

Acquisition through Demerger and Listing

*When the Acquirer acquires a Division of a Listed Company
through Demerger, and bypasses IPO*

No IPO

Automatic Listing
via Demerger

Tax Neutral

Transferor, Transferee
& Shareholders

SEBI Gated

MoM + QIB +
Public Shareholding

Swipe →



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THE STRUCTURE

Listed Co Demerges Division. Unlisted Co Acquires. And Lists.

Listed Company

Demerges an identified business division on a going concern basis



Demerger
S. 230-232

Unlisted Company

Receives the business.
Issues shares to Listed Co shareholders. Becomes listed.

Consideration: Equity shares of Unlisted Co issued to shareholders of Listed Co

Key Mechanics

- ✓ Demerger of Listed Co Division to Unlisted Co under Scheme of Arrangement
- ✓ Issuance of Equity Shares of Unlisted Co as Consideration
- ✓ Approval: Board + Audit Committee + IDs + SEBI + NCLT + Shareholders/ Creditors
- ✓ Timeline: approximately 10-11 months from board approval

Dual-Purpose Structure

A single demerger simultaneously achieves an acquisition for the unlisted company and a listing event, bypassing the IPO entirely



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THE SEBI CONDITIONS

SEBI Pre-requisites.

Four Gates.

All Must Open.

- I** **Majority of Minority Approval**
Public shareholder approval required - Majority of votes cast by public shareholders must be in favour. Promoter votes not counted
- II** **QIB + Public Threshold**
QIBs of unlisted co and public shareholders of listed co must together hold at least 25% of total post-demerger equity (fully diluted)
- III** **Public Shareholding**
Public shareholders of listed co to hold 25% of post-scheme capital. Reduced to 10% if combined valuation >INR 1,600 Cr (INR 400 Cr public float) → Reach 25% in 1 year
- IV** **Lock-in Architecture**
20% of pre-demerger paid-up capital locked 3 years; balance 1 year. No lock-in on new shares issued as demerger consideration.

Substantive Compliance

If the unlisted company's valuation far exceeds the demerged division and lacks QIBs, the 25% threshold becomes the binding constraint.



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THE COMMERCIAL LOGIC

Two Sides. Both Win. Different Reasons.

Listed Company

Possible Reasons

- ✓ Division not core to strategic vision
- ✓ Risk-reward misaligned with the parent
- ✓ Unlisted Co ascribes attractive valuation
- ✓ Shareholders get equity upside post-listing
- ⚠ *10-11 month gap + tepid price discovery risk*

Unlisted Company

Why This Route?

- ✓ Acquires a going concern business
- ✓ Automatic listing without IPO rigours
- ✓ Consolidated value discovered on listing
- ✓ Institutional investors get exit post lock-in
- ⚠ *Lock-in (3Y / 1Y) constrains early exits*

Structural Elegance

Not merely corporate simplification. An acquisition tool that delivers listing as a byproduct, without the burden of an IPO.



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THE TAX ARCHITECTURE

Three Parties. All Neutral. Mostly.

Transferor (Listed Company)

TAX NEUTRAL

If the identified undertaking constitutes a business (not merely a group of assets or investments) and is transferred on a going concern basis, the demerger is tax neutral.

Transferee (Unlisted Company)

NEUTRAL + LOSSES

Receipt of undertaking is tax neutral. Tax losses / unabsorbed depreciation attributable to the demerged undertaking vest with the unlisted co for remainder of the 8-year carry period. No 'industrial undertaking' condition for loss c/f (unlike mergers).

Shareholders of Listed Company

NEUTRAL WITH TRAPS

Receipt of new shares not taxable. Cost of acquisition split on net book value basis. Period of holding relates back to original acquisition. But grandfathering traps exist (next slide).

Three-Layer Neutrality

The entire chain is tax neutral if the transferred undertaking is a genuine business on a going concern. But two grandfathering traps lurk.



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THE ILLOGICAL GRANDFATHERING UNCERTAINTY

Cost Splits.

Illogical Outcomes.

Two Problems.

ISSUE 1: Domestic (31 January 2018)

If listed co shares were acquired pre-31 Jan 2018, deemed cost is market price on that date. New shares issued by unlisted co were not 'acquired' before that date. Should cost split use grandfathered cost?

Logically yes. Cost and holding period relate back. But no express clarification

ISSUE 2: Treaty Investors (1 April 2017)

Mauritius / Cyprus / Singapore DTAA's grandfathered gains only for shares acquired pre-1 April 2017. New demerger shares technically issued post that date, even if originals shares were acquired before.

Date of acquisition should relate back logically. But no DTAA clarification exists

Edge Case: Negative NBV

If NBV of transferred assets is negative, cost of new shares = NIL. If net worth of demerged co is negative, cost of demerged co shares = NIL.

Two Unresolved Questions

Both the domestic and treaty grandfathering questions remain without express legislative or administrative clarification.



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THE ACCOUNTING TREATMENT

Acquisition Method. Intangibles and Goodwill. Distribution of Assets for Transferor.

In the Books of the Unlisted Co (Transferee)

Method:	Acquisition method (not common control)
Assets:	Fair value, including previously unrecognised intangibles
Consideration:	Fair value of shares issued
Goodwill:	FV of consideration less net FV of assets = residual goodwill
Tax:	Intangibles may amortise; goodwill not tax-deductible

In the Books of the Listed Co (Transferor)

Not a common control transaction. Recorded as 'deemed dividend distribution' to shareholders in relation to the new shares issued.

Accounting classification does not override statutory tax treatment. Demerger remains tax neutral irrespective of deemed dividend accounting.

Accounting v. Tax

*IndAS creates a deemed dividend in the books of the Transferor.
The tax law provides for tax neutrality. The two sit in parallel.*





The Takeaway

Demerger-as-acquisition: business acquisition + stock exchange listing in a single scheme, bypassing the IPO process entirely

Structure	Demerger of listed co division to unlisted co via S. 230-232 Scheme. Unlisted co issues shares and becomes listed.
SEBI Conditions	MoM, 25% QIB+public, 25% public holding, 3Y/1Y lock-in. Promoter declassification possible.
Tax	Fully neutral for transferor, transferee, shareholders. Losses vest with transferee. No industrial undertaking condition.
Grandfathering	31 Jan 2018 (domestic) and 1 Apr 2017 (treaty) inconsistencies. No clarification issued on either.
IndAS	Acquisition method (fair value, goodwill) in transferee. Deemed dividend in transferor. No tax impact.
Fiscal Costs and Other Approvals	Stamp duty (state-dependent). Sector-specific approvals may extend timelines. CCI Approval may be required.

