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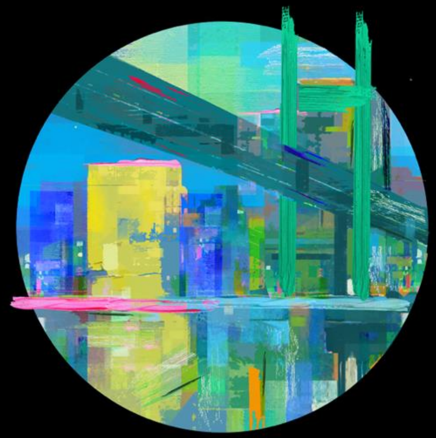
M&A tax considerations across a range of transactions

Turnaround and restructuring



For companies that are underperforming and facing financial distress, it’s important to understand the critical actions that can be taken early to preserve value and manage risk. Proactive tax planning throughout the restructuring lifecycle can lead to future tax savings, enhanced financial stability, tax and operating efficiencies, and margin improvement. Below is a sample of high-level questions that dealmakers should consider:

1 What are the early indicators of financial distress?

- Businesses may be experiencing declining sales, underperforming stock prices, debt trading at a discount, liquidity constraints, debt defaults, layoffs, or high management turnover, and as such, evaluating tax planning considerations early is critical.
- Often distressed companies may be considering a refinancing or restructuring of its debt obligations, may be experiencing changes in its ownership or equity structure, and may be contemplating a disposition of entities or assets.

2 How can tax planning drive value throughout the turnaround and restructuring tax lifecycle?

- Team with other workstreams, advisors, and key stakeholders to stay informed on financial, commercial, and legal considerations and the related impact to tax implications and reduce adverse tax consequences.
- Preserve valuable tax attributes (e.g., net operating losses, credits) to improve financial stability and enhance cash flow.
- Tax planning to enable cash preservation and tax efficiencies.
- Identify changes in economic drivers (e.g., claims, valuations, financing, etc.) to provide tax insight to variables.

3 What tax risks may arise in debt restructuring?

- Debt modifications can result in unintended tax burdens including phantom income.
- Cancellation of debt income may create unexpected tax liabilities or significantly reduce tax attributes and tax basis.
- Interest deductibility can be impacted by renegotiated debt terms.
- Equity ownership shifts may trigger limitations on tax attributes.
- In-court versus out-of-court restructuring has different tax consequences including tax treatment of cancellation of debt income, limitations on use of tax attributes, etc.

4 How can tax modeling inform restructuring decisions?

- A dynamic tax model allows for flexibility in adapting to evolving deal structures.
- Modeling can provide insights on decisions on mergers, liquidations, and alternative restructuring paths.
- Forecasting short- and long-term tax impact can help evaluate restructuring scenarios.
- Analyzing cancellation of debt income likelihood can impact tax planning considerations.
- Real-time tax assessments can improve restructuring efficiency.

5 What are some common compliance and reporting obligations post-restructuring?

- As a result of the restructuring, tax forms and elections may be required as part of tax compliance.
- Proper documentation enables compliance with financial and tax reporting processes.
- Tax rulings or opinions can clarify critical tax positions.
- Analyze tax treatment of professional fees and reorganization costs.

6 How can restructuring outcomes be enhanced for long-term tax efficiency?

- Identifying tax planning considerations through the restructuring lifestyle can impact future savings post-restructuring.
- Aligning tax strategy with broader business goals can help lasting financial stability.
- Evaluating ownership shifts post-restructuring can preserve tax attributes.
- Performing legal entity rationalization analysis to identify tax and operating efficiencies.
- Continuous monitoring of tax law changes can mitigate unexpected liabilities.
- Modernizing technology platforms and using analytics to identify and respond to tax issues more quickly.

Let’s talk

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