A COVID-19 Financial Survival Kit for Law Firms

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As the coronavirus crisis worsens globally each passing day, the one thought that creeps into everybody's mind right now is, "when will this all end?" The short answer is no one has a clue.

Some say as early as this summer (I refuse to give any credence to the President's latest prediction of the end of April). At the same time allegedly, *The New York Times* got a hold of a leaked 100-page document from the US government, which expects the pandemic to last 18 months or longer, resulting in "significant shortages for government, private sector, and individual US consumers."

So suffice to say it is not going away overnight, and firms need to act now on various survival tactics that work best for them.

Not all of the survival tactics listed in this column will have the same results for every firm, so judgment and cultural context must be part of the selection process.

The survival tactics identified are not meant to be an exhaustive list and do not appear in any order of priority or effectiveness but rather "a la carte."

1. **Federal Programs** (as noted at the time of this article but are in a steady state of flux):

    a. **Canada Emergency Business Account** – This program will provide interest-free loans (first year only) up to $40,000 to small businesses and not-for-profits to help cover their operating costs during a period where their revenues have been temporarily reduced, due to the economic impacts of the COVID-19 virus. This loan will be set up as a revolving line of credit until December 31st, 2020, interest-free, and then converted to a term loan with a payout date of December 31st, 2025. Should the loan be paid by December 31st, 2022, there is a possibility to qualify for 25% forgiveness. To qualify, these organizations will need to demonstrate they paid between $50,000 to $1 million in total payroll in 2019.

    b. **Federal Temporary Wage Subsidy** – The subsidy is 75% of salaries up to $58,700 ($847/week). To qualify, a company must show that its revenue has decreased by 30% due to Covid-19. Not based on the number of employees, and available to all employers, not just small businesses. The maximum subsidy is $25,000 per employer;

    c. **Employment Insurance Top Up** (Similar to the existing maternity leave top-up programs) – Employers can lay off staff and Associates and then top up the benefit they receive through unemployment insurance (2020 maximum is $573/week which requires a salary of $54,200) to some percentage of their existing salary – ranges appear to be 75% to 95%;

    d. **Work-Sharing** – A program that helps employers and employees avoid layoffs when there is a temporary decrease in business activity beyond the control of the employer. The program provides EI benefits to eligible employees who agree to reduce their regular working hours and share the available work while their employer recovers. As a result of the Covid-19 extension of the maximum possible duration of an agreement from 38 weeks to 76 weeks and CRA has reduced the requirement and expand eligibility to employers affected by accepting business who have been in business for only one year rather than 2, and eliminated the burden of having to provide sales/production figures at the same time;

2. **Rotating work schedule** – This is different from a formal work-sharing arrangement in that part of the staff keep working for some period (determined by Management) and then at the end of that period the staff currently working are laid off and the staff initially laid off come back full time;

3. **Reduction of group benefits** – (The outrageous increases in annual premiums has drawn attention to this cost reduction.) Ranges in cutting this cost range from ceasing the coverage entirely to keeping drug and hospital coverage to increase the participants' share of the premium, etc. One concern in the past has been that if plans are cancelled, all participants may have to take a physical to obtain coverage, and/or pre-existing medical issues will not be covered. Allegedly, all the insurers are coming up with ways to defer or suspend group benefit plans temporarily due to this situation;

4. **Redo leases** – Any existing equipment leases are at interest rates significantly higher than bank rates (with prime now at 2.45%); therefore, contracts should either be re-negotiated or bought-out and refinanced through the banks;

5. **Across the Board Salary Reductions** – There is a mixed review of the impact of such an action, in that poor performers who have no alternatives will muddle through and you only upset your better performers, however, a 20% across the board reduction results in immediate cashflow savings and may reset the starting point for future salary discussions;

6. **Bill Out Unbilled Disbursements** – While work on matters may slow down or even cease, law firms are not banks, so after discussion with clients, should render accounts for all outstanding disbursements where possible;

7. **Slow Down Payment Cycle** – Historically, law firms are prompt in paying their invoices (whether keeping up with the Jones syndrome, bad fiscal management, etc.) and should immediately go to a minimum 60-day payment cycle on all payables where feasible (instead of assuming this is not possible, explain to all creditors/vendors that current circumstances make this necessary);

8. **Facility**:

    a. **Base Rent** – Explore with your landlord if they are taking advantage of payment deferral or rate reduction with their lenders and, if so, require that this be passed through to the tenants. If they are not taking such action, encourage them to explore the opportunity and at least agree to payment of rents in arrears (45 days);

    b. **Joint Occupancy Costs** – Given the reduced traffic throughout the building, the costs billed monthly should immediately reflect this reduction rather than waiting until the end of the fiscal year and produce a surplus;

9. **Total Freeze on Expenditures** (Particularly business development; marketing; advertising) – The hours worked by lawyers at home are less than those when they worked in the office (in many cases significantly). Therefore, this crisis should be treated as a time to increase their presence on social media by writing columns/articles that they have not had the time to do in the past. They are further removed from the clients' eyesight and so should be working harder at being "Top of Mind" presence. Keeping in front of your clients this way costs nothing but their time — which most will have extra of with any extension of the crisis;

10. **Deferment of Articling Program** – While such a decision seems premature to many readers, it needs to be on all firm's short term agenda when you consider the fairness in giving law school graduates the maximum time to make alternative arrangements as well as minimizing any potential cost exposure/support;

11. **Conversion of Associates** – Changing the status of senior associates to non-equity partners can have an impact on cash flow if, for no other reason, firms no longer have to pay employers' premiums for CPP and EI. It can be an even higher impact if, in doing so, their compensation arrangements change from employee-based to owner based; and

12. **Partners' Draws** – Cash is going to be critical as the crisis extends further into the year; firms should consider staged reductions beginning now in Partners' draws to lessen the impact of an abrupt decrease.

As is the case most times, the following quote, attributed to Ben Feldman, captures the essence of what law firms need to be thinking about better than I could ever contemplate.

"Doing something costs something. Doing nothing costs something. And, quite often, doing nothing costs a lot more!"

Stephen Mabey is a CPA, CA and the Managing Director of Applied Strategies, Inc. Stephen's focus is on law firms in general and on small to medium size law firms in particular. He has written about and advised on, a wide range of issues including - leadership, business development, marketing, key performance indicators, strategic planning, mergers, practice acquisitions, competitive intelligence, finance, mergers, practice transitioning, compensation, organizational structures, succession and transition planning, partnership arrangements and firm retreats. In 2013, Stephen was inducted as a Fellow of the College of Law Practice Management in recognition of his sustained commitment to the highest standards of professionalism in law practice management. For more information, visit ***appliedstrategies.ca*** *or connect with* ***Stephen Mabey on LinkedIn****.*

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