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Alert

Proposed Deferral of Interpretation 48 for Nonpublic Entities

Nonpublic entities, including nonpublic not-for-profit organizations, that have not already applied the FASB's Interpretation on accounting for uncertainty in income taxes will be permitted to defer its application until fiscal years beginning after December 15, 2007, if a newly proposed FASB Staff Position is adopted.¹ Comments on the proposal are due by January 18, 2008.

Definition of Nonpublic Entity

The one-year deferral would apply to nonpublic entities as defined in Statement 109's glossary.² The glossary defines a nonpublic entity by the absence of any of three characteristics. First, the entity's financial statements are not filed with a regulatory agency in preparation for the sale of any class of securities. Second, its debt or equity securities are not traded in a national, regional, or local public market, including a stock exchange or over-the-counter market. Third, it is not a conduit bond obligor for conduit debt securities that are traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local or regional markets).

Conduit debt securities are limited-obligation revenue bonds, certificates of participation, or similar debt instruments issued by a state or local governmental entity expressly to provide financing for a specific third party that is not part of the state or local government's financial-reporting entity. The specific third party is the conduit bond obligor.

¹ Proposed FASB Staff Position No. FIN 48-b, Effective Date of FASB Interpretation No. 48 for Nonpublic Enterprises; FASB Interpretation No. 48, Accounting for the Uncertainty in Income Taxes, June 2006, both available at www.fasb.org.

² FASB Statement No. 109, Accounting for Income Taxes, February 1992, available at www.fasb.org.



Effect of Previous Application

The proposal says that a nonpublic entity that has already adopted Interpretation 48 must continue to apply it. In other words, such entities are not eligible for the deferral. Some of the entities that we believe would be ineligible for the deferral include:

- Nonpublic entities that previously adopted Interpretation 48 for purposes of preparing interim or other financial information that has been distributed to outside parties, such as lenders or regulatory agencies;
- Nonpublic subsidiaries whose parent companies have previously issued interim or annual financial information reflecting the adoption of Interpretation 48, including reconciliations to U.S. GAAP;
- Nonpublic subsidiaries whose parent companies are expected to issue interim or annual financial information for the first fiscal period beginning after December 15, 2006 reflecting the adoption of Interpretation 48, including reconciliations to U.S. GAAP.

The effective date of Interpretation 48 for all public companies remains fiscal years beginning after December 15, 2006.

The descriptive and summary statements in this newsletter are not intended to be a substitute for the text of any of the cited documents or any other applicable or potential accounting literature or SEC regulations. When complying with GAAP or filing requirements, companies should consult the text of the applicable documents that set out requirements, consider their particular circumstances, and consult their accounting and legal advisors.

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