

# Manufacturer

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## Private activity bonds

*Act soon to add more to your manufacturing facility for less*

## How to deal with customer bankruptcy

Selling your manufacturing company *is* possible — even in a down economy

Is your equipment operating at peak effectiveness?

# Private activity bonds

Act soon to add more to your manufacturing facility for less

There's nothing more satisfying than a good thing that gets even better — especially when it pertains to your manufacturing business. The American Recovery and Reinvestment Act of 2009, commonly referred to as the Stimulus act, has sweetened tax-exempt private activity bonds, which are available to finance “manufacturing facilities.” But better act soon — this expanded break is available for only a short time.



## Bond background

Private activity bonds, which have been available to many manufacturers since 1986, are issued by local governments and certain state agencies. The government or agency sells the bonds to investors and uses the proceeds to make a loan to the manufacturer. The manufacturer must pay off the loan through payments to the bond investors.

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## Nontraditional manufacturers

The normal terms of tax-exempt private activity bonds define a “manufacturing facility” as any facility used in the manufacturing or production of tangible personal property, which encompasses anything (excluding real estate) that can be physically touched, from cars to furniture to food.

But for bonds issued during the remainder of 2009 and in 2010, the Stimulus act expands the definition to include facilities used in the creation or production of intangible property. So, if your facility manufactures computer software or hosts the production of intellectual property, such as formulas and processes for developing pharmaceuticals, you can take advantage of these bonds.

## Traditional manufacturers

If you're a manufacturer in the classic sense, you had the benefit of these bonds' availability long before the Stimulus act. But that doesn't mean

the act's private activity bond provisions won't benefit you.

Private activity bonds can be used to finance a facility that's "functionally related and subordinate" to a manufacturing facility and located on the same site. For example, you can use money from a private activity bond to finance the development of your parking lot, office facilities, storage facilities, and facilities for heating, cooling or trash disposal.

Ordinarily, only 25% or less of the proceeds from a tax-exempt private activity bond can be used to fund a related facility. The Stimulus act removes this stipulation through 2010.

### **AMT risk lifted**

The Stimulus act excludes from the alternative minimum tax (AMT) any income on tax-exempt private activity municipal bonds issued in 2009 and 2010. In the past, tax-exempt interest from these bonds could trigger AMT liability. Moreover, the act excludes from the AMT tax-exempt interest from any 2009 and 2010 re-fundings of bonds issued after Dec. 31, 2002, and before Jan. 1, 2009.

How does this benefit manufacturers? Ordinarily private activity bonds must offer investors a higher interest rate than other tax-exempt bonds because of the AMT risk. With that risk temporarily lifted, investors likely will accept lower interest rates, which reduces the financing cost for the manufacturer.

### **A great way to finance your facility**

Nontraditional manufacturers can benefit from a financing alternative that normally isn't available to them. And traditional manufacturers can enjoy a unique opportunity to fund the building of a related facility, such as a storage warehouse for

## **Take advantage of depreciation-related breaks this year**

The American Recovery and Reinvestment Act of 2009 also has extended some depreciation-related breaks:

- **The 50% bonus depreciation.** If you purchase and place into service qualified new assets for your business before Dec. 31, 2009, you can write off 50% of the assets' adjusted basis.
- **Increased Internal Revenue Code Section 179 expensing.** The limit is \$250,000 (up from \$133,000) for assets purchased and placed in service in calendar year 2009 or during a fiscal year beginning in 2009. The phaseout threshold, which determines the maximum amount that can be spent while still receiving the full benefit, is \$800,000 (up from \$530,000). So, you can expense up to \$250,000 during 2009, as long as your qualified equipment purchases don't exceed \$800,000.

These breaks might not be extended again, so if you're considering asset purchases, you may want to make them before year end. Check with your tax advisor for the latest information.



unused machinery or an office building for your administrative staff.

Private activity bonds are typically obtained by submitting an application to the bond issuer, whether it's the local government or a state agency. Your CPA can provide further insight on your state's rules and guide you through the application process. ■

# How to deal with customer bankruptcy

In this economy businesses are doing all they can to keep their general ledgers in the black. But some may not make it. If you have customers who are hovering on the brink of bankruptcy — or even wallowing through it — don't panic. But don't just sit there either. You need to take certain steps to ensure your customer's bad fortune doesn't cause your business to suffer too. Here's how.

## Different types of bankruptcy

Debtor companies typically file for bankruptcy so a court will cancel or reorganize some of their debt and allow them to pay off noncancelable debts gradually. The bankruptcy chapters businesses most frequently file under are either Chapter 7 or Chapter 11. These are common terms, but many people don't understand what they truly mean.

When a business files under Chapter 7, it typically must liquidate all of its nonexempt assets, and use the proceeds to pay creditors who have timely filed a proof of claim with the court. This chapter doesn't involve filing a plan of repayment. Unsecured creditors often receive little in a Chapter 7 liquidation.

With a Chapter 11 bankruptcy, however, the debtor company can reorganize its debts and pay them off over time. The company also is allowed to continue operating the business while repaying its debts to creditors and may reject leases, stay lawsuits, reduce interest, extend the repayment period and eliminate some debts.

## First steps

After a debtor files for bankruptcy — regardless of the type — an automatic stay goes into effect



that requires all creditor collection efforts to cease, with minor exceptions. So once you know that your customer filed for bankruptcy, halt collection efforts. Also try to reclaim any goods currently in transit to the customer. Then determine whether you're going to pursue repayment or write off the debt.

To help make that decision, review the paperwork the debtor filed with the court to see how much money is available for distribution to creditors. Identify other creditors and compare what they're owed against the debtor's listed property.

## The importance of participating

Collecting most of the debt owed to you usually requires that you participate in the proceedings — particularly under Chapter 11, where debtors reorganize and pay off their debt. However, even in a Chapter 7 filing, a secured creditor will be able to proceed against the collateral with permission of the court.

Attending all court-mandated creditors' meetings ensures you have a voice in the proceedings and gives you an opportunity to ask the debtor questions about your claims. You can also inquire about

circumstances that might affect the amount of assets available for payment, such as underreported income, overstated expenses or the discovery of hidden assets.

In addition, make sure you speak to a bankruptcy attorney about filing a proof of claim with supporting documents such as contracts and other agreements.

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### **Resolution takes time**

Before creditors can vote on the debt reorganization plan, the bankruptcy court must approve the disclosure statement. The statement should include sufficient information about the debtor's assets, liabilities and financial affairs to help creditors decide whether to accept or reject the plan of reorganization.

After court approval of the disclosure statement, a copy is sent to creditors with the plan and a ballot. Creditors who will receive less than their full claim under the plan may vote against the plan.

If there are sufficient votes in favor of the plan and it satisfies the bankruptcy requirements, it's confirmed as a consensual plan. If not, the bankruptcy court determines whether to "cram down" the plan if creditors object to it.

If a plan is approved, you're entitled to a tax-deductible write-off of any amounts owed that exceed planned future payments.

### **Preventive measures**

As you can tell, once a customer enters the bankruptcy process, it's hard to regain what's rightfully yours. But you can protect yourself against future customer problems through preventive measures like these:

- Require customers to submit preloan disclosure of credit and other relevant financial information,
- Ask for personal guarantees of corporate accounts, which can give you a recovery option against the guarantor in the event of bankruptcy filing or default.
- Structure customer transactions to minimize the impact of a customer's future bankruptcy, such as eliminating credit accounts, requiring cash on delivery (COD) payments or obtaining some sort of collateral.

Remember, when it comes to customer bankruptcies, the old adage holds true: The best defense is a good offense.

### **Don't go it alone**

Although hearing of a customer bankruptcy can be unnerving, keep in mind that you don't have to go it alone. Your CPA, along with your attorney, can help you get through the process and recover as much as possible. ■



# Selling your manufacturing company *is possible* — even in a down economy

“We’re just going to wait it out.” In an uncertain economy, this seems to be a business owner’s mantra for everything from hiring freezes to putting off large expenditures. Prudence may be preferable when it comes to some business decisions, but if you’re considering selling your manufacturing company, you don’t have to wait until things pick up. Although some flexibility is necessary, an acceptable price is within reach if you position yourself as a discerning and prepared seller.

## Look for the silver lining

Whether you’re ready to retire or want to move on to new pursuits, a down economy presents unique incentives and benefits when it comes to selling a business. Manufacturers looking to grow aren’t going to pass up the chance to acquire a profitable business, regardless of the economic climate. And because your wary peers may be waiting until the economy improves, fewer profitable businesses are for sale, making those that *are* more appealing.

Additionally, the recession has produced a new crop of downsized executives who may be looking for businesses to buy.

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## Broker or bust

Regardless of your business’ size, getting it ready to put on the market and completing a successful sale can be daunting. So don’t try it on your own. Instead, hire a business broker to help guide you through the selling process from start to finish. A broker is paid only if a sale occurs, which is incentive for helping the sale succeed — and solace for you if it doesn’t.



Your broker can help you set the stage for a successful sale. In most cases, a desirable business will attract desirable buyers. Aesthetically, you’ll want to review any necessary renovations, additions and cleanup. Ask your CPA to help you gather needed financial information, tax returns, bank statements, inventory lists and employee compensation information for prospective buyers’ due diligence.

## Get real about the asking price

While you can set your sights on a buyer with a high offer, a down economy calls

for flexibility in setting a selling price — especially because potential buyers will likely be hesitant to pay top dollar for a business when its revenue isn't at its best.

To avoid having your business sit on the market for a prolonged period, start with a realistic view of the price you can command. Your broker and a valuation professional can aid in the valuation process, providing a price that's palatable to you and will attract the right buyer.

### **Offering financing may help**

As bank financing becomes harder for buyers to secure, you can encourage a potential buyer's decision by offering seller financing. If, after evaluating the buyer's net worth and credit history, seller financing seems like a mutually beneficial option, it could be just what it takes to close the deal.

By financing part or all of the transaction, you'll be showing the buyer that you have confidence he or she will be able to pay you back, with interest, via the revenue from their newly acquired business. One caveat: You'll maintain a financial tie to the business until the buyer has paid off your loan. Your CPA can help you further weigh the pros and cons of this option and suggest financing alternatives as well.

### **No time like the present**

The economy may be far from its peak, but savvy business owners are continuing to buy and sell manufacturing companies. If you're interested in selling your business, there's a lot to be said for defying conventional "wait-it-out" wisdom and moving forward with a knowledgeable team of advisors, a realistic perspective and a business-as-usual attitude. ■

## **Is your equipment operating at peak effectiveness?**

These days, when many manufacturers are seeing less work coming in and less room for mechanical error, a manufacturing operation has to be in top shape. The key to avoiding costly downtime starts with measuring overall equipment effectiveness, or OEE.

An OEE measurement gives you the percentage of time your equipment, when running, produces quality products at an acceptable rate. Mathematically, it's the product of the machine availability rate (the time your equipment runs vs. the time it could have been running) multiplied by the production rate (the quantity produced during a run vs. the quantity that could have been produced), multiplied by the first-pass quality rate (the amount of good product vs. the total amount of product produced).

According to OEE experts, the average OEE percentage among manufacturing plants is 60%, while a world-class OEE percentage is 85%. Reaching an acceptable OEE percentage requires a collaborative effort from your entire team. For example, an effective routine could be to have your equipment operators record their assigned metrics each day so your line managers can review OEE at the end of each shift.

With these regular reports, maintenance personnel can get to the root of any small problems before big ones arise. If your employees have limited time to record and calculate this data, consider implementing an OEE software program that will help you streamline the process.

As you analyze patterns in your regular OEE measurements, discuss with your technical experts ways in which different metrics can be tweaked to increase your overall OEE percentage. Make sure that any changes made are in the best financial interest of your manufacturing business.