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445 Park Avenue, 9th Floor New York, NY 10022 Phone 877 500 1510 NetworkingSeminars.Net

FIN 48

Overview

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Stephen C. Fox, CPA, CMA

1 (973) 610-5669

steve@sfoxcpa.com

Networking Seminars: FIN 48: Overview

1 FIN 48 Overview

Stephen C. Fox, CPA
One Gateway Center 2600
Newark, NJ 07102
(973) 610-5669
steve@sfoxcpa.com

2 Who Has to Do This?

- “This Interpretation applies to all tax positions accounted for in accordance with Statement 109.” FIN 48 para. 3
- “This Interpretation also applies to pass-through entities” FIN 48 para. 1

3 Which Hat Are You Wearing?

- Auditor
- Tax adviser
- Client advocate

4 Background: Accounting & Auditing Standards

- Standards have been codified: ASC 105-10-5: if not in codified guidance, it's not authoritative
 - » Standards of Field Work AU 150.02
- “The auditor must have adequate technical training and proficiency to perform the audit.”
- “The auditor must adequately plan the work and must properly supervise any assistants.”
- “The auditor must obtain a sufficient understanding of the entity and its environment”
 - » GAAP: ASC 740 (formerly SFAS 109)-10-25-4
- 740-10-25-4: “An entity shall initially recognize the financial statement effects of a tax position when it is more likely than not, based on the technical merits, that the position will be sustained upon examination.”
- 740-10-25-5: “...an entity shall recognize the benefit of the tax position in the first interim period that meets” recognition criteria

5 Key Facts

- FIN 48 is an interpretation of SFAS 109:
 - Does not apply to anything else
- Accounting for Income Taxes
- Effective for 2009 financials for private companies
- Effective for 2007 financials for public companies
- FIN 48 para. 1-24 have been incorporated into ASC 740
- FIN 48 appendices are not “authoritative” but very helpful

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6 Why FIN 48?

» FIN 48 Summary

- “Statement 109 contains no specific guidance on how to address uncertainty in accounting for income tax assets and liabilities. As a result, diverse accounting practices have developed resulting in inconsistency in the criteria used to recognize, derecognize, and measure benefits related to income taxes. This diversity in practice has resulted in noncomparability in reporting income tax assets and liabilities.”

7 What’s a Tax Position

» FIN 48 para. 4; ASC 740-10-20 Glossary: Tax Position

- Tax position includes, among other things:
 - How something is reported
 - Whether it is reported
 - Where it is reported (jurisdiction)
 - Character of income or deduction
- A position includes not recognizing a liability

8 Some Potentially Uncertain Tax Positions

- Election as S corporation
- Treatment of a disregarded entity
- Tax treatment of a reorganization
- Weaknesses in T&E documentation
- Not filing returns in a country your salesmen visit once in a while
- Transfer pricing

9 Disclose or Disclaim

- Audited statements: must analyze & disclose
- Reviewed statements: either
 - analyze & disclose, and qualify opinion for material departures, or
 - Disclaim
- Compiled statements: disclaimer is critical

10 Uncertainty vs. Materiality

- Normal materiality tests
- Uncertainties may not be material
 - But how can you be sure without actually looking?

11 Intentional vs. Unintentional

- Some positions are taken intentionally
 - These can be analyzed based on client information
- Some positions are errors & omissions
 - You must search for these
 - Reasonable level of diligence required
- Some positions are intentionally wrong

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12 2 Step Process

» FIN 48 para A.2.; ASC 740-10-05-6

- Recognition
 - Determining whether a position is MLTN based on the **technical merits** of position
- Measurement
 - Determine probable outcomes

13 Documentation

- WORKPAPERS
- WORKPAPERS
- WORKPAPERS

14 Reporting

- Accrual in I/S and B/S
- Tax footnote
 - Tabular schedule rolling forward aggregate balance of uncertainties
 - Discussion of material items
 - Required discrete items
 - Disclosure of potential changes within 12 months
- MD&A for public filers

15 Audit Procedures & Best Practices

- Importance of Firm Procedures
- Competent staffing

16 IRS Exposures

- Policy of restraint
- Proposed disclosures on tax returns

17 Key Resources

- Online Accounting Standards Codification from FASB: <http://asc.fasb.org/home>
 - Free subscription for read, browse & print access
- Online original pronouncements from FASB:
<http://www.fasb.org/jsp/FASB/Page/PreCodSectionPage&cid=1218220137031>