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# How the Pandemic Impacts Determining Economic Damages

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Financial experts have a challenge, now and into the future, of separating out the effects of the once-in-a-lifetime COVID-19 economic disaster when expressing an opinion about lost profits, lost earnings, or other related damages in litigation matters, insurance claims, and other applications requiring financial forecasting.

In a litigation matter, insurance claim, or when applying for business insurance, financial experts will need to weed through the financial disruption (or ruin) left by the pandemic on businesses and individuals, and isolate the financial/individual performances unimpacted to make more accurate and reliable projections going forward.

Many factors are involved in calculating lost earnings (or earnings capacity) for individuals or lost sales and profits for businesses, but a central component is an economic model that looks backward and forward to estimate future performance. One key question that is a part of this is the impact of unemployment on personal income and on sales in a business.

Here are some of the factors that should be assessed:

- Did a claimant qualify for unemployment as a result of COVID-19 or otherwise? Are they able and available to work? What is the state of the labor market for their skills?
- Was the business/industry in which the claimant was involved impacted by pandemic-related shutdowns or were they terminated for other reasons? The industries most affected by the pandemic include leisure/hospitality (hotels, restaurants), travel, construction, and film and music.[1]
- Was the claimant able to return to school and get an education in a different field or obtain a position in a different industry? Returning to school might impact the post-incident earning capacity, while obtaining a different position might be considered mitigating a loss.
- What were all the reasons for a decline in the company's monthly sales? Was it increased competition? Sales trends? Shutdowns due to COVID?
- Whether or not you can use 2020/2021 as unimpaired years in your loss model depends on the situation. For instance, delivery and truck drivers were in high demand, whereas restaurant servers were laid off due to restaurants being closed. Consideration needs to be given to the business/industry.

All of these issues need to be assessed and weighed by a financial expert in building economic loss models. Is the reduction in an individual's income and a company's sales and profits solely due to the pandemic or partly due to the pandemic? Perhaps you don't include a certain period in 2020/2021 in determining damages since you can't separate the impact of COVID-19 business closures and reduced sales.

A high level of analysis, research, and information gathering is important to making any type of economic assumptions moving forward. These include the following:

- Quantify unemployment benefits paid and determine the actual periods out of work for the individual. Make an adjustment to the model based on the facts: if the individual was going to be laid off in any case, there would be no economic loss.
- Analyze the reduction in sales and expenses during the pandemic and sort out the reasons for the decline (unless the business closed). Look at past sales trends and understand the reasons for fluctuation in the past, and apply those reasons to the pandemic period. Work to determine a percentage of pandemic impact based on past experience, as facts permit.
- Quantify and account for the impact and recording of federal Paycheck Protection Program (PPP) loan money. These funds may be shown in the financial statements, so be careful if evaluating financial statements.
- A financial expert should be calculating an economic loss based only on the cause of action (i.e., injury, bad

act, breach of contract, catastrophic loss) to the exclusion of other factors that impact sales and earnings (i.e., the pandemic).

## COVID-19 and Other Business Applications

Separating out the impact of COVID-19 on a business is a challenge in a non-litigation and noninsurance claim world as well. Forecasts of sales, profits, labor requirements, and debt covenants have all been impacted. It can have a substantial impact on purchasing all types of insurance, workers' compensation, and surety bonds, and maintaining debt and revenue covenants. Many agreements are tied to financial performance that will trigger certain costs if not compiled with – all of which have been disrupted by the pandemic. CPAs are uniquely qualified to separate out, or at least attempt to separate out, the financial impact the pandemic had on these operations so more balanced decisions can be made.

[1] *www.aarp.org/work/job-search/info-2020/job-losses-during-covid.html*

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