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CASH IS KING

COVID-19 Tax, Regulatory and Other Considerations for Manufacturing & Distribution

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COVID-19

Tax Insights – Immediate Cash Tax Refund Opportunities

Overview	Summary	Action Suggested
Five-Year NOL Carryback	NOLs generated in tax years beginning after December 31, 2017, and before January 1, 2021 (*i.e.*, 2018 through 2020) may be carried back up to five tax years, resulting in cash tax refunds. The Tax Reform legislation that was enacted in 2017 reduced the corporate income tax rate from 35% to 21% effective for tax years beginning after December 31, 2017. NOLs carried back to pre-2018 years will offset taxable income at the higher 35% rate, making such NOLs even more valuable from a cash tax perspective. Due of the extended carryback period, NOLs may be carried back to periods preceding the current sponsor's ownership of the company, creating additional opportunities to unlock cash tax value. Purchase agreements will need to be carefully reviewed to understand limitations on amending historical tax returns and claiming tax refunds.	Review 2018 tax return • Recalculate taxable income taking into account new changes (see next slide) to tax law to determine if an NOL was created or increased. Review 2019 tax return (if filed) or 2019 tax projections • Recalculate taxable income taking into account new changes (see next slide) to tax law to determine if an NOL was created or increased. • Accelerate timeline for filing 2019 tax return. Consider changing tax accounting methods or claiming bonus depreciation to reduce taxable income or increase an NOL. Review 2020 tax projections • Consider accelerating expenses or deferring revenue through changing tax accounting methods, transfer pricing, bonus depreciation etc. Review purchase agreements • Legal counsel should be consulted regarding the ability to file amended tax returns and claim tax refunds. Analyze the effect of carrying back NOLs, and file amended returns or "quickie" refund claims for cash tax refunds • Special rules apply if the company was subject to the toll-charge.
Refund of Overpaid Estimated Tax Payments	If the Company is in an overpayment position with respect to its 2019 estimated tax payments, it can file for a "quickie" refund of such overpayment. Unlike other due dates that have been extended (see next slide), the due date to claim a "quickie" refund of 2019 overpaid estimated taxes has NOT been extended, so this must be done **by April 15, 2020.**	If the 2019 tax return has not been filed, review tax projections and file for a "quickie" refund of overpaid estimated taxes **by April 15, 2020**. Otherwise, such overpayment may be refunded when the 2019 tax return is filed.
Refundable AMT Credits	The Tax Reform legislation that was enacted in 2017 repealed the alternative minimum tax for corporations, and allowed corporations to claim refunds of outstanding AMT credits over a period of time. Corporations are now able to have all AMT credit carryforwards refunded to them in 2018 or 2019.	Review 2018 tax return, and 2019 tax return or projections, to determine the impact of this change. File amended returns as needed to claim cash tax refunds.

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Tax Insights – Other Tax Changes

Overview	Summary	Action Suggested
Deferral of Federal Income Tax Filings and Payments	Most federal income tax returns and payments due April 15, 2020, are deferred without penalty **until July 15, 2020.** This deferral includes both 2019 tax payments and first quarter estimated tax payments for 2020. Second quarter estimated tax payments for 2020 are still due **June 15, 2020.**	Review 2019 and 2020 tax projections in light of law changes to determine whether deferral is advantageous.
Interest Expense Limitation	Corporations • The limitation on the deductibility of interest expense has been increased from thirty percent of adjusted taxable income ("ATI") (similar to EBITDA) to fifty percent of ATI for the 2019 and 2020 tax years. • Taxpayers may also elect to use 2019 ATI in calculating their 2020 limitation. • This may reduce taxable income or create/increase an NOL for 2019 and 2020 that may be carried back (as previously noted). Partnerships • The limitation on the deductibility of interest expense has been increased from thirty percent of ATI to fifty percent of ATI for the 2020 tax year (as the filing date for the 2019 tax year was March 15, 2020). • There are no changes for the 2019 tax year as the filing deadline has already passed, but fifty percent of any disallowed interest expense allocated to a partner for 2019 will be deductible for that partner in 2020 without limitation, with the remaining fifty percent of disallowed interest expense being treated in the same manner as any other disallowed interest expense. • Taxpayers may also elect to use 2019 ATI in calculating their 2020 limitation.	Corporations: Review 2019 tax return or projections, and 2020 projections to determine the effect on NOLs and/or estimated payments. Partnerships: No current action, but may want to consider adding a footnote to their 2020 K-1s to notify partners of disallowed interest expense in 2019 and the ability to deduct fifty percent of it without limitation in 2020.
Suspension of the 80% Limitation on NOLs	The Tax Reform legislation that was enacted in 2017 limited the ability to use NOLs generated in tax years beginning after December 31, 2017 to eighty percent of taxable income. This limitation has been suspended for the 2018 through 2020 tax years.	Review 2018 tax returns, 2019 tax returns or projections, and 2020 projections to determine if this change reduces taxable income.
Retail Glitch Fix	The correction of the error in the Tax Reform legislation that was enacted in 2017 restores the eligibility of qualified improvement property (*e.g.*, certain leasehold, restaurant and retail improvement property) for a fifteen-year recovery period and bonus depreciation.	Review 2018 tax returns, 2019 tax returns or projections, and 2020 projections to determine if this change reduces taxable income or creates/increases an NOL.
Deferral of Noncorporate Taxpayer Loss Limits	The Tax Reform legislation that was enacted in 2017 limited the ability of taxpayers to use active net business losses in excess of $250,000 ($500,000 for joint filers), and required any excess to be considered NOL carryforwards in the following tax year. This rule was deferred until tax years beginning after December 31, 2020, rather than going into effect for tax years beginning after December 31, 2017.	If business losses were recognized in 2018 and 2019, taxpayers should consult their tax advisors regarding this change.
State, Local and Foreign Tax Changes	Various state, local and foreign jurisdictions have extended tax filing and payment deadlines, and have implemented their own relief measures.	Taxpayers should consult their tax advisors regarding these changes.

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Tax Insights – Payroll Tax Relief

Overview	Summary	Action Suggested
Payroll Tax Credits for Paid Sick Leave and Expanded FMLA	Enacted as a part of "Phase II" COVID-19 relief legislation. This refundable payroll tax credit is intended to offset costs for employers who are providing paid sick leave and Expanded FMLA leave to employees who are unable to work (or telework) due to COVID-19 (or who are caring for an individual affected impacted by COVID-19). Both the amount of paid leave and payroll tax credit are subject to certain restrictions and limitations. Employers of less than 500 employees are generally subject to the paid leave provisions although certain exemptions may apply for employers of less than 50 employees.	Consult with an employment attorney to determine applicability of paid leave provisions and a payroll tax service provider and tax advisor for the mechanics and realization of the credit.
Employee Retention Credit	Enacted as a part of "Phase III" COVID-19 relief legislation. The Employee Retention Credit is a refundable credit of the employer's portion of social security taxes on 50% of qualified wages paid with a maximum credit amount of five thousand dollars per employee. To be eligible for the credit, employers must have fully or partially suspended operations due to a governmental order associated with COVID-19 or have experienced a significant decline in gross receipts in a calendar quarter (gross receipts declined more than fifty percent when compared to the same quarter in the prior year). Once eligible, employers will need to evaluate which wages qualify for the credit which is dependent on the size of the employer (average full-time) and may be impacted by other payroll tax incentives. Note – an employer is ineligible for this benefit if they also receive a small business loan through the SBA Paycheck Protection Program.	Review credit details to determine eligibility. Consult with payroll tax service provider and tax advisor.
Deferral of Payroll Taxes	Employers (including customers of Certified Professional Employer Organizations) and self-employed individuals may be eligible to defer the employer portion of Social Security taxes on wages paid up until December 31, 2020. Fifty percent of this deferred amount is due to be paid on or before December 31, 2021 with the remaining fifty percent due on or before December 31, 2022. Note: Employers cannot defer payroll taxes if they have a loan forgiven under the SBA Paycheck Protection Program.	Consult with payroll tax service provider and tax advisor.

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Other Insights

Overview	Summary	Action Suggested
Business Response and Health Check	Unprecedented economic disruption has created far reaching financial consequences to otherwise healthy businesses. Although certain industries have been impacted disproportionately, the breadth of challenges have expanded in ways that were unimaginable only a few weeks ago.	In connection with the business response, an analysis regarding key components of a company's financial condition should be performed. • Develop a 13-week cash flow, with sensitivities in revenue, costs and net working capital requirements. • Analyze revenue and profit drivers, to understand opportunities or exposures with customers or products. • Analyze expenditures, looking for opportunities to minimize or defer discretionary items. • Analyze supply chains, understanding key vendors and potential alternatives. • Create dashboards, metrics and Key Performance Indicators.
Liquidity Alternatives	There have been several regulatory and legislative events aimed at providing financing alternatives including: • Regulators calling on banks to work with their customers to provide relief that may involve debt modifications or concessions, in general for loans when contractual payments are less than 30 days past due as of the time a modification is applied. • Loans are available through the Small Business Administration, in particular the Paycheck Protection Program noted above. At the writing of this document, many believe most private equity firms with more than 500 employees across their portfolios could be excluded from these programs. However, there may be relief regardless of size for business concerns assigned a NAICS code beginning with 72 (Accommodation and Food Service), businesses operating as a franchise that is assigned a franchise identifier code, and any business that receives financial assistance from a company licensed under section 301 of the Small Business Investment Act. In addition, various capital sources exist that are available as an alternative to traditional banks, including credit and other growth capital funds.	Consult directly with a qualified SBA lending institution or a licensed capital advisor to analyze financing alternatives.

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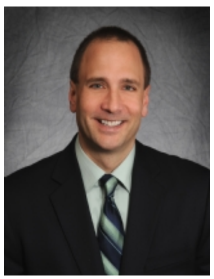
BUSINESS TAX



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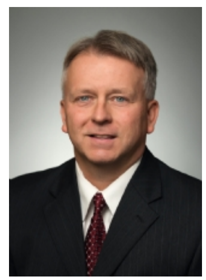

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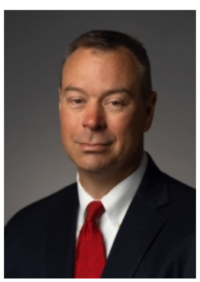

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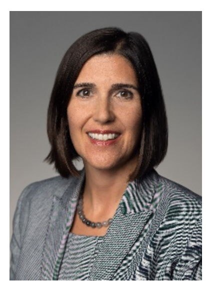

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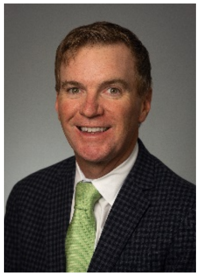

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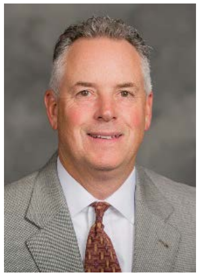

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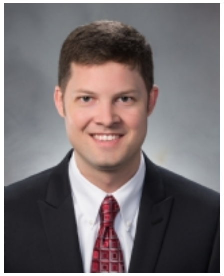

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