

## Contact

### Houston

1200 Smith Street  
14th Floor  
Houston, TX 77002-4310  
Tel: 713.658.1818  
Fax: 713.658.2553

### Atlanta

191 Peachtree Street, N.E.  
Thirty-Fourth Floor  
Atlanta, GA 30303  
Tel: 404.659.1410  
Fax: 404.659.1852

### Philadelphia

300 Conshohocken State Road  
Suite 570  
West Conshohocken, PA 19428  
Tel: 610.772.2300  
Fax: 610.772.2305

### Denver

600 17th Street  
Suite 2800 South  
Denver, CO 80202  
Tel: 303-820-0831  
Fax: 303-260-6401

## Capitalization Issues in Mergers & Acquisitions (Santa Fe v. Comm.)

November 2009

Arnie Sidman spoke to the Houston and Tulsa TEI Chapters in November about the *Santa Fe Pacific Gold Co. et al. v. Commissioner* decision, which is being viewed as a national corporate tax precedent with implications likely to last for decades. The opinion will impact nearly all corporate tax audits and will become a blueprint for analyzing and diffusing the most frequent IRS argument: are termination fees in hostile takeovers deductible or can they be capitalized? The Santa Fe case presents the most rational and significant setback for *INDOPCO, Inc. v. Commissioner*, 503 U.S. 79 (1992), the most frequent argument raised by the IRS in corporate audits.