

Whiteman Osterman & Hanna LLP

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FIN 48 Matters

Late last year, after more than three years of delay, FIN 48 – the colloquial handle for FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes – an Interpretation of FASB Statement No. 109” – became effective for all businesses for periods beginning after December 15, 2008. Generally, entities that have financial statement audits or that produce GAAP financial statements must comply with FIN 48. This means that FIN 48 now applies to privately held companies, not-for-profit organizations, and pass-through entities (such as partnerships and S corporations), in addition to large publicly-traded companies.

Why does FIN 48 matter? In essence, FIN 48 matters because it determines whether the benefits of material tax positions can be measured and disclosed in your clients’ financial statements.

Generally, FIN 48 requires a company to identify and evaluate material income tax positions that were or will be taken on its tax returns. Under FIN 48, the benefits of a tax position cannot be recognized, measured, and disclosed in the company’s financial statements unless there is a “more likely than not” probability that the position would be sustained on its merits if challenged by the IRS.

Some examples of “tax positions” covered by FIN 48 include (but are not limited to):

- A decision not to file a tax return in a jurisdiction (such as in a particular state);
- An allocation or a shift of income between jurisdictions;
- The characterization of income in the tax return, including the characterization of revenue as not generating unrelated business income for an exempt organization;
- A decision to exclude taxable income in the tax return;
- A decision to classify a transaction, entity, or other position in a tax return as tax--free.

FIN 48 presents an intersection where tax advisors and financial reporting specialists must work together with their clients to ensure the appropriate treatment of material tax positions. This includes assisting clients in developing internal FIN 48 compliance action plans. As tax practitioners, we currently recommend that clients consult their accountants to determine whether FIN 48 compliance is required in their financial reporting.

If you have any questions, feel free to contact Damian Hovancik at (518) 487-7678, or Thomas Simcoe at (518) 487-7742.