

## FIRM NOTES

**Bennett Allison**, shareholder, has been named one of this year's "40 Under Forty" by the San Antonio Business Journal. The issue will publish on December 25th. **Bennett** also authored an article about internal controls for medical practices in MD News.

Shareholder **Bill McEntire** was named in Texas Monthly magazine among the "2009 Five Star: Best in Client Satisfaction Wealth Managers" in the Central Texas Region.

**Manuel Long**, shareholder, spoke at the UTSA International Development Conference in Monterrey, MX and the "Invest in Texas" seminar in San Luis, MX. He also presented at a conference focused on the relocation of families and businesses to the U.S., hosted by Amegy Bank.

Manager of Healthcare Services **Neriman Guven's** article "Year End Issues for Physicians" recently appeared in MD News.

**Clint Munsell**, tax manager, published an article in the Boerne Business Monthly entitled "2009 is Coming to a Close... Have You Started Your Year-end Tax Planning?"

Shareholder **Jim Rice** has accepted a position on an executive leadership team at the American Heart Association of San Antonio.

Tax Manager **Doug Forson** is working toward Level III of his Chartered Financial Analyst designation. Upon completion, Doug will become a CFA Charterholder.



**Sol Schwartz & Associates, P.C.**  
Certified Public Accountants

4th Quarter 2009



## FIN 48 is here... are you ready?

by **Andy Gertson, CPA**

### What is FIN 48?

FIN 48, is a Financial Accounting Standards Board (FASB) Interpretation which provides additional evidence in accounting for uncertainty in income taxes recognized on an entity's financial statements prepared in accordance with Generally Accepted Accounting Principals (GAAP).

### When is it effective and does it apply to my company?

After numerous delays for nonpublic entities, the provisions contained in FIN 48 are effective for annual financial statements beginning after December 15, 2008. The first question you have to ask is if FIN 48 is applicable to your business. The short answer is that if you prepare your financial statements, be they audited, reviewed, or compiled in accordance with GAAP, and are subject to income taxes either federal or state, the guidance contained in FIN 48 will need to be implemented for your annual financial statements ending December 31, 2009. Thus, if you are not familiar with its requirements and have not begun to assess your uncertain tax positions, now is the time for action.

### What is a tax position?

The guidance in FIN applies to all tax positions. Term tax position refers to a position in a previously filed tax return or a position expected to be taken on a future tax return that is reflected in measuring current or deferred income tax assets and liabilities. The most common form of tax position taken is in deciding whether to claim a deduction for income tax reporting, and, if so, when to take the deduction. Another common tax position is the characterization of income, such as the characterization of gains in a way that enables taxation at a lower rate.

### What do you have to do?

The FIN 48 process consists of the following:

- Take an "inventory" of all tax positions, for all open years, including the current year, for all jurisdictions.
- Classify all tax positions as uncertain or routine business transactions meeting the more-likely-than-not (MLTN) standard. This standard is explained below.
- Determine whether the tax benefits from uncertain tax positions (and how much of those benefits) should be reported in the financial statements.

Inventorying tax positions will require a thorough review of the tax returns for each year open to taxing authority examination to identify material tax positions. The term, more-likely-than-not, means a likelihood of more than 50 percent that a tax position will be sustained upon examination by the taxing authority assuming they have full knowledge of all facts and circumstances. A tax position that does not meet the MLTN threshold results in no benefits being recorded in the financials.

*Continued on back*

.....  
**THIS NEWSLETTER IS PUBLISHED QUARTERLY BY SOL SCHWARTZ & ASSOCIATES, P.C. FOR CLIENTS AND FRIENDS OF THE FIRM. PLEASE DIRECT ANY COMMENTS OR QUESTIONS TO NORA VALDEZ, MARKETING DIRECTOR: NAV@SSACPA.COM**

Experience. Integrity. Reliability.

## Our Team



Team "Heart & Sol" participated in this year's Start! Heart Walk benefiting the American Heart Association.

**Isaida Tijerina**, as part of the Jr. Duel committee of the San Antonio CPA Chapter, teaches basic financial & money management tools to area high school students.

**Keyona Edwards** was recently invited to interview for the American Payroll Association Board of Directors.

Mr. & Mrs. **Bennett Allison** welcomed a beautiful baby daughter to their family!

## TAX DUE DATES

### December 15

- ◆ Form 8109 - Corporation estimated tax, 4th installment (calendar-year)

### January 15

- ◆ Form 1040-ES - Individual estimated taxes due, 4th and last installment date for 2009 estimated tax (unless Form 1040, with all taxes due, will be filed by Jan. 31, 2010)
- ◆ Form 1041-ES - Trusts/Estates, 4th installment for 2009 (unless Form 1041, with all taxes due, will be filed by Jan. 31, 2010)

### February 28 (if filed electronically, due date is April 1)

- ◆ Form W-2 - Copy A to Social Security Admin. with W-3
- ◆ Form 1099 - Copy to IRS with transmittal Form 1096
- ◆ Form 1040 - Farmers and ranchers

### March 15

- ◆ Form 1120 - Corporation Income Tax Return (calendar yr.)
- ◆ Form 1120S - S Corp. Income Tax Return (calendar year)
- ◆ Form 7004 - Corporations auto 6-month extension
- ◆ Form 1042 & 1042-S - Annual Withholding Income Tax Return for U.S. Source Income of Foreign Persons

## (con't) FIN 48

A tax position that meets the MLTN threshold is then measured to determine the amount of benefit to recognize in the financial statements. FIN 48 requires documentation of the tax benefits to be recognized.

In addition to the requirements above, another complex issue addressed by FIN 48 is how to handle penalties and interest that could ultimately be assessed if the uncertain tax position is decided against your company. The general rule is that the penalty must be computed for the period in which the tax position is taken on the tax return.

### What is required to be reported and disclosed?

For nonpublic entities, the amount of unrecognized tax benefits will be reported on the balance sheet as a liability. Disclosure requirements added by FIN 48 include a disclosure of the total amount of interest and penalties recognized in the statement of operations, the nature of uncertainties and events reasonably possible to occur in the next 12 months that would cause a significant change in the unrecognized tax benefit amounts and a description of the tax years that remain subject to examination by a taxing authority by major jurisdiction.

### This is a financial statement issue, what about the IRS?

To say that the IRS is interested in FIN 48 is an understatement. Currently, FIN 48 work papers are considered part of the tax accrual work papers and thus fall under the IRS policy against requesting tax accrual work papers, except in limited circumstances. However, the IRS will release available information when appropriate. The availability of an analysis of tax benefits may be too tempting to pass up. At this point, the IRS is still formulating an audit strategy for dealing with the FIN 48 computations and disclosures. The IRS Chief Counsel concluded that FIN 48 work papers were tax accrual work papers and subject to the self-imposed restraint on IRS requests for access to work papers.

**Now is the time for action.** Given the technical aspects and impending application of this interpretation, contact your tax professional here at Sol Schwartz and Associates for help identifying and evaluating your tax positions.

As required by United States Treasury Regulations, you should be aware that any tax advice contained in the body of this newsletter was not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provision.