



A COVID-19 response for tax and legal leaders

**Business-critical strategies for
dealing with the crisis**

As companies around the world struggle to come to terms with the health, social, and economic impacts of the COVID-19 pandemic, many tax and legal leaders are asking how they can best help their organizations adapt to this rapidly-changing environment.

There is still much work to be done. Many businesses are going through massive changes. Some are dealing with unprecedented demand and related supply chain issues; others are facing a reduction in activity and a renewed focus on cash preservation and business continuity. There are tax and legal implications at every turn.

This is the first piece in a series. We will highlight important considerations from the perspective of tax leaders and general counsel during the acute phase of the COVID-19 crisis.

THE RESPOND PHASE

FIRST PRIORITIES FOR TAX LEADERS

Deloitte's work supporting tax leaders has revealed five main areas of focus in response to the acute phase of the crisis.



**MAINTAIN BUSINESS
CONTINUITY**
EMPOWER YOUR
WORKFORCE

Tax and legal leaders should be looking for simple, immediate, and flexible actions that will enable them to maintain core operations and processes remotely while simultaneously keeping employees safe and engaged.

Protect the workforce and business continuity. With many cities in lockdown and employees forced to work from home, the top priority of business leaders must be to ensure their people are safe, secure, and adhering to local restrictions. The next step, however, is to ensure they are empowered to continue their work remotely. For example, by making available enabling technologies such as virtual private networks (VPNs), data portals, and virtualization technologies that are effective and secure. This will be key to driving business continuity in tax and legal functions over the coming months.

Even with various tax authorities offering delays to compliance deadlines, meeting obligations during this period of virtual working and lockdowns may well be a challenge. Tax functions that have already made progress on their digitalization journey should be better placed to maintain core operations. Many will still need short-term support to meet their compliance requirements.



**UNDERSTAND TAX
IMPLICATIONS**
KNOW ALL THE
OPTIONS

Tax leaders need to have a well-informed and strategic view of incentives and relief measures available to inform decision-making at the executive level.

Assess the value of utilizing new tax relief legislation. Governments and tax authorities are unleashing an unprecedented amount of new tax measures to keep businesses afloat and help reduce some of the disruptive economic impacts of the crisis. Based on our review of over 120 countries, most have enacted some form of tax and fiscal reform to combat the impacts of COVID-19.

Learn about government incentives. Tax leaders will need to quickly assess the range of incentives and relief measures being passed by countries around the globe. Additionally, in some countries, provincial, state, and local governments are taking similar actions. Those with a global remit will find this task exponentially more challenging.

Stay up-to-date. Register for access to [Deloitte's COVID-19 Tax & Financial Measures portal](#) today to learn about tax and financial measures as they evolve around the world.



**FIND TAX-RELATED
CASH OPPORTUNITIES**
PRESERVE THE BUSINESS

In the current environment, tax can be a significant source of cash generation and preservation. Tax leaders should be working to uncover new cash tax opportunities to help the business survive.

Identify and execute cash tax opportunities. In the immediate wake of the crisis, businesses will need to preserve cash and generate short-term cash opportunities. Tax can and should play a central role. There are often significant tax—as well as some legal—implications involved in moving cash between jurisdictions or repatriating cash back to a head office.

In part, some cash tax opportunities will flow from the new tax measures being implemented around the world. Many have been designed specifically to help businesses keep cash on the balance sheet longer. Taking advantage of the various direct and indirect tax deferrals, indirect tax refunds, research tax incentives (which can generate cash refunds in some countries), and other emergency measures will be key.

Tax leaders should also be re-examining their 2019 returns and evaluating their 2020 tax positions in order to optimize in the new environment, for example, the availability of carry back losses. And they should be looking back at their indirect tax payments to uncover any potential refund claims or potential overpayments. In the slightly longer term, there may be value in reassessing the corporate structure.



**ENABLE AGILE
DECISION-MAKING**
UNDERSTAND LONGER-
TERM IMPLICATIONS

As the business explores and responds to market conditions, the tax function must have scenario-planning information in order to help executives understand the tax implications of their decisions.

Manage impact on tax and treasury structures. As the organization pivots to deal with new pressures and challenges during the acute phase of the crisis, significant new tax and treasury implications will likely be created. Tax leaders need to have a clear understanding of their current tax structure and a good sense as to how various business decisions might impact the company's tax position in order to help the business make sound, long-term decisions in this time of rapid change.

Tax leaders will also need to focus on aligning tax policies and positions to meet the fluctuations in pricing and demand commanded by current market conditions. This requires thinking about the impact not only on direct taxes (both leakage and losses) but also how these changes will impact transfer pricing policies going forward.

While much focus will likely be placed on managing the marginal tax rate for direct taxes, indirect tax considerations will require as much if not more immediate attention. Where sales in jurisdictions plummet, sales related tax positions may become inefficient. In short, it's all connected. Transfer pricing, tax policies, customs, and duty taxes, and other indirect taxes will also need to be reviewed as supply chains and value chains become disrupted.



THE NEW SPOTLIGHT
A STRATEGIC BUSINESS
PARTNER

The tax and legal functions always play an important role in evaluating financing and transaction arrangements. It is important this is not an afterthought, especially during times of great disruption where leaders are under pressure to act with speed.

Support distressed debt and transaction cost management. For many organizations operating with tight working capital restrictions and those facing liquidity issues, new financing and debt restructuring may be required. Tax and legal play an important role in helping the business understand the implications of refinancing decisions, both internal and external.

Indeed, tax and legal functions should be involved in helping the business make decisions about many of the commercial adjustments that must occur during this period—from repositioning production lines and merging operations to moving cash between jurisdictions and paying severance costs. Each transaction will carry tax and legal consequences that should be factored into business' decision-making.

FIRST PRIORITIES FOR LEGAL LEADERS

The shelter-in-place and lockdown measures around the world have pushed many businesses into uncharted territory. As corporate executives assess the potential exposures to their companies, many of them are implementing immediate measures to mitigate the risk of revenue loss and to minimize non-essential expenses. At the same time, businesses must maintain employees and workspaces.

These complex dynamics present multiple, simultaneous challenges to corporate executives. Labor and employment, supply chain disruption, contract renegotiation and disputes arising as a result, health and safety concerns, data privacy, and mandatory disclosures are among the most important issues that in-house legal teams need to confront immediately.

General counsel will play a critical role in the coming months. Corporate executives will continue to rely on their lawyers to contribute to and implement appropriate contingency plans. Their in-house counsel will be instrumental in identifying legal issues from all angles of their business challenges, many of which are without precedent. They will be vital to creating solutions that will mitigate legal risks that serve the corporation's business goals—and to keep the corporation in business.

FIVE CONSIDERATIONS FOR GENERAL COUNSEL

1. Contractual obligations. Assess how COVID-19 may be impacting commercial contracts, including delays in performance or delivery, early termination requests or other changes to terms and conditions.

2. Contract disputes. Prepare for potential claims by developing a claim strategy, gathering relevant documentation, and formulating an end-to-end communications response.

3. Workforce changes. Understand the legal obligations involved in workforce continuity and design an effective approach to manage workforce changes within the local legal framework.

4. Data protection. In jurisdictions where employers are now required to monitor and report on employee health, legal counsel will need to ensure the organization is staying within local personal data protection legislation.

5. Disclosures. General counsel at public companies will need to continuously assess whether the organization must make additional risk factor disclosures based on the severity and impact of the pandemic.

ENABLING THE BUSINESS

Clearly there are many immediate actions tax and legal leaders need to be considering, together with near-term agenda items—IP arrangements, supply chain changes, strategic mergers and acquisitions, and the selling of non-core assets, to name a few. Additionally, tax leaders specifically need to study the recent raft of tax measures and identify ideas and strategies for cash generation and tax optimized business structuring, as well as thinking about how to continue meeting compliance and reporting deadlines during this time of disrupted operations.

Helping to bring these key priorities to the forefront is critical in this current economic environment. Tax and legal leaders must stay close to the business. They must be a part of discussions about short-term strategies and proactively work with leaders across the business to address their immediate needs.

Every organization has its own COVID-19 response model and governance, and there is no “one-size-fits all” solution. As businesses assemble teams to respond, there is a tremendous benefit gained by including tax and legal representation on all COVID-19 taskforces. Tax

leaders and general counsel will bring valuable insights as businesses explore response strategies and scenario plans together. They will be vital to creating and implementing the solutions that will safeguard business goals and keep the organization from potential risks and mis-steps that could do long term damage.

While the complexities of the near-term may seem overwhelming at times, this phase will pass. As we move towards recovery, both new opportunities and new challenges will be created for the tax function and for general counsel.



RESPOND

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For more tax and legal leader perspectives from around the world visit www.deloitte.com/taxCOVID and www.deloitte.com/legalCOVID.
This COVID-19 resource center will be refreshed frequently with up-to-date tools and information.



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