Global Private M&A Guide - Limited External Content - People's Republic of China

Agreeing to the acquisition agreement → Limitations on liability

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

# What is the common cap amount (as a percentage of purchase price)?

Frequency/market practice: The buyer will ask for 100% but it is possible to negotiate down. It ranges from 10% to 100%.

# Does the cap (and other liability limitations) apply to the whole agreement or just warranties (or particular terms)?

Frequency/market practice: Both are seen regularly.

# What are the common exceptions to the cap?

Frequency/market practice: Key warranties are often excepted (e.g., title, capitalization and authority). Often tax and specific areas of concern, sometimes with specific higher caps. Separate caps can be negotiated.

# Is a deductible or basket common?

Frequency/market practice: Sometimes. It is becoming more accepted in the market.

# Is a de minimis common?

Frequency/market practice: Sometimes. It is becoming more accepted in the market.

# How long does seller liability survive?

Frequency/market practice: A general survival of 18-24 months is common. Tax is commonly longer than general warranties.

# Are there any common carve-outs from limitation on seller liability (e.g., fraud, tax, key warranties)?

Frequency/market practice: It is common to carve out fraud.

# Is warranty insurance common?

Frequency/market practice: Rarely used, but has been used in private equity exits.

Copyright © 2025 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion:** All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites.  **Attorney** **Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction of reasonable portions of the Content is permitted provided that (i) such reproductions are made available free of charge and for non-commercial purposes, (ii) such reproductions are properly attributed to Baker McKenzie, (iii) the portion of the Content being reproduced is not altered or made available in a manner that modifies the Content or presents the Content being reproduced in a false light and (iv) notice is made to the disclaimers included on the Content. The permission to re-copy does not allow for incorporation of any substantial portion of the Content in any work or publication, whether in hard copy, electronic or any other form or for commercial purposes.