

Tax Due Dilligence: **Important...not just for Tax Geeks!**

Tax due diligence is the examination of the tax affairs of the target company. It involves gaining a thorough understanding of the target company's tax position, showing its tax obligations (and assets) and areas of risk.

Why do corporate lawyers care? Surely this is only for the tax bods to worry about?

Wrong! Tax DD is one of the investigating deal processes that most directly impacts the commercials of a deal. Tax risks = real cash, and so any corporate deal makers worth their salt need to keep an eye on what is coming out of the tax woodwork, so they can shape the commercial deal accordingly.

Tax due diligence can affect the scope of the warranties and more specifically, those that are aimed at obtaining more information about specific areas of concern.

It is crucial that corporate lawyers have insight and a feel for these tax risks, so they can structure the deal appropriately. Failure to have close integration between tax lawyer analysis and corporate team leaders can severely reduce the commercial success of a deal structure. For example, it may be necessary, in the face of an identified material tax risk, to defer payment of part of the consideration, or even reduce the purchase price.

Given the importance of the tax due diligence, it is strongly advised that tax advice is taken both in respect of the due diligence process and analysing the due diligence report as it can have significant consequences for the transaction.