

AN ALERT FROM THE BDO FEDERAL TAX PRACTICE

BDO KNOWS:

FEDERAL TAX

► SUBJECT

IRS RELEASES DRAFT "SCHEDULE UTP" FOR THE REPORTING OF UNCERTAIN TAX POSITIONS

► AFFECTING

Taxpayers with assets over \$10 million and with at least one uncertain tax position that is required to be disclosed.

► DETAILS

On April 19, 2010, the Internal Revenue Service released a draft Schedule UTP, Uncertain Tax Position Statement, for use in taxable years beginning in 2010. Announcement 2010-30 and draft instructions were released along with the draft schedule.

Background. On January 26, 2010, the Service issued Announcement 2010-9, in which it indicated that it was considering changes to reporting requirements regarding certain taxpayers' uncertain tax positions. The Service announced that it was developing a new tax-reporting schedule with which taxpayers would report with their annual federal income tax return their uncertain tax positions and the potential magnitude of these tax positions. On April 19, 2010, the Service released a draft form with which taxpayers will make such disclosures.

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Announcement 2010-30. Announcement 2010-30 provides that, beginning with the 2010 taxable year, Schedule UTP will be required of the following taxpayers with uncertain tax positions and that have assets equal to or exceeding \$10 million, provided the taxpayers have issued audited financial statements:

- Corporations required to file Form 1120, U.S. Corporation Income Tax Return
- Insurance companies required to file Form 1120-L, U.S. Life Insurance Company Income Tax Return, or Form 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return
- Foreign corporations required to file Form 1120-F, U.S. Income Tax Return of a Foreign Corporation

The Announcement provides that the Service will determine at a later date whether other entities, such as real estate investment trusts, regulated investment companies, pass-through entities, and tax-exempt entities will be required to file Schedule UTP. The Service is also reviewing the extent to which the proposed Schedule UTP duplicates other disclosure statements, such as Form 8275, Disclosure Statement; Form 8275-R, Regulation Disclosure Statement; Form 8886, Reportable Transaction Disclosure Statement; and Schedule M-3, Net Income (Loss) Reconciliation for Corporations with Total Assets of \$10 Million or More. In the interim, the draft instructions provide that taxpayers will be treated as having filed Forms 8275 and 8275-R for tax positions that are properly reported on Schedule UTP.

Announcement 2010-30 provides that comments on Announcement 2010-9, Announcement 2010-17, and draft Schedule UTP and the draft instructions should be submitted by June 1, 2010.

Draft Schedule UTP and the draft instructions. As currently drafted, Schedule UTP would require a list of all uncertain tax positions for the current taxable year and uncertain tax positions for prior taxable years, for which a decision whether to record the reserve (or not to reserve based on an expectation to litigate or administrative practice) has been recorded at least 60 days prior to the filing of the tax return. Positions for which a reserve has been recorded within 60 days prior to the filing of the tax return must be reported on either the current year's Schedule UTP or the next year's Schedule UTP.

The draft instructions further provide that a tax position must be reported regardless of whether the audited financial statement is prepared based on generally accepted accounting principles, International Financial Reporting Standards, or any other country-specific accounting standards, including a modified version of any of the above, if the applicable standard requires the recording of a reserve for federal income tax positions.

The draft form requires identification of the following items:

- Uncertain tax position number (*e.g.*, 1... 2...)
- The primary Internal Revenue Code sections (up to three) at issue for the tax position
- Timing codes, whether permanent, temporary, or both
- The employer identification number of any pass-through entities
- An indication whether there is an administrative practice at issue
- The maximum tax adjustment
- A concise description of each uncertain tax position

► [Read more](#)

The draft Schedule UTP is available at: www.irs.gov/pub/irs-drop/schedule-utp.pdf

The draft instructions are available at: www.irs.gov/pub/irs-drop/instructions-for-schedule-utp.pdf

Announcement 2010-30 is available at: www.irs.gov/pub/irs-drop/a-10-30.pdf

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