



**A guide to mergers & acquisitions
and capital raising: processes, risks,
and tax insights**

A guide to mergers & acquisitions and capital raising: processes, risks, and tax insights



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Mergers & acquisitions and capital raising: a practical guide for Australian private businesses



Darren Shillington
Managing Partner

“Mergers, acquisitions, and capital raising are not just transactions – they are strategic turning points that redefine ownership, growth, and legacy. This guide underscores how disciplined preparation, fair valuation, and trusted advisers can transform complexity into opportunity. Our role is to ensure clients maximise value while safeguarding relationships and continuity. In doing so, we support clients in making deals that drive lasting impact.”



Matthew Hall
Executive Director
Corporate Finance

“Every successful M&A or capital raising transaction is built on rigorous financial insight, however it’s deal-making that ultimately defines outcomes. From shaping information memorandums and valuations to structuring terms and leading negotiations, financial advisers ensure that numbers translate into strategy, trust, and momentum. A poorly-structured deal or mispriced transaction can erode value just as much as missing the opportunity altogether. With disciplined execution and sharp negotiation, financial advisers ensure transformative outcomes and long-term value creation for all stakeholders.”



Peter Sinclair
Tax, Deals &
Advisory Partner

“Tax is often the hidden determinant of deal success. Whether navigating CGT concessions, structuring share versus asset sales, or managing stamp duty and GST exposures, the difference in after-tax outcomes can be significant. This report highlights that good tax planning isn’t an afterthought, it’s integral to maximising net proceeds and protecting clients from costly surprises. Done right, tax strategy turns risks into savings and clarity.”





1. The strategic importance of private M&A and capital raising

1. The strategic importance of private M&A and capital raising

Mergers & Acquisitions (M&A), business sales, purchases, and capital raising are core strategic levers that define how companies evolve, compete, and sustain long-term value creation. These actions are not day-to-day operational choices; they are transformational decisions that alter ownership, governance, funding structures, and market positioning. Whether selling, buying, or raising capital, each pathway comes with its own technical processes and risks. Despite these differences, they share a single overarching goal: maximising long-term value for stakeholders, including shareholders, employees, and customers.

Why it matters

Strategic role of M&A

M&A transactions allow businesses to pursue scale, diversification, and synergies. Strategic buyers may seek to eliminate competition, gain efficiencies, access cross-selling opportunities, or acquire new technologies. Financial buyers such as private equity investors look to generate strong cash returns through operational improvement and eventual resale. In either case, the success of an M&A deal often determines whether a business is capable of pushing towards industry leadership or faces challenges with integration.

Selling a business

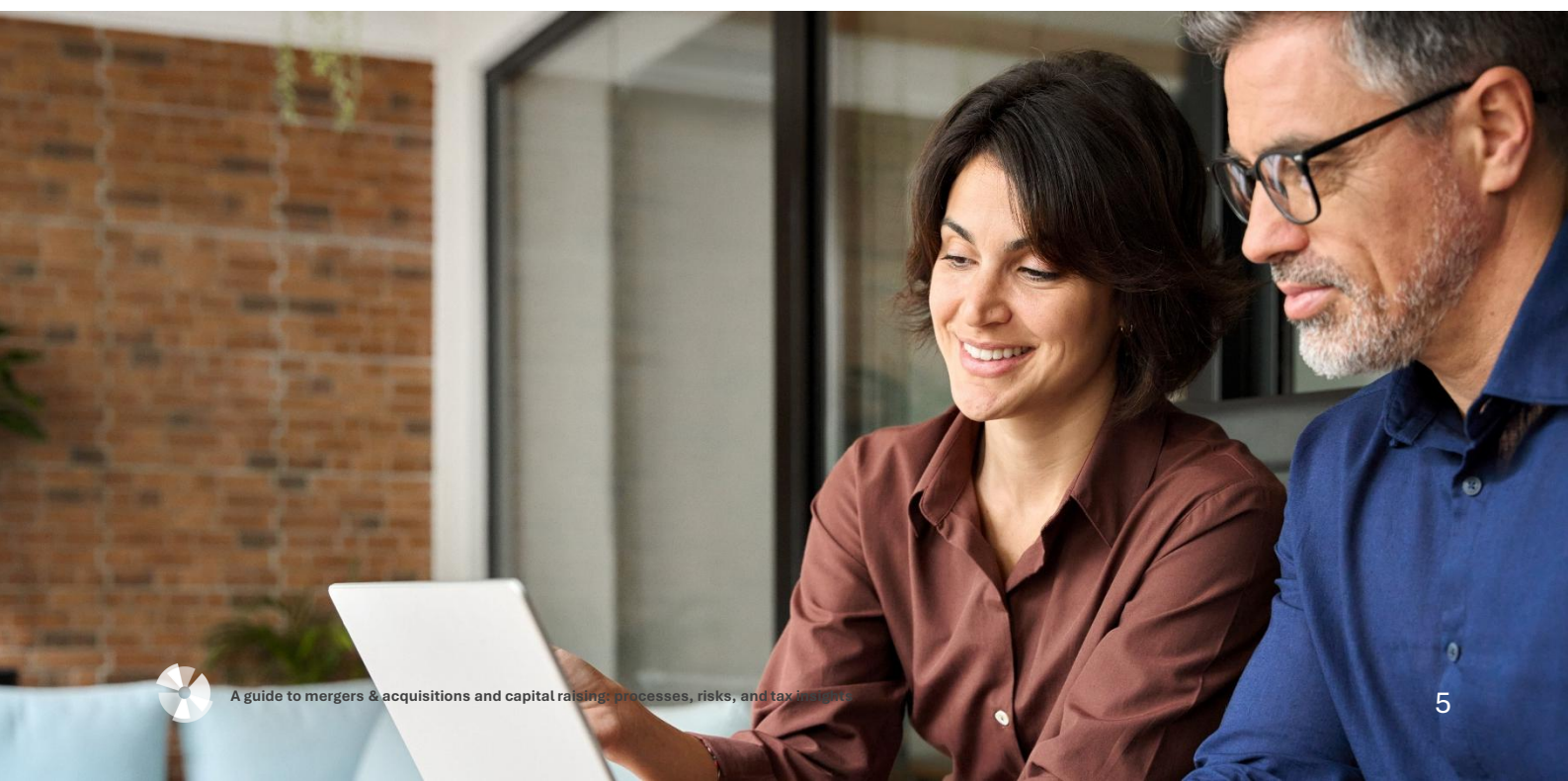
For founders and entrepreneurs, selling is often the culmination of years, sometimes decades of work. This enables liquidity, funds retirement, or redeployment of capital into new ventures. Importantly, a sale also secures continuity of the business itself, ensuring employees, customers, and suppliers remain supported under capable ownership. Preparing a business for sale is therefore not just about maximising price but also protecting legacy and relationships.

Buying a business

Acquisition offers a faster, often less risky path to growth than organic expansion. By purchasing an established entity, acquirers gain instant access to revenue streams, talent, infrastructure, and customer relationships. The rationale is often about achieving synergies by reducing duplicate costs, cross-selling products, or leveraging complementary strengths. But buyers must remain disciplined: integration challenges, cultural clashes, or overpaying for assumed synergies are common risks.

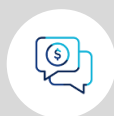
Raising capital

Capital raising, especially equity funding, underpins the growth of early-stage and scaling businesses. While it provides the fuel to expand, it also brings new stakeholders with governance rights, veto powers, and exit expectations. For founders, capital raising is not just a financial event, it is a strategic partnership decision. Choosing investors who align with the company's mission and who can add more than funding (networks, expertise, and credibility) is essential.



1. The strategic importance of private M&A and capital raising

Universal considerations and risks in M&A and capital raising



Selling a business

- **Confidentiality breaches:** leaks can unsettle employees, customers, or suppliers
- **Deal collapse:** buyers may withdraw if financing fails or due diligence reveals issues
- **Post-sale claims:** buyers may pursue sellers for misrepresentation or warranty breaches
- **Transition risks:** loss of key clients or staff after settlement can erode business value

Impact: reduced sale price, reputational harm, or prolonged legal disputes



Buying a business

- **Overestimating synergies:** anticipated cost savings or revenue growth may not materialise
- **Hidden liabilities:** unrecorded debts, pending litigation, or tax exposures can surface post-deal
- **Cultural clashes:** misalignment between buyer and target staff reduces integration success
- **Integration risks:** poor planning undermines expected returns & erodes acquired goodwill

Impact: overpayment, reduced return on investment, and operational disruption



Raising capital

- **Loss of control:** investors gain board seats and veto powers over key decisions
- **Restrictive rights:** anti-dilution protections, liquidation preferences, or reserved matters may disadvantage founders
- **Exit misalignment:** investor timelines (5–7 years) may conflict with founder vision
- **Governance burden:** increased reporting and compliance obligations

Impact: dilution of founder control, reduced flexibility, and potential shareholder disputes



Taxation

- **Tax structuring:** structuring is key to optimising post-tax outcomes, whilst having regard to your commercial drivers and simplification of future tax compliance management
- **Goods and services tax (GST):** incorrect structuring (not as a going concern) can trigger GST, creating cash flow strain
- **Stamp duty:** varies by state; can be significant on goodwill, Intellectual Property (IP), and property
- **Inherited liabilities:** buyer's risk taking on historic tax obligations in share deals

Impact: lower net proceeds for sellers, higher acquisition costs for buyers, & unexpected tax risks

Role of Advisers

Advisers are essential in M&A and capital raising because they help maximise value by positioning businesses fairly and competitively. They identify and mitigate risks by conducting thorough due diligence and structuring transactions effectively. Legal and tax experts ensure compliance and optimise after-tax outcomes for all parties. Advisers also negotiate favourable terms while drafting robust documentation to protect stakeholders. Finally, their presence adds strategic guidance, professionalism, and credibility, ensuring a smoother and successful transaction.



1. The strategic importance of private M&A and capital raising

Importance of fair valuation

A crucial element in M&A and capital raising is valuation – determining the worth of a company so that the price paid or equity sold is fair. Valuation methods typically include:



Discounted cash flow (DCF): estimating the present value of future cash flows of the business. This intrinsic approach requires financial projections and a suitable discount rate (often derived from the Capital Asset Pricing Model).



Comparable company trading multiples: comparing valuation metrics (like P/E or EV/EBITDA ratios) of similar publicly traded companies. These trading multiples indicate how the market values similar firms and provide a benchmark range.



Comparable transaction multiples: looking at pricing multiples from recent acquisitions of similar companies. These transaction multiples reflect actual prices paid in M&A deals and often include a control premium. They are based on closed deals (historical data) in the same industry or of similar size.

In practice, advisers often use all three methods to triangulate a valuation. For example, multiples serve as a market-based check on a discounted cash flow (DCF) valuation, showing a range of possible deal prices and ensuring the DCF result is plausible.

Ultimately, a company is worth whatever someone is willing to pay, so the market-driven approach (especially through a competitive sale process) determines the final price. However, starting with a sound valuation is critical. Pricing too high can deter investors and buyers, and under-pricing leaves money on the table.

Types of investors



Financial investors



Private Equity (PE) funds



Venture Capital (VC)



Family Offices



Institutional investors



Strategic investors



Suppliers and distributors



Industry competitors



Diversified corporates



Corporate venture arms





2. Selling a business: from preparation to payday

2. Selling a business: from preparation to payday

Selling a business is a complex, multi-step journey that requires planning, preparation, and careful execution. In Australia, most private business sales follow a structured process to maximise value and mitigate risks.

Key stages

1. Planning and decision to sell

The first step is to define your objectives - whether it's retirement, pursuing a new venture, or exiting underperformance. Early planning (ideally 1 - 2 years in advance) allows time to optimise operations, strengthen financial records, and consult advisers on market conditions and timing.

2. Preparing the business and engaging advisers

This stage is critical for presenting the business as attractive and credible to buyers. In addition to financial clean-up and document organisation, sellers should engage financial advisers early. Advisers assist by:

- a) Drafting the Information Memorandum to market the business professionally.
- b) Preparing financial models and normalised earnings reports.
- c) Conducting an independent valuation (DCF, trading or transaction multiples).
- d) Advising on deal structuring (share vs. asset sale) and tax implications.

By involving advisers at this stage, sellers ensure transparency, credibility, and alignment with buyer expectations.

3. Marketing and buyer search

Advisers confidentially market the business through multiple channels - including direct, personalised, and discreet approaches to strategic buyers, private equity firms, and corporate conglomerates. At this stage, sharing information is particularly important as it enables potential buyers to properly evaluate the opportunity and make informed decisions, while still maintaining discretion and professionalism.

4. Receiving and negotiating offers

Serious buyers submit Letters of Intent (LOIs)/ offers outlining terms such as price, structure, and conditions. Sellers, with adviser support, negotiate key issues including price, payment terms, employee retention, and transition support. An exclusivity period is often granted to the preferred buyer.

5. Due diligence

This is the most rigorous stage, where buyers examine financial, legal, tax, and operational records in detail. Transparency, accurate records, and timely responses are essential. Financial, tax, and legal advisers play a central role in managing due diligence and maintaining buyer confidence.

6. Finalising contracts

The deal is formalised through a Business Sale Agreement or Share Purchase Agreement (SPA), covering warranties, indemnities, non-compete clauses, and conditions to closing. Legal review is essential to ensure obligations and risks are clearly allocated.

7. Completion and transaction closure

At settlement, ownership transfers, payments are finalised, and assets or shares are handed over. A structured handover plan from a simple transition to a consultancy period, helps preserve continuity with staff, customers, and suppliers.



2. Selling a business: from preparation to payday

Key risks

Selling a business involves several risks that owners must anticipate and manage:

1. Deal falling through

Sale can collapse late in the process if buyers fail to secure financing or uncover issues during due diligence. This is costly and disruptive.

Mitigation: maintain backup buyers, continue running the business as usual, and provide accurate, realistic information upfront to avoid surprises.

2. Confidentiality breach

If word of the deal leaks prematurely, it may unsettle employees, customers, or suppliers.

Mitigation: use NDAs, control information flow, and release sensitive details in stages over time only to serious and vetted buyers.

3. Legal and warranty claims

Post-sale disputes can arise if problems emerge that were not disclosed. Buyers may claim breach of warranty or seek compensation.

Mitigation: disclose all known issues, negotiate liability caps, and consider warranty and indemnity insurance for additional protection.

4. Transition risks

Performance may dip after ownership change if key clients or staff depart.

Mitigation: plan a structured handover, introduce the buyer to major stakeholders, and provide training or consultancy support. In some cases, earnout arrangements share risk but must be carefully structured.





3. Buying a business: the smart buyer's playbook

3. Buying a business: the smart buyer's playbook

From the buyer's perspective, acquiring a business is a strategic pathway to growth, diversification, or income generation. The process in Australia is highly structured and requires careful preparation, disciplined valuation, and the guidance of professional advisers. While each acquisition is unique, the underlying stages remain consistent, from strategy formulation to post-completion integration.

Key stages

1

Acquisition strategy and criteria

A well-defined strategy is the foundation of any successful acquisition. Buyers must identify their motives - expansion into new markets, acquisition of technology, diversification of revenue, or securing stable income. At this stage, buyers also set investment criteria such as sector, business size, location, and profitability benchmarks.

2

Engaging advisers and market search

Advisers are critical from the outset. They also manage confidentiality agreements and guide interactions with sellers. With advisers engaged, the buyer can search the market through direct approaches, or shortlisting businesses that meet the strategy. Advisers coordinate with sellers to obtain company and financial information, which is critical for evaluation and decision-making.

3

Initial engagement and Letter of Intent (LOI)

Promising targets are further explored through meetings with sellers and reviews of their information. Once initial information is verified, the buyer conducts a structured valuation using methods such as EBITDA multiples, DCF, or asset-based models. If alignment is confirmed, the buyer issues a non-binding LOI, which sets out preliminary terms and typically secures exclusivity for deeper due diligence.

4

Due diligence

Due diligence is a rigorous investigation into financial, operational, legal, and tax matters. This process validates the seller's claims, uncovers risks, and informs negotiation of protections. Advisers are essential to managing this phase, identifying liabilities, and ensuring buyers have a complete view of the business.

5

Final agreements and negotiation

If due diligence is satisfactory, a formal SPA or Asset Sale Agreement is drafted. This document includes warranties, indemnities, non-compete clauses, and conditions precedent. Advisers safeguard the buyer by negotiating protections, clarifying obligations, and structuring terms to allocate risk fairly.

6

Completion and integration

At settlement, ownership transfers and the buyer assumes control. The success of an acquisition often hinges on post-completion integration: retaining key staff, ensuring customer continuity, and embedding systems and culture. For larger deals, this is a project in itself; for smaller businesses, it may mean a period of direct support from the seller.



3. Buying a business: the smart buyer's playbook

Key risks

Selling a business involves several risks that owners must anticipate and manage:

1. Overpaying

The common risk is paying too high a price. Buyers should remain disciplined, conduct thorough valuations, and avoid “deal fever.” Treat synergies as upside, not the basis for pricing, unless their achievability is certain. If due diligence reveals issues that reduce value, renegotiate price or terms. A disciplined purchase price sets the foundation for a strong return.

2. Hidden liabilities

Despite due diligence, some risks such as undisclosed debts, tax obligations, or sudden customer losses which may surface post-acquisition. To mitigate this, buyers should insist on comprehensive warranties and indemnities within the contract. In Australia, warranty and indemnity insurance is also increasingly used to protect against breaches.

3. Integration challenges

Cultural clashes, unclear roles, or poor operational integration can erode value. Buyers should plan integration early, define responsibilities for sellers or key managers who stay on, and engage with employees to address concerns. Retaining top talent is particularly important to maintain stability and realise expected value.

4. Regulatory and legal approvals

Certain acquisitions require approvals, such as the Australian Competition and Consumer Commission (ACCC) for competition matters or Foreign Investment Review Board (FIRB) for foreign investment. Australia's merger control regime is tightening, which may add timing and compliance risks. Buyers should assess regulatory requirements early, and contracts should include these approvals as conditions precedent to avoid legal exposure.



4. Capital raising: fuel for the next stage of growth

4. Capital raising: fuel for the next stage of growth

Raising capital is the fuel for startups and growth-stage businesses. In Australia, funding can be secured through equity, debt, or hybrid instruments. This section focuses on equity capital raising, where investors acquire ownership stakes in exchange for funding. Unlike selling a business outright, equity raising creates a long-term partnership, making considerations of valuation, governance, investor rights, and exit strategy critical.

Key stages

1. Preparation

Founders must ensure the company is “investor ready.” This involves:

- a) Organising financial records, forecasts, and business plans.
- b) Creating a compelling investor presentation that articulates growth strategy and funding needs.
- c) Addressing legal housekeeping, such as Intellectual Property (IP) ownership, compliance, and an updated share register.
- d) Understanding regulatory limits (e.g., the 20-investor rule under the Corporations Act or the application of the public offer test) and exemptions for sophisticated investors.

2. Identifying the right investors

Different stages attract different investor types:

- a) Early stage: angel investors or seed funds.
- b) Growth stage: venture capital (VC) or growth equity firms.
- c) Strategic stage: corporate investors offering distribution, partnerships, or technology synergies.
- d) Beyond money, founders should consider what investors bring - mentorship, networks, or industry expertise - and align expectations early.

3. Valuation and term sheet

The pre-money valuation establishes the baseline for negotiations. Founders must balance between raising sufficient capital and avoiding excessive dilution. A term sheet typically sets out:

- a) Valuation and price per share.
- b) Investment amount and equity percentage.
- c) Key rights such as liquidation preference, board seats, anti-dilution, and exit provisions.
- d) While often non-binding, the term sheet ensures alignment before legal drafting begins.

4. Investor due diligence

Investors conduct financial, legal, and commercial checks - though usually less exhaustive than in full M&A. Ensuring contracts, ownership structures, and compliance are in order accelerates this process and instils investor confidence.

5. Legal documentation

Once terms are agreed, two key documents are typically executed:

- a) Share Subscription Agreement (SSA): governs the issuance and purchase of new shares.
- b) Shareholders' Agreement (SHA): defines ongoing governance, investor rights, and obligations.

6. Closing and post-investment relationship

At closing, funds are transferred, shares issued, and ASIC is notified. Post-investment, founders must actively manage the investor relationship through regular reporting, governance participation, and alignment on strategy.



4. Capital raising: fuel for the next stage of growth

Exit strategy

Unlike a business loan, which is repaid over time, equity investors realise their returns only at an exit event - such as a company trade sale or IPO. From the very beginning, sophisticated investors will be thinking about 'What is our exit strategy?'

Common exit strategies

Trade sale: selling the company to a larger strategic buyer.

Secondary sale: selling an investor's stake to another fund or investor.

Public Offering (IPO/Listing): offering shares on a stock exchange.

Alignment with investor timelines

Investors will periodically seek discussions around exit planning not to pressure founders into an early sale, but to align expectations and timing of the investor exit.

Preparing for exit

Having a clear exit strategy benefits all stakeholders. It might involve:

- a) Achieving scale before exploring an ASX listing.
- b) Reaching a revenue milestone that attracts acquisition interest.
- c) Readiness is key. Clean records, strong governance, and disciplined operations (often driven by investor expectations) will maximise value when the exit opportunity arrives.



Example

- If the agreed vision is to scale for five years before selling to a larger player, both sides should commit to that plan
- Founders should be mindful of investors' fund lifecycles
- A venture capital fund nearing the end of its 10-year term (e.g. year 8) is more likely to encourage an exit, whereas the same investor earlier in the cycle may be more patient and focused on growth



4. Capital raising: fuel for the next stage of growth

A Shareholders' Agreement is typically a core part of any capital raising, setting out the rights and obligations of both investors and founders. Clauses such as board representation, reserved matters, liquidation preference, and anti-dilution are essential to protect investor interests while ensuring governance clarity and long-term alignment for growth and exit.

Board representation

Investors may request a board seat or observer rights to gain oversight and influence on major decisions. Founders can retain control by structuring boards with an odd number of directors and, if needed, a casting vote.

Reserved matters (veto rights)

Certain critical actions (e.g., issuing shares, major debt, M&A) require investor consent. This protects investors but should be balanced so day-to-day operations remain with founders.

Pre-emptive rights

Investors usually have first refusal on new share issues to maintain their ownership percentage. Founders may negotiate carve-outs for employee option pools or small strategic rounds.

Drag-along and tag-along

Drag-along allows majority holders to force minority shareholders into a sale, while tag-along lets minorities join a sale on equal terms. These provisions align investor and founder exit paths.

Liquidation preference

Ensures investors recover their investment first in a sale or liquidation, usually on a 1x non-participating basis. This reduces investor downside while leaving upside potential for founders.

Anti-dilution protection

Adjusts investor shareholding if a down round occurs, typically via a weighted-average formula. Protects early investors, however, can dilute founders.

Founder equity vesting

Founders may have shares subject to vesting (3 - 4 years with a cliff) to ensure long-term commitment. If a founder leaves earlier as compared to a planned exit, unvested shares are usually forfeited and reallocated.

Information and governance rights

Investors usually require financial reports, budgets, and inspection rights. Significant investors may also negotiate approval over key executive or strategic decisions.



5. Tax considerations: how tax can make or break a deal

5. Tax considerations: how tax can make or break a deal

Whenever ownership of a business or shares changes hands, tax consequences arise. In Australia, both federal and state taxes can be triggered by M&A or capital raising transactions. Proper tax planning can drive significant efficiencies and prevent unpleasant surprises for sellers, buyers, and founders. Below we outline key tax aspects:

Tax element	Key considerations
Structuring considerations	Share sales are often more tax-efficient for sellers with asset sales favoured by buyers for risk/liability reasons.
Capital gains tax (CGT)	Profit on sale of shares or business assets is treated as a capital gain and included in assessable income.
General 50% CGT discount	50% discount can apply to capital gains for certain assets held >12 months by individuals or trusts.
Small business CGT concessions	Additional concessions can apply for small business entities (broadly entities with <\$2m aggregated turnover or <\$6m net assets selling active business assets or shares).
Double tax issue (asset vs share sale)	Asset sale → company pays corporate tax on gain, then distribution to owners may trigger further tax. Share sale → CGT applies once at shareholder level.

1. Pre-transaction structuring

To ensure a business is transaction-ready, consideration should be given to the structure of the business pre-completion. This includes matters such as the transfer of assets excluded from the transaction perimeter, repayment or conversion of related party debt and issuance of pre-completion dividends.

2. Acquisition structuring

Effective structuring seeks to optimise post-tax outcomes whilst having regard to the commercial objectives of the transaction. Modelling/analysis of appropriate structures should be undertaken, including evaluation of debt vs equity funding, the preservation of tax losses, interest deductibility and profit repatriation, among other key tax considerations. Income tax consolidation and GST grouping benefits and implications should also be considered.

3. CGT implications of earnout arrangements

Earnout arrangements are often used where there is uncertainty about the value of a business and are broadly structured as a sale of a business (or business assets) for an initial amount of consideration plus subsequent financial benefits, which are contingent on business performance post-sale.

Earnout arrangements which fall within the tax definition of a 'look-through earnout arrangement' are taxed differently to other earnout arrangements, with deferred financial benefits only becoming assessable at the time they are provided. As such, analysis of an earnout arrangement should be undertaken to confirm the type of earnout and the resultant CGT implications.

4. General 50% CGT discount

Individuals and trusts (not companies) who have held an asset for at least 12 months may access a 50% discount on the capital gain. For instance, if a founder disposes of company shares and realises a gain of \$1 million, only \$500,000 should be included in assessable income.

5. Small business CGT concessions

Australia's tax legislation provides for significant concessions for qualifying small business owners on active assets used in the business, in addition to the general discount. The business must satisfy either the annual turnover test (less than \$2 million) or the net asset test (less than \$6 million in business assets), as well as other criteria. These concessions may be combined, offering substantial tax savings, which can significantly reduce or even eliminate tax liabilities for small business owners, provided the eligibility requirements are satisfied.



5. Tax considerations: how tax can make or break a deal

Share sale versus asset sale

1. Share sale

Where an individual or trust disposes of shares, the capital gain may be reduced through application of the 50% discount and small business concessions, subject to satisfaction of the detailed conditions. These include the requirement that the company's net assets fall below \$6 million and that the shareholder typically holds at least a 20% interest.

2. Asset sale

Where a company disposes of business assets, the gain is subject to corporate tax (25% for base-rate entities; 30% otherwise). Subsequent distribution of after-tax proceeds to shareholders (typically via dividends) may trigger further taxation, resulting in double taxation. While small business concessions may alleviate the tax burden in some cases, the outcome is often less favourable compared to a share sale.

3. Practical implications

From a seller's perspective, a share sale is generally more tax-efficient. Buyers, however, often prefer asset sales to limit liability exposure and to selectively acquire assets. This divergence in preference is typically addressed through negotiation, with sellers seeking higher prices in asset sales to compensate for the additional tax cost or accepting lower prices in share sales where net after-tax proceeds are more favourable.



Example

A founder sells either:

- **Shares:** realises a \$1 million gain. After applying the 50% discount, \$500,000 is taxable. At a marginal rate of 45%, tax payable is approximately \$225,000, leaving \$775,000 net (excluding Medicare levy)
- **Assets (via company):** company pays 25% tax on the \$1 million gain (\$250,000) \$750,000 remains. On distribution, further tax may apply, bringing the effective total tax close to 45%, leaving only ~\$550,000 net

This example highlights the potential benefit of structuring a transaction as a share sale rather than an asset sale.

Indirect taxes on business sales

The application of GST to a business sale depends on the structure of the transaction:

1. Going concern exemption

The sale of a whole business may be treated as a GST-free supply if it qualifies as a going concern. To meet this exemption, the business must be sold in its entirety (including all assets required to continue operations), it must remain operational up to the date of settlement, and both parties must agree in writing that the sale is of a going concern. Business sales are commonly structured in this manner.

2. Asset sales

Where business assets are sold individually or the going concern requirements are not satisfied, GST generally applies to taxable assets such as plant and equipment, inventory, or licences. For example, the sale of equipment by a GST-registered entity would typically attract GST.

3. Share sales

The transfer of shares is considered an input-taxed supply. Accordingly, no GST is charged on the sale of shares, but related claims of input tax credits on expenses may be restricted.



5. Tax considerations: how tax can make or break a deal

Stamp duty (state transfer duty)

Stamp duty (also referred to as transfer duty) is a state-based tax that can significantly affect the overall cost of a business sale. The application of duty depends on the nature of the assets transferred and the jurisdiction in which the business operates:

a) Share transfers

In most Australian jurisdictions (including New South Wales, Victoria, Western Australia, and the ACT), stamp duty on transfers of company shares has been abolished, unless the company is deemed a landholder. Landholder duty can apply where a company's primary assets consist of land above a certain threshold value.

b) Asset sales

Stamp duty may also apply to the sale of specific assets. Depending on the state or territory, stamp duty may apply to goodwill, IP, real property, trademarks, licenses or business assets more broadly, with the assets subject to stamp duty and stamp duty exemptions differing significantly between state/territory.



Example

Transaction costs can vary substantially by jurisdiction. In WA, duty may be payable on goodwill and is typically borne by the buyer. In NSW, business sales without land may be duty-free. Careful structuring and professional tax advice are essential to optimise GST and duty outcomes.

For a share sale, subject to state laws, duty may not be applicable except if the company is basically a landholding vehicle e.g., a company whose major asset is real estate can trigger "landholder duty" if the share sale passes certain thresholds.

Tax on capital raising

Raising capital by issuing shares is generally not a taxable event for the company (funds received are equity, not income), nor for investors (who are purchasing shares and only taxed when they sell). However, there are important tax considerations. For instance, issuing shares at a significant discount could create tax or shareholder benefit issues. Typically, equity raises are not subject to GST or income tax. In cases where founders sell part of their own shares (a secondary sale), this triggers a CGT event for the selling owners.

Another pitfall is Division 7A, which can apply if private company loans are mischaracterised during fundraising. For foreign investors, withholding tax may apply on interest payments for instruments like convertible notes (though franked dividends are exempt). Additionally, raising capital can affect R&D refunds and the utilisation of tax losses. If more than 50% ownership changes hands, losses may be forfeited unless the business continuity test is met. This is particularly important for startups with accumulated losses, as a raise could limit their ability to use them going forward.





6. Role of advisers: expertise that turns deals into wins

6. Role of advisers: expertise that turns deals into wins

Mergers, acquisitions, divestments, and capital raising are complex transactions involving financial, legal, tax, and regulatory considerations. Engaging professional advisers ensures that the process is managed efficiently, risks are identified early, and the transaction achieves the best possible outcome. Without specialist guidance, businesses risk undervaluing their assets, breaching compliance obligations, or failing to negotiate fair terms.

Advisers' involvement across the transaction lifecycle

Preparation	Marketing and engagement	Due diligence	Contracts and negotiation	Completion and post deal
Financial advisers <ul style="list-style-type: none"> Business plan Strategy Information memorandum 	Financial advisers <ul style="list-style-type: none"> Identify buyers/investors Addressing queries Negotiate terms 	Financial advisers <ul style="list-style-type: none"> DD management Coordinate DD Review forecasts Assess risks 	Financial advisers <ul style="list-style-type: none"> Deal negotiations Align stakeholders Structure earnouts 	Financial advisers <ul style="list-style-type: none"> Oversee funds flow Transition support Post-deal reporting
Legal advisers <ul style="list-style-type: none"> Structure review Legal data room 	Legal advisers <ul style="list-style-type: none"> Review of NDAs and legal documents 	Tax advisers <ul style="list-style-type: none"> Identify and quantify tax risk exposure Identify eligible concessions 	Tax advisers <ul style="list-style-type: none"> Transaction structuring Quantify tax liabilities 	Tax advisers <ul style="list-style-type: none"> Tax efficient fund repatriation
DD specialists <ul style="list-style-type: none"> Data room setup Vendor DD preparations 	DD specialists <ul style="list-style-type: none"> Verify financials 	DD specialists <ul style="list-style-type: none"> Verify financials Technical DD Legal DD 	DD specialists <ul style="list-style-type: none"> Post-deal distribution Advise on conditions 	DD specialists <ul style="list-style-type: none"> Monitor transition risks Integration support

DD – Due diligence

Financial advisers - orchestrating the transaction

Financial advisers play the central role in M&A and capital raising processes. They act as project managers, guiding the transaction from preparation to completion. By overseeing the entire transaction, financial advisers ensure that strategic goals are achieved and that the seller or company raising capital maximises value.

Their responsibilities typically include:

Preparation of collaterals

Creating information memorandum, business plans, and financial models, supported by an in-depth analysis to identify key transaction risks.

Valuation and financial modelling

Preparing independent valuations using DCF, trading multiples, and transaction multiples to set realistic price expectations.

Investor/buyer engagement

Running targeted marketing campaigns, identifying suitable buyers or investors, and managing communications under confidentiality.

Deal structuring and process management

Advising on optimal transaction structures while coordinating DD, aligning stakeholders, and managing timelines to keep deals on track.



6. Role of advisers: expertise that turns deals into wins

Legal advisers – protecting interests

Legal advisers draft and review the key transaction documents such as Share Purchase Agreements (SPA), Shareholders' Agreements (SHA), and Subscription Agreements. They ensure that warranties, indemnities, and liability caps are negotiated fairly, and that regulatory requirements (e.g., ACCC, FIRB in Australia) are satisfied. Their role is to protect the client's legal position and prevent disputes after completion.

Tax advisers – optimising after-tax outcomes

Tax considerations can make the difference between a successful transaction and a costly mistake. Tax advisers help determine whether a share sale or asset sale is more efficient, consider the application of CGT concessions, and advise on issues such as stamp duty or GST. Their input ensures that proceeds are maximised in after-tax terms, having regard to commercial drivers and objectives.

Due diligence specialists – verifying assumptions

Due diligence (financial, legal, tax, and operational) is a cornerstone of both buying and selling processes. Advisers verify financial statements, test compliance, and uncover hidden liabilities. For sellers, preparing for due diligence helps avoid last-minute deal failures. For buyers and investors, thorough due diligence safeguards against overpaying or inheriting undisclosed risks.

Advisers enable transaction success

Financial advisers lead the process, legal experts protect interests, tax specialists optimise outcomes, and due diligence professionals validate assumptions. Together, they provide confidence, structure, and expertise, transforming complex M&A and capital raising transactions into strategic opportunities that deliver lasting value.



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