

Finding Relief: Tax Strategies to Generate Immediate Cash Flow

During “the dip” immediately following a crisis, businesses of all sizes are in triage mode, taking immediate action to both protect their employees and keep the lights on. Achieving these goals requires agility, strategy and resilience, as well as liquidity.

During these challenging times, companies must have access to cash to help offset unforeseen costs, whether for buying personal protective equipment (PPE) for on-site employees or investing in the technology needed to keep a remote workforce safely and efficiently connected.

The tax function can be instrumental to identify and execute cash flow opportunities and to maintain the levels of liquidity needed to navigate the uncertainty that lies ahead. In the short term, tax professionals should look to “low-hanging fruit” to generate benefits as quickly as possible.

While not exhaustive, here are several tax strategies to consider:

- Debt and Losses Optimization
 - File net operating loss (NOL) carryback and alternative minimum tax (AMT) credit refund claims to reduce tax payments and obtain immediate refunds for taxes paid in prior years.
 - File Form 1138 to relieve 2019 tax payments due with the 2019 returns for corporations expecting a 2020 loss that could be carried back to the earlier year.
 - Analyze the tax impact of income resulting from the cancellation of debt in the course of a debt restructuring for possible exceptions due to insolvency or bankruptcy. Alternatively, if the income is taxable, consider possible strategies to generate capital gain vs ordinary income during a debt workout transaction.
 - Consider claiming losses related to worthless, damaged or abandoned property to generate ordinary losses under for specific assets, for insolvent investments in subsidiaries that are at least 80% owned (under Section 165(g)(3)) and for certain insolvent investment entities taxed as partnerships. Certain losses attributable to COVID-19 may be eligible for an election under Section 165(i) to be claimed on the preceding tax year’s return, possibly reducing income and tax in the earlier year, or creating an NOL that provides an additional year of carryback potential in which to receive a refund.
 - Decrease estimated tax payments based on lower 2020 income projections, if overpayments are anticipated.
 - Consider filing accounting method changes to accelerate deductions and defer income recognition with the goal of increasing a loss in 2020 for expanded loss carryback rules under the CARES Act. Common method changes include deferral of advance payments, accelerating the deduction of certain prepaid expenses to the year of payment under the 12-month rule, deducting software development costs in the year incurred and

applying the recurring item exception for property taxes, state taxes, rebates, allowances and payroll taxes.

- Contingent Fee Tax Projects
 - Explore projects like sales or use tax recovery services and income tax return reviews, which can recover previously paid state and local taxes (or even VAT outside the United States, if applicable).
 - Consider IRS Account and Interest Recovery Services (AIRS SM) projects to identify IRS errors in processing and posting payments and to recover misapplied payments and interest.
- International Tax Savings
 - Review U.S. customs and duties for relaxed tariffs on some products and watch for extensions to pay duties, taxes and fees.
 - Mobilize cash from foreign operations while considering repatriation costs (e.g., previously taxed earnings and profits and basis amounts, withholding taxes, local reserve restrictions, Sections 956 and 245A).
- Making the Most of Legislation
 - Understand how the CARES Act can provide relief to employers:
 - Defer payment of the employer's share of Social Security taxes (i.e., 6.2% of payroll; deferral of Medicare taxes is not allowed). Deferral is allowed only until the earlier of (1) December 31, 2020, or (2) the date the employer's Paycheck Protection Program (PPP) loan is forgiven. Half of the deferred deposit must be repaid by December 31, 2021, and the other half must be repaid by December 31, 2022. The deposit deferral is not subject to interest or penalties if the deferred amounts are timely repaid.
- Take advantage of any remaining corporate AMT credit, which should be fully refundable beginning in 2019, with earlier elective application in 2018.
- Secure a quick tax refund in 90 days by using Form 1139 to file for a five-year NOL carryback for losses generated in 2018 through 2020. Taxable income for a year can be fully offset due to a temporary suspension of the 80% income limitation.
- Consider the Employee Retention Credit, which allows for a refundable payroll tax credit for eligible employers harmed by COVID-19. The credit is equal to 50% of up to \$10,000 in qualified wages per employee (i.e., a total of \$5,000 per employee). Employers generally are not eligible for the Employee Retention Credit if any member of their controlled or affiliated service group obtained a PPP loan.

Regardless of which tax strategies you choose to leverage, keeping the focus on generating and retaining cash will ensure that your business is prepared to weather an extended period of disruption.