

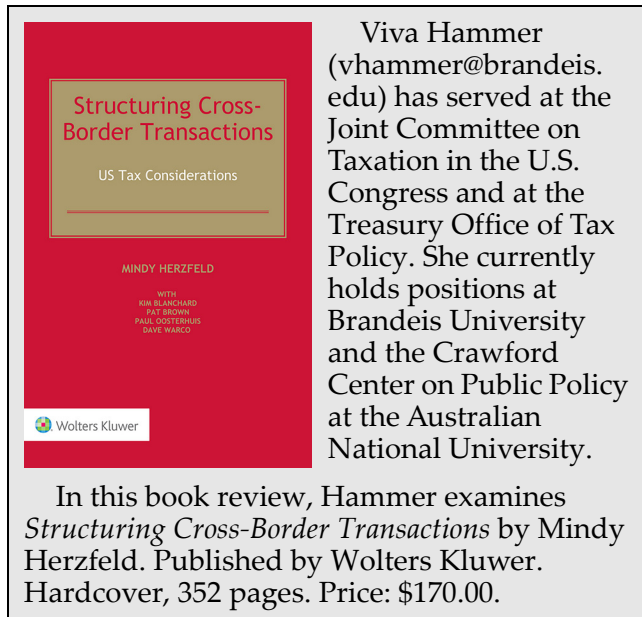
Mindy Herzfeld's *Structuring Cross-Border Transactions: A Model for Future Writers*

by Viva Hammer

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In this book review, Hammer examines *Structuring Cross-Border Transactions* by Mindy Herzfeld. Published by Wolters Kluwer. Hardcover, 352 pages. Price: \$170.00.

Mindy Herzfeld's treatise on cross-border transactions is a model of concision and clarity. Inspired by the iconic *Mergers, Acquisitions, and Buyouts* by Jack S. Levin and Martin D. Ginsburg, Herzfeld has produced a work that can be consumed in a tenth of the time and does not break the back (or the bank).

Readers of *Tax Notes* know Mindy Herzfeld well. She is a professor of tax practice at the University of Florida School of Law and has written hundreds of articles on international tax in these pages. She has practiced at a Big Four accounting firm, at major law firms, and as in-house counsel at a U.S. automotive company. Herzfeld has seen tax planning from almost every angle.

The chief challenge in writing this volume was no doubt deciding what to include as essential and what to leave out, because for tax advisers, most of the value is in the less-known laws and the cross-fertilizing of laws that were not meant to be

read together. But students cannot begin with less-known laws; they must begin at the beginning. Herzfeld is a professor and knows how to start with a tabula rasa and end with a tax professional. The book shepherds an enthusiastic reader through a wide swath of international tax transactions.

Herzfeld has also modeled how international tax must be practiced: in collaboration. As in every field today, there is too much to know to work alone effectively. The book includes contributions from four other leading names in international tax: Kim Blanchard, Pat Brown, Paul Oosterhuis, and Dave Warco. Each has written a section in the book and provided their own foreword.

For a student of international tax, Herzfeld's table of contents is worth learning by heart. It offers a picture of how to travel rapidly through the field, with a checklist-style mimetic quality. Beginning with outbound transactions — strategic U.S. corporate acquisitions of foreign entities — Herzfeld considers acquisitions from foreign owners and then U.S. owners. Then the text moves on to inbound strategic transactions, foreign acquisitions of U.S. targets from both foreign and U.S. owners.

After covering inbound and outbound strategic transactions with remarkable rapidity, Herzfeld focuses on investments by private equity firms. She provides a useful outline of standard investment fund structuring of both U.S.- and foreign-based firms. She then considers the specific issues raised in the private structuring arena by investors and entities with a broad range of financial, accounting, and regulatory needs across different jurisdictions.

Structuring Cross-Border Transactions concludes with an extensive discussion of joint ventures, which raises some of the most difficult issues. A

joint venture is a time-limited structure, so as an investor gets in, it must also carefully consider how to exit. Herzfeld considers many of the standard permutations of joint ventures, including corporate and partnership investments from domestic and foreign investors.

Tax structuring is a visual art. A situation or transaction that takes many words to explain can be expressed instantaneously in a diagram. Herzfeld's volume is exceptionally generous in its diagrammatic illustrations, showing the reader how to translate the words of the law into the language of tax professionals: boxes, triangles, circles, arrows, and lines. The transformation of stasis before a transaction through the transactional process, ending with a new business structure, is illustrated through dynamic diagramming.

Also helpful are Herzfeld's sections on accounting, which tax professionals used to leave for the accountants. But as lawmakers have come to believe that accounting rules are a more accurate guide to taxing income, we must become experts on generally accepted accounting principles and international financial reporting standards, and Herzfeld opens this world for the reader in an accessible way.

The volume contains many stylized numerical examples of the transactions being discussed, which is another form of translation essential for readers. Tax law begins with words, but its application is in the world of numbers. Expressing numerically how entities are bought, sold, dissolved, created, merged, and broken apart is best done early in the learning process. Herzfeld does this more frequently and successfully than the traditional tax texts and should be a model for future writers. A purely textual description of tax law without its numerical application is a body without lungs.

As Herzfeld was completing her text, the OECD's pillar 2 was becoming live. This initiative requires such a major rethink of international tax that no doubt the next edition will look quite different. Print volumes on the law have the disadvantage of losing currency quickly. But Herzfeld's achievement is in giving the reader a

view of the whole territory of international tax transactions. That view will always remain current, even after the implementation of pillar 2 and whatever initiative inevitably replaces it. ■