

Mergers and Acquisitions

Employment Tax and Compliance Management Services

Situation

When anticipating a merger, acquisition, or internal reorganization, there are several key federal, state, and local employment tax issues that should be addressed including external reporting requirements and internal payroll considerations. The employment tax requirements associated with these transactions are often driven by the type of transaction (e.g., stock purchase, asset acquisition, statutory merger or internal reorganization). A transaction occurring in the middle of a calendar year or quarter adds another layer of complexity with respect to Form W-2 reporting requirements, corresponding quarter-end and year-end filing procedures, federal and state successor wage base implications, and state unemployment tax rates.

Public Law 108-295—the SUTA Dumping Prevention Act of 2004— increased the burden of reporting changes as a result of these transactions from a state unemployment perspective. With the adoption of conforming statutes and regulations, state unemployment workforce agencies have the ability to assess substantial penalties for noncompliance. State agencies have implemented measures through SUTA Dumping Detection Software (SDDS) to track employee movements between legal entities to isolate employers that are non-compliant.

Also, under the Questionable Employment Tax Practices (QETP) initiative, federal and state taxing jurisdictions have entered into Memoranda of Understanding (MOU) whereby information can be shared among state agencies, the Department of Labor, and the Internal Revenue Service in an effort to enforce compliance with employment tax statutes and related regulations and rules. Based on increasing complexities regarding compliance with unemployment reporting requirements, these efforts have become extremely time-consuming and require a high level of competence. A slight misstatement or failure to file the appropriate documents may result in audit exposure and tax assessments.

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The following steps are important:

- ✓ Notify state workforce agencies of the merger, acquisition, or reorganization so the claims process is not disrupted.
- ✓ Verify that benefit charges related to unemployment claims are being applied to the correct employer.
- ✓ Verify that the state unemployment tax rates of the affected employers reflect the appropriate amount of benefit charges based on required/optional transfers of experience.

Solution

Equifax has developed a solution designed to assist employers with meeting their employment tax requirements related to merger, acquisition, and other restructuring activity while also providing insights regarding the potential financial impacts of these transactions from an employment tax perspective. The four-phased approach developed by Equifax is customized to help fit each employer's needs when undergoing merger and acquisition transactions.

Other Considerations

In addition to the items reviewed, Equifax can work with clients on a variety of employment tax issues arising from a merger and acquisition transaction that may reduce overall tax costs, exposures, or result in financial and administrative savings **including:**

Bankruptcy emergence

Equifax can assist in navigating through the special employment tax considerations that apply to companies emerging from bankruptcy.

Taxpayer advocacy services

Equifax can assist in resolving outstanding employment tax audit, notice, or assessment of the potential target.

Common agent implementation

Equifax can review a post-transaction legal entity structure to help evaluate whether the implementation of a common agent may result in administrative savings.

Research and recovery services

Equifax can review historical mergers, acquisitions, or reorganizations involving employee movements between legal entities to help identify and recover overpaid employment taxes.

Unemployment claims management

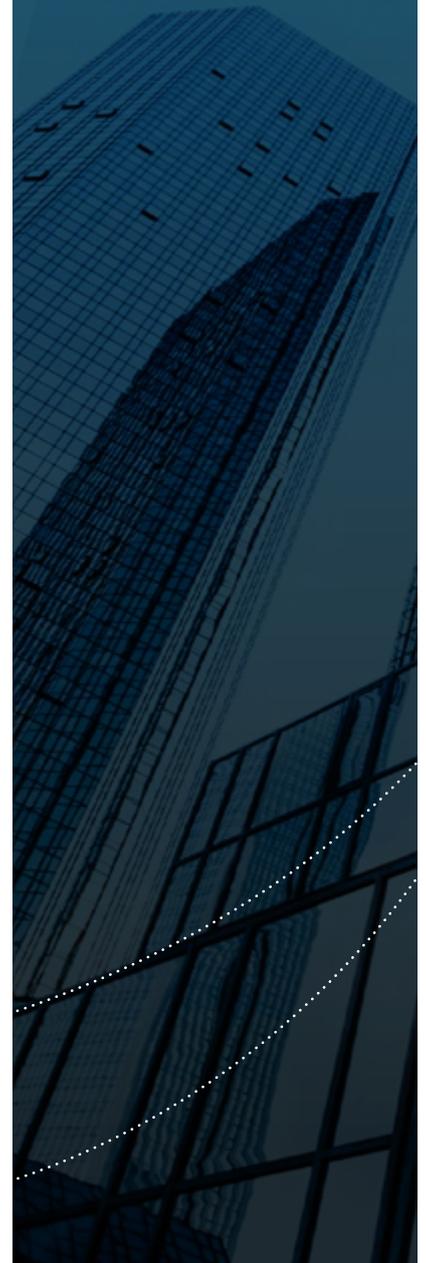
It is imperative that unemployment claims are processed under the correct employer's state unemployment account.

Merger and Acquisitions

Types of transactions

The type of transaction will impact employment tax compliance requirements.

- **Stock Purchase**
- **Asset Acquisition**
- **Statutory Merger or Consolidation**
- **Internal Reorganization**
- **Divestiture**
- **Legal Entity Conversion**



Due Diligence Assistance

- Gather information on target company to help uncover potential employment tax opportunities and risks
- Evaluate target company's employment tax policies, procedures, and practices
- Review employment tax records, tax compliance filings, and tax delinquencies
- Detailed review of SUI tax rates
- Prepare an "opportunities and risks assessment"
- Gather information necessary to help complete the planning and design phase

Planning and Design Support

- Prepare and maintain a detailed employment tax work plan with timelines and anticipated dates of completion, including coordination with a third-party payroll provider.
- Review transaction for mandatory and optional state unemployment transfers of experience under P.L. 108-295 and corresponding state legislation.
- Compute and quantify the combined state unemployment experience in the applicable tax rate computations.
- Evaluate and document potential opportunities for savings associated "successor" wage treatment for FICA and federal/state unemployment tax.
- Help document the requirements and year-end filing procedures inclusive of federal and state income tax withholding, federal and state unemployment, and transfers of state unemployment experience rates inclusive of Forms 941 (and Schedule D), 940, W-2, W-3, W-4, state unemployment returns, and state/local withholding returns (and Schedule D equivalents).





Implementation Support:

- Assist employers with filing necessary state employment tax forms to help properly report the transaction **including:**
 - State unemployment tax and state/local withholding tax registration of successor accounts
 - Partial and total state unemployment transfers of experience
 - Closures of unemployment and withholding tax accounts of predecessor employers
- Analyze applicable charge and payroll detail to help complete unemployment experience transfer applications
- Maintain a summary chart of the employment tax accounts established and closed

Post implementation Support:

- Monitor compliance filings and help respond where necessary in pursuit of intended outcomes
- Follow up with the state agencies to help secure unemployment tax account numbers
- Confirm state unemployment transfers of experience in the tax rate calculations
- Help protest and resolve potentially incorrect state unemployment tax rate assignments

Equifax has a large and dedicated team of employment tax resources in the U.S. and a Government Relations group that tracks federal and state legislation regarding merger and acquisition transactions to assist your organization in achieving a better understanding of its employment tax obligations and any associated savings opportunities.



Visit us at workforce.equifax.com for more details!