Kakimoto & Nagashima LLP
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NEWSLETTER

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Summary of Articles

FASB Accounting Developments - Update

The FASB has over 20 accounting/financial reporting projects underway, a number of them being conducted jointly with the IASB in anticipation of future convergence. Projects include: revenue recognition, leases, financial instruments and going concern. Companies should take notice now, as these projects could have significant business and operational implications and could require considerable lead time to address the changes. Summarized in this article are selected FASB/IASB joint projects, FASB separate projects, expected timing and possible changes in accounting/financial reporting that may result from each project's completion.

Patient Protection and Affordable Care Act

A sweeping change to health insurance coverage in the United States, the Patient Protection and Affordable Care Act (commonly known as Obamacare) was signed into law on March 23, 2010. The law aims to provide all applicable U.S. individuals access to affordable health insurance coverage and slow down the growth of healthcare spending. Along with this legislation come new mandates that may create a substantial financial impact on many individuals and employers. This article covers the new health insurance requirements under the Patient Protection and Affordable Care Act ("PPACA") that will become effective for individuals in 2014 and employers in 2015, particularly penalty conditions and calculations for non-compliance.

New Healthcare Taxes Effective 2013

In conjunction with the above mentioned PPACA, two new taxes worth noting became effective in the 2013 tax year: the Additional Medicare Tax on Earned Income and the Net Investment Income Tax. Employers with employees earning wages of greater than $200,000 will experience an increase in the amount of Medicare Tax withholding under the Additional Medicare Tax and should, therefore, carefully review its requirements. In addition, individuals with net investment income and Modified Adjusted Gross Income ("MAGI") in excess of certain thresholds should become familiar with the Net Investment Income Tax, which will increase the tax liability of such individuals.

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We look forward to providing you with up-to-date accounting and tax information.

Any Questions?

We are committed to providing our clients with quality and excellent services. If you have any questions or comments, please let us know by either e-mail or phone. Our company profile is available on the internet at:

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FASB Accounting Developments - Looking Ahead

Significant changes in accounting and financial reporting are in your future. The U.S. Financial Accounting Standards Board ("FASB") is currently working on a number of accounting projects with several projects being conducted jointly with the International Accounting Standards Board ("IASB"). The FASB and the IASB continue to reach certain milestones on these joint projects and are moving toward the issuance of final standards. In addition, the FASB has separate ongoing accounting projects in various stages of completion.

FASB/IASB Joint Projects

The FASB and the IASB have made a considerable amount of progress on several joint standard-setting projects. Major joint projects include:

- Revenue Recognition
- Leases
- Accounting for Financial Instruments

With the issuance of these new standards, certain accounting and reporting issues may initially become more challenging and warrant additional attention. Anticipated principles or objectives, possible changes, status and expected standard issuance dates for the projects listed above are summarized below.

Project Area	Anticipated Principles or Objectives	Possible Changes	Status	Expected Standard Issuance Date
Revenue Recognition	Development of a revenue recognition model which involves five steps: (1)Identify the contract(s) with the customer (2)Identify the separate performance obligations (3)Determine the transaction price (4)Allocate the transaction price to separate performance obligations (5)Recognize revenue when a performance obligation is satisfied	Supersede most U.S. GAAP guidance on revenue recognition. A majority of industry-specific revenue recognition guidance would be replaced. Changes in revenue amount and recognition timing. Greater use of judgments/estimates.	FASB/IASB are drafting final standard	3rd quarter 2013
Leases	Create common lease accounting requirements in which the assets and liabilities arising from lease contracts are recognized on the balance sheet.	Almost all leases would be recorded on the balance sheet. Requirement to identify all lease agreements and relevant lease data using new definitions. New criteria and tests to measure leases; reassessment and remeasurement of lease assets/liabilities expected at each reporting date.	Revised exposure draft has been issued; comment period expected to end in September, 2013	Not established
Accounting for Financial Instruments	Improve usefulness of financial instrument reporting; the project will: (1) Reconsider the recognition/measure-ment of financial instruments (2) Address issues related to impairment of financial instruments and hedge accounting	Would significantly change the accounting for a broad range of financial instruments. Extent of effect would depend upon the significance of financial instruments to the entity's operations and financial position.	Classification/Measurement and Impairment exposure draft/proposed accounting standards updates have been issued, comment period for both ended in May, 2013; FASB to further redeliberate on Hedge Accounting	Classification/ Measurement: 1st half/2014; Impairment and Hedge Accounting: not established

FASB Separate Projects

In addition, the FASB has three separate projects of certain interest on its agenda which are summarized as follows:

Project Area	(Anticipated) Principles or Objectives	(Possible) Changes	Status	(Expected) Standard Issuance Date
Liquidation Basis of Accounting ("ASU 2013-07")	An entity must prepare financial statements using the liquidation basis of accounting when liquidation is imminent. Provides guidance on when and how to apply liquidation basis of accounting.	Prior to the issuance of ASU 2013-07, limited guidance for liquidation basis accounting existed; diversity resulted in practice.	Standard issued	Final standard issued in April, 2013; effective for annual periods after December 15, 2013 (and interim period therein)
Going Concern	Incorporate into FASB ASC guidance relating to going concern matters including: (1)Management's responsibility to evaluate a reporting entity's ability to continue as a going concern (2)Disclosure requirements	Require management to perform interim/annual assessments of an entity's ability to continue as a going concern within 24 months of the financial statement date. Disclosure to be provided, if meeting certain criteria, when it is either (1) more likely than not that the entity will be unable to to meet its obligations within 12 months after the financial statements date or (2) known or probable that the entity will be unable to meet its obligations within 24 months after the financial statement date.	Proposed accounting standard update issued; comment period expected to end in September, 2013	Not established
Discontinued Operations	Redefines a discontinued operation to raise the threshold to qualify.	Fewer disposals may be reported as discontinued operations due to change in definition. Enhanced disclosures for individually material disposals that do not meet the definition of a discontinued operation.	Exposure draft has been issued; comment period expected to end in August, 2013	Not established

Please consult us for further information or to discuss the impact that these FASB projects may have on your Company's future accounting and financial reporting processes.♦

Patient Protection and Affordable Care Act

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act ("PPACA"). Also known as Obamacare, the law intends to provide affordable health insurance to all applicable U.S. individuals (some exceptions - such as prisoners and undocumented aliens - apply) and to reduce the growth of healthcare spending. The PPACA is expected to raise approximately $800 billion in revenue over ten years, including penalties on individuals and firms for not complying with the new mandates.

In order to finance the PPACA, five new taxes have been imposed starting in the 2013 tax year:

1) Additional 0.9% Medicare Tax (See subsequent article)
2) 3.8% Net Investment Income Tax (See subsequent article)
3) Increased Threshold for Medical Expenses – Medical expenses must exceed 10% of adjusted gross income to qualify for a deduction (compared to 7.5% in 2012)
4) Limit on Flexible Spending Accounts – Maximum of $2,500 allowed as contribution to Flexible Spending Accounts (compared to any maximum amount enacted by employers in 2012)
5) Medical Device Tax – A 2.3% excise tax on the sale of certain medical devices by the manufacturer or importer of the device

Beginning in 2014, certain individuals who choose to go without minimum essential health insurance coverage will be required to pay a monthly penalty. If an individual is not insured through his employer and cannot otherwise afford health insurance, he will either qualify for Medicare/Medicaid or receive assistance in the form of tax credits, tax breaks, or assistance with up-front costs through a Health Insurance Exchange. Newly required under the PPACA, a Health Insurance Exchange is an online health insurance marketplace in which individuals and small businesses can compare health plans and purchase affordable health insurance. Many states will run their own Health Insurance Exchanges, while other states will provide this service through a federally-operated exchange. California has its own Health Insurance Exchange (Go to www.coveredca.com to learn more). Health Insurance Exchanges will open in October 2013, with coverage beginning on January 1, 2014.

The PPACA employer mandates (see below) were to initially take effect in 2014, but the United States Treasury announced on July 2, 2013 that enforcement of such requirements will be postponed until 2015. Under the PPACA, all large employers will be required to provide minimum essential health insurance coverage to substantially all of their full-time employees and their dependent children who have not yet turned 26. A large employer, for purposes of this law, is defined as one who employs an average of at least 50 full-time employees during the preceding calendar year. A full-time employee is defined as one who is employed, on average, at least 30 hours per week. In addition, a combination of employees working 120 hours per month counts as one full-time equivalent ("FTE") employee. Employers are to determine their status as an applicable large employer for a calendar year by taking the sum of the total number of full-time and FTE employees for each calendar month in the preceding calendar year and dividing by 12. The result, if not a whole number, is then rounded to the next lowest whole number. Employers should note that although FTE employees are included when determining the "large employer" status, part-time employees (those who work, on average, below 30 hours per week) do not need to be offered insurance under the law.

An employer who fails to offer to its full-time employees the opportunity to enroll in minimum essential health insurance coverage may owe a penalty if it meets two conditions:

1) It has 50 or more full-time employees or full-time equivalents *and*
2) One or more of its full-time employees receive premium credits (government subsidies) to help purchase health insurance through an exchange.

An individual may be eligible for a premium credit either because the employer does not offer coverage or the employer offers coverage that is either not "affordable" or does not provide "minimum value". Generally, only individuals whose household income is at least 100% but not more than 400% of the federal poverty level, based on family size, are eligible for a credit or subsidy.

An employer-provided health plan is not considered affordable if the plan's premium for self-only coverage exceeds 9.5% of the employee's household income. In addition, a health plan does not provide minimum value if it pays for less than 60%, on average, of covered health care expenses.

If an employer meets the above two penalty conditions and does not offer health insurance, the penalty is $2,000.00 ($166.67 per month) per full-time employee after excluding the first 30 full-time employees. The $166.67 monthly penalty is the 2014 amount and will be indexed for future years. To avoid the penalty, an employer is required to offer minimum essential coverage to at least 95% of all full-time employees and their dependents (including dependent children who have not yet turned age 26).

A large employer who offers to its full-time employees the opportunity to enroll in minimum essential health insurance coverage may still be subject to penalty, if one or more full-time employees receive premium credits (government subsidies) to help purchase insurance through an exchange. This is because the insurance coverage is deemed not affordable or does not provide minimum value.

If an employer is subject to penalty and *does* offer insurance, the penalty is the lesser of $2,000.00 for every full-time employee (after excluding the first 30 full-time employees), or $3,000.00 ($250 per month) for every employee receiving a subsidy to pay for health insurance through an exchange.

Example 1: Employer A has 100 employees (all full-time), of which one qualifies for a subsidy and buys coverage through a Health Insurance Exchange. Employer A does not offer health insurance. The penalty, in this case, would be calculated as follows (using the 2014 amount):

70 (100 employees – first 30) x $2,000.00 = **$140,000.00**

Example 2: Employer B has 300 employees (all full-time), of which 25 receive subsidies and purchase health insurance through a Health Insurance Exchange. Employer B offers health insurance coverage, but it is deemed to be either not affordable or below minimum value. In this case, the penalty would be the lesser of $2,000.00 for each full-time employee (minus the first 30) or $3,000.00 for each employee receiving a subsidy.

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New Healthcare Taxes Effective in 2013

To help pay for the PPACA, two major new taxes described below became effective beginning in the 2013 tax year: the Additional Medicare Tax on Earned Income and the Net Investment Income Tax.

Additional 0.9% Medicare Tax on Earned Income

Under the Additional Medicare Tax on Earned Income, employers are required to withhold an additional 0.9% in Medicare taxes on wages paid to employees in excess of $200,000 in a calendar year, regardless of filing status or wages paid by another employer. The additional withholding shall not begin until the pay period in which the $200,000 threshold is reached for an employee. Wages in excess of the threshold also include taxable noncash fringe benefits and tips.

There is no employer match for the Additional Medicare Tax, and employers are not required to notify employees when they begin the withholding. Penalties and interest may apply to employers that fail to meet their withholding, deposit, reporting and payment responsibilities for this tax.

From an individual standpoint, the Additional Medicare Tax on Earned Income applies to wages, compensation and self-employment income above $250,000 for taxpayers filing as married filing jointly, $125,000 for those filing as married filing separately, and $200,000 for taxpayers filing as single, head of household (with qualifying person), or qualifying widow(er) with dependent child.

As employers are required to withhold the Additional Medicare Tax from wages greater than $200,000 without regard to filing status, wages paid by another employer, or self-employment income, there is a possibility that employer withholding may not satisfy an employee's liability for the Additional Medicare Tax. In the case that an individual anticipates that he may owe a larger amount of Additional Medicare Tax than withheld by the employer, the individual should consider either making estimated tax payments or requesting additional income tax withholding using Form W-4, Employee's Withholding Allowance Certificate.

Individual taxpayers will calculate Additional Medicare Tax liability and report Additional Medicare Tax withheld by their employers on their individual income tax returns. Any Additional Medicare Tax withheld by an employer will be credited against the individual's total tax liability.

Example: A husband and wife who earned Medicare Wages (Box 5 on W-2) of $185,000 and $135,000, respectively, would not have any additional withholding tax taken out by their employers. Nevertheless, if filing jointly, the couple would owe $630 (($185,000 + $135,000 - $250,000) x 0.9%) in Additional Medicare Tax on Earned Income when filing Form 1040 for 2013.

3.8% Net Investment Income Tax

The Net Investment Income Tax ("NIIT") is a 3.8% tax assessed to individuals, estates and trusts on certain types of investment income. Individuals will owe the tax if they have Net Investment Income and their Modified Adjusted Gross Income ("MAGI") for the tax year exceeds $250,000 for taxpayers filing as married filing jointly, $125,000 for those filing as married filing separately, $200,000 for taxpayers filing as single or head of household (with qualifying person), and $250,000 for qualifying widow(er)s with dependent children.

The 3.8% tax applies to the *lesser* of an individual's Net Investment Income or MAGI in excess of the applicable threshold amount.

To calculate the amount of Net Investment Income, individuals must reduce their investment income by properly allocable investment expenses. In general, investment income includes, but is not limited to: interest, dividends, rental and royalty income, non-qualified annuities, and income from businesses that are passive activities to the taxpayer within the meaning of IRC Section 469. To the extent that gains are not otherwise offset by capital losses, the following gains are also taken into account when computing Net Investment Income: gains from the sale of stocks, bonds and mutual funds; capital gain distributions from mutual funds; gains from the sale of investment real estate (including secondary homes); and gains from the sale of interests in partnerships and S corporations, to the extent the individual was a passive owner.

Common types of investment expenses to consider when calculating Net Investment Income include early-withdrawal penalties, interest expense, investment advisory and brokerage fees, expenses directly related to rental and royalty income, and state and local taxes allocable to items included in Net Investment Income.

Individuals who are subject to the Net Investment Income Tax will report and pay the tax on their individual income tax returns. The NIIT is not subject to employer withholding, but individuals may consider adjusting their income tax withholding or estimated payments to account for the tax increase in order to avoid underpayment penalties.

Nonresident aliens ("NRAs") are not subject to the NIIT, although special rules apply for NRAs that are married to U.S. citizens or residents and have made, or plan to make, an election under IRC Section 6013(g) to be treated as a resident alien for purposes of filing as Married Filing Jointly.♦

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270 (300 employees – first 30) x $2,000.00 = **$540,000.00**

25 employees receiving subsidies x $3,000.00 = **$75,000.00**

Accordingly, Employer B would owe the lesser amount of $75,000.00 as a penalty for providing inadequate health insurance coverage to its employees (using the 2014 amounts).

The IRS will contact employers to inform them of their potential liability and provide them with an opportunity to respond before any liability is assessed or demand for payment is made.

Although large employers will not be required by law to offer minimum essential health insurance coverage to substantially all full-time employees until 2015, the IRS and U.S. Treasury encourage such employers to begin voluntarily maintaining or expanding health coverage in 2014.♦