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HOT TOPICS FOR NOT-FOR-PROFIT ENTITIES

by Scot Aurelius, CPA

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As the "interesting" times continue, there are an increasing number of changes effecting not-for-profits'. The following are some miscellaneous hot topics impacting not-for-profit entities...

Mergers and Acquisitions

Before December 2009, not-for-profit entities accounted for business combinations in a manner similar to for profit entities. To recognize the unique characteristics of not-for-profit entities the Financial Accounting Standards Board changed the accounting for not-for-profit combinations. The guidance provides for dramatically different results depending on whether the combination is an "acquisition" or a "merger."

Highlights of the new requirements are as follows:

- Provides guidance on distinguishing whether a combination is a merger or an acquisition. In a merger, the governing bodies of two or more not-for-profit entities cede control to create a new not-for-profit entity. In an acquisition, one not-for-profit entity obtains control of one or more not-for-profit activities or businesses.
- In a transaction that is determined to be a "merger", the guidance requires the use of the carryover method. Generally, the carryover method requires the newly formed entity to "carry forward" the assets and liabilities at the carrying values in the books of the combined entities at the date of the merger. In other words, there is no recognition of the fair value of the recognized assets and liabilities at the date of the merger that was not already recognized in the previously separate not-for-profit entities.
- In an acquisition, the acquirer would essentially recognize the fair value of the identifiable assets acquired and liabilities assumed at the date of the acquisition which is similar to guidance for for-profit providers. However there are some important differences to consider in accounting for an acquisition:
    - If the acquired entity is predominantly supported by contributions and returns on investments, the guidance requires the acquirer to recognize as a separate charge in the statement of activities the amount that would otherwise have been recognized as a goodwill asset at the date of acquisition.
    - The guidance specifically addresses the unique nature of not-for-profit acquisitions by recognizing that many acquisitions are structured to include a contribution because the acquirer receives net assets without transferring consideration. As a result, the guidance requires the acquirer to recognize a contribution received as a credit in the statement of activities when net assets are received at less than the

consideration paid.

The above are just the highlights of the guidance. If you are considering an acquisition or merger, it is highly advisable that you contact one of the Moore Stephens Lovelace representatives, listed below, to assist you with applying the guidance to your situation to assure you achieve your desired results.

Filing Reminder for Smaller Not-For-Profit Entities

This is a friendly reminder that **all** not-for-profit entities must timely file their Form 990 to keep their tax exemption. Prior to the *Pension Protection Act of 2006* (the "Act"), most tax-exempt organizations with receipts under $25,000 were exempt from the filing requirements. Under the Act, not-for-profit entities whose annual receipts are $25,000 or less can file Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ*. The first filings were due in 2008 for tax years ending on or after December 31, 2007. It is important to note that failure to file the e-Postcard for three consecutive years will result in automatic revocation of its tax-exempt status. **As a result, in 2010 the tax-exempt status of any not-for-profit provider that has not filed the required form, including the *e-Postcard*, in the last three years can have their tax exemption revoked.**

IRS Governance Check Sheet

The Internal Revenue Service ("IRS") continues to stress the importance of good governance for tax-exempt entities. In December 2009, the IRS released a governance check sheet for use by IRS examiners. The check sheet is expected to be included in a long-term study to gain a better understanding of the correlation between governance practices and compliance. **The check sheet is also expected to be used in all future IRS examinations of tax-exempt entities**. Below are links to the check sheet and the guidance agents will use to complete it.

IRS Governance Check Sheet
Guidance for Completing Governance Check Sheet

403(b) Plans and Other Employee Benefit Plans

If you have a 403(b) retirement plan, be sure to contact your plan administrator soon to discuss the regulation changes and the possibility of requiring an audit of the plan. For the 2009 plan year, 403(b) plans are generally subject to the same reporting and audit requirements as a 401(k) plan. As a result, plans covered by Title I of the Employee Retirement Income Security Act ("ERISA") with 100 or more eligible participants at the beginning of the plan year, will be required to file audited financial statements with their 2009 filing.

Effective for plan years beginning on or after January 1, 2009, the Form 5500 and related schedules **must be filed electronically** for all employee benefit plans that are covered by Title I of the ERISA. The filing must be completed using the ERISA Filing Acceptance System ("EFAST2") located at www.efast.dol.gov.

For more information on any of the above, please do not hesitate to contact Scot Aurelius, Rob Matschner, or Jeff Goolsby at 1-800-683-5401.

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The Financial Accounting Standards Board issued SFAS 164, *Not-for-Profit Entities: Mergers and Acquisitions* in April 2009. This has subsequently been incorporated into the Accounting Standards Codification which is the authoritative source of generally accepted accounting principles.