

# COVID-19 Global Response: Technology/SaaS Industry Analysis

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# Key Issues in the Technology/SaaS Industry

## **Travel restrictions**

Travel restrictions may keep mobile employees away from their home jurisdiction for a significant period of time.

## **Inefficient value chains**

Technology company value chains are built for healthy times (e.g., guaranteed profit in limited-risk subsidiaries). They are inefficient during times of distress (e.g., losses in low-tax jurisdictions).

## **Cash needs with prior losses**

Like many companies in other industries, some technology companies are in dire need of cash right now. However, many technology companies incur losses, so some of the typical relief provisions (e.g., deferred tax payments, loss carrybacks) may not offer much cash benefit.

## **Difficulty raising equity financing**

Prior to COVID-19, raising money through equity financing was a seller's market. Now VC firms are being more cautious with their cash, making it difficult for technology companies to acquire equity financing without lowering their valuation. Technology companies may need to seek alternative sources of financing.

## **Low valuation opportunities**

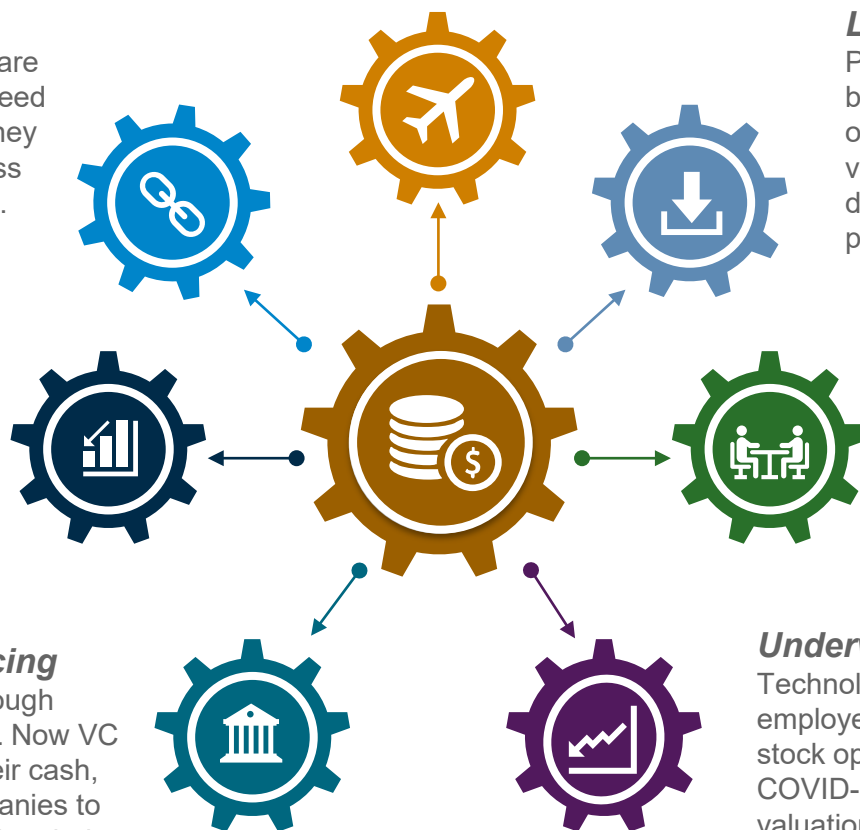
Prior to COVID-19, technology companies, both public and private, tended to have overly high valuations. Now high market volatility has generally brought valuations down. Low valuations can present certain planning opportunities.

## **Stakeholder liquidity**

Instead of technology companies seeking liquidity for their own operations, often the founders and investors want to extract liquidity from these companies for themselves.

## **Underwater stock options**

Technology companies tend to reward their employees with equity compensation, including stock options. Stock options granted before COVID-19 are likely underwater now, and valuations may not rise again quickly. Although the employment market is also down, technology companies may find it difficult to motivate and retain existing employees when their options are not exercisable.



# What is your action plan



## Short Term

- Consider temporarily reducing or suspending the markup on service fees paid to cost-plus subsidiaries.
- Given the low interest rate environment and opportunity for forgivable loans, consider short-term debt financing or forgivable loans as a way to generate fast cash.
- Maximize research and development (R&D) and intellectual property (IP) deductions: credit v. deduction, amortization v. deduction, etc.
- Drive income tax reductions or losses with accounting methods changes. Use losses to seek tax refunds in prior years.
- Seek current and retroactive transfer pricing (TP) adjustments (e.g., 2019).
- Monitor overlapping priority rules (e.g., reducing non-US tax also reduces foreign tax credits on US global intangible low-taxed income (GILTI)).



## Medium Term

- Instead of increasing cash compensation, reissue stock options at low stock price.
- Ensure that minimum presence requirements are met (e.g., IP holding company residency).
- Trigger losses or write-downs for underperforming assets or entities.
- Comply with new permanent establishment (PE) formations (e.g., due to remote working / lock-down).
- Utilize available cash on stock buybacks, subject to local limitations on companies receiving governmental support.
- Repurchase debt (especially undervalued or distressed) from creditors, potentially giving rise to cancellation of indebtedness income.



## Long Term

- Consider liquidating or abandoning foreign subsidiaries, making a check-the-box election, or *Granite Trust* planning to bring foreign losses into parent company jurisdiction.
- Scour overleveraged foreign subsidiaries for possible worthless stock and/or bad debt deductions.
- Transfer IP now while relying on lower forecast and/or market capitalization method.
- Move cash out of emergent markets where there is greater long-term uncertainty, considering effect of withholding taxes and foreign exchange exposure.
- Restructure legal entities while values are depressed.
- Modify subsidiary investment capital structure in order to preserve tax basis (e.g. by converting equity to debt).
- Sell assets intercompany to step up basis before corporate tax rates rise.
- Consider R&D tax credits and other innovation reliefs available in operating jurisdictions.
- Plan for the company owner's estate tax liability while values are low.

# Why A&M Taxand

A&M Taxand's international tax specialists have extensive expertise uncovering planning opportunities and acting as a trusted advisor to generate value for technology companies. Our breadth of experience, from closely-held start-ups to publicly-traded multinationals, means we understand the unique challenges faced by technology companies at all stages.

Our seasoned team of specialists are available to share more information on all government support measures and their impact by jurisdiction. Contact any of the professionals below for more information.

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