Coronavirus and Cash Shortfalls - What Can You Do to Mitigate the Effects of Coronavirus on Your Organization’s Financial Health?

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The coronavirus is having a direct effect – financial and otherwise – on nearly every business. While the long-term effects of the global pandemic will be significant and far-reaching, the short-term financial consequences to businesses, due to expected cash shortfalls, could make the difference in a company’s survival. Here are four areas that businesses should review that could impact – and potentially improve – their financial situation:

- Lease arrangements – Landlords may be willing to accept a temporary reduction in rent rather than risk losing a good, long-term tenant, and otherwise reliable income stream, altogether. This can usually be accomplished by a simple amendment to the lease agreement.

- Debt covenants – Companies that have credit facilities often are subject to debt covenants in favor of the lender that are tested periodically. Typical debt covenants that could be violated in times of financial crises include minimum
financial tests, or ratios, based on a company’s income, assets, working capital, net worth and equity. Covenants that consist of operational milestones could be impacted as well. It’s good practice for companies to approach their lenders and seek amendments (or temporary waivers) to their covenants before those covenants are tripped, rather than afterwards, when the company is in default.

- **Force majeure** clauses – Some contracts contain what are known as “force majeure” clauses, that can serve to excuse performance (including payment) if certain unforeseen events occur. (Sometimes they are referred to as “Act of God” clauses.) In fact, we have seen contracts that specifically refer to epidemics. We recommend checking your contractual arrangements to understand the rights you have, as well as the rights that your counterparties may have, in light of the coronavirus pandemic. In addition, see our post regarding the impact of unforeseeable events on contracts.

- Wages and salaries – There are a range of options that companies may be able to implement in order to conserve cash in the short term, such as furloughs, temporary pay reductions and alternative work arrangements (whether for a fixed period (say, three months) or, if permissible, until further notice). Employers should not take any actions regarding their employees, however, without first considering applicable federal, state and local laws, and/or contractual limitations (for example, wage and hour laws, advance notice laws (e.g. federal and state WARN Acts) or contractual provisions, unemployment benefit implications, and provisions within Collective Bargaining Agreements).

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