



Legal Services

Tax Consultancy

Auditing Services



Corporate Law / Transactions

The legal structure of a business enterprise depends on a variety of external and internal factors. The corporate/partnership considerations focus in particular on such issues as tax optimisation, aspects of financing and liability. These considerations – along with the impact of internal and external growth, increasing internationalisation as well as the rapid development of market conditions – require constant review. Esche Schümann Commichau provides corresponding professional services so as to enable its clients to effectively utilise the existing scope for structuring and development.

As a multidisciplinary firm we offer comprehensive legal, tax-related and financial advice. You will benefit from our long standing experience in all corporate/partnership questions and from our broadly diversified range of clients. We advise and represent international listed groups of enterprises as well as midcap and family businesses, financial investors, banks and associations.

Our team includes specialists in such diverse fields of law as employment and labour, anti-trust, IP, real estate or public procurement. We also cooperate closely with legal departments and other staff of our clients. By virtue of our multidisciplinary structure we integrate expertise in tax-matters as well as business-consultancy.

Thus, we ensure full service advice for businesses and/or its shareholders/partners.

We develop bespoke financial, tax as well as corporate concepts and strategies, assist in their implementation and coordinate every step of our client projects. In particular, we act for our clients in business acquisitions and sales including private equity transactions and buy-outs, capital measures and IPOs, succession arrangements and restructurings, joint ventures and privatisations.

We have an extensive established experience in structuring and leading multijurisdictional and crossborder transactions. We draw support from a well established network of best friend firms which we are able to select on a case by case basis in accordance with our clients' needs. We are happy to be of assistance with regard to seminars and practice workshops relating to general or newsworthy subjects.

Contact partner

Dr. Georg Faerber
Rechtsanwalt

Dr. Klaus Kamlah LL.M.
Rechtsanwalt

Dr. Hans Mewes
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Rechtsanwalt

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Scope of ESC Services

1. Structuring of a Business

- Determination of the economic objectives of the business and development of concepts for structuring the business with respect to legal and tax-related aspects, in particular with regard to state of domicile, choice of legal type and group structure, form and scope of the participation of the owners and future investors.
- Legal implementation of the selected structure, including formation of the company/partnership, transformations, mergers, spin-offs, drop-downs and split-ups.
- Drafting of articles and memoranda of association as well as partnership agreements. Preparation of shareholders' agreements (vote-pooling agreements etc.), rules of procedure, service agreements with managing directors, conducting formation audits.
- Structuring of groups, intra-enterprise agreements (domination and profit and loss absorption agreements, business leasing agreements, business management agreements and agreements for the use and operation of businesses) as well as termination thereof; intra-group cash-pooling and service agreements, management companies.

2. Capital Measures

- Preparation and conducting of capital increases and other capital measures, e.g. the issuance of (convertible) bonds, jouissance shares and share buy-backs.
- Coordination of calling on the execution of pre-emption rights and of issuing shares excluding pre-emption rights. Conducting placement of shares in connection with and for syndicate leader banks.
- Preparation and negotiation of participation agreements with or for (financial) investors.
- Share buy-backs.
- Capital reorganisation such as capital decreases (with subsequent capital increases).

3. Mergers & Acquisitions / Private Equity / MBO-LBO / Joint Ventures

- Tax structuring of the transaction and selecting the type of participation.
- Solving existing legal problems, e.g. in the areas of company/partnership law, antitrust law, labour law, capital markets regulations (including take-over law) or in the area of intellectual property.
- Preparation and negotiation of preliminary documents (e.g. engagement letters, letters of intent, confidentiality and exclusivity agreements).



- Preparing and conducting of due diligence reviews as well as evaluation of enterprises for sellers and buyers.
- Preparation of contract drafts (e.g. acquisition, participation and syndication agreements) taking into consideration the results of the due diligence reviews, devising purchase price mechanisms, target-orientated contract negotiations.
- Consummation of agreements (closing / completion), post-contractual advice and integration, asserting and enforcing claims for breach of representations and warranties and other contractual claims, as well as taking defensive measures against such claims.

4. Privatisations / Public Private Partnerships

- Advice with regard to bidders in privatisation proceedings and in the course of contractual negotiations.
- Legal and tax advice for public authorities with regard to the determination of optimised privatisation and transaction structures (including specific advice with respect to public procurement law, budgetary law, etc.).

- Implementation of transaction structures of sale processes with or without formal public procurement procedures.
- Preparation and negotiation of any necessary corporate/partnership or other agreements.

5. Shareholders' Meetings / Conflicts between Shareholders

- Preparation of and advice on shareholders' meetings.
- Advice on negotiations with dissenting shareholders, conducting of mediation and court proceedings, if required.
- Legal advice on conflicts between shareholders, development and implementation of negotiation strategies, conducting of settlement negotiations, representation in court in case of litigation between shareholders, if required.

6. Initial Public Offerings / Listed Companies

- Preparation and conducting of IPOs, tax-optimised structuring of transforming the business into a public company and placement of shares, structuring of public companies by virtue of formation, contribution or transformation, preparation of articles and memoranda of association for publicly listed companies, advice on post-formation acquisitions.
- Drafting of engagement letters and share issuance agreements.
- Preparing and conducting of due diligence reviews.
- Preparation of shareholders' agreements and pooling agreements.
- Preparation of stock option models and other employees' participation models.
- Representation vis-à-vis the admission authorities of the stock exchange in question or the regulator, the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin).
- Advice on the preparation of stock exchange admission prospectuses and sale prospectuses.
- Preparation of and advice on shareholders' meetings.
- Advice regarding squeeze-out procedures and delistings.
- Representation in special proceedings regarding shareholder compensation claims (Spruchstellenverfahren).
- Advice for bidders or issuers regarding structure and proceedings according to the German Securities Acquisition and Take-Over Act (WpÜG) regarding mandatory, acquisition, or take-over offers or the avoidance thereof.

7. Capital Markets Law

- Legal advice and representation with regard to businesses in connection with questions of capital markets law, in particular in the area of the law on trading in securities (insider trading, ad-hoc publicity, director's dealings, announcement of voting rights).
- Representation of clients vis-à-vis the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) with regard to questions of market- or solvency-supervision as well as in connection with sanction measures and fee notices of the BaFin.
- Preparation of formation of companies/partnerships including licensing processes regarding banks, securities trading banks and financial services institutions according to the German Credit Services Act as well as advice on other questions of bank supervision and with regard to announcements to be made by such institutions.
- Advice regarding the development and extension of capital market compliance structures, e.g. compliance with minimum standards for securities transactions and the keeping of insider registers.

8. Corporate Governance

- Advice to managing directors and members of the supervisory board regarding compliance with statutory law and articles and memoranda of association/partnership agreements, e.g. in cases of conflicts of interests and confidentiality obligations, questions of liability and insurance.
- Advice in connection with the Corporate Governance Code, in particular with respect to documentation requirements.



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