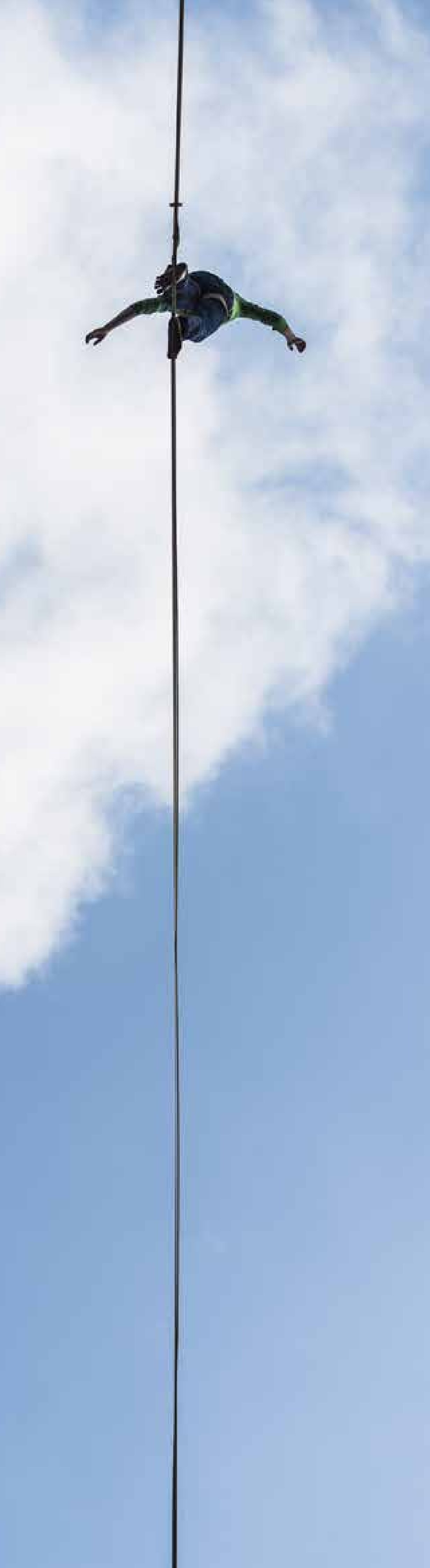
Global perspective. Local insights. Every step of the way.



Deal Advisory, M&A Tax

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KPMG INTERNATIONAL

Taking global M&A local

Mergers and acquisitions have reemerged as a leading growth strategy for multinationals – a trend that is expected to continue for some time. Every transaction is carried out to create, increase or retain value. In light of the globalization of M&A, the emergence of new buyers and increased cooperation between national tax authorities, it is vital that transaction decisions are informed by an understanding of both global and local tax implications, in order to realize the value of a deal.

No matter where your business takes you – from London to Lima or Beijing to Brussels, KPMG member firms understand how local taxes affect global transactions.

With a commercial focus and extensive hands-on experience in complicated transactions, KPMG's Deal Advisory, M&A Tax professionals know how to identify the material tax exposures of a transaction and create approaches that address those implications, ensure compliance and protect and/or create value.

Every day, our people bring a process-driven approach and a clear understanding of the mechanics of mergers, acquisitions and disposals in a competitive environment to help organizations tackle their M&A tax and business challenges.

KPMG's Deal Advisory, M&A Tax practice is a part of a network of professionals who combine shared global understanding and extensive deal experience with local knowledge of tax jurisdictions and regulations.

"Today – more than ever – it is critical for businesses to fully understand the tax implications of their M&A activity. When it comes to tax, successful deal advisory takes a team of local tax experts with a diversified network and the ability to leverage global insight – anywhere in the world."

Arco Verhulst
Global Head of M&A Tax,
Deal Advisory

Market issues

M&A activity around the world is on the rise, with few exceptions. It has reemerged as a leading growth strategy for many multinational organizations, driven by several macro-economic factors, including notable cash reserves and/or commitments, opportunities in emerging markets, the availability of credit on favorable terms in many markets, and improved consumer confidence and equity markets in several jurisdictions.

While the US is the top deal destination as ranked by the KPMG 2015 M&A Outlook Survey, activity continues around the world. For example, Europe is a hot bed of outbound activity. Australia's strong equity markets, low interest rates and a low Australian dollar have made it a focus for inbound activity. Asia has seen unprecedented transaction volumes, both inbound and outbound.

The regulatory net tightens

The call for multinational organizations to increase transparency and reporting of tax structures and TP practices is a central theme throughout the recommendations coming from the Organisation for Economic Co-Operation & Development (OECD) in their 15-point Action Plan on Base Erosion Profit Shifting (BEPS).

With the OECD's final recommendations now out, countries are beginning to introduce legislation that will transform the tax landscape worldwide, and challenge organizations to heighten transparency and visibility across reporting jurisdictions.

In particular, the OECD has recommended that multinationals be required to provide detailed information about their operations in every jurisdiction in which they operate. They have also recommended changes to various international law rules, including those addressing hybrid mismatch arrangements, preferential ruling regimes, treaty abuse, the inappropriate avoidance of a permanent establishment, and assorted TP issues.

BEPS action items to watch when it comes to M&A

The following action items will likely have the greatest impact on M&A activity as countries move to respond to the recommendations put forth by the OECD. KPMG Deal Advisory, M&A Tax professionals are equipped with tools and knowledge to help you prepare for these and the other BEPS action plan measures:

- **Action 2:** Neutralize the Effects of Hybrid Mismatches.
- **Action 4:** Limit base erosion via interest deductions and other financial payments.
- **Action 6:** Prevent treaty abuse.
- **Action 13:** Enhance transparency for tax. administrations by providing them with adequate information to conduct TP risk assessments and examinations.

Responding to BEPS

BEPS is an important factor to be considered by KPMG deals professionals in M&A, both in performing due diligence on a target, and when structuring an acquisition. Any M&A structuring will have to take into account the increased level of risk and uncertainty.

During due diligence

- **Place greater focus on what is really driving the target's tax rate:**
  - financing and holding structures – how do these affect the deal?
  - operational structures – does profit allocation reflect economic activity?
  - existing tax approach – does it rely heavily on rulings or out-of-date TP arrangements?
- **Develop a view of the sustainability of the effective tax rate (ETR) and how to achieve it:**
  - can the target's ETR be maintained?
  - transition plan – are there unwind costs which should be factored into the purchase price?
  - what will it cost to maintain the new structure properly?
- **Consider increased willingness amongst purchasers to challenge proposed deal structures:**
  - For example, excluding high-risk entities.

In relation to transfer pricing (TP)

- **Consider whether the target's TP model is sustainable**
  - is there visibility into business/integration plans to identify location of key people and activities?
  - is target management willing to move location to perpetuate current model?
  - what are the cost implications of making current TP arrangements more robust?
  - is there a fit with current organization's own TP arrangements?
- **If the target's TP is not sustainable, we need to assess feasibility and costs of unwind:**
  - front-loaded TP modelling
  - identify likely costs and negotiate price reduction.
- **Assessment of the target's reporting systems**
  - how easy will it be to implement TP changes?
  - is the target ready for country-by-country reporting?

In response to treaty and hybrid changes

- **Address substance in holding companies:**
  - can additional activities be conducted at the holding company?
  - consider migrating to jurisdictions with more substance.
- **Hybrid arrangements are still being implemented:**
  - consider unwind strategies upfront and associated costs.
  - consider notional interest deductions
  - look at timing issues, such as current deduction with deferred inclusion.
- **Consider public relations issues and not just tax rules.**

Deal Advisory, M&A Tax at KPMG

In an rapidly integrating global economy much of the reassignment of assets and re-structuring of capital necessarily involves cross-border transactions where differences in laws, regulations, cultures and language multiply the risks that miscalculations, misconceptions and misunderstandings will deny to shareholders a transaction's full value- adding potential.

As deal sizes increase, the risks associated with deal success can become more significant. A correct valuation, effective due diligence and well-executed integration plan are all vital to success, and tax issues need to be considered as early as possible to increase deal benefits.

By understanding and accounting for the tax implications at the outset, organizations can be in a better position to realize the potential of acquisitions and disposals of assets and reallocations of capital and resources within global businesses, and overall, forge more robust and tax-efficient organizations – better adapted to world economic conditions and change.

Understanding the deal

In today's highly competitive deal environment many transactions are auctions. Understanding how this works is essential for strategic and financial investors. To assess the value of a target, organizations must first understand its tax risks, before deciding to pursue it.

Then, they need to quantify its post-tax upside potential.

Timing is crucial. In auction processes there is often little flexibility on deadlines. In managing tax due diligence, international acquisition structuring and modeling tax in the target business, everything must be examined on day one.

The Deal Advisory, M&A Tax practice, a network of professionals located in KPMG member firms throughout the world, helps companies avoid fiscal pitfalls and unpleasant, post-transaction surprises. In addition to identifying potential tax costs and risks, and proposing actions or strategies to mitigate their negative effects on deal value, we also try to identify potential tax saving opportunities to increase the deal value and propose actions or strategies to capture those opportunities.

KPMG's Deal Advisory, M&A Tax professionals combine a global focus with local knowledge, supported by deep transactions experience and a network of colleagues around the world, all committed to helping clients extract full value from cross-border transactions and restructurings. Our commercially-minded, deal-hardened professionals help member firm clients identify and manage material tax exposures, look beyond the immediate impact in order to design deal structures that enhance post-tax returns.

A range of services

In conjunction with KPMG's Advisory teams the KPMG network offers a wide range of M&A Tax services covering the many phases of domestic and cross-border transactions. The following can be adapted to suit your needs and business objectives.

Tax due diligence

Tax due diligence service can track down the tax information the acquirer or vendor needs to answer the four vital questions:

- Where is the tax exposure?
- What can be done about tax exposure?
- Is the target's projected tax rate sustainable?
- Where are the tax opportunities?
- How can they be captured?

The answers can help deal-makers plan and structure their transactions tax-effectively in ways that support the acquirer's post-deal integration plans.

We have conducted due diligence reviews for all kinds of transactions, from large privatizations to confidential private equity deals. With our well- tested methodology we help to identify and resolve material tax exposures in multi-faceted, multi-jurisdictional transactions.

Structuring acquisitions and disposals

With technical structuring know-how and understanding of each party's business priorities, KPMG's Deal Advisory, M&A Tax professionals help to design robust deals that take account of exposures and opportunities revealed during tax due diligence. We offer a range of services, from reviewing documents from a tax point of view, to providing opinions and obtaining tax authority rulings.

We assess the financial and commercial, as well as the tax positions of the parties, so that our member firms' clients can place due emphasis on the deal's tax risks and opportunities, and we can also help during negotiation and deal execution, by focusing on the tax efficiency of contractual arrangements and the value of warranties and indemnities in contracts.

In due diligence and deal structuring, we assess the value of the target's tax attributes, identify contingent tax liabilities and address other important, but often overlooked issues, such as asset retention, debt placement, separation agreements and exit plans.

In the case of disposals we can help our member firms' clients ensure that portfolio companies are ready for sale and as free as they can be from price- reducing tax issues.

Transaction cost recovery analysis

We can help clients who are planning or have just completed a deal to mitigate after-tax deal costs. We focus mainly on identifying investigatory fees, such as investment banking and broker fees for finding the target, and due diligence, legal, and other pre-completion fees or costs that can be deducted or depreciated, or claimed for indirect tax credits.

The service covers both direct and indirect tax and is best provided during a deal's preliminary stages.

When involved in shaping a deal, we will help identify eligible expenses and reduce costs that cannot be deducted, depreciated or credited. In other cases, we may be able to amend the previous years' tax returns to secure a refund.

Post-transaction integration services

A key to deal success is the swift resolution of issues created by a transaction, from duplicate programs, to conflicting tax positions. We can help clients reconcile the tax positions of their own and the acquired, or soon-to-be acquired, business, and identify and capture synergies in such areas as compensation and benefits, international assignment programs, disposals and joint ventures.

Our post-transaction integration team includes professionals in KPMG practices such as International Executive services, Transfer Pricing services, and People services.

Tax restructuring services

Even the most successful business is vulnerable to changing market forces and hard times. Sudden financial challenges may require an organization to rework its financial structure or even file for bankruptcy. We can help companies manage tax effectively during a contraction as well as growth.

We can find ways for companies in financial trouble or bankruptcy proceedings to reduce cash outlays for taxes at a time when they can least afford them and increase their value, by helping them preserve tax assets, such as tax losses and credits.

We can help at the many stages of a business contraction, from shut-downs and sales, to restructuring, liquidation and debt negotiations. By helping a company to extract value from its tax attributes during a restructuring, KPMG's Deal Advisory, M&A Tax practice can contribute to its return to financial health.

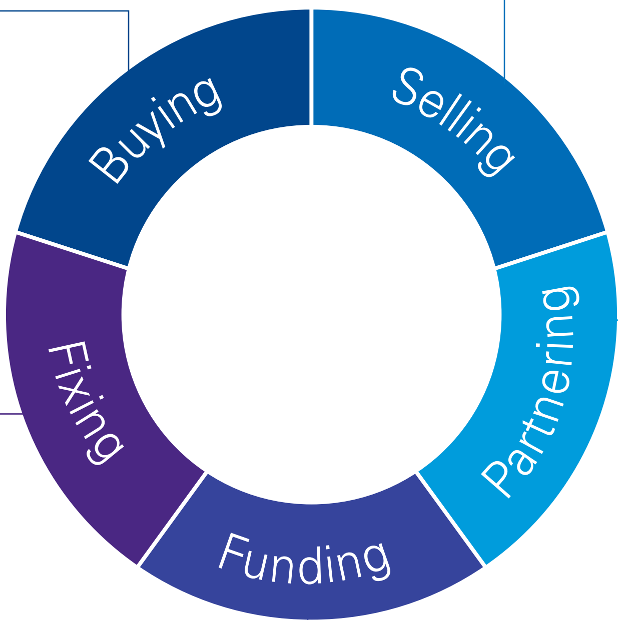
Through every stage of the transaction journey

Buying services, including due diligence, support the end-to-end buying process, helping purchasers understand the current tax position of a target company and identify and address material tax exposures; services include:

- advising on how to safeguard the tax relief for allowable costs, reducing risks and balancing stakeholder interests during tax structuring
- helping organizations take preemptive steps to ensure optimal VAT recovery
- providing contract assistance reviewing contractual arrangements and the value of warranties and indemnities to help mitigate the risk of potential unidentified exposures
- structuring the acquisition in a tax-efficient manner.

Vendor due diligence reporting and analysis streamlines the deal process by enabling the seller to gain visibility into the tax profile of the company; services include:

- helping the buyer to identify risks, recognize value and tax assets
- advising on the possibility of tax-free structuring and related alternatives
- providing clear technical advice on restructurings and reorganizations.



Tax restructuring services can help companies manage tax effectively not only in times of growth, but also during contraction, when these services can help support a company's return to overall financial health:

- helping navigate the many stages of business contraction, from shut-downs and sales to restructuring, liquidation and debt negotiations
- finding ways to reduce cash outlays for taxes or increase refund recovery during challenging times, when a company can least afford them
- advising on opportunities to increase and extract value by preserving tax assets, such as tax losses and credits.

Whether to raise funds for a joint venture or to effect an acquisition, partnering services include assisting clients with:

- structuring transaction in a tax-efficient manner
- designing structure to accommodate objectives, preferences and tax position of a range of investor types
- reviewing understanding the implications of each stage of an investment through to initial consideration through to exit.

Modeling tax impacts through a financial model is vital to the valuation of a deal and assessment of likely internal rate of return; funding services include:

- assessing thoroughly corporation tax and its relation to net cash flow
- understanding the tax deductibility of debt and how this affects the creation of an accurate model, as well as how tax can give rise to commercial issues that may undermine business plan forecasts
- mitigating VAT leakage in cases of partial exemption.

The KPMG difference

KPMG's global network of member firms gives us access to a large number of talented and experienced people who understand how tax affects M&A, and M&A-type transactions in tax jurisdictions around the world. Their experience in numerous transactions means they are familiar with the processes and necessities of auctions and can provide the right focus to support a successful acquisition or disposal.

No two transactions are the same, but there are similarities and common themes that can be drawn on from one to the next. The collective knowledge has helped us to develop procedures that enable us to coordinate the tax aspects of all kinds of transactions, from large, multi-jurisdictional to small domestic deals. Our mission is to help global companies ensure their acquisitions, disposals and restructurings add more value for shareholders.

Contact us

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