SCHULTE ROTH + ZABEL

PEOPLE

Dan A. Kusnetz

Of Counsel

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Represents pro-bono clients, including nonprofit and tax-exempt organizations, with most focused on social justice and equity-based issues.

Dan, formerly a partner of the firm, retired from his tax practice and now serves as pro-bono counsel to nonprofit entities—advising on all aspects of their life cycles from formation, achieving tax-exempt status, dissolution, mergers and commercial transactions.

Currently, active clients include, among numerous others, Girls Who Code, Habitat for Humanity, Foundation Rwanda, Partners in Health, Justice for Greenwood, the Urban Justice Center, Marshall Plan for Moms and Guernica.

Before retiring from his tax practice, Dan focused on the tax aspects of complex transactions, including mergers and acquisitions, private equity,

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bankruptcy, workouts, corporate restructuring and distressed asset investing, structured finance and real estate.

Some of his more significant engagements and transactions, throughout a professional career spanning 40 years, include his representation of:

- Cerberus Capital Management in the acquisition of a controlling interest in Chrysler (and, later, the sale of Chrysler and its debtor subsidiaries' assets in their Chapter 11 reorganization and sale of Chrysler Financial to TD Bank)
- A group of senior secured lenders in their acquisition and recapitalization of the assets of Westmoreland Resource Partners LP
- An institutional real estate investor in a $3-billion leveraged recapitalization of a real estate joint venture
- Several major financial institutions in respect of the acquisition of over $2.5 billion of life settlement assets and several fund sponsors and other investment vehicles in the formation of litigation finance funds

Dan has been recognized as a leading tax lawyer by *The Best Lawyers in America* and *The Legal 500 US*.

THE BEST PART OF MY JOB IS

"For the past 40+ years my pro-bono practice was always the best part of my job. Now, in retirement, practicing exclusively in the pro-bono sphere, I am constantly excited by the opportunity to help my clients to achieve their charitable missions. My clients are all making this world a better place and getting the opportunity to work with them and leverage their efforts is both personally and professionally gratifying."

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Practices

MERGERS AND ACQUISITIONS

NONPROFIT

PRIVATE EQUITY

STRUCTURED FINANCE

TAX

Bar Admissions

New York

Education

New York University School of Law, LL.M., Taxation

Tulane University Law School, J.D.,
magna cum laude

- Managing Editor, *Tulane Law Review*
- Order of the Coif

Tulane University, B.A.,
cum laude

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Representations

Private Equity

- Representation of Orchard Brands Corporation in its $410-million acquisition by Bluestem Group Inc.
- Representation of Cerberus Capital Management LP in the acquisition of a controlling interest in Chrysler LLC.
- Representation of an institutional real estate investor in the $3-billion leveraged recapitalization of a real estate joint venture.
- Representation of a major investment bank in connection with the formation of Argentine and Brazilian real estate private equity funds.
- Tax counsel to a major European bank in the acquisitions of controlling interests in fund-of-funds (hedge and private equity) managers with over $4 billion of assets under management.
- Advisor to France's largest publisher in the acquisition of a leading U.S.-based publishing company.
- Tax counsel to public company in connection with $3.65 billion worth of acquisitions, and related financing, of directory-publishing businesses.
- Tax advisor to private investment funds on activist investing strategies and execution.
- Formation of numerous hedge funds and private investment funds.
- Representation of private equity investment funds in connection with private equity acquisitions, dispositions, the formation of investment vehicles, subsequent-round investment financings and general tax planning.

Bankruptcy and Distressed Investing

- Representation of senior secured lenders in acquisition and recapitalization of Lenox Inc., a Chapter 11 debtor.

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- Tax counsel to Lionel LLC in successful Chapter 11 reorganization.
- Prior representations: Served as tax counsel to debtors and creditors committees in numerous Chapter 11 cases over the past 20 years including: TWA, Drexel Burnham Lambert, Phar-Mor Drugstores, Resorts International, Bibb Companies; NY Daily News; Seaman's – Levitz Furniture; Ranger Industries & Mayflower Group.

Publications

- "Tax Update: IRS and New York State Delay April 15 Income Tax Return Filing and Tax Payment (Uncapped) Deadlines Until July 15 (COVID-19)," *Schulte Alert*, April 3, 2020
- "IRS Discussing Tax Reporting Rules on Transactions With Trade Groups," *The Deal,* Feb, 28. 2018
- Tax Review Papers and Presentations
- "Private Equity Guide 2017 — USA"
- "PATH Act: Recently Enacted Legislation Modifies the FIRPTA and REIT Rules"
- "Maintaining Apartment for Parents Drags Out-of-State Resident Into New York Income Tax"
- "Gazing in the Crystal Ball: The State of Corporate Tax Reform in the United States"
- "Ethical Considerations in Transaction Timing: Backdating, Rescission and Amendment of Operative Agreements"
- "Loss of Control: The Clash of Codes in the Battle Over a Debtor's Net Operating Losses"
- "The Economic Substance Doctrine"
- "Income Accruals on Defaulted and Distressed Debt Instruments"
- "The S Corporation Workout: Tax Issues Facing Financially Distressed S Corporations"

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Speaking Engagements

- "A Practical Guide to Tax Reporting," ILMA Roundtable 2019, New York, December 2019
- "Fund, Tax, Regulatory and Litigation Issues in Shareholder Activism," Schulte 10th Annual Shareholder Activism Conference, New York, October 2019
- Frequent speaker at TEI and other tax seminars throughout the country
- Schulte Luncheon for Investment Manager Tax Professionals, December 2018
- "New Tax Reporting Requirements for Life Settlements: What Investors and Other Market Participants Should Expect," ILMA 10th Annual Investor Summit, New York, April 2018
- "CLOs, Warehouse Facilities and Risk Retention Vehicles," Schulte 27th Annual Private Investment Funds Seminar, New York, January 2018
- Schulte Luncheon for Investment Manager Tax Professionals, May 2016
- The Legal Aid Society 2016 CLE Pro Bono Training Series: Advising Micro-Entrepreneurs, February 2016
- "Real Estate Funds and Ventures," Schulte 23rd Annual Private Investment Funds Seminar, January 2014
- "International Issues for Hedge Funds and Mutual Funds," IFA 2013 USA Branch Annual Conference, February 2013
- "Real Estate Funds: Terms and Trends," Schulte 21st Annual Private Investment Funds Seminar, January 2012
- "How do the Latest US Tax Proposals Affect You and Your Corporate Clients?," ABA International Section Spring Conference, April 2010

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- "Distressed Investing: Deal Structuring," Schulte 19th Annual Private Investment Funds Seminar, January 2010
- "Out-of-Court Restructurings," Schulte Distressed Investing Seminar, June 2009
- "Inside the Bankruptcy Process," Schulte Distressed Investing Seminar, June 2009
- "Activist Investing Strategies," Schulte 17th Annual Private Investment Funds Seminar, January 2008
- "Activist Investing," Schulte Hedge Fund Compliance Investment Management Hot Topics Seminar, October 2006

Memberships

- American Bar Association
- New York State Bar Association
- New York City Bar Association
- Tax Review
- Foundation Rwanda — Director
- UrbanGlass — Director & Assistant Secretary

Distinctions

- *The Best Lawyers in America*
- *The Legal 500 US*
- *New York Super Lawyers*
- New York State Bar Association Empire State Counsel Honoree, 2013

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Prior Experience

- Partner, Jones Day, 1991-2006
- Associate, Jones Day, 1986-1990
- Associate, Dewey Ballantine, 1982-1986

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