Merger and Acquisition Due Diligence Reviews

Income Tax and Sales Tax Issues Addressed

Corporate transactions raise numerous state and local tax issues from entity restructuring to identifying tax savings opportunities. These issues and opportunities must be resolved within strict time constraints. Once the transaction is completed, follow-up is required to ascertain whether companies have realized their projected tax savings. The EHTC SALT Group works closely with our Mergers and Acquisition tax practice group to take on the most difficult projects on short notice.

During the acquisition phase, we can perform the traditional due diligence, transaction structuring, and support. We also look for state and local tax-savings opportunities. During the integration phase, we can help with company integration initiatives and implementation of tax-saving ideas.

Acquisition Phase

Due diligence reviews are performed on a timely basis to protect shareholder value by identifying potential liabilities in the target enterprise.

Transaction structuring focuses on establishing the appropriate debt to equity ratios, analyzing the optimal form for the acquisition, developing tax minimization strategies and preserving the target's tax attributes.

Support for the acquisition phase services may include requesting tax opinions or ruling requests concerning expected tax consequences of the transaction. We will review the documentation and support for the transactions and be involved with exit planning. This phase of the planning focuses on preserving the tax attributes and gains.

Integration Phase

Company integration initiatives are important because the entity resulting from the merger or acquisition possesses a new combination of assets and competencies. We help the company identify synergies and eliminate redundancies by using a process to help create and entity greater than the sum of its parts.

Implementation of tax saving ideas is important to enhance cash flow and accelerate the payback on the investment. EHTC will help the company implement the tax-savings ideas identified in the acquisition phase.

The primary focus of the SALT Group is to identify state and local tax issues. We focus on state income tax, sales tax, transfer tax, and the property tax aspects of mergers or acquisitions. Our review seeks ways to avoid tax traps and focuses on forward planning to achieve the most efficient tax structure.

EHTC State and Local Tax Services

INCOME & FRANCHISE TAX
- Tax Minimization Studies
- Business Structure Reviews
- Allocation and Apportionment Planning
- Combined, Consolidated, & Unitary Planning
- Nexus Studies
- Amended State Tax Returns from IRS Audits
- Single Business Tax Training

SALES & USE TAX
- Reverse Audits
- Compliance System Review
- Direct Pay & Compliance Agreements
- Exemption Certificate Documentation
- Industrial Processing / Manufacturing Exemption
- Utility Studies
- Nexus Studies
- Sales & Use Tax Training
- Transportation Company
- Procurement Company

PROPERTY (AD VOLOREM) TAX
- Real Property Tax Reviews
- Personal Property Tax Reviews

TAX AUDIT & APPEALS
- Sales & Use Tax Audit Defense & Appeals
- Income & Franchise Tax Audit Defense & Appeals
- Property Tax Audit Defense & Appeals
- State and Local Tax Litigation Support
- Merger & Acquisition Due Diligence Reviews
- Voluntary Disclosure

BUSINESS INCENTIVE SERVICES
- Business Relocation & Expansion Services
- Tax Credits, Exemptions, & Abatements
- Grants, Financing, & Infrastructure Assistance

About EHTC

Echelbarger, Himebaugh, Tamm & Co., P.C. (EHTC), a professional corporation was established in 1977 by Dennis M. Echelbarger. Since that time, our Firm has grown to become one of the largest, most successful, local accounting firms in the Greater Grand Rapids, Michigan area, and we are a recognized leader in the business community. Our success is based on building partnering relationships with our customers. We are large enough to serve a wide diversity of customers but small enough to maintain personalized attention.

EHTC's professional team is highly trained to provide technical and consulting services in the areas of accounting, taxes, and strategic planning to nonprofit, profit and service organizations and related entities.

Minimizing your tax liability requires careful, advance planning rather than preparing tax returns as deadlines near. Our tax professionals provide complete tax services and are assisted by our extensive tax library and the latest technology.

We pay careful attention to your unique circumstances such as your current requirements and your plans for the future. We then recommend a plan that best suits your needs while minimizing financial risk.

Business Strategists
Certified Public Accountants
Echelbarger, Himebaugh, Tamm & Co., P.C.

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STATE AND LOCAL TAX ASPECTS OF MERGER AND ACQUISITIONS

State income tax issues are dependent on whether the acquisition is structured as an asset purchase or a stock purchase. EHTC can assist in measuring the tax ramifications of either option.

In an asset sale, the seller will have recognition of gain or loss that generally conforms to the federal recognition provisions. The amount of gain or loss might vary because there may be differences in asset bases because of different depreciation rules. The purchaser must allocate the purchase price among the various assets purchased. The allocation of purchase price will impact the property factor of the apportionment formula. If the assets purchased are intangible assets, the purchaser may want to consider forming a separate subsidiary to hold the new assets. Whether the assets sold create apportioned business income or allocable nonbusiness income for state tax purposes can also be an important factor.

In a stock sale, the shareholders of the seller will have to recognize gain or loss on the sale of their stock. The initial questions for the seller involve whether the shareholder's gain or loss is characterized as apportionable business income or allocable nonbusiness income. In addition, gain on the sale of a significant asset by a corporate shareholder is often times excluded from the sales factor of the apportionment formula. The purchaser may have the option to make a 338(h)(10) election to step-up the basis of the target company's assets, to reflect the purchase price of its stock. The state tax treatment of the election varies from state to state.

Sales tax issues involve the potential for tax to be imposed on the transfer of assets. Many states have exemptions but they may be different in definition and application. Pretransaction planning is important to avoid tax traps and to plan around the unidentified and potentially undesirable tax consequences. Oftentimes the use of a flow through entity or some other type of restructuring can avoid those potentially undesirable tax consequences.

Real estate transfer taxes may be applicable on the transfer of the real estate. The effect of these real estate transfer taxes can be substantial and therefore should be considered in transaction planning. However, not all states impose the real estate transfer tax and exemptions for mergers or acquisitions may be applicable in some states.

Property tax issues in a merger and acquisition are numerous. Reassessment can create an increased property tax burden on the purchaser. Mergers and acquisitions will present property tax reassessment issues as assessors look to the corporate transaction to provide indications of value for real property, personal property, and in some cases intangible property. Personal property tax issues in mergers and acquisitions involve primarily valuation issues. Some states require a recapitalization of the purchase price of the assets, while other states require a carryover cost factor.