Mergers and Acquisitions Tax Services

Debt Restructuring and Bankruptcy

Navigate unique tax situations with confidence

Is your company considering restructuring debt obligations?

Are you confident that you have considered the unique tax consequences of debt restructuring?

Have you assembled the right team of advisors to help ensure you avoid debt restructuring pitfalls?

Changes in economic conditions frequently cause companies to consider a reduction or restructuring of their debt obligations. While lenders and other stakeholders may be willing to consider a refinancing or modification of debt obligations, in some of the most serious circumstances, companies may have to resort to a bankruptcy filing.

These scenarios have significant and sometimes unique tax consequences. McGladrey has the resources and competencies to guide and assist companies through difficult financial situations, with a focus on preserving and enhancing company value.

Assessing the impact of debt restructuring

As companies consider alternatives to deleverage or enhance liquidity, many tax issues arise related to debt restructurings and bankruptcy. Our experienced team of advisors can help you assess:

- The tax advantages and disadvantages of an out-of-court workout, compared to either a Chapter 11 or Chapter 7 federal bankruptcy court filing.
- The income ramifications of a debt refinancing or cancellation. Because taxable income can arise in connection with the cancellation, modification or refinancing of debt, it is important to measure the financial impact prior to choosing a course of action.
- Whether part or all of the debt cancellation income is excludable from taxable income if the company is insolvent or in bankruptcy.
- Any taxable gains or losses resulting from debt modification. The modification of a debt instrument may be viewed as an exchange that creates a taxable gain or loss on the transaction, which may be tax-deferred under certain circumstances.
- Original issue and timing issues. Refinanced debt may create original issue discount, which alters the timing of interest deductibility and taxable income inclusion, or be subject to potential high-yield debt obligation rules that deny deductibility under certain circumstances.
- The impact on tax net operating losses (NOL) and tax basis in assets.
- If cancellation of debt income is excluded from taxable income, NOL and tax basis in assets could be reduced.
- Possible limitations from ownership changes. Changes in ownership resulting from restructurings or bankruptcy reorganizations may lead to limitations on the future use of a corporation's tax NOL and credit carryforwards.

Additional considerations

- Careful tax planning is required to preserve and potentially enhance the utilization of valuable tax attributes, including NOL and credit carryforwards, and the tax basis of depreciable and amortizable assets.
- Tax accounting rules apply in the case of fresh start accounting, where newly derived deferred taxes and valuation allowances may need to be considered.
- For consolidated groups, complex rules are layered on to the special tax rules that apply to out-of-court workouts and Chapter 11 bankruptcy reorganizations.
- Debt restructuring and bankruptcy present unique federal, state and international income tax and reporting considerations. These matters require effective planning and management at every stage of the process.

Specialized services, experienced tax professionals

Companies considering a debt restructuring or bankruptcy filing often need to involve experienced tax specialists during this difficult process. The McGladrey tax services team takes the time to understand your business needs, and applies our experience with debt restructuring and bankruptcy planning to identify potential problems, uncover opportunities and design solutions that best position your company to achieve its goals.

That's the power of McGladrey. The power of being understood.SM

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