

Mergers and Acquisitions Planning and Reporting - Basics

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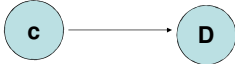
Mergers and Acquisitions

- Trends Leading to Acquisition Growth Strategies
- Merger and Acquisition Definitions
 - Acquisition
 - Asset Purchase
 - Divestiture
 - Spin off
 - Reorganization

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Mergers and Acquisitions

Asset Acquisition



Asset purchase - successor purchases specified assets and liabilities of the predecessor; predecessor FEIN may remain active

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Spin Off

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graph LR; E((E)) --> B((B)); E --> C((C)); E --> D((D));
```

Spin off - Distribution by a business of particular assets

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Merger and Acquisition Definitions

- – Predecessor
- – Successor
- – Predecessor -Successor Role
- – Statutory Merger or Consolidation

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Merger

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graph LR; B((B)) --> C((C));
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Merger - Union of two or more commercial interests or corporations; a corporation is absorbed by another corporation; absorbed corporation is liquidated.

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Stock Purchase

Company X Company Y

Stock – Successor purchases predecessor’s stock and inherits any outstanding tax liabilities; predecessor’s FEIN’s remain the same; successor holds predecessor as a subsidiary.

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Merger, Stock and Acquisition Comparisons

Federal and State Tax Implications

FEIN

- **Asset Purchase or Spin Off** – Predecessor retains FEIN
- **Merger** – FEIN liquidated by absorbed entity
- **Stock Purchase** – FEIN transferred to successor as a subsidiary

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Merger, Stock and Acquisition Comparisons

Liability Issues

- **Asset Purchase or Spin Off** – Typically, tax liabilities remain with predecessor
- **Merger** – Tax liabilities inherited by successor
- **Stock Purchase** – Tax liabilities inherited by successor

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Merger, Stock and Acquisition Comparisons

Stock Issues

- **Asset Purchase or Spin Off** – Predecessor must typically obtain approval from majority of shareholders
- **Merger** – Typically requires predecessor to obtain approval from majority of shareholders-may be necessary to cash out dissenting shareholders unwilling to accept successor's stock
- **Stock Purchase** – Predecessor must obtain approval for transaction from each predecessor shareholder

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Merger, Stock and Acquisition Comparisons

Retention Guidelines

- **Asset Purchase or Spin Off** – Typically successor does not retain any employee records of predecessor when employees are not being transferred to successor
Standard – Predecessor retains W-4/W-5 forms and successor has transferred employees complete new W-4/W-5 forms
Alternate Procedure – Successor requests original copies of predecessor employees' forms W-4/W-5's for employees transferring to successor.

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Merger, Stock and Acquisition Comparisons

Retention Guidelines

- **Merger** – Tax and other liabilities are successor's responsibility; successor must obtain and retain predecessor's records in accordance with federal retention requirements.

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Merger, Stock and Acquisition Comparisons

Retention Guidelines

- **Stock Purchase** – Tax and other liabilities are successor’s responsibility; successor must obtain and retain predecessor’s records in accordance with federal retention requirements.

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Merger, Stock and Acquisition Comparisons

Form W-2/W-3, 941, Sch D Reporting

- **Asset Purchase or Spin Off**
 - Standard – Predecessor and successor report separately
 - Alternate Procedure – Predecessor reports for non-transfers and successor combines records for transfers

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Merger, Stock and Acquisition Comparisons

Form W-2/W-3, 941, Sch D Reporting

- **Merger**
 - Consolidated into one form with successor
- **Stock Purchase**
 - Continuation of wages and taxes from predecessor to successor on one W-2

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Federal and State Tax Implications

Asset Purchase

- – Federal Wage Base Credits (if qualified under predecessor-successor rules)
- – State Unemployment Wage Base Credits (if acquiring company receives the SUI exp rating from the predecessor)

Statutory Merger or Consolidation

- – Federal Wage Base Credits are transferred
- – State Unemployment Wage Base Credits – contact each state to determine which states will permit the transfer of the wage base

Stock Purchase – No change to federal or state wage base.

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Reporting on Forms 941 and W-2/W-3

- **Standard Procedure**
 - Predecessor - Files W-2 for employees and 941 through quarter of acquisition; retains Forms W-4 and W-5
 - Successor - Only reports wages and taxes after the acquisition on Forms 941 and W-2; requests new Forms W-4 and W-5 from employees.

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Reporting on Forms 941 and W-2/W-3

Alternate Procedure - Rev. Proc. 2004-53

- Predecessor - Relieved from filing Forms W-2 for employees transferred to successor; issues Forms W-2 to all employees not retained by successor; completes Schedule D (Form 941)
- Successor - Combines wages and taxes from predecessor for retained predecessor employees; completes Schedule D (Form 941); obtains original Forms W-4 and W-5 for retained predecessor employees

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Reporting on Forms 941 and W-2/W-3

- **Statutory Merger or Consolidation**
– Schedule D (Form 941)
- **Stock Purchase**
- file only one form W-3 and transfer the employees total wage and tax data into your payroll files for ytd active and inactive employees. Obtain copies of previous owners tax returns for at least the prior 4 years.

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- **Preparing for the Merger or Acquisition**
 - **Responsibility Overview**
 - **Planning the Merger or Acquisition**
 - **Due Diligence**
 - **Organizing the Work**
 - **Information Required From the Predecessor**
 - **Payroll Acquisition/Merger Tax Checklist**

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- **Responsibility Overview**
To help generate a smoother transition during a merger or acquisition, establish a committee comprised of representatives from the following departments:
 - Transition Coordinator
 - Payroll
 - Human Resources/Benefits
 - Management Information Systems
 - Accounting

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• Planning the Merger or Acquisition

Prior to meeting with the committee the transition coordinator should request key information from senior management:

The requirements of the merger or acquisition

- – Type (asset, merger or stock)
- – Effective date Payroll frequency under predecessor; for successor (weekly, biweekly, semimonthly, etc.)
- – First pay period end date under successor (number of days in first pay period)
- – First payroll check date under successor
- – Name of predecessor's units being merged or acquired
- – Predecessor's federal, state and local withholding employer identification numbers
- – Predecessor's local tax rates

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The requirements of the merger or acquisition cont'd

- - Predecessor's state unemployment insurance identification numbers
- - Predecessor's state unemployment and workers' compensation tax rates
- - If applicable, vacation and/or sick balances for employees transferring to successor (earned and accrued)
- - If applicable, predecessor's employees' unemployment, social security and Medicare wage balances for employees transferring to successor
- - If applicable, identify federal, state and local wages and taxes for employees transferring to successor
- - Identify predecessor's contacts for payroll, human resources, and MIS

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Organizing the Work

After identifying this information, the committee can meet to begin organizing the merger or acquisition. Input will be necessary from all members of the committee to help evaluate the requirements and to better understand each individual's assigned responsibilities.

If you have adequate lead-time, develop an automatic interface to convert the predecessor's payroll data to your payroll system. Allow time for development and testing of the conversion program and develop a time line for required tasks associated with the conversion of payroll data.

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Follow-up to the Merger or Acquisition

Try to obtain or analyze additional information related to the merger or acquisition such as the following:

- Determine whether to increase the current staff to process the additional payroll workload
- Determine what will generate additional work as a result of the payroll conversion; request approval for additional help or overtime to complete the task
- Request copies of manuals and employee handbooks associated with HR policies and procedures
- If applicable, request copies of all existing union contracts
- Obtain the latest financial statement and general ledger activity
- Develop an acquisition package for the new unit to explain new procedures in payroll, HR and accounting. Also define changes to employee benefits in this package.

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Information Required From the Predecessor

- Personnel Information
- Predecessor's employee records should at least include the following:
 - Employee's social security number
 - Employee's name, as it appears on his/her social security card
 - Employee's full home address, including zip code
 - Employee's hire date and if applicable, term date
 - Employee's birth date
 - Employee's federal and state marital status and personal exemptions

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Payroll Information

Depending on the type of acquisition (asset, merger or stock), the following payroll data might be necessary to retrieve from the predecessor:

- Employee's tax withholding status and exemptions (under the standard procedure the transferred employees must provide the successor with new Forms W-4 and W-5)
- Special taxing options (additional taxes withheld, exempt status, etc.)
- Year-to-date and current quarter-to-date payroll records
 - Gross wages itemized by individual earnings (review taxability of each earning)
 - Employee taxes withheld (federal, state and local)
 - Employee deductions itemized by individual deductions (note pretax deductions)
 - Employer taxes
 - Employee wage base earnings (federal and state unemployment, state disability, social security and Medicare wages)
- Employee wage attachments (garnishments, child supports, levies, etc.)

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QUESTIONS?

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