

IRS Releases Draft Schedule to Report Uncertain Tax Positions

On April 19, 2010, the IRS released a draft of "Schedule UTP, Uncertain Tax Position Statement." This schedule and the accompanying instructions provide additional information about the IRS's proposal requiring reporting of uncertain tax positions. Public comments on the draft schedule and instructions are due by June 1, 2010.

Background

Existing business federal income tax returns do not require taxpayers to identify and explain uncertain tax positions. However, taxpayers that prepare GAAP financial statements may be required to disclose uncertain tax positions under Financial Accounting Standards Board Interpretation No. 48, "Accounting for Uncertainty in Income Taxes" (FIN 48). If adopted, the new Schedule UTP would require certain taxpayers to disclose information about uncertain tax positions in their return.

Under the IRS's proposal, beginning in 2010, corporations must file Schedule UTP if they:

- > File a corporate tax return (Form 1120, 1120F, 1120L, or 1120PC),
- > Have assets of \$10 million or more,
- > Issue or are included in an audited financial statement, and
- > Have one or more uncertain tax positions that are included in a reserve in an audited financial statement.

Pass-through entities, tax-exempt organizations, and other types of corporate taxpayers could be subject to the requirements later, according to the IRS.

Schedule UTP

The draft schedule requires:

- > A listing of current and prior-year tax positions (disclosures of prior-year positions are not required for 2010),
- > Concise descriptions of the transactions that gave rise to the positions (including primary code sections, the type of item, the nature of uncertainty, and the rationale behind the position), and
- > An estimate of the maximum tax amount (MTA).

The MTA is an estimate of the maximum amount of potential U.S. federal income tax liability associated with the tax position for the year in which the position was taken.

Impact

Access the [draft schedule](#) and [instructions](#) for additional detail. If adopted, this requirement will be a material expansion of previous reporting requirements and could prove burdensome and costly to many businesses. Baker Tilly plans to provide comments to the IRS, as well as provide recommendations to our clients, that may help mitigate the impact of this requirement on small and mid-sized businesses.

If you have any questions regarding the proposed reporting requirements and the draft schedule please contact your Baker Tilly advisor or send an e-mail to tax@bakertilly.com.

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