

PROTECTING CONFIDENTIAL TAX ANALYSIS UNDER FIN 48

On July 13, 2006, the Financial Accounting Standards Board (“FASB”) issued Interpretation No. 48, “Accounting for Uncertainty in Income Tax – an Interpretation of FASB Statement 109” (“FIN 48”). FIN 48 creates additional disclosure requirements for uncertain tax positions taken for all companies that prepare financial statements in accordance with GAAP.

FIN 48 prescribes stringent rules regarding how companies must recognize, measure and disclose tax positions in its financial statements. For tax periods beginning after December 15, 2006, companies will be required to disclose a complete analysis of uncertain tax positions. This analysis will include a written assessment of the strengths and weaknesses of each position, a quantification of likely outcomes and their potential effect on financial statements.

In addition to the burden placed on financial reporting, these disclosures will provide taxing authorities with a detailed road map for challenging the basis of each uncertain tax position, which could ultimately prejudice a company’s ability to reach a compromise on audit. The company may then find itself in an undesirable position that makes it necessary to contradict its own internal analysis.

In light of the additional FIN 48 reporting requirements, it is necessary for each GAAP compliant company to review its financial reporting processes so that all safeguards to potentially harmful information are preserved. Companies should identify and adopt appropriate protocols to safeguard potentially harmful tax analyses. Following these protocols will allow a company to control the amount and nature of information ultimately disclosed.



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