax insurers to streamline deal execution, and support successful closings.

Tax insurance has become more cost efficient, and capacity has broadened to cover a more diverse range of potential tax exposures.

The tax insurance market:

- Is made up of 25+ A-rated insurers
- Has capacity for \$1B+ coverage limits available per transaction in certain jurisdictions

Contact the Lockton team for more information today.



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