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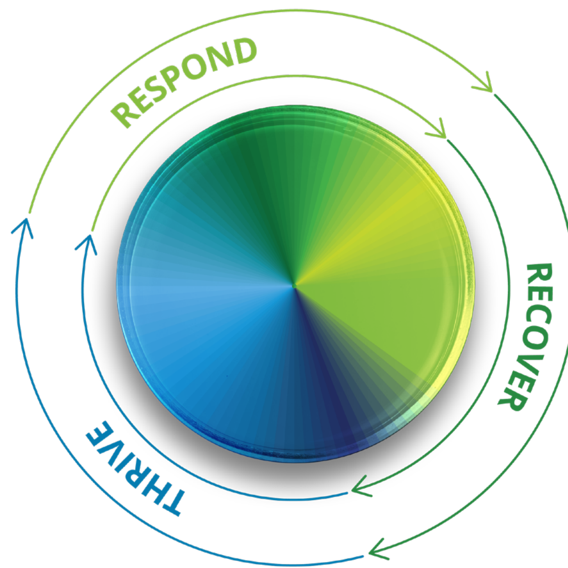


# Tax executives: Response to COVID-19

With tax planning and priorities now profoundly shifted, your organization may still be responding to the immediate demands created by COVID-19. Recovery is on the horizon and planning for the transformations required may be on your radar, but the priorities many companies have focused on initially are likely to continue to be relevant for months to come.

Continuing to evaluate the applicability of the following four areas can help tax leaders bring value by increasing cash flow, reducing costs, and enhancing tax positions:

- Income tax planning for cash needs
- Non-income-based taxes
- Debt issuances, modifications, and restructuring
- Tax operating model considerations

It is critical to understand the changes that are occurring in the business to evaluate relevant tax considerations, staying close to finance, human resources, legal, treasury, and operations leads. Tax modeling of scenarios, including changes to forecasts and impacts on attributes, will need to be performed to provide a broad view of the tax impacts. A few examples of planning available to companies now are described below, but this is by no means a comprehensive list.

## COVID-19 impact on tax priorities

During a recent tax webcast,[1] Deloitte Tax LLP presented attendees with this poll question: What is the highest priority for your company's tax department in light of COVID-19?

The response:

**28%**
Using planning to increase cash refunds for 2019 tax year filing

**25%**
Analyzing your tax department operating model to reduce costs and increase efficiencies

**14%**
Filing quick refunds for 2019 and getting cash as quickly as possible

**17%**
Carrying back NOLs to a 35% tax year to recognize a 14% permanent benefit

[1] A poll of more than 1,000 executives across a variety of industries was conducted during a Deloitte webcast focused on COVID-19 response, so organizations can recover and thrive. The webcast, titled "Legislative updates and cash generation – Domestic tax considerations," was held on March 30, 2020

## Income tax planning for cash needs

*Accounting method considerations for 2019/2020:* There are a variety of accounting method changes that can be made automatically on the 2019 tax return and other considerations for filing with respect to the 2020 tax year. If companies are anticipating a net operating loss (NOL) for 2020, it will be important to evaluate whether to file method changes for 2019 or to make them effective for 2020, which can still allow for cash tax savings through estimated payment planning, but also a potential permanent tax benefit, as discussed further below. In addition to the net operating loss carryback, accounting method changes can have an impact on permanent tax items such as global intangible low-taxed income (GILTI), base erosion and anti-abuse tax, interest expense limitations, and foreign tax credits. Modeling is recommended to understand the broader impacts.

*Quick refunds:* Quick refunds: The deadline for filing Form 4466 "Corporation Application for Quick Refund of Overpayment of Estimated Tax" has been moved to July 15, giving companies additional time to evaluate and calculate their 2019 overpayment. The normal time for processing such quick refunds is 45 days. Given Forms 4466 are only filed using paper and the IRS Ogden campus has been closed due to COVID-19, the timeframe for processing refunds using this procedure may result in significant delays.

*Expansion of NOL carrybacks:* Under the prior rules, NOLs could only be carried forward and were limited to 80 percent of taxable income. The CARES Act provides for a five-year NOL carryback for losses generated in the 2018, 2019, and 2020 tax years. Similarly, the CARES Act expanded two-year carrybacks for fiscal taxpayers having an NOL in a tax year that straddled December 31, 2017. In many cases, this can provide companies with both a quicker cash tax benefit and permanent tax savings due to the higher corporate tax rates in some carryback years. For example, losses incurred at a 21 percent tax rate may be carried back to offset income taxed at the previous top corporate rate of 35 percent.

Complexity in implementing and planning for the NOL and carryback includes identifying possible limitations, identifying and evaluating consolidated return rules that may require allocation of losses to separate return years (and related choices), and planning for the international implications of tax reform (e.g., use of foreign tax credits, limitations on GILTI deductions, etc.). Potential opportunities in electivity pertaining to carryback options, tax years, and CARES Act relief are important considerations for tax executives.

*Alternative minimum tax (AMT) credit acceleration:* Consider utilizing accelerated refunds of any corporate AMT credits remaining. Instead of AMT credits being refunded incrementally in tax years beginning in 2018, 2019, and 2020, with the remainder refundable in 2021, companies may now recover the entire remainder in the 2018 or 2019 tax years. Careful evaluation of the refund should be made in connection with any increases in AMT credits arising from NOL carrybacks.

*Other key changes in the CARES Act:* The section 163(j) interest expense limitation was increased from 30 percent to 50 percent of adjusted taxable income, and companies can also elect to use their 2019 adjusted taxable income for purposes of computing the 2020 limitation. As there are elections to apply the 30 percent limitation to each year, planning may be appropriate in connection with these decisions where NOL carrybacks may be impacted. Separately, many taxpayers may benefit from the technical correction change to allow 100 percent expensing on qualified improvement property retroactive to 2018 additions, which may be claimed through amending tax returns or filing an automatic accounting method change. As a result of this provision of the CARES Act, taxpayers also find administrative relief to make changes to prior depreciation decisions for other property.

*Related content:*

- Cash flow management in times of crisis: Check out Deloitte's Resilient podcast

## Non-income-based taxes

*Employee retention credits:* This credit is intended to aid employers who have been impacted by COVID-19 and it serves to offset the cost of wages paid to employees. In general, an organization is eligible to claim a credit for certain wages paid to employees if the employer has had a full or partial suspension of business operations due to governmental orders related to COVID-19 or if the employer has experienced a significant decline in gross receipts. The credit can be used to satisfy employment tax deposit obligations and is refundable, thereby providing a cash flow benefit to employers. The credit is up to $5,000 per employee

for 2020, which is based on a maximum of $10,000 of qualified wages. An employer who receives a Paycheck Protection Program loan is ineligible for the retention credit, unless the loan was repaid by May 14, 2020. Recently issued FAQs from the IRS provide guidance on certain aspects of the credit eligibility. Companies should carefully analyze if they qualify for the credit, as much of the analysis is dependent on specific facts and circumstances and the evaluation of impacts to specific employees.

*Payroll tax deferrals:* The CARES Act provides that an employer may delay the payment of the employer portion of Social Security taxes otherwise due between March 27, 2020, and December 31, 2020 to December 31, 2021 and 2022, with 50 percent of the total deferred tax due in each of those years. Employers may utilize the retention credit and benefit from the payroll tax deferral. Companies should analyze these deferrals in conjunction with any anticipated employee retention credits. An employer who receives a Paycheck Protection Program loan is no longer eligible for the deferral if the loan is forgiven.

*Property taxes:* Proactively engage assessing jurisdictions about economic hardships and the impact on asset values—they'll typically have more flexibility now than in an appeals situation. Addressing this in the current property tax filing season may impact property tax assessment for 2020 and beyond.

*Related content:*
- COVID-19 stimulus: A taxpayer guide

### Debt issuances, modifications, and restructuring

*Debt modifications:* Many businesses are increasing borrowings, modifying existing debt, or preparing for the possibility of restructuring debt to make up for the financial downturn of suspended economic activity. There are a variety of tax considerations that if not identified early on could have unintended consequences. There are also important impacts to short- and long-term liquidity from a tax perspective. Working closely with finance, legal, and treasury is key to making sure the appropriate tax impacts are considered related to debt issuances, modifications, or restructurings.

*M&A trends and tax issues:* As we continue into recovery, companies will consider transactions such as divesting of non-core assets, strategic acquisitions, restructuring, and bankruptcies. Scenario planning, including modeling transactions to assess structuring alternatives and impact on the effective tax rate, can be complex in this environment due to the volatility of the market and changing tax legislation.

*Related content:*
- M&A Tax Talk – Debt Modifications

### Tax operating model

*Addressing current needs:* Changing regulations and virtual work may introduce new gaps in governance and processes. Developing a tax continuity and risk readiness plan should be prioritized to plan for and address communications strategies, adjustments to current processes, implementing new internal controls, and evaluating risks related to compliance deadlines and critical tasks.

*Budget and headcount considerations:* Increasing pressure on budgets may require tax executives to review staffing models and identify resource and technology solutions. Taking a fresh look at people, process, data, and technology, and finding opportunities to automate processes and leverage analytics to bring valuable insights and streamline preparation and review processes, can go a long way in identifying new efficiencies in the tax department.

*Related content:*
- The shift to remote: Workforce transformation in real time: Check out Deloitte's Resilient podcast
- Facing COVID-19 challenges with an agile tax operating model

**Respond, recover, thrive: Looking ahead at tax priorities**

As we move from the initial response to COVID-19 and into recovery, we expect businesses to undergo significant workforce, operational, and digital transformations that will require tax executives to think strategically about tax planning and about their organization. By contributing tax expertise to cost reduction, cash generation, M&A, restructuring, and other business strategies, tax can play a valuable role in helping organizations meet immediate demands, emerge stronger, and thrive going forward.

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