

Purchase and Sale of Interest Involving Unincorporated Interest from the Outside – Part 3

Shana F. McGirl – DuBois, Bryant & Campbell, LLP

Jennifer Lowary Smith – DuBois, Bryant & Campbell, LLP

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Overview

- Initial Considerations
 - Transaction Structure
 - Due Diligence
- Membership Interest Purchase Agreement
 - Payment of Purchase Price
 - Representations and Warranties
 - Covenants
 - Indemnification
 - Dispute Resolution
- Closing and Post-Closing Matters

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Initial Considerations

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Transaction Structure and Diligence

- Asset purchase vs. membership interest purchase
 - Liability protections
 - Tax considerations
- Minority interest holders
 - How many members of the Company are there? Any holdouts?
 - Separate conveyances and assignment issues
- Are interests unitized or certificated?
- Designation of a “Sellers’ Representative”
 - Who will speak for, and have the authority to bind, the Sellers post-closing?
 - Indemnification claims, escrow releases, etc.

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Membership Interest Purchase Agreement

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Payment of Purchase Price

- Cash consideration
- Rollover equity
- Seller financing
- Escrow or holdback
 - Working capital or other adjustments
 - Indemnification purposes

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