Basics of an Acquihire

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An acquihire refers to a type of M&A transaction where the buyer's primary motive is to acquire the target company's employees, rather than its IP, products, or services. This does not imply any particular deal structure. Acquihires can be structured as:

- Stock purchases;
- Release agreements;
- Asset purchases; or
- Mergers.

That said, while acquihires can take various forms, mergers and asset purchases tend to be less common structures in this context.

A key driver of acquihires is the imbalance between supply and demand for qualified technical talent. In today's competitive environment, skilled developers and engineers are in high demand, and traditional recruiting methods often fall short of attracting top-tier teams. For established companies, acquiring an established team through an acquihire offers several strategic advantages.

First, companies gain access to pre-formed, cohesive teams with established working relationships. These teams can integrate more quickly and effectively than individually hired employees, often maintaining their collaborative dynamics and productivity from day one. Second, acquihires provide a pathway for larger companies to enter new markets or strengthen existing capabilities by bringing in specialized expertise and fresh perspectives.

The economics of acquihires have become relatively standardized, particularly in technology centers like Silicon Valley, where quality engineers have traditionally been valued at approximately $1-2 million per person. Major technology companies including Apple, Alphabet, Amazon, Meta, Microsoft, Uber, and Salesforce have regularly used acquihires to rapidly scale their technical teams and capabilities.

What Drives the Structure?

Whether a target company has raised outside capital is often the key consideration for arriving at a mutually agreeable transaction structure. Like any other M&A deal, the tax treatment, concern about seller liabilities, and applicable labor law will be important considerations for determining an appropriate structure.

Key Challenges and Considerations

While acquihires offer significant benefits, they also present unique challenges that buyers must carefully navigate. Perhaps the most critical risk is employee retention. Unless team members are contractually bound, there is no guarantee they will join or remain with the acquiring company. Many contracts include provisions that allow employees to leave if their company is acquired by a competitor.

To mitigate this risk, successful acquihires typically involve securing commitment from target employees before completion, often through annual employment contracts and signing bonuses. However, it's common for founders and key personnel to depart once their contractual obligations expire, using their experience to launch new companies.

Accordingly, acquirors must invest in proper integration to realize the full value of their acquihires. Without effective integration planning, even substantial investments can fail to generate expected returns, as demonstrated by companies that struggled to incorporate acquired teams quickly enough to justify the expense.

An often-overlooked challenge is the potential impact on existing employee morale. Acquired team members typically join with significant financial benefits and elevated positions, which can create resentment among existing personnel who may feel their loyalty and contributions are undervalued. This dynamic can inadvertently encourage current employees to leave and start their own companies in hopes of being acquired.

What Else Needs to Be Considered?

Integration planning and execution is critical for the success of any M&A deal. In the case of an acquihire, a buyer needs to give careful consideration to crafting a structure that will effectively retain and incentivize transitioning employees.

For a successful acquihire, buyers should proactively evaluate an appropriate deal structure and retention strategy before sending (or agreeing to) a term sheet. Therefore, connecting with legal and tax advisors early will facilitate a smoother and more efficient transaction. For a deeper dive into the complexities and best practices associated with acquihires, check out Scott Bleier's article, The "Acqui-hire" Trend: Issues for Founders and Investors and Drafting Options.