

The FASB Issues FIN 48 Rules for Private Companies

In September, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2009-06 (Topic 740), "Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Nonpublic Entities." The update provides additional guidance on the application of FASB Interpretation No. 48 (FIN 48), "Accounting for Uncertainty in Income Taxes," to not-for-profit and pass-through entities and eliminates some disclosure requirements for private companies.

FIN 48 was issued in June 2006 to be effective for fiscal years beginning after Dec. 15, 2006. Public companies implemented the standard by its original required date, but questions and confusion about its application prompted the FASB to grant several deferrals of required implementation by nonpublic entities. The most recent deferral extended the required implementation date for nonpublic entities not previously implementing the standard until the annual period beginning after Dec. 15, 2008 (calendar year-end Dec. 31, 2009). Many private companies hoped the FASB would eventually exempt them from the application of FIN 48.

The update makes it very clear that the accounting for uncertain tax positions applies to *all* entities, including tax-exempt not-for-profit entities and pass-through entities. The definition of a tax position has been expanded to clarify this point, and the FASB has added examples of tax positions related to an entity's status, including its status as a pass-through entity or a tax-exempt not-for-profit entity. Examples of tax positions related to the attribution of income taxes to the entity or its owners and the application of the standard to the statements of a group of related entities have also been added.

After considering responses from constituents, including the FASB's Private Company Financial Reporting Committee and Crowe Horwath LLP, the FASB eliminated requirements for certain disclosures by nonpublic entities. Only public entities will have to present the tabular roll-forward reconciliation of unrecognized tax benefits and disclose the total amount of unrecognized tax benefits that, if recognized, would affect the effective tax rate.

Disclosures required for all entities, including nonpublic ones, include:

- The total amounts of interest and penalties recognized in the statement of operations and in the statement of financial position;
- Information concerning tax positions for which a material change in the unrecognized tax benefit is reasonably possible in the next 12 months; and
- A description of tax years that remain subject to examination by major tax jurisdictions.

Entities that have deferred the application of FIN 48 will be required to implement ASU 2009-06 for annual periods beginning after Dec. 15, 2008. For entities currently applying FIN 48, it is effective for periods ending after Sept. 15, 2009.

Contact Us

For more information, please contact Vicky Ludema at 800.599.2304 or vicky.ludema@crowehorwath.com.