



TAX CREDIT TRANSFER TALK WITH TAX LAW EXPERT: CHRISTINE LANE

with Lockton host, John Rayis



JOHN RAYIS

Good morning. We're here today with my friend Christine Lane, chair of the Tax Group at Crowell & Moring. Christine is widely known as a healthcare M&A tax lawyer and a specialist in the tax credit energy field.

Just a bit of background on Christine: as partner and chair of the Tax Group at Crowell, she brings a strategic, practical, and straightforward approach to complex transactional tax matters, including domestic and cross-border M&A, joint ventures, restructurings, and reorganizations. She routinely represents Fortune 50 and 100 clients, as well as emerging companies, private equity funds, and family offices. She's also a former IRS Office of Chief Counsel attorney and spent time at PwC —her diverse background brings a unique perspective and skillset to solving tax problems.

Christine, thank you so much for joining us today..

Thank you for having me - a pleasure to be here.

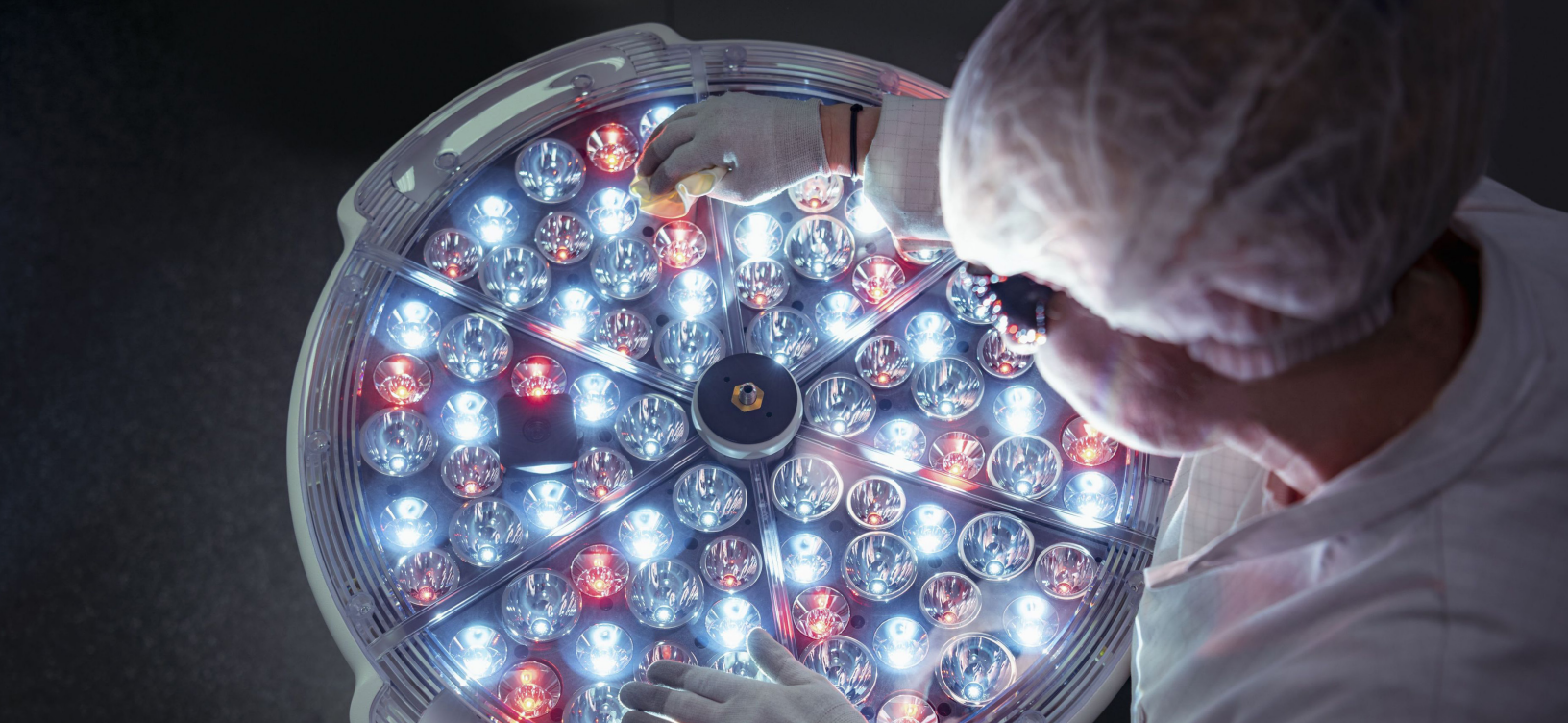


CHRISTINE LANE



JOHN RAYIS

Christine, how did you become a healthcare M&A tax expert?



When I was a tax lawyer at the IRS, I was in the national office in the Financial Institutions and Products Division, focusing on insurance. That included a lot of policy work, some of it touching on healthcare. That kind of whet my appetite for healthcare-related structures.

Later, I had the good fortune to work with a long-standing client — a medical device and healthcare company — that gave me deep exposure to these transactions. That led me to focus not just on for-profit entities but also on a significant number of nonprofit healthcare clients. It's grown into a major part of my M&A tax practice.



CHRISTINE LANE



JOHN RAYIS

That's brilliant. What surprised me most is that you're not only an expert on healthcare M&A tax, but you've also developed deep experience with energy tax credits. How did that happen?

It was a little unexpected. One of my healthcare clients called and asked, “Hey, do you know anything about buying energy tax credits under the IRA?”

I said, “I’ve followed the news and understand the basics. I’ve advised on tax equity investments before, but not so much on buying and selling renewable energy tax credits.”

They brought me in on a deal, and from there, we saw a surge in interest from other clients. A lot of healthcare organizations — especially larger systems — have cash on hand and are looking to lower their federal corporate tax liabilities. Purchasing energy tax credits at a discount turned out to be a great opportunity.

We’ve also seen interest from nonprofits, like hospitals, which are looking at how to benefit from direct pay rules. They’re working with developers to install solar panels and other renewable energy systems on-site, and then take advantage of the current tax credit regime.

That led us to work with teams, like Lockton, to help structure tax insurance protections around credit eligibility — which isn’t so different from RWI policies in traditional M&A market, but very tailored to the tax credit space. It’s opened up a whole new market for us.



CHRISTINE LANE



JOHN RAYIS

That makes sense. Tax credits now represent nearly 40% of the tax insurance market. It’s incredible how quickly that’s grown. Companies are realizing their tax departments can become profit centers by acquiring tax credits at a discount.

So what do your clients look for when evaluating tax insurance policies?

When we're on the buy side, clients want the most fulsome coverage possible. They're looking for confirmation that the underlying tax credit qualifies — for example, whether it meets the 5x multiplier, whether the beginning of construction has been properly documented, and whether all eligibility criteria are met.

One major topic recently has been bifurcation — meaning, can the buyer still be covered even if the seller was a bad actor or made a misstatement? Historically, coverage extended in those cases, but we're seeing insurers move away from that. That's been a pain point for clients.

On the sell side, it's similar — trying to protect against post-closing exposure. Especially in the mid-market, we're also seeing concern around credit risk, so we're often looking at both tax insurance and parent guarantees as part of the deal structure.



CHRISTINE LANE



JOHN RAYIS

Right — earlier on, we'd often see a mix of seller indemnities and insurance, but recently it's more tax insurance-only. Still, these are very bespoke deals. The market is evolving rapidly.

Have you seen other situations where tax insurance has been useful?

Absolutely. One example is commercial contracting. We've secured policies in deals where we represent either the developer or the buyer, and the taxpayer is relying on contractual rights to claim the tax credit.

It's been fascinating to see insurers willing to wrap those commercial terms — especially because that wasn't a common use case initially. It really shows how creative the tax insurance market has become.



CHRISTINE LANE



JOHN RAYIS

That tracks with what we've seen — especially in healthcare-related deals involving JV structures, partnership allocation questions, S corp issues, and even spin-offs. These are increasingly becoming tax-insurable risks.

Christine, you recently wrote a fantastic article: *Affiliation of Medical Professional Corporations with Consolidated Groups of Corporations: Federal Tax Considerations* [1].

Can you give us a quick overview of your article?

Absolutely. A big part of my practice grew organically from working with a client nearly 15 years ago who began acquiring small physician groups. That led me into the world of corporate practice of medicine (CPOM) rules, which vary by state.

The basic idea is that only licensed professionals — like doctors — can own and control a medical practice. The goal is to ensure medical decisions remain with professionals, not corporations. But with the wave of retiring physicians, private investment, particularly private equity investment, has surged.

So you see these structures where, legally, the doctor owns the practice under state law, but economically, a private company is backing the business and consolidating for federal tax purposes.

We wrote the article because there was no comprehensive resource tying together the tax, legal, and regulatory angles. The IRS has offered some guidance, but it's scattered. Our goal was to bring clarity to a very nuanced issue.



CHRISTINE LANE



JOHN RAYIS

That clarity really stood out in your piece. Let's zoom out: some are calling what's happening in healthcare M&A a revolution. Do you agree?

Yes, I do. This used to be a space dominated by a few big U.S. healthcare providers and insurers. But in the past five years, interest has exploded — and not just in the U.S. We're seeing a lot of international investors entering the space by acquiring physician practices.

It's a private equity-style strategy: build a platform, bolt on more practices, and centralize management. Add to that a wave of physicians nearing retirement, and it's created a perfect environment for deal activity.

We're also seeing non-U.S. corporates set up U.S. entities, then roll up multiple practices under one holding structure. These deals are happening fast — but the tax rules, particularly around beneficial ownership, haven't kept pace. There are only a few IRS private letter rulings, and they're so narrowly drafted that people focus too much on contract language, instead of substance.

That's why we wrote the article — to refocus the discussion on economic reality, which is what really drives federal tax treatment.



CHRISTINE LANE



JOHN RAYIS

What's motivating international investors specifically?

It's about access to a high-growth, highly commercialized market. Many foreign healthcare systems don't operate like ours. U.S. healthcare offers scale, fragmentation, and opportunity — and yes, a lot of capital flows through it.

For many of our non-U.S. clients, this is a new frontier. They've tapped out opportunities in other sectors or regions, and this space offers them a strategic entry point into the U.S. market.



CHRISTINE LANE



JOHN RAYIS

And when those investors come to the U.S., what kinds of tax issues are they most concerned about?

All the usual cross-border concerns: transfer pricing, debt/equity classification, and avoiding permanent establishment.

Many non-U.S. clients don't want to file U.S. tax returns or trigger branch profits tax, so we help them set up U.S. blocker entities. Especially when they're rolling up practices across specialties — say ophthalmology and plastic surgery — you need platform structures that make sense from both a tax and legal perspective.

These deals require careful coordination of federal tax rules and state CPOM requirements. That's where it gets complex.



CHRISTINE LANE





JOHN RAYIS

Christine, I already thought you were an expert after reading your article — but after this conversation, I can confirm it. Thank you for sharing your time and insight today. It's been a real pleasure.

Likewise, John. Thank you so much — and thank you to your team as well.



CHRISTINE LANE

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[1] Affiliation of Medical Professional Corporations with Consolidated Groups of Corporations: Federal Tax Considerations, Christine Lane, Eric Homs, and David Steenburg, LexisNexis, LexisNexis