# Taxation Factors In Acquisitions In Finland

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An acquisition in Finland is often made rather as a share purchase than a business transfer due to the reasonably beneficial capital gains taxation in Finland. From a buyer's perspective, most of the taxation advantages lie with a business transfer. It goes without saying that the interests of the parties are conflicting.

Depreciation Base

In an arm's length transaction, the buyer will acquire assets at market value. When the buyer comes to dispose of them at market value in the future it will be charged to capital tax, based on any increase in value since the date it acquired the business.

Compare this with the position on a share acquisition. Although the buyer acquires the shares at market value, the base cost of the assets which the company owns is the cost at which they were originally acquired by the company. It follows that on a subsequent arm's length disposal of any of these assets by the company, corporation tax will be charged, based on the increase in value of the assets since originally acquired by the company. The significance of this consideration to the buyer will depend on its plans for the company and, in particular, whether it is contemplating immediate disposals of any assets by the target company.

Apportionment of the purchase consideration

On the acquisition of a business, it will be necessary to apportion the total consideration between the various assets acquired. This must be done on fair and reasonable basis but there is some flexibility here which can be used to gain tax advantages.

In accordance with Finnish Business Income Tax Act the purchase price must be allocated to the individual assets up to their fair market value. What is in excess of that is considered as goodwill. The buyer gets a higher tax base of the assets and can deduct the goodwill in its taxation. The goodwill will then be capitalized and amortized over its assumed life , which can be up to 10 years.

Expenses incurred in acquiring fixed assets are deductible through depreciation. The acquisition cost of the buyer's stock of machinery and equipment is written-off annually as a single item using the declining-balance method. The apportionment is a matter of negotiation with the seller, and inevitably the parties may be pulling in different directions. For example, machinery and equipment with an economic life three years or less can be either written off in full in the year of acquisition or depreciated along with other machinery and equipment. A high allocation to machinery qualifying for capital allowances may result in a balancing charge on the seller thus increasing his tax liability on income profits. Buildings are an equally interesting item as they must be depreciated as a separate items. Maximum rates of depreciation are from 4 percent to 20 percent, depending on the use of the building.

Preserving tax losses

Tax losses cannot be transferred on an asset acquisition. They remain with the seller company. The seller can, however, use tax losses against any capital gain realized on the sale of the assets.

Tax Laws permits trading losses of a company to be carried forward and set against trading profits from the same trade in the future. A tax loss may be carried forward during the subsequent 10 tax years. Yet, when more than 50 percent of the shares of company have changed ownership the right to carry forward the loss is lost unless the regional tax office grants a dispensation. question A feature of a share acquisition is that the tax of the company continues and it is of importance that accumulated tax losses of the target company can be carried forward and set against profits generated after the buyer has acquired the shares. This may be a significant factor for a buyer who is confident that it will be able to change the company's fortunes and make it profitable; it will view the accumulated losses as an asset.

The carry forward of losses in a share transaction should always be verified.

VAT

it is self evident that no charge to VAT may arise on the disposal of a business as a going concern. (VAT is not normally chargeable on a share sale ). All goods and services, unless expressly excluded, are subject to Value Added Tax in Finland. The Finnish standard rate of VAT is 23 per cent. The Finnish VAT legislation is in line with the Sixth EC VAT Directive. No VAT is payable on the sale of assets and services when the sale or supply takes place in connection with the transfer of an entire business, or integral part of it, to a buyer continuing to pursue the business and using the assets for a purpose that entitles the buyer to the VAT deduction. Therefore, the transaction through an asset deal is not subject to tax. Special attention should, however, be paid to the VAT questions related to real estate and offices.

Transfer tax (Stamp duty)

On the acquisition of shares, the buyer pays stamp duty at 1.6 % of the purchase price.

On the acquisition of a business, the buyer pays transfer tax on only certain assets, such as land and shares. A 4 percent transfer tax is paid on any real estate transferred in the asset deal. The tax authorities are likely to accept the purchase price allocation agreed by the seller and the buyer as a proof of the market value unless the transaction is done between related parties.

Mechanisms for international companies

Foreign companies often choose to purchase the shares of the Finnish target company by a holding company located in Finland. The holding company is heavily financed by a parent company or a bank and in many cases the holding company and the target company are mergered later on. This procedure has been very beneficial as the interests are deductible in Finland. Finland has so far no thin capitalization (debt-equity ratio) rules but that may change in the near future.In spite of the fact that the interests are deductible in the Finnish subsidiary there is no withholding tax in interest payable abroad.

**About The Author**:
I have guided numbers of foreign and domestic companies through the acquisition processes in Finland.The process does not have to be unduely complicated or expensive as long as we concentrate on the essentials of the deal instead of making it fancy. Finland is a country of written law which makes the deal manageable and the contracts shorter. Unnecessarily lengthy dd-reports and contracts are an expression of inexperience and lead to absence of clarity. They just muddle the otherwise clear facts. Visit my website http://www.salvelex.com/ for more information on Mergers and Acquisitions in Finland