Mergers and Acquisitions

A sales tax compliance overview to help reduce your risk

GUIDE

Avalara
Tax compliance done right

Prepare for your M&A transition

As businesses prepare for a post-COVID-19 world, expanding product lines and growing market shares will be crucial to their success. Mergers and acquisitions (M&A) are important avenues for propelling a business forward to gain a competitive advantage. A leading growth driver, mergers and acquisitions help companies become more efficient and profitable while also allowing them to provide additional products and resources to their customers.

The M&A landscape has been shifting but is projected to remain strong. Global M&A deal volumes plummeted at the start of the pandemic, then rebounded in the second half of 2020 to $3.5 trillion, **Bloomberg** reported.

Among the many business factors to consider while undergoing a business reorganization, sales tax compliance tends to fall near the bottom of the list. However, ensuring your company stays tax compliant is crucial in avoiding additional tax obligations and costly penalties that sales tax auditors may assess. To help you remain in good tax standing during M&A, we've outlined typical scenarios you may encounter and key considerations to help prepare for your M&A transition.

M&A Situations

- **Merger**
- **Acquisition**
- **Consolidation**

Areas of Compliance

- **Be aware of where you have nexus**
- **Don't overlook your business licenses**
- **Keep up with document management**
- **Understand impacts to business systems**

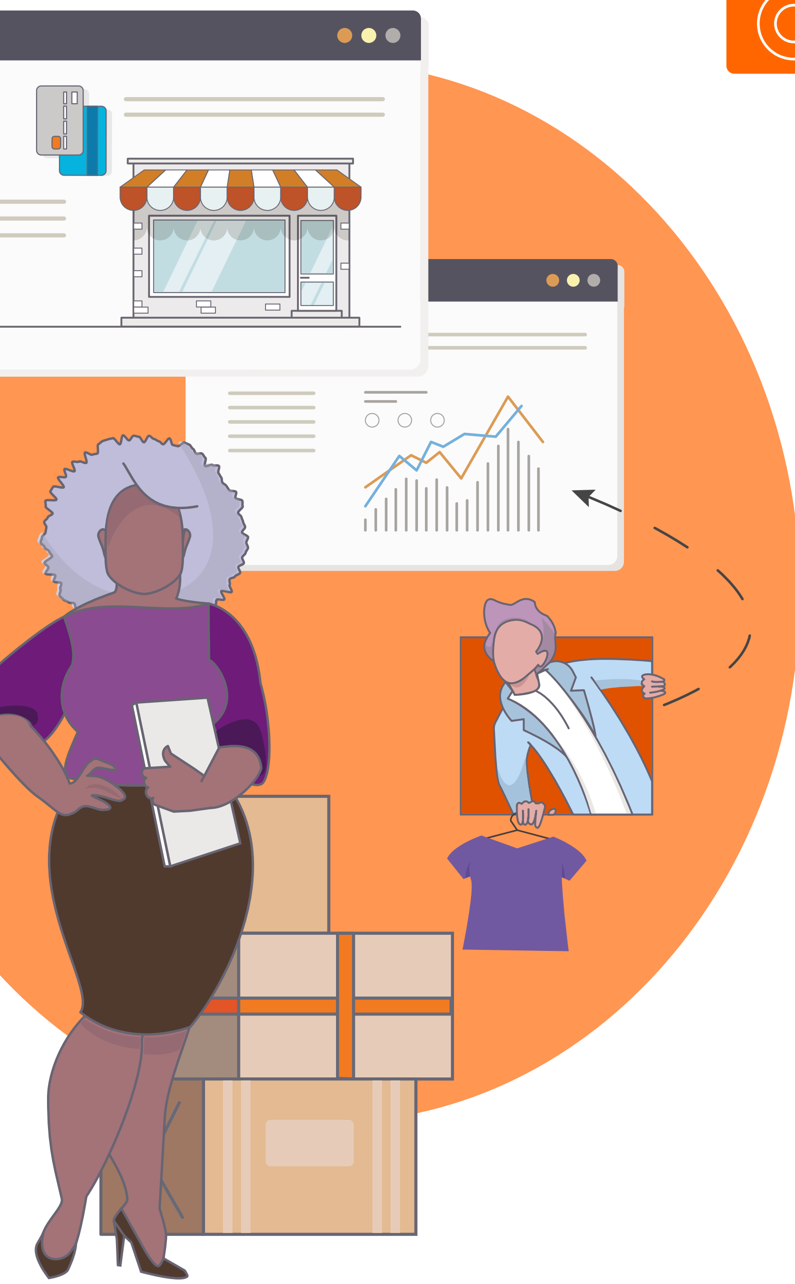
Merger

Joan is the controller for a small software company. Her company is purchased by a larger software company and subsequently enters into a statutory merger. After the merger, Joan's company ceases to exist and now operates as a division within the merged company. **Clive is the chief financial officer of the surviving company.**

Joan's legacy company will typically need to deregister in states where it has active sales tax licenses and permits, as well as business licenses. She'll need to make sure the company stops collecting tax, closes out its sales tax licenses and permits, and files final tax returns through the last day of the company's required tax reporting period.

Clive will need to reevaluate the new, surviving company's **nexus** footprint, which possibly has expanded into additional taxing jurisdictions where Joan's division continues to conduct business activities like selling products or performing services.

Clive will also need to make sure he obtains new tax exemption certificates from customers of Joan's division who will now buy tax-exempt goods and services from the surviving company where he works. In addition, Clive may need to adapt his company's sales tax compliance software and reporting process to accommodate any new revenue streams that impact tax reporting.



Acquisition

Camille oversees an ecommerce team at a luxury fashion house. Jeremy is a senior accountant at a retailer known for its affordable apparel.

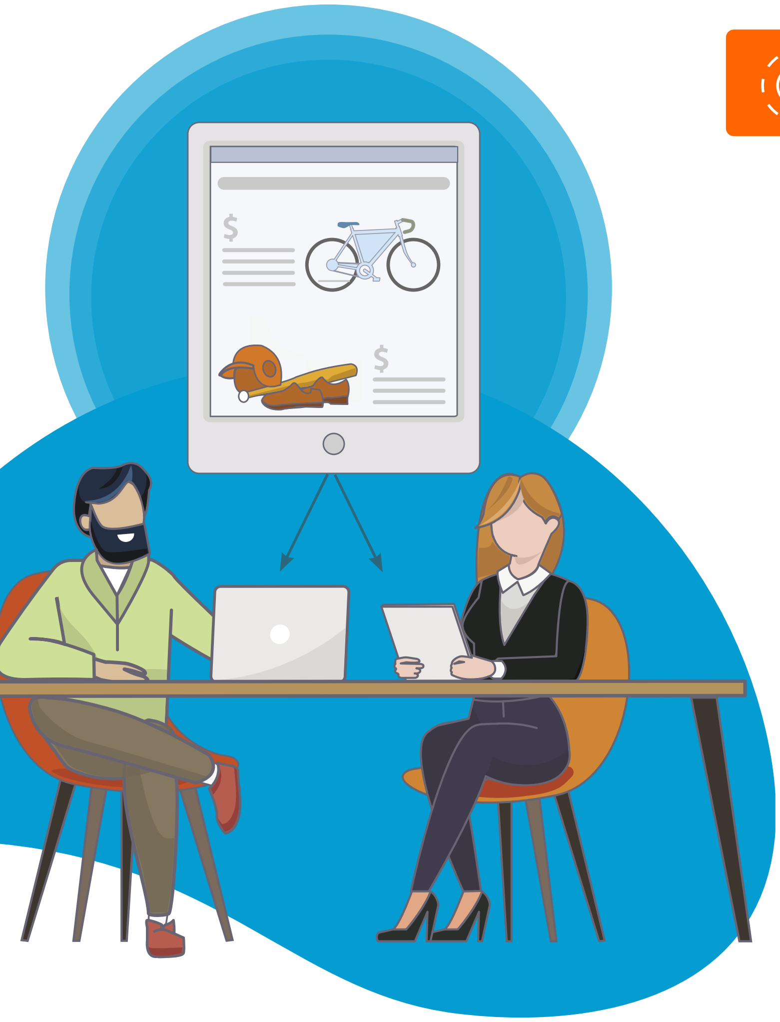
Camille's company purchases all of the stock in Jeremy's company. Jeremy's company and brand remains intact and continues to operate as a separate legal entity owned by the luxury fashion house.

Jeremy may need to notify the various taxing authorities of a change in ownership in jurisdictions where his company is registered for tax reporting.

Camille's business will need to analyze where it may have created additional nexus, and therefore additional tax registration and reporting requirements, due to acquiring the accessory apparel line. Her company will also need to obtain new tax exemption certificates from customers of Jeremy's company who may start purchasing merchandise tax-exempt or "for resale" from the luxury fashion house.

Common M&A situations that may impact tax compliance

Merger | Acquisition | **Consolidation**



Consolidation

Mark is vice president of finance for a bicycle factory. Pamela is the chief finance officer for a manufacturer of sports accessories. Their businesses consolidate into an entirely new company. The companies they previously worked for dissolve and no longer exist after the consolidation.

Both legacy businesses need to notify taxing authorities of the consolidation in jurisdictions where they have active sales tax accounts, permits, and business licenses. Typically, these taxing authorities states will require them to close out their existing tax licenses and permits, and then open new ones under the newly formed company.

The new company will need to assess where it has created nexus as a result of its combined operations and register for tax reporting in those jurisdictions. It must also obtain new tax exemption certificates from customers of both former businesses who start purchasing goods tax-exempt or "for resale" from the new company.

Other M&A types

Other M&A deals include tender offer, acquisition of assets, and management acquisition. Each of these cases is unique, yet in each case, businesses must address sales tax compliance issues similar to those above.

Key areas of focus for tax compliance

- Be aware of where you have nexus
- Don't overlook your business licenses
- Keep up with document management
- Understand impacts to business systems

Regardless of which type of M&A activity your company is going through, you'll face sales tax compliance challenges. These can absorb your time, require you to keep tabs on changing regulations, and expose your business to potential risk. Automating your compliance activities can improve your compliance process and give you more time to focus on other work.

It's also a good practice to assign an individual to manage all aspects of tax compliance changes during the business reorganization. Often, these changes involve multiple departments, including tax, accounting, IT, legal, and operations. Interactions with state and local governments, such as deregistering and reregistering, can span months.

Getting ahead of these events is important for effective planning. Too many times, the last department made aware of a merger or acquisition is the tax or operations department. Keeping your tax professional out of the loop can have negative consequences, especially if you're audited.

Be aware of where you have nexus

M&A activity can expand your nexus footprint. Knowing where your company has created physical or economic nexus because of a merger, acquisition, or consolidation is important in determining your company's tax reporting obligations. You may need to register in new taxing jurisdictions. Physical nexus is typically created in states where your business owns or leases real estate or tangible property, has remote employees or third-party representatives, such as commissioned sales reps or service providers, or maintains inventory.

It can also occur when your sales reps or other employees attend trade shows or other marketing events. More than 43 states, the District of Columbia, and some local governments in Alaska now have **economic nexus laws** that create a tax obligation based on sales or transaction volume, meaning physical nexus is no longer the only consideration.

Avalara's team of tax specialists offer a **sales tax risk assessment** to help you evaluate your nexus footprint and identify where you have sales tax responsibilities.

TTR: Expert tax services at a click of your mouse

TTR, an Avalara company, provides sales and use tax answers, tax research, and expert consultants to help companies get tax compliance right. TTR professionals can help you understand how products and services are taxed when going through a merger or acquisition.

Don't overlook your business licenses

Once you know where you've created nexus, you'll need to register in those jurisdictions. When acquiring another company, you don't automatically absorb their business licenses or regulatory licenses. If you plan on immediately operating your acquired locations, selling products, and keeping your supply chain up and running, you need to be sure that the licenses owned and maintained by your acquired company are up-to-date. You'll also need a strategy to transfer the licenses or acquire new valid licenses if they are not transferable. If you're the target company, you'll want to do the preliminary work to guarantee your licenses are in good standing so as not to add risk or unexpected liability that can sour an acquisition.

Let **Avalara License Professional Services** do the hard work for you. Companies considering future acquisitions, as well as those early in the M&A process, can benefit from a licensing audit. Our white-glove service includes conducting an audit of your licensing requirements and status. We can also handle your sales tax registrations, obtain your business licenses, and manage your Secretary of State's Office filings. In addition, our consultants are able to help you better understand impacts to your licensing requirements.

Avalara offers additional solutions to make sales tax registration simple. With **Avalara Sales Tax Registration**, fill out one form and we'll handle the preparation and filing in the jurisdictions you specify. We can also show you where you need to obtain business licenses and, if you want, handle the filing for you.

Avalara License Management is ideal for larger businesses and enterprises with hundreds to thousands of licenses to manage. The single, easy-to-use solution speeds up acquiring or renewing business licenses, permits, and tax registrations to streamline your compliance burden and help you avoid fines or penalties.

Keep up with document management

During M&A, you'll need to ensure that all tax documentation, including customer exemption and resale certificates, are replaced and that they reflect new business information when appropriate. Getting new exemption documentation is often necessary to maintain compliance and to maintain your company in good standing. Businesses should also maintain all of an acquired company's historical "tax-sensitive" data for several years after a business reorganization since you could be audited.

Avalara CertCapture allows you to collect, verify, store, and access exemption and resale certificates in minutes. Avalara CertCapture works in harmony with **AvaTax**, Avalara's tax calculation system.

Or let Avalara's team of professionals handle the tedious work. With **CertCapture Managed Services**, we'll take care of compliance documentation operations for you, so you can focus on your core business.

Understand impacts to business systems

During M&A, it's important to consider which business systems and sales channels each company has been using. This includes shopping carts, software for ecommerce, business, and accounting systems, and even online marketplaces. If the parent company's ERP handles sales tax differently from the acquired company's ERP, for example, it could cause data instabilities.

Avalara AvaTax can help resolve tax compliance discrepancies. AvaTax integrates into more than **1,000** ERP, ecommerce, accounting, and invoicing systems – the largest network of any tax software provider.

Avalara is here to help

A merger or acquisition can be an exciting time for your company. Don't let sales tax compliance hinder your M&A experience. Let Avalara help you handle your tax complexities so you can focus on day-to-day operations, leaving the stressful work to us.

For more information on Avalara services that can help expedite a business reorganization, please contact your Avalara account manager or call 877-780-4848.

Tax rates, rules, and regulations change frequently. Although we hope you'll find this information helpful, this resource is for informational purposes only and does not provide legal or tax advice.